

§1737. State-administered fund

1. Creation of state-administered fund. A reserve fund, referred to in this chapter as the "state-administered fund," is created to indemnify persons and entities eligible for participation pursuant to subsection 2 for losses and related loss adjustment expenses from those perils insured against under a deductible or self-insured retention program as recommended by the State Controller and approved by the Commissioner of Administrative and Financial Services. With the approval of the commissioner, the state-administered fund may be used for loss prevention programs administered by the risk management division within the Office of the State Controller. The total amount of the state-administered fund provided for loss prevention programs in any given year may not exceed 5% of the state-administered fund as of July 1st of that fiscal year. The state-administered fund is a continuing fund and does not lapse.

[PL 2017, c. 284, Pt. O, §9 (AMD).]

2. Eligibility for participation in state-administered fund. The State Controller may offer insurance advice and services to persons or entities other than state departments or agencies if:

- A. The State Controller has been authorized to do so by law; [PL 2017, c. 284, Pt. O, §9 (AMD).]
- B. The Governor has approved that person or entity for insurance advice and service; [PL 1993, c. 470, §9 (NEW).]
- C. Coverage is unavailable or is offered only at unreasonable cost to that person or entity; and [PL 1993, c. 470, §9 (NEW).]
- D. That person or entity has demonstrated a strong public need for the services provided by that person or entity. [PL 1993, c. 470, §9 (NEW).]

[PL 2017, c. 284, Pt. O, §9 (AMD).]

3. Interim coverage. The State Controller may offer insurance advice and services for no more than 6 months when the Governor, in the absence of the Legislature, determines that it is appropriate to do so based on consideration of the risks involved and the governmental objectives served by that coverage.

[PL 2017, c. 284, Pt. O, §9 (AMD).]

4. Directed services. Notwithstanding the provisions of subsection 2, the State Controller may provide insurance advice or services for family foster homes as defined in Title 22, section 8101, subsection 3; specialized children's homes, as defined in Title 22, section 8101, subsection 5; respite care providers as described in Title 34-B, section 6201, subsection 2-A; the Casco Bay Island Transit District created by Private and Special Law 1981, chapter 22; the University of Maine System; the Maine Community College System; the Maine Maritime Academy; and the State's local workforce investment areas designated under the federal Workforce Innovation and Opportunity Act, Public Law 113-128. The State Controller may provide insurance services for public schools as defined in Title 20-A, section 1, subsection 24 if the provisions of subsection 2 are met. Notwithstanding subsection 2, the State Controller may provide insurance advice for public schools.

[PL 2017, c. 284, Pt. O, §10 (AMD).]

5. Capitalization of state-administered fund. The state-administered fund is capitalized by payments from persons or entities insured by the fund, by returned premiums or claims proceeds paid pursuant to terms of any insurance contract and by other means the Legislature approves. In establishing the initial capitalization of the state-administered fund, the Commissioner of Administrative and Financial Services may transfer from the self-insurance fund established by section 1731 to the state-administered fund an amount that the commissioner determines to be the existing balance attributable to any risks formerly covered by the self-insurance fund that must be covered in the future by the state-administered fund. The commissioner shall deposit the state-administered fund with the Treasurer of State for investment. All proceeds of that investment accrue to the state-

administered fund. The commissioner shall comply with applicable federal circulars and has the discretion to include public instrumentalities in the state-administered fund if the commissioner determines that the inclusion of these instrumentalities is necessary to allow the state-administered fund as a whole to offer insurance at affordable rates.

[PL 1993, c. 470, §9 (NEW).]

6. Limitation on use of state-administered fund. The state-administered fund may be used only for insurance purposes in accordance with this chapter and the assets of the state-administered fund may not be transferred to meet a budgetary shortfall or pay uninsured expenses.

[PL 1993, c. 470, §9 (NEW).]

7. No expansion of liability under the Maine Tort Claims Act. The insurance advice and services provided by the state-administered fund do not expand the limits of liability or abrogate immunities contained in the Maine Tort Claims Act or any other state or federal law.

[PL 1993, c. 470, §9 (NEW).]

8. Payments from state-administered fund. Pursuant to the recommendation of the State Controller, the Commissioner of Administrative and Financial Services may cause payments from the state-administered fund or proceeds of insurance purchased in accordance with this section, or both, to be made available for repair or replacement of insured property and payment of losses and loss adjustment expenses. The rights of a person or entity insured under this section are limited to the extent specified in the contractual agreements or policies of insurance entered into between those persons or entities and the State Controller and any involved insurance companies. Notwithstanding any contractual agreements or policies of insurance, persons or entities participating in the state-administered fund do not have a right of recovery except against the assets of the state-administered fund and do not have recourse against the General Fund, the assets of the State or the commissioner, the State Controller or any other state employee. The commissioner shall establish procedures to ensure adequate disclosure of this limitation on rights of recovery to the entities insured under this section.

[PL 2017, c. 284, Pt. O, §11 (AMD).]

SECTION HISTORY

PL 1993, c. 470, §9 (NEW). PL 1993, c. 619, §1 (AMD). PL 1997, c. 46, §1 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2003, c. 114, §2 (AMD). PL 2007, c. 84, §1 (AMD). PL 2017, c. 110, §2 (AMD). PL 2017, c. 284, Pt. O, §§9-11 (AMD).

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