

STATE OF COLORADO

**EMPLOYER'S GUIDE TO
SELF-INSURING WORKERS'
COMPENSATION**



**Department of Labor & Employment
Division of Workers' Compensation
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INTRODUCTION

This brochure is intended to provide an overview of self-insuring the employer's workers' compensation risk. Any serious consideration of this method of covering on-the-job injuries and exposures should follow in-depth financial analysis and legal research. While self-insurance, when properly applied, provides economic advantages to employers and consumers alike, it is not a "cure all" for every employer's insurance premium woes.

The following information is directed toward employers considering self-insuring as an individual permit holder or as a medical care pool. For information concerning public or trade association pooling, contact the:

Division of Insurance
1560 Broadway, Suite 850
Denver, CO 80202
303.894.7499
1.800.930.3745

THE COLORADO WORKERS' COMPENSATION ACT

Workers' compensation is enabled under Title 8 Articles 40 to 47 of the Colorado Revised Statutes. Most non-federal employers are subject to this act.

THE PURPOSE OF WORKERS' COMPENSATION LEGISLATION

Workers' Compensation became law in the state of Colorado in 1915. The basic purpose of this law is to provide a system of indemnification and medical benefits in an effort to make

“whole” workers who are injured or develop occupational disease as a result of their employment. This system of statutes, rules and administrative procedures provides a more expeditious remedy than under past “common law” systems. Workers’ Compensation is the original “no fault” concept. All of the 50 states, American Samoa, Washington, D.C., Guam, Puerto Rico and the Virgin Islands have workers’ compensation laws.

THREE WAYS TO FINANCE WORKERS’ COMPENSATION RISK

The employer must bear the cost for workers’ compensation. There are three general ways in which an employer may cover this risk. While not all states or jurisdictions allow all three methods, most allow a combination of the following:

- Commercial Insurance
- Insurance Enabled by Statute
- Self-Funding or Self-Insurance

The state of Colorado allows coverage by all three methods.

COMMERCIAL CARRIERS

Commercial insurance for workers’ compensation may be purchased from over three hundred carriers authorized to conduct such business in the state of Colorado. Consumers of commercial insurance often have cost advantages over prevailing insurance rates by innovative cost-plus and cash flow plans that are available to select customers and “package deals” wherein other coverages are discounted for the inclusion of the workers’ compensation business. Changes in the laws and the market may result in fluctuations in the types of plans that are offered and in the availability of coverage from year-to-year. Commercial carriers may endorse “all states” coverage.

INSURANCE ENABLED BY STATUTE

Pinnacol Assurance is enabled by statute. Pinnacol is the largest carrier of workers' compensation in the State of Colorado. It offers the full range of services that may be expected from a commercial carrier. Coverage from Pinnacol is readily available and a premium discount is offered. Pinnacol Assurance coverage is restricted to claims occurring under Title 8 Articles 40 to 47, Colorado Revised Statutes, exclusively.

SELF-INSURANCE

Colorado workers' compensation statutes allow for employers, meeting rigid financial and loss control standards, to self-insure (self-fund) this risk. By special permit, workers' compensation obligations are paid directly from earnings and assets of the employer within predetermined amounts set in retention limits (deductible).

No matter which method is used to finance the workers' compensation risk, the employers and employees are subject to the same laws and rules of procedure.

Self-insurance is permitted in 48 states, American Samoa and the District of Columbia. In each of these jurisdictions there are statutes enabling and rules governing the respective self-insured programs.

SELF-INSURANCE IN COLORADO

In the State of Colorado, self-insurance is enabled under Section 8-44-201, Colorado Revised Statutes and is regulated by 7 Colorado Code of Regulations 1101-4. The following is an overview of the Colorado Requirements:

The employer must make application to the Executive Director of the Department of Labor and Employment. The Executive Director has sole authority to grant, deny or terminate self-insurance permits. The employer must have been in business for at least five years or be a subsidiary of a company that has been in business for five years.

The employer must demonstrate the financial capability of meeting all current and long term obligations to include favorable current debt to equity and other financial ratios.

The employer must have three hundred employees in the State of Colorado, working full time. This requirement, however, may be waived for employers whose parent company shows an exemplary financial position and assets of \$100,000,000 or more.

The employer must provide excess insurance coverage. The retention and coverage limits are approved by the Executive Director of the Department of Labor and Employment.

The employer must provide security in the form and amount as set by the Executive Director of the Department of Labor and Employment.

The employer must maintain competent claims adjusting pursuant to the statutes and rules governing workers' compensation in the State of Colorado.

The employer must establish and maintain a medical treatment program and loss control program acceptable to the Executive Director of the Department of Labor and Employment.

Financial, loss, or other information pertaining to self-insuring in the State of Colorado must be furnished as requested by the Executive Director or his agent. All self-insurance permits are reviewed at least annually.

There is a fee for applying for self-insurance and also an annual review fee. These fees may vary from time to time and are non-refundable.

