Rules and Regulations of the State of Georgia

Department 622 SUBSEQUENT INJURY TRUST FUND

Current through Rules and Regulations filed through November 6, 2026

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ADMINISTRATIVE HISTORY

The **Administrative History** following each Rule gives the date on which the Rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date. Principal abbreviations used in the Administrative History are as follows:

f. - filed

eff. - effective

R. - Rule (Abbreviated only at the beginning of the control number)

Ch. - Chapter (Abbreviated only at the beginning of the control number)

ER. - Emergency Rule

Rev. - Revised

Note: Emergency Rules are listed in each Rule's Administrative History by Emergency Rule number, date filed and effective date. The Emergency Rule will be in effect for 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule is adopted, as specified by the Agency.

Chapter 622-1 entitled "Organization and Administration" has been adopted. F. May 26, 1987; eff. June 15, 1987.

Rules 622-1-.04(1) and 622-1-.06(1) have been amended. F. Dec. 20, 1990; eff. Jan. 9, 1991.

Rule 622-1-.05 has been repealed and a new Rule adopted. F. Sept. 9, 1993; eff. Sept. 29, 1993.

Rules 622-1-.03, .06, .07, .08 have been amended. F. June 22, 1995; eff. July 12, 1995.

Rule 622-1-.06 has been amended. F. May 31, 1996; eff. June 20, 1996.

Rules 622-1-.04 and .07 have been amended. F. Sept. 12, 1997; eff. Oct. 2, 1997.

Rule 622-1-.06 has been amended. F. May 29, 1998; eff. June 18, 1998.

Rule 622-1-.03 has been amended. F. Nov. 18, 1998; eff. Dec. 9, 1998.

Rules 622-1-.04 and .06 have been amended. F. June 21, 2000; eff. July 11, 2000.

Rules 622-1-.05 and .06 have been amended. F. Mar. 18, 2002; eff. Apr. 7, 2002.

Rule 622-1-.06 has been amended. F. Dec. 11, 2002; eff. Dec. 31, 2002.

Chapters 622-2 entitled "Dissolution of the Board of Trustees," 622-3 entitled "Pro Rata Refund of Assessments" adopted. F. May 19, 2025; eff. June 8, 2025.

Chapter 622-2 title changed from "Dissolution of the Board of Trustees" to "Procedures for Pro Rata Refund of Assessments and Final Accounting of Subsequent Injury Trust Fund." Rule 622-2-.01 amended. F. Jan. 14, 2026; eff. Feb. 3, 2026.

Cite as Ga. Comp. R. & Regs. R. dept. 622, ADMINISTRATIVE HISTORY

Chapter 622-1. ORGANIZATION AND ADMINISTRATION.

Rule 622-1-.01. Board of Trustees.

The organization of the Board of Trustees of the Subsequent Industry Trust Fund shall be as follows:

(a) Meetings are to be held at least quarterly.

(b) Special meetings can be held upon reasonable notice in writing to Board Members by the Chairman or any two voting members.

(c) Three voting members must be present to constitute a quorum for conducting business.

(d) Time, place, names of those present, all official action of the Board, and when requested, a member's approval or dissent with reasons shall be recorded in the Minutes.

(e) The Administrator shall cause the Minutes to be transcribed and presented for approval or amendments at the next regular meeting.

(f) Minutes, or a true copy, shall be open for inspection during regular office hours.

Cite as Ga. Comp. R. & Regs. R. 622-1-.01
Authority: O.C.G.A. Sec. 34-9-354(d).
History. Original Rule entitled "Board of Trustees" was filed on May 26, 1987; effective June 15, 1987.

Rule 622-1-.02. Cost of Administration: Budget.

(1) The operating budget of the Subsequent Injury Trust Fund shall be computed on a fiscal year basis, and the Subsequent Injury Trust Fund's fiscal year shall be the same as the fiscal year for the State of Georgia.

(2) The Administrator shall submit to the Board, of Trustees a proposed budget covering the cost of administration of the Fund for each fiscal year. This budget should be submitted no later than the third quarter of the fiscal year preceding the fiscal year in the proposed budget. The budget shall be reviewed by the Board of Trustees at the quarterly Board meeting corresponding with the third quarter and submitted to the Office of Planning & Budget for comment. This budget proposal should be returned to the Board of Trustees by the Office of Planning & Budget within a reasonable time to enable implementation of the budget by the Board of Trustees.

