

despite the adjudication of liability, the person is fairly and reasonably entitled to indemnity for the expenses which the court shall deem proper.]; OR (2) FOR AN INDEPENDENT CONTRACTOR FURNISHING SERVICES TO THE EMPLOYEES' RETIREMENT SYSTEM.

(f) The State shall provide insurance for every person [who is serving in a fiduciary capacity to the Employees' Retirement System] ELIGIBLE FOR INDEMNIFICATION UNDER THIS SECTION against any liability asserted against him or incurred by him arising out of his status as a fiduciary. THE STATE MAY PROVIDE SELF-INSURANCE FOR THIS PURPOSE, IN WHOLE OR IN PART, UNDER TERMS AND CONDITIONS SATISFACTORY TO THE STATE TREASURER. IF THE STATE FAILS TO PROVIDE ADEQUATE INSURANCE COVERAGE OR IF THE STATE FAILS TO PROVIDE INDEMNIFICATION PURSUANT TO THIS SECTION, A FIDUCIARY MAY NOT BE REQUIRED TO PAY AMOUNTS ATTRIBUTABLE TO LIABILITY DESCRIBED IN THIS SECTION BY REASON OF THE FAILURE OF THE STATE TO PROVIDE THE INDEMNIFICATION.

SECTION 3. AND BE IT FURTHER ENACTED, That Sections 196A(e) and (f) of Article 77 - Public Education, of the Annotated Code of Maryland (1975 Replacement Volume and 1976 Supplement) be and they are hereby repealed and reenacted, with amendments, to read as follows:

Article 77 - Public Education

196A.

(e) Indemnification may not be made (1) with respect to any suit, claim, or matter as to which the person was adjudged to be liable for GROSS negligence or WILLFUL misconduct in the performance of his duty to the Teachers' Retirement System [. The court in which the action was brought may determine, upon application, that, despite the adjudication of liability, the person is fairly and reasonably entitled to indemnity for the expenses which the court shall deem proper.]; OR (2) FOR AN INDEPENDENT CONTRACTOR FURNISHING SERVICES TO THE TEACHERS' RETIREMENT SYSTEMS.

(f) The State shall provide insurance for every person [who is serving in a fiduciary capacity to the Teachers' Retirement System] ELIGIBLE FOR INDEMNIFICATION UNDER THIS SECTION against any liability asserted against him or incurred by him arising out of his status as a fiduciary. THE STATE MAY PROVIDE SELF-INSURANCE FOR THIS PURPOSE, IN WHOLE OR IN PART, UNDER TERMS AND CONDITIONS SATISFACTORY TO THE STATE TREASURER. IF THE STATE FAILS TO PROVIDE ADEQUATE INSURANCE COVERAGE, OR IF THE STATE FAILS TO PROVIDE INDEMNIFICATION PURSUANT TO THIS SECTION, A FIDUCIARY MAY NOT BE REQUIRED TO PAY AMOUNTS ATTRIBUTABLE TO LIABILITY DESCRIBED IN THIS SECTION BY REASON OF THE FAILURE OF THE STATE TO PROVIDE THE INDEMNIFICATION.