

subsection (c) of this section. This revision also avoids the former approach of defining "employer" to include governmental units "[f]or the purposes of this section [§ 16A]", which erroneously suggested that, absent a definition, "employer" did not include public entities. Clearly, some of the references to "employer" in former Art. 101 encompassed public entities, notwithstanding the absence of an express definition and the use of "person" in former Art. 101, § 67(2).

The Committee also notes that, it is unclear whether a public entity that chooses not to self-insure under this section still is an "employer" for purposes of individual self-insurance under § 9-406 of this subtitle.

The Committee also notes that Baltimore City has a Board of School Commissioners, rather than a board of education. The General Assembly may wish to clarify whether the Baltimore City Board may participate in a self-insurance plan under this section.

The Committee also notes that the second sentence of former Art. 101, § 16A(a)(1) enabled the Commission to require a self-insuring employer to carry a policy for catastrophe or disaster. The inclusion of governmental groups within "employer" through former Art. 101, § 16A(a)(3), (7), and (8) would seem to extend the former second sentence to governmental groups. However, this type of policy commonly is known as "excess insurance" and, under former Art. 101, § 16A(a)(4)(iii), excess insurance was mandatory rather than discretionary for governmental groups.

Defined terms: "Authorized insurer" § 9-401
 "Commission" § 9-101 "Compensation" § 9-101
 "County" § 1-101
 "Governmental self-insurance group" § 9-401

9-405. SELF-INSURANCE BY INDIVIDUAL EMPLOYER.

(A) FINANCIAL ABILITY.

EACH EMPLOYER WHO WANTS TO SELF-INSURE UNDER THIS SECTION SHALL SATISFY THE COMMISSION THAT THE EMPLOYER IS FINANCIALLY ABLE TO PAY COMPENSATION.

(B) SECURITY.

(1) AT ANY TIME, THE COMMISSION MAY REQUIRE AN EMPLOYER WHO SELF-INSURES UNDER THIS SECTION TO SECURE PAYMENT OF COMPENSATION BY DEPOSITING WITH THE COMMISSION SECURITY:

(I) IN A FORM ACCEPTED BY A CIRCUIT COURT FOR INVESTMENT OF TRUST MONEY; AND

(II) IN THE AMOUNT SET BY THE COMMISSION.