Cite as Ga. Comp. R. & Regs. R. 622-1-.02
Authority: O.C.G.A. Sec. 34-9-354(d).
History. Original Rule entitled "Cost of Administration: Budget" was filed on May 26, 1987; effective June 15, 1987.

Rule 622-1-.03. Payment of Non-Dependency Benefits into the Subsequent Injury Trust Fund.

(1) For accident dates prior to July 1, 1995, the employers' payments to the Subsequent Injury Trust Fund in no-dependency death cases will be initiated through the use of a Subsequent Injury Trust Fund Form "F", referred to as a "No Dependency Agreement." This agreement must be submitted to the State Board of Workers' Compensation for approval and, upon approval, the employer will process the payment in accordance with Code Section 34-9-358.

(2) **Payment of Assessments to Fund by Insurers and Self- Insurers.** Each insurer and self-insurer shall make payments to the fund in an amount equal to that proportion of 175 percent of the total disbursement made from the fund during the preceding calendar year less the amount of the net assets in the fund as of December 31 of the preceding calendar year which the total workers' compensation claims paid by the insurer or self-insurer bears to the total workers' compensation claims paid by all insurers and self-insurers during the preceding calendar year. The administrator is authorized to reduce or suspend assessments for the fund when a completed actuarial survey shows further assessments are not needed. Adjustments relative to any prior years' assessment will be added to or credited against each insurer's or self-insurer's most recent calendar year's assessment when total claims losses reported to the fund necessitated revising the prior years' assessment rate. An employer who has ceased to be a self-insurer prior to the end of the calendar year shall be liable to the fund for the assessment of the calendar year and/or the adjusted assessment, if any, of the previous calendar years.

(3) **Reports by Employers of Compensation and Benefits Paid; Failure to Pay Assessments.**

(a) As soon as practicable after January 1 but not later than January 31 of each calendar year, the administrator shall forward to each insurer and self-insured employer a questionnaire asking for the total amount of compensation, medical benefits, and rehabilitation benefits paid by each insurer and self-insured employer during the preceding calendar year. The total amount shall consist of all gross paid losses consisting of indemnity, medical, and rehabilitation benefits paid including those paid through deductibles and self-insured retentions. The insurer or self-insurer may deduct from the gross paid losses those amounts the Subsequent Injury Trust Fund paid during the preceding calendar year, third party (Workers' Compensation) recoveries, and losses under federal compensation laws. Insurers and self-insured employers cannot use paid Workers' Compensation Board and Subsequent Injury Trust Fund assessments to reduce gross claims payments reported. This report is to be completed and returned to the administrator no later than March 1 of the same calendar year in which the request for this information is submitted. Failure to submit the report to the administrator carrying a postmark date on or prior to March 1 shall result in an automatic penalty of $50.00 per day for each day the report is delinquent or 10 percent of the assessment, whichever is greater. This penalty will be added to the assessment.

(b) Any assessment levied or established in a specified amount shall constitute a personal debt of every employer or insurer so assessed and shall be due and payable to the Subsequent Injury Trust Fund when payment is called for by the administrator. In the event of failure to pay any assessment upon the date determined by the administrator, the administrator may file a complaint for collection against the employer or insurer in a court of competent jurisdiction.

Cite as Ga. Comp. R. & Regs. R. 622-1-.03
Authority: O.C.G.A. Sec. 34-9-354(d).
History. Original Rule entitled "Payment of Non-Dependency Benefits into the Subsequent Injury Trust Fund" was filed on May 26, 1987; effective June 15, 1987.
Amended: F. Jun. 22, 1995; eff. July 12, 1995.
Amended: F. Nov. 18, 1998; eff. Dec. 9, 1998.

Rule 622-1-.04. Filing Claims Against the Subsequent Injury Trust Fund.

