

APA-1  
03/11

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control No.  Department or Agency

Rule No.

Rule Title:

New  Amend  Repeal  Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?

Is there another, less restrictive method of regulation available that could adequately protect the public?

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

\*\*\*\*\*  
Does the proposed rule have an economic impact?

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.  
\*\*\*\*\*

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of Certifying Officer

Date

(DATE FILED)  
(STAMP)

Alabama Department of Industrial Relations  
Workers' Compensation Division

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Industrial Relations

RULE NO. & TITLE: 480-5-3-.07 Group Self Insurance-Formation of Funds

INTENDED ACTION: Amend Rule 480-5-3-.07

SUBSTANCE OF PROPOSED ACTION:

The above rule is being amended to change the financial standards that must be met in order to form a new group fund. The rule will also be amended to seek departmental approval prior to changes of a funds sponsoring association.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

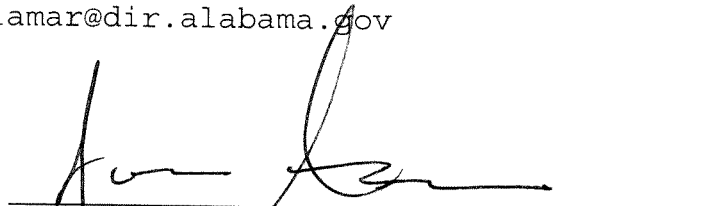
Written or oral comments may be submitted to the Department of Industrial Relations, Workers Compensation Division, 649 Monroe Street, Montgomery, AL 36131, (800) 528-5166. Business hours are 8:00 a.m. to 5:00 p.m., Monday-Friday. Deadline submissions is June 8, 2012.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Written/Oral comments must be received by the Department no later than June 8, 2012.

CONTACT PERSON AT AGENCY:

Charles DeLamar or Steve Garrett,  
(800) 528-5166/Charles.delamar@dir.alabama.gov

  
(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

ALABAMA DEPARTMENT OF INDUSTRIAL RELATIONS  
ADMINISTRATIVE CODE

RULE

Division: Workers' Compensation  
Chapter: General  
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**480-5-3-.07 Formation Of Funds.**

(1) A proposed Fund shall file with the Director its application for a certificate of approval accompanied by a non-refundable filing fee in the amount of \$2,000, which shall be deposited into the Workers' Compensation Administrative Trust Fund, at least 120 days prior to the proposed Fund's requested inception date. The application shall include the proposed Fund's name, location of its principal office, date of organization, name and address of each Participant, and such other information as the Director may require, together with the following:

(a) A comprehensive written document which clearly describes the Sponsoring Association's common interest and demonstrates that the Fund is being managed for the benefit of the Participants;

(b) Proof that the proposed Fund's Sponsoring Association has been in existence in Alabama for at least five (5) years and is qualified under Section 501(c)(6) or other tax-exempt provision of the Internal Revenue Code; Any and all subsequent changes in a Fund's Sponsoring Association shall be pre-approved by the Department.

(c) A copy of the Articles of Incorporation and Bylaws of the proposed Sponsoring Association;

(d) A copy of the Bylaws and other governance documents of the proposed Fund;

(e) A list of the names and addresses of the Fund's initial Board of Trustees and the name and address of the Participant with which each is affiliated;

(f) The name, address, and qualifications of the individual Alabama resident designated and appointed as the Fund Administrator;

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(g) Any contract or agreement to be entered into by the Fund with the Administrator describing the services to be performed and the compensation to be paid;

(h) A fidelity bond on the Fund Administrator payable to the Board of Trustees in an amount sufficient to protect the Fund's assets against misappropriation or misuse;

(i) A contract with an approved Service Company which specifies the services to be performed and the amount of compensation to be paid or the method by which compensation is to be determined if not expressed in a certain amount;

(j) The name and address of the Alabama resident designated and appointed as the Fund's registered agent for service of process in this state;

(k) The name and address of the Fund's CPA;

(l) The name and address of the Fund's actuary;

(m) The name and address of the attorney representing the Fund;

(n) The address in the State of Alabama where the books and records of the Fund shall be maintained at all times;

(o) A copy of the fully executed Participant Application for each inception Participant of the Fund. Attached to such application shall be a current year audited financial statement for the Participant;

(p) Copies of fully executed Participation Agreements from each proposed Fund Participant. Subject to the Director's approval, a Fund may add additional provisions to the Participation Agreement;

(q) A confirmation of the required Specific Excess Insurance in a form and amount acceptable to the Director;

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(r) The written plan adopted by the Fund to govern underwriting matters and loss control;

(s) Security Deposit in a form and amount prescribed by the Director, but not less than \$200,000; and, in addition, proof of deposit with the Fund by each initial Participant of funds in an amount equal to at least twenty-five percent (25%) of that Participant's first year's estimated annual Net Contribution at inception. The deposit shall be considered a part of the first year's contribution payment of each Participant and shall be in an aggregate amount not less than ~~\$500,000~~ \$1,000,000;

(t) A market impact analysis that demonstrates that there is an unserved or underserved segment of the market that the new Fund will target and that the segment is large enough to assure the viability of the new Fund. If the new Fund targets an underserved segment, it shall demonstrate its ability to provide more and/or better quality services to the Participants than are offered by the Fund or Funds currently serving that segment;

(u) A pro forma of each contract and any other form the Fund intends to issue or use;

(v) The workers' compensation contributions paid and incurred loss history for each initial Participant for the latest three (3) complete years preceding the date the Fund is to commence operations;

(w) Substantive five (5) year projection of anticipated losses and annual contributions;

(x) A current audited financial statement in a form approved by the Director showing that the combined net worth of the inception Participants is not less than ~~two~~ five million dollars (~~\$2,000,000~~) (\$5,000,000);

(y) A projection of administrative expenses for the first year's operation as an amount and as a percentage of the total estimated annual contribution;

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(z) A rating plan or schedule of job classification rates for the prospective Fund Year that is approved by an actuary; and

(aa) A copy of the written description of the dividend, refund, retrospective or contribution return plan.

(2) Upon receipt of an application, the Director shall give public notice thereof. The Director shall solicit written comments for a period of thirty (30) days. Upon the request of a member of the public the Director shall schedule a public hearing on the application. The Director shall give appropriate consideration to the public comments made both written and oral. Upon finding that the proposed Fund has met all of the requirements of these Rules, the Director may issue a Certificate of Approval setting forth the date the Fund may begin operation in this state, which privilege shall extend until revoked or canceled. Upon finding that the applicant has not satisfactorily met all requirements of these Rules the Director shall issue an order refusing to grant approval and such order shall set forth the reasons for such refusal.

**Author:** Wilbon S. Spates, Chief, Workers' Compensation Division

**Statutory Authority:** Code of Ala. 1975, §25-2-2(6).

**History: New Rule:** ~~Filed October 9, 1997; effective November 13, 1997.~~ Filed \_\_\_\_\_, 2012; effective \_\_\_\_\_, 2012.