All self-insureds, commercial carriers of workers' compensation, and Pinnacol Assurance must pay a premium assessment to offset the direct and indirect costs of the administration of the workers' compensation system, the Subsequent Injury Fund, and the Major Medical Fund. The rate(s) of assessment may vary from time to time.

SELF-INSURANCE IN COLORADO PROS & CONS

Employers may realize considerable **cost savings** of self-insurance over traditional insurance by:

- ◆ Paying only for their own losses
- ◆ Increasing incentive for effective loss control
- ◆ Investing dollars otherwise going for premium
- ◆ Improving cash flow

Employers favor the increased **control** they have with self-insurance over traditional insurance by:

- ◆ Quicker admission and payment of disability benefits
- ◆ Denial of questionable claims
- ◆ Immediate investigation
- ◆ Ability to expedite granting of benefits on the part of the self-insured may eliminate anxiety suffered by the claimant otherwise awaiting benefits under a traditional plan
- ◆ Increased employer participation in modified duty and retraining programs

CONS

An employer must realize when considering a self-insurance plan, that because of the “long tail” payout nature of workers’ compensation liability, earnings and assets may be committed for many, many years subsequent to the occurrence of self-insured injuries and exposures as the liability is discharged.

Employer default may cause serious interruption in benefits being paid to and on behalf of claimants, resulting in extreme hardship.

Under self-insurance there is no longer a “buffer” such as the carrier between the employer and the claimants, which in some situations may be undesirable.

For some, the insurance premium paid for traditional insurance may provide a more favorable tax exemption over self-insurance exemption potential.

CONSIDERING SELF-INSURANCE

WHO MAY BENEFIT BY SELF-INSURANCE


- ◆ Employers who are highly profitable and consistently have financial ratios equaling or exceeding their respective industry standards
- ◆ Employers of sufficient size to realize an economic benefit by self-insuring
- ◆ Employers who are willing to commit and direct their resources to maximize safety and loss control to the fullest extent possible
- ◆ Employers who have historically and consistently paid premiums which are disproportionately high compared to their losses
- ◆ Employers who consistently carry and experience modification credit

WHO SHOULD NOT CONSIDER SELF-INSURING

- ◆ Employers with insufficient assets to withstand a catastrophic loss
- ◆ Employers with present or potential solvency problems who may not be able to meet current or long-term financial obligations
- ◆ Employers who are unwilling or unable to commit and direct resources to maximize safety and loss control programs
- ◆ Employers having a history of workers' compensation insurance debit modifications
- ◆ Employers who have had their workers' compensation coverage canceled or denied
- ◆ Employers with too few employees to realize an economic benefit by self-insuring

STATE OF COLORADO

SAMPLE

The seal of the State of Colorado is circular, featuring a central figure holding a staff and a bow, with a mountain range in the background. The text "STATE OF COLORADO" is written around the top inner edge, and "1876" is at the bottom. Two stars are positioned on either side of the year.

DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF WORKERS' COMPENSATION

SELF-INSURANCE PERMIT

BLOCK NO. 000

In consideration of the statements and financial records submitted by the employer

EMPLOYER NAME

said employer is hereby granted permission by the Executive Director to be its own insurance carrier for the payment of the compensation and benefits provided by the Workers' Compensation Act of Colorado and any amendments thereto, beginning with the 1st day of MONTH, 2005, and to be continuous until cancelled or revoked, covering the current operations of said Employer in the State of Colorado and including the current wholly owned subsidiaries as listed and identified in the initial self-insurance application.

This permit is granted subject to the provisions of the Workers' Compensation Act, as it now exists or as it may from time to time be amended, and also subject to the rules, regulations and orders of the Department of Labor and Employment as they now exist or may from time to time be made, altered or amended.

THIS PERMIT IS SUBJECT TO REVOCATION OR CANCELLATION BY THE EXECUTIVE DIRECTOR AT ANY TIME IN ACCORDANCE WITH SELF-INSURANCE RULES AND REGULATIONS.

DEPARTMENT OF LABOR AND EMPLOYMENT

By _____
Executive Director

INFORMATION

For general workers' compensation information, to obtain a copy of the *Colorado Workers' Compensation Act*, or to obtain other publications, visit the Division of Workers' Compensation website at www.coworkforce.com/DWC/ or contact:

Division of Workers' Compensation
Customer Service Unit
633 17th Street, Suite 400
Denver, CO 80202-3626
303.318.8700
1.888.390.7936

For further information about self-insurance, contact:

Division of Workers' Compensation
Self Insurance Administration
633 17th Street, Suite 400
Denver, CO 80202-3626
303.318.8617

To obtain the Rules of Procedure 7 C.C.R. 1101-4, governing the issuance of Self-Insurance Permits under the *Colorado Workers' Compensation Act*, visit our website or contact:

Weil Publishing
P.O. Box 1990
Augusta, ME 04332-1990
1.800.877.9345