(1) An employer or insurer shall notify the administrator of the Subsequent Injury Trust Fund of any possible claim against the Fund as soon as practical, but in no event later than Seventy-Eight (78) calendar weeks following the injury or the payment of an amount equivalent to Seventy-Eight (78) weeks of income or death benefits, whichever occurs last. Notification shall be in writing, transmitted on the facsimile machine, or transmitted electronically and shall be effective on the date of receipt of the notice by the Subsequent Injury Trust Fund. The employer or insurer must submit or electronically transmit

Subsequent Injury Trust Fund Form "A", referred to as "Notice of Claim." In addition, the employer or insurer must provide the following:

(a) Employer's knowledge statement pursuant to Rule 622-1-.05 of the Rules and Regulations of the Subsequent Injury Trust Fund;

(b) Documentation supporting merger between the subsequent injury and prior impairment; and

(c) Proof of payment of weekly income benefits to the injured employee in excess of 104 weeks and/or payments for medical benefits in excess of $5,000.00.

(d) The required format to complete the above will be available from the Subsequent Injury Trust Fund or its website.

(2) The Reimbursement Agreement will contain a section for the insurer to certify that reserves have been reduced to the appropriate threshold levels. In addition, the reimbursement request form will contain a section for continued certification that reserves have been lowered to the appropriate threshold levels.

(a) Failure to provide certification as required above, or if evidence indicates failure to reduce reserves, reimbursement from Subsequent Injury Trust Fund will be suspended.

(3) When the employer returns an individual to work, and that employer has had a reimbursement claim in reference to that employee previously accepted by the Fund, the employer need not comply with additional mandatory indemnity or medical deductibles in the event that the employee sustains a new accident that merges with the prior impairment that originally resulted in fund acceptance. Examples of reimbursement are as follows:

(a) If the employee, in a case accepted by the Subsequent Injury Trust Fund for reimbursement, returns to work with the same employer, and the same employer has exhausted both indemnity and medical deductibles, the Subsequent Injury Trust Fund will resume reimbursements without further deductibles applicable to the employer.

(b) In the above example, if the employee returns to work and sustains a new injury, and the employer has exhausted the indemnity deductible but not the medical deductible, the Subsequent Injury Trust Fund will resume indemnity reimbursements without further indemnity deductibles applicable to the employer, and the employer will exhaust the remaining portion of the medical deductible on the previous accident that resulted in Subsequent Injury Trust Fund acceptance for reimbursement before the Fund will reimburse medical expenses.

(c) If the employee returns to work and sustains a new accident, and the employer has not exhausted the indemnity deductible but has exhausted the medical deductible,

the Subsequent Injury Trust Fund will resume reimbursement of medical expenses with no further medical deductibles applicable to the employer. The employer will be required to exhaust the remaining indemnity deductible as a result of the previous claim that required Subsequent Injury Trust Fund reimbursement before the Fund will reimburse indemnity expenses.

(d) Paragraphs (a), (b) and (c) will apply in the event a new insurer has assumed coverage for the employer.

(e) This provision does not apply if the employee returns to work for a new employer or there has been a break in service by the employee and employer.

(4) The fund shall reimburse only those indemnity, medical, and rehabilitation expenses that the employer or insurer was legally obligated to pay, and has actually paid, to the employee or claimant, including, but not limited to discounts granted by the service provider. The fund shall reimburse such expenses at a rate not exceeding the usual and customary charges. The fee schedules adopted by the State Board of Workers' Compensation shall be presumed to indicate the usual charges to any given service; except, however, where the employer or insurer was eligible for further cost reductions the fund will reimburse the lesser amount.

Cite as Ga. Comp. R. & Regs. R. 622-1-.04
Authority: O.C.G.A. Sec. 34-9-354.
History. Original Rule entitled "Filing Claims Against the Subsequent Injury Trust Fund" adopted. F. May 26, 1987; eff. June 15, 1987.
Amended: F. Dec. 20, 1990; eff. Jan. 9, 1991.
Amended: F. Sept. 12, 1997; eff. Oct. 2, 1997.
Amended: F. June 21, 2000; effective July 11, 2000.

Rule 622-1-.05. Employer's Knowledge Statement.

The employer is required to submit a notarized knowledge affidavit containing information outlined in the following format:

On _____, I _____, the _____
(Date of first knowledge) (Name) (Title)

for _____, learned that _____, SSN _____
(Employer) (Employee)

had _____.
(Type of prior impairment)

I received this information in the following manner: _____.
I considered it a permanent physical impairment because:
_____.
In addition, I considered the impairment likely to be a hindrance to employment because: _____.

