

Article 5.

Individual Employers.

§ 97-165. Definitions.

As used in this Article:

- (1) "Act" means the Workers' Compensation Act established in Article 1 of this Chapter.
- (1a) "Affiliate of" or "person affiliated with" a specific person means a person that indirectly through one or more intermediaries or directly controls, is controlled by, or is under common control with the person specified.
- (1b) "Association Aggregate Security System" means the security system established pursuant to G.S. 97-133 whereby individual self-insurers collectively secure their aggregate self-insured workers' compensation liabilities under the Act through the North Carolina Self-Insurance Security Association.
- (2) "Certified audit" means an audit on which a certified public accountant or a foreign registered public accounting firm expresses his or her professional opinion that the accompanying statements fairly present the financial position of the self-insurer or the guarantor, in conformity with accounting principles generally accepted in the United States or prepared in accordance with International Financial Reporting Standards.
- (3) "Certified public accountant" or "CPA" means a CPA who is in good standing with the American Institute of Certified Public Accountants and in all states in which the CPA is licensed to practice. A CPA shall be recognized as independent as long as the CPA conforms to the standards of the profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants and Rules and Regulations and Code of Ethics and Rules of Professional Conduct of the North Carolina State Board of Certified Public Accountant Examiners, or similar code. The Commissioner may hold a hearing to determine whether a CPA is independent and, considering the evidence presented, may rule that the CPA is not independent for purposes of expressing an opinion on financial statements prepared in accordance with United States Generally Accepted Accounting Principles or International Financial Reporting Standards. The Commission may require the self-insurer or the guarantor to replace the CPA with another whose relationship with the self-insurer or the guarantor is independent within the meaning of this definition.
- (4) "Commissioner" means the Commissioner of Insurance.
- (4a) "Control", "controlling", "controlled by", and "under common control with" mean the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person through ownership of or through proxies for voting of greater than fifty percent (50%) of the voting securities, or in the case of a not-for-profit entity, the power to direct or cause the direction of the management and policies of the entity.
- (5) "Corporate surety" means an insurance company authorized by the Commissioner to write surety business in this State.
- (5a) "Financial statement" means a financial statement as defined by accounting principles generally accepted in the United States or a financial statement prepared in accordance with International Financial Reporting Standards.

- (6) "Foreign registered public accounting firm" means a public accounting firm that is organized and operates under the laws of a non-United States jurisdiction, government, or political subdivision and is registered and in good standing with the Public Company Accounting Oversight Board and authorized by the Board to prepare or issue any audit report with respect to any issuer.
- (6a) "Guarantor" means a person within the same holding company system who controls the applicant, whose financial statement is used by the applicant to become a self-insurer under the Act, and who has guaranteed the payment of the self-insurer's liability under the Act.
- (7) "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a self-insurer or guarantor is insolvent or, although not yet financially impaired or insolvent, is unlikely to be able to meet its obligations with respect to known claims and reasonably anticipated claims or to pay other obligations in the normal course of business.
- (7a) "Holding company system" means an entity comprising two or more affiliated persons.
- (8) "Management" means those persons who are authorized to direct or control the operations of a self-insurer.
- (8a) "Person" means an individual, corporation, partnership, limited liability company, association, joint stock company, trust, unincorporated organization, or any similar entity or any combination of the foregoing acting in concert.
- (9) "Qualified actuary" means a member in good standing of the Casualty Actuarial Society or a member in good standing of the American Academy of Actuaries, who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries, and is in compliance with G.S. 58-2-171.
- (10) "Self-insurer" means an individual self-insurer as defined by G.S. 97-130(5b).
- (11) "Subsidiary of" a specific person means an affiliate controlled by such person indirectly through one or more intermediaries or an affiliate directly controlled by such person. (1997-362, s. 4; 1999-132, s. 13.5; 2004-199, s. 20(h); 2005-400, s. 9; 2009-172, s. 5.)