Agency Name: Department of Motor Vehicles

Statutory Authority: 56‑9‑60

Document Number: 5228

Proposed in State Register Volume and Issue: 47/8

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Transportation Committee

120 Day Review Expiration Date for Automatic Approval: 05/08/2024

Final in State Register Volume and Issue: 48/5

Status: Final

Subject: Self‑Insurers

History: 5228

By Date Action Description Jt. Res. No. Expiration Date

‑ 08/25/2023 Proposed Reg Published in SR

‑ 01/09/2024 Received President of the Senate & Speaker 05/08/2024

H 01/09/2024 Referred to Committee

S 01/09/2024 Referred to Committee

S 02/22/2024 Resolution Introduced to Approve 1091

‑ 05/08/2024 Approved by: Expiration Date

‑ 05/24/2024 Effective Date unless otherwise

 provided for in the Regulation

Document No. 5228

**DEPARTMENT OF MOTOR VEHICLES**

CHAPTER 90

Statutory Authority: 1976 Code Section 56‑9‑60

90‑400. Self‑Insurers. (New)

**Synopsis:**

 2003 Act No. 51, §3 created the South Carolina Department of Motor Vehicles (SCDMV) and transferred all functions, powers, duties, responsibilities, and authority statutorily exercised by the Motor Vehicle Division and the Motor Carrier Services unit with the South Carolina Department of Public Safety (SCDPS) to the SCDMV. At the time of the split of the SCDMV from the SCDPS, the regulations regarding the two agencies were not divided within the South Carolina Code of Regulations. Therefore, the SCDMV proposes to promulgate regulations that are still maintained within the South Carolina Code of Regulations Chapter pertaining to SCDPS that apply to SCDMV in true function. Specifically, this promulgation pertains to a regulation currently contained at S.C. Reg. 38‑121. The SCDMV proposes to promulgate a similarly worded regulation in the SCDMV Chapter of the South Carolina Code of Regulations with amendments to the regulation to delete unnecessary sections now contained in statute and additions to address functional issues regarding self‑insurers.

 The Notice of Drafting was published in the *State Register* on July 28, 2023.

Section‑by‑Section Discussion:

Create a new Article 4 to Chapter 90 of the South Carolina Code of Regulations titled “Self‑Insurers.”

**Instructions:**

 Print the regulation as shown below. All other items remain unchanged.

**Text:**

ARTICLE 4

SELF‑INSURERS

90‑400. Self‑Insurers.

 A. Pursuant to [Section 15‑78‑140](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001530&cite=SCSTS15-78-140&originatingDoc=N505513D05F3211DE81CE97A445B3CEEB&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)), political subdivisions are allowed to procure automobile liability insurance by becoming self‑insured. Additionally, pursuant to [Section 56‑9‑30](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001530&cite=SCSTS56-9-30&originatingDoc=N505513D05F3211DE81CE97A445B3CEEB&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) political subdivisions are exempted from the self‑insured requirements contained in Chapter 9 of Title 56. However, pursuant to [Section 56‑10‑10](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001530&cite=SCSTS56-10-10&originatingDoc=N505513D05F3211DE81CE97A445B3CEEB&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) political subdivisions who wish to be self‑insured must still provide proof that adequate security is in place to meet the minimum coverage specified in [Section 56‑10‑20](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001530&cite=SCSTS56-10-20&originatingDoc=N505513D05F3211DE81CE97A445B3CEEB&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

 B. Political Subdivisions must meet the following requirements to be self‑insured with the Department of Motor Vehicles:

 (1) Apply annually to be self‑insured. The application must be submitted at least thirty (30) days prior to the expiration of the current self‑insured period.

 (2) Annually provide a recent actuary’s report, not more than six months old from the date of application, of the political subdivisions’s projected automobile liability losses for the upcoming self‑insured period.

 (3) Annually provide proof that sufficient funds are available and will be maintained to cover the projected losses listed in the actuary’s report.

 (4) Annually provide a copy of the political subdivisions’s most recent financial statement, which shall be not more than six months old from the date of application.

 (5) If an Excess Liability Insurance Policy is in place, the political subdivision must designate the Department of Motor Vehicles as the Certificate holder on the policy.

 C. All Other Self‑Insured Applicants must meet the following requirements:

 (1) Apply annually to be self‑insured. The application must be submitted at least thirty (30) days prior to the expiration of the current self‑insured period and contain the information required by [Section 56‑9‑60](https://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001530&cite=SCSTS56-9-60&originatingDoc=N505513D05F3211DE81CE97A445B3CEEB&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

 (2) Self‑Insured funds for any claims account must be segregated in a federally insured savings or checking account or maintained in another federally insured account such as:

 (a) Money Market Accounts; or

 (b) Certificates of Deposits.

 (3) All accounts containing self‑insured funds must either be payable to the South Carolina Department of Motor Vehicles or designate the Department as a lienholder. The account, however, shall be in the name of the Self‑Insurer and all interest which accrues to the account shall belong to the Self‑Insurer. The Department must also be notified when the term has expired for any certificates of deposit containing self‑insured funds.

 (4) The Department must be provided copies of statements of accounts containing self‑insured funds on at least a quarterly basis. Failure to provide the Department with copies of the quarterly statements of accounts for self‑insured funds within thirty days of when such statements are due to the Department if grounds for cancellation of self‑insured status.

 (5) Should the funds in the segregated self‑insured account decrease by more than thirty percent in any given certificate year, the self‑insurer must deposit additional funds into the segregated self‑insured account within thirty days of that decrease to bring the account back at least the seventy percent funding level required for that self‑insurance year.

 (6) If a self‑insured person or company has applied for a renewal of their self‑insurance at least thirty (30) days prior to expiration of their current self‑insurance certificate issued by the Department, and the Department is unable to complete its review of the application before the self‑insured person or company’s current self‑insurance certificate expires and so long as the delay in reviewing the application is through no fault of the applicant, then the Department may issue a temporary extension of the self‑insurance certificate in thirty (30) day increments. In no case may such extensions continue for more than ninety (90) days per application.

**Fiscal Impact Statement:**

 The SCDMV does not anticipate any additional cost to the State, its political subdivisions, or the public as a result the proposed promulgation of these regulations.

**Statement of Rationale:**

 2003 Act No. 51, §3 created the South Carolina Department of Motor Vehicles (SCDMV) and transferred all functions, powers, duties, responsibilities, and authority statutorily exercised by the Motor Vehicle Division and the Motor Carrier Services unit with the South Carolina Department of Public Safety (SCDPS) to the SCDMV. At the time of the split of the SCDMV from the SCDPS, the regulations regarding the two agencies were not divided within the South Carolina Code of Regulations. Therefore, the SCDMV proposes to promulgate regulations that are still maintained within the South Carolina Code of Regulations Chapter pertaining to SCDPS that apply to SCDMV in true function. Specifically, this promulgation pertains to a regulation currently contained at S.C. Reg. 38‑121. The SCDMV proposes to promulgate a similarly worded regulation in the SCDMV Chapter of the South Carolina Code of Regulations with amendments to the regulation to delete unnecessary sections now contained in statute and additions to address functional issues regarding self‑insurers.