If this affidavit is prepared by someone other than the appropriate employer representative, please identify:

_____
Name

NOTICE TO EMPLOYER: If this document is pre-prepared and submitted to you for signature, carefully review this document to make sure the information outlined is consistent with your knowledge of the prior impairment. I, the undersigned employer representative, hereby provide the above information under oath.

_____
Employer Representative

_____
Title

_____ Telephone No. _____
Notary Public

Expiration date: _____ Date: _____

PERSON WITH A DISABILITY WHO REQUIRE ASSISTANCE SHOULD REQUEST FORMS S.I. "H" – EMPLOYER'S KNOWLEDGE AFFIDAVIT WHICH CONTAINS CONTACT INFORMATION

IMPORTANT: SEE REVERSE SIDE FOR INSTRUCTIONS

(REVERSE SIDE OF FORM)

INSTRUCTIONS

1. The affiant must be someone who has firsthand knowledge of the worker's pre-existing condition such as an individual in an executive, personnel, or personnel-advisory capacity, or, if an employer is subject to the Americans With Disabilities Act, the designated custodian of (medical) records.

2. Attach any documentation or records that were in the employer's possession prior to the subsequent injury. If you attach documents, these must be accompanied by certification on employer's letterhead that said documents were contained in the employer's files. Any reports specifically referred to in the affidavit must be attached and certified.

3. The employer should identify the actual date of knowledge of the prior impairment.

4. The employer, if possible, should list any individuals either currently or formerly working for the employer who may have firsthand knowledge of the employee's pre-existing disability.

   a. _____ _____ _____

      Name Address Telephone No.

   b. _____ _____ _____

      Name Address Telephone No.

   c. _____ _____ _____

Name Address Telephone No.

Cite as Ga. Comp. R. & Regs. R. 622-1-.05
Authority: O.C.G.A. Sec. 34-9-354.
History. Original Rule entitled "Employer's Knowledge Statement" adopted. F. May 26, 1987; eff. June 15, 1987.
Repealed: New Rule of same title adopted. F. Sept. 9, 1993; eff. Sept. 29, 1993.
Amended: F. Mar. 18, 2002; eff. Apr. 7, 2002.

Rule 622-1-.06. Procedures for Payment of Reimbursement Benefits by the Fund.

(1) In order to establish payment for reimbursement benefits from the Subsequent Injury Trust Fund,

(a) An agreement setting forth factual information establishing the employer's right to reimbursement must be accomplished by the use of Subsequent Injury Trust Fund Form "B", referred to as "Reimbursement Agreement." This Agreement will be initiated by the Subsequent Injury Trust Fund and forwarded to the employer or insurer for signature. The Agreement must be approved by the State Board of Workers' Compensation.

(b) The employer will be required to submit an itemized statement of weekly income benefits paid to the injured employee. In addition, an itemized statement of medical benefits paid on behalf of the claimant must be submitted to the Subsequent Injury Trust Fund, along with providers' charges or a fee schedule audit. An employer or insurer who can provide a certified counterpart of its electronically generated or computer-generated pay document which identifies payment date, provider service, treatment (CPT) codes, and the amount paid, may be relieved from the requirement of providing the Subsequent Injury Trust Fund with copies of providers' charges. The Subsequent Injury Trust Fund may require narrative reports when deemed reasonably necessary by the Subsequent Injury Trust Fund. However, where the reimbursement request is based on documented, future medical and rehabilitation expenses which have been paid by the self-insured employer or insurer in accordance with a settlement agreement which provides that said funds will be set aside in a trust or similar funding mechanism consistent with federal laws and/or regulations; and, that said funds will be used solely for medical and rehabilitation expenses, the Subsequent Injury Trust Fund is authorized to reimburse such funds set aside in accordance with the usual and customary charges of the anticipated medical and rehabilitation expenses.

