

**§1728-A. Powers and duties of the State Controller**

**1. Duties.** The State Controller shall provide insurance advice and services for all forms of insurance for State Government and any department or agency of State Government except for those departments or agencies and those types of insurance otherwise provided for by law through the self-insurance fund and to other entities designated as entitled to advice and services through the state-administered fund pursuant to section 1737. The State Controller is responsible for the acquisition and administration of all insurance purchased by the State, including the authority to purchase insurance for the State for automobile, fire, liability and any other type of coverage necessary to protect the State from financial loss. The State Controller may enter into contracts for various types of claims management services in order to ensure the most economically advantageous insurance protection in the operation of the State's insurance coverage program. In these regards, the State Controller has the following duties:

A. To review annually the entire subject of insurance as it applies to all state property and activities and other persons pursuant to this section, and to provide to the Commissioner of Administrative and Financial Services a statement of its activities during the year ending the preceding June 30th. This report must include:

- (1) An evaluation of the state insurance program;
- (2) A complete statement of all types and costs of insurance in effect;
- (3) Names of agents and companies of record; and
- (4) Such other matters as the State Controller determines appropriate and necessary or as the commissioner may request; [PL 2017, c. 284, Pt. O, §3 (AMD).]

B. To recommend to the Commissioner of Administrative and Financial Services such insurance protection as the State Controller considers necessary or desirable for the protection of all state property or activities or other insureds under this section; [PL 2017, c. 284, Pt. O, §3 (AMD).]

C. Pursuant to programs approved by the Commissioner of Administrative and Financial Services, to provide insurance protection for property and liability in accordance with the Maine Tort Claims Act, Title 14, section 8116, and premises liability, when required by a state lease or private property approved by the Attorney General, by self-insured retention or purchase of insurance from companies or agents licensed to do business in this State, or by both, to effect the best possible contracts as to services, coverages and costs. The purchase of insurance under this section normally must be made upon competitive bidding, except that the State Controller may, in appropriate circumstances, purchase insurance by negotiation; [PL 2017, c. 284, Pt. O, §3 (AMD).]

D. To determine and review the values of property in which the State has an insurable or legal interest and recommend limits and types of insurance protection for that property; [PL 1987, c. 778, §1 (AMD).]

E. To establish and promote safety and other loss prevention programs; [PL 1987, c. 778, §1 (AMD).]

F. To receive and, with the assistance of the Attorney General, administer all claims for personal injury and property damage against the State; [PL 1993, c. 470, §1 (AMD).]

G. With the assistance of the Attorney General, to pursue all claims against 3rd parties in all cases in which the State may be subrogated to the rights of injured employees or where damage to state property may have resulted from the negligence of a 3rd party; [PL 1993, c. 470, §1 (AMD).]

H. To administer the funds established by sections 1731 and 1737. In performing the functions authorized by this chapter, the funds, the Commissioner of Administrative and Financial Services

and the State Controller are not subject to the provisions of Title 24-A; and [PL 2017, c. 284, Pt. O, §3 (AMD).]

I. On or before December 31, 1996 and every 3 years thereafter, to submit to the Commissioner of Administrative and Financial Services a report on the availability and affordability of insurance advice and services to those entities participating in the state-administered fund pursuant to section 1737 and to make specific recommendations for the removal from the state-administered fund of those entities that do not qualify. [PL 1993, c. 470, §1 (NEW).]  
[PL 2017, c. 284, Pt. O, §3 (AMD).]

**2. Appraisal.** In case an agreement as to the amount of loss sustained to any building or property insured under this chapter can not be arrived at between the insured entity and the State Controller, the loss must be referred to appraisal as provided by Title 24-A, section 3002.  
[PL 2017, c. 284, Pt. O, §3 (AMD).]

**3. Rejection of risk.** In the event that the State Controller determines that a risk may be prejudicial to the State's insurance program or to the state-administered fund established by section 1737 because of an actual or expected adverse loss ratio, the State Controller may refuse to include that risk in the program until the time that the hazards of the risk have been removed or ameliorated to a satisfactory degree.

When coverage is declined by the State Controller, the department, agency or entity in charge of the risk may request that the State Controller procure separate insurance from any authorized insurance company, and the premium for that separate insurance is a proper charge against the department, agency or entity responsible for the property.  
[PL 2017, c. 284, Pt. O, §3 (AMD).]

**4. Forms and rules.** The State Controller may prescribe forms of policies, proofs of loss and other forms and may adopt rules as are necessary or expedient for the proper administration of this chapter.  
[PL 2017, c. 284, Pt. O, §3 (AMD).]

**5. Actuarial review.** Once every 3 years, and more frequently if determined prudent by the Commissioner of Administrative and Financial Services, the State Controller shall arrange for a review of the reserves of the state-administered fund by a qualified actuary who is a member in good standing of the Casualty Actuarial Society. The actuary shall issue an opinion on the adequacy of reserves of the state-administered fund to cover the estimated ultimate liability of the state-administered fund. Costs for this service must be paid from the Risk Management Fund.  
[PL 2017, c. 284, Pt. O, §3 (AMD).]

## SECTION HISTORY

PL 1983, c. 349, §9 (NEW). PL 1987, c. 778, §1 (AMD). PL 1989, c. 94 (AMD). PL 1991, c. 376, §21 (AMD). PL 1993, c. 470, §1 (AMD). PL 2017, c. 284, Pt. O, §3 (AMD).

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