(c) Weekly income benefits and medical benefits reimbursement requests will be outlined on Subsequent Injury Trust Fund Form "C", referred to as "Reimbursement Request Form." No reimbursement will be made unless a

Reimbursement Request form is completed and signed by the claiming party. The employer or his insurer is required to attest to their efforts to assure that the injured employee is entitled to receive, or to continue to receive workers' compensation benefits. Failure to comply with this regulation may subject the claim to a denial of reimbursement benefits. After the initial fund payment, reimbursement requests may be made in 13- week intervals.

(2) In the event the employer and the Fund fail to reach an agreement, the claiming party may make application to the State Board of Workers' Compensation for a Hearing in regard to the matters at issue through the use of Form WC-14 Notice of Claim/Request for Hearing. The Form WC-14, shall be directed to the State Board of Workers' Compensation with a copy forwarded to the Subsequent Injury Trust Fund.

(3) When the Subsequent Injury Trust Fund denies a reimbursement claim submitted by an employer, the employer may move for reconsideration of the denial by submitting to the administrator of the Trust Fund such additional information which was impossible for the employer to obtain prior to the Trust Fund's denial no later than 15 calendar days before the initially-scheduled hearing date. The parties should make every attempt to resolve their differences prior to the hearing, but if neither the Trust Fund nor the aggrieved party can reach an agreement, the matter may, upon request of either party, be referred to the Mediation Unit of the State Board of Workers' Compensation. This provision shall in no way enlarge the time period in which the employer/insurer must request a hearing to challenge the Trust Fund's denial before the State Board of Workers' Compensation.

Cite as Ga. Comp. R. & Regs. R. 622-1-.06
Authority: O.C.G.A. Sec. 34-9-354.
History. Original Rule entitled "Procedures for Payment of Reimbursement Benefits by the Fund" adopted. F. May 26, 1987; eff. June 15, 1987.
Amended: F. Dec. 20, 1990; eff. Jan. 9, 1991.
Amended: F. June 22, 1995; eff. July 12, 1995.
Amended: F. May 31, 1996; eff. June 20, 1996.
Amended: F. May 29, 1998; eff. June 18, 1998.
Amended: F. June 21, 2000; eff. July 11, 2000.
Amended: F. Mar. 18, 2002; eff. Apr. 7, 2002.
Amended: F. Dec. 11, 2002; eff. Dec. 31, 2002.

Rule 622-1-.07. Settlements Subsequent to Reimbursement Agreements.

After the employer/insurer and the administrator of the Subsequent Injury Trust Fund reach an agreement with respect to reimbursement and the reimbursement agreement is approved by the State Board of Workers' Compensation, the employer/insurer shall keep the administrator of the Subsequent Injury Trust Fund informed as to any settlement discussion with the employee. The employer/insurer shall obtain the approval of the Subsequent Injury Trust Fund administrator on all settlements entered into for the employer.

Cite as Ga. Comp. R. & Regs. R. 622-1-.07
Authority: O.C.G.A. Sec. 34-9-354(d),
History. Rule entitled "Settlement Subsequent to Reimbursement Agreements" was filed on May 26, 1987; effective June 15, 1987.
Amended: F. Jun. 22, 1995; eff.July 12, 1995 .
Amended: F. Sept. 12, 1997; eff. Oct. 2, 1997.

Rule 622-1-.08. Fund Not Bound as to Certain Matters.

Where the Subsequent Injury Trust Fund has been placed on notice of a potential claim against the Fund, the employer/insurer shall keep the Fund advised and cooperate with the administrator or his designee while defending the claim. Where the administrator or his designee acknowledges in writing that the Fund does not raise an objection to the manner in which the claim is defended or resolved, the Fund will not raise Code Section 34-9-366 as a defense to reimbursement liability by the Fund; provided, however, that the Fund reserves the right to intervene where the administrator or his designee deems it appropriate.

Cite as Ga. Comp. R. & Regs. R. 622-1-.08
Authority: O.C.G.A. Sec. 34-9-354(d).
History. Original Rule entitled "Fund Not Bound as to Certain Mattes" was filed on May 28, 1987; effective June 15, 1987.
Amended: F. Jun. 22, 1995; eff. July 12, 1995.

Chapter 622-2. PROCEDURES FOR PRO RATA REFUND OF ASSESSMENTS AND FINAL ACCOUNTING OF SUBSEQUENT INJURY TRUST FUND.

Rule 622-2-.01. Procedures for Pro Rata Refund of Assessments and Final Accounting of Subsequent Injury Trust Fund.

The purpose of this amended Rule is to establish procedures for the pro rata refund of assessments as provided by O.C.G.A Section 34-9-358, to transfer the Board of Trustees to the Department of Insurance, and for the final accounting of the financial affairs of the fund as required by O.C.G.A. Section 34-9-368.

(1) **Suspension of Assessments to Fund by Insurers and Self-Insurers.** The suspension of assessments authorized by the Administrator on January 18, 2019 shall continue in effect until such time as a completed actuarial survey shows that further assessments are needed for all bona fide claims that are to be paid by the fund. If said suspension of assessments is rescinded and assessments required, said assessments shall resume in the manner and amount authorized by Code Section 34-9-358(c).

(2) **Payment of Assessments to Fund by Insurers and Self-Insurers.** The payment of assessments pursuant to Code Section 34-9-358 shall terminate when all claims made for injuries occurring on and prior to June 30, 2006 have been fully paid or otherwise resolved.

(3) **Pro-Rata Refund of Assessments.** In order to receive a pro rata refund pursuant to Code Section 34-9-358(f) at the time that all eligible claims have been paid and all related administrative costs have been accrued or paid and a balance remains in the fund, all insurers or self-insurers must have been in good standing and not delinquent in the payment of any assessments required by Code Section 34-9-358.

(4) **Board of Trustees.** Effective January 1, 2026 the Board of Trustees of the Subsequent Injury Trust Fund shall report to the Commissioner of Insurance. The Board of Trustees shall continue to have all authority granted by, and administer the fund pursuant to, Code Section 34-9-354(d).

(5) **Transfer to the Department of Insurance.** The fund shall transfer to the Department of Insurance effective January 1, 2026; provided, however, that pursuant to Code Section 34-9-352, it shall be maintained by the Department of Insurance for the sole purpose of making payments in accordance with the provisions of Code Section 34-9-350, et seq. until such time as all claims made for injuries occurring on and prior to June 30, 2006 have been fully paid or otherwise resolved. Thereafter any unexpended funds shall be disposed of pursuant to Code Section 34-9-358(f).

(6) **Final Accounting.** At such time as all claims made for injuries occurring on and prior to June 30, 2006 have been fully paid or otherwise resolved, the Administrator shall authorize a final accounting of the financial affairs of the fund, to be performed by an independent third-party professional.

(7) **No Loss Portfolio Transfer.** No loss portfolio transfer or other reinsurance agreement shall be made unless and until an actuarial survey is completed by an independent third-party actuary establishing that the projected liability for all active claims exceeds 95% of the fund.

Cite as Ga. Comp. R. & Regs. R. 622-2-.01
Authority: O.C.G.A. §§ 34-9-354; 34-9-358; 34-9-368.
History. Original Rule entitled "Dissolution of the Board of Trustees" adopted. F. May 19, 2025; eff. June 8, 2025.
Amended: New title, "Procedures for Pro Rata Refund of Assessments and Final Accounting of Subsequent Injury Trust Fund." F. Jan. 14, 2026; eff. Feb. 3, 2026.

Chapter 622-3. PRO RATA REFUND OF ASSESSMENTS.

Rule 622-3-.01. Pro Rata Refund of Assessments.

In the event that assessments are discontinued prior to the date that the last claim is paid pursuant to Code Section 34-9-360, the three-year period provided for in Code Section 34-9-358(f)(1) shall be the last three calendar years in which the fund collected assessments pursuant to Code Section 34-9-358. Insurers and self-insurers eligible for a pro rata refund of assessments previously collected pursuant to Code Section 34-9-358(f) shall be those who maintained workers' compensation insurance in the state and paid assessments to the fund at any time during the last three calendar years in which the fund collected assessments pursuant to Code Section 34-9-358.

Cite as Ga. Comp. R. & Regs. R. 622-3-.01
Authority: O.C.G.A. §§ 34-9-358, 34-9-360.
History. Original Rule entitled "Pro Rata Refund of Assessments" adopted. F. May 19, 2025; eff. June 8, 2025.