



Illinois Statutes Chapter 215. Insurance § 5/511.112. Fiduciary Accounts and Duties

Search Illinois Statutes

Search by Keyword or Citation

Enter Keyword or Citation

Search

« Prev
(<https://codes.findlaw.com/il/chapter-215-1>)

Next »
(<https://codes.findlaw.com/il/chapter-215-1>)

§ 5/511.112. Fiduciary Accounts and Duties. (a) Administrators shall hold in a fiduciary capacity all contributions and premiums received or collected on behalf of a plan sponsor or insurer. Such funds shall not be used as general operating funds of the administrator. All contributions and premiums received or collected by the administrator from residents of this State, which the Administrator holds more than 15 days or deposits into an account which is not under the control of the plan sponsor or insurer, shall be placed in a special fiduciary account, which account shall be designated an "Administrator Trust Fund Account" ("ATF"). All resident and quasi-resident licensees required to maintain an ATF pursuant to this Section shall maintain such ATF with one or more financial institutions located within the State of Illinois and subject to jurisdiction of the Illinois courts. Funds belonging to 2 or more plans may be held in the same ATF, provided the administrator's records clearly indicate the funds belonging to each plan. Checks drawn on the ATF shall indicate on their face that they are drawn on the ATF of the administrator.

(b) The administrator may make the following disbursements from the ATF:

- (1) Contributions and premiums due insurers or other persons providing life, accident and health coverage for a plan;
- (2) Return contributions and premiums to a plan or covered individual;
- (3) Commissions or administrative fees due to the administrator when earned pursuant to written agreement; and
- (4) Transfers into the CASA of the administrator.

(c) For each plan where an ATF is required, the balance in the ATF shall at all times be the amount deposited plus accrued interest, if any, less authorized disbursements. If the balance at the financial institution with respect to the ATF is less than the amount deposited plus accrued interest, if any, less authorized disbursements, the administrator shall be deemed to have misappropriated fiduciary funds and to have acted in a financially irresponsible manner.

(d) If the ATF is interest bearing or income producing, the full nature of the account must first be disclosed to the plan sponsors or insurers on whose behalf the funds are or will be held. The administrator must secure written consent and authorization from the plan sponsors or insurers for the investment of the money and disposition of the interest or earnings. No investment shall be made which assumes any risk other than the risk that the obligor shall not pay the principal when due. The use of specialized techniques or strategies which incur additional risks to generate higher returns or to extend maturities is not permitted. Such techniques would include, but not be limited to, the following: Use of financial futures or options, buying on margins and pledging of ATF balances.

(e) Administrators may place ATF funds in interest bearing or income producing investments and retain the interest or income thereon, providing the administrator obtains the prior written authorization of the plan sponsors or insurers on whose behalf the funds are to be held. In addition to savings and checking accounts, an administrator may invest in the following:

Latest Blog Posts

Lawyer Got So Buried in Discovery, Nobody Knew He Was There
(https://blogs.findlaw.com/greedy_associates/)

As Ginsburg Rests, White House Plans to Replace Her
(https://blogs.findlaw.com/supreme_court/)

5 Ways for Lawyers to Stay Active After Retirement
(<https://blogs.findlaw.com/strategist/>)

Why Lawyers Should Know How to Properly Redact
(<https://blogs.findlaw.com/technologist/>)
[View More » \(https://legalblogs.findlaw.com/\)](https://legalblogs.findlaw.com/)

9.6% Annuity Return

Compare the highest annuity rates for 2019. Maximize your retirement savings and income. [AnnuityAlliance.com](https://annuityalliance.com)

Contractors Insurance Online - Starting At Only \$29/Month

Protect Your Business Today. Get Your Tailor-Made Policy In 5 Minutes Online! next-insurance.com

Need A Personal Loan? - Apply Online. Get Money Today.

Personal and Auto Loans from \$1,500 to \$30,000
onemainfinancial.com

FindLaw Career Center

Select a Job Title

Attorney
Corporate Counsel
Academic
Judicial Clerk
Summer Associate
Intern
Law Librarian

Search Jobs

Post a Job

(<https://www.indeed.com/hire?indpubnum=791244634154558>) | [Careers Home \(https://careers.findlaw.com/\)](https://careers.findlaw.com/)

[View More \(https://careers.findlaw.com/\)](https://careers.findlaw.com/)

-
- (1) Direct obligations of the United States of America or U.S. Government agency securities with maturities of not more than one year;
 - (2) Certificates of deposit, with a maturity of not more than one year, issued by financial institutions which are insured by the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC), so long as any such deposit does not exceed the maximum level of insurance protection provided to certificates of deposits held by such institutions;
 - (3) Repurchase agreements with financial institutions or government securities dealers recognized as primary dealers by the Federal Reserve System provided:
 - (A) The value of the repurchase agreement is collateralized with assets which are allowable investments for ATF funds; and
 - (B) The collateral has a market value at the time the repurchase agreement is entered into at least equal to the value of the repurchase agreement; and
 - (C) The repurchase agreement does not exceed 30 days.
 - (4) Commercial paper, provided the commercial paper is rated at least P-1 by Moody's Investors Service, Inc. or at least A-1 by Standard & Poor's Corporation;
 - (5) Money Market Funds, provided the money market fund invests exclusively in assets which are allowable investments pursuant to (1) through (4) above for ATF funds;
 - (6) Each investment transaction must be made in the name of the administrator's ATF. The administrator must maintain evidence of any such investments. Each investment transaction must flow through the administrator's ATF.
- (f) The administrator shall hold in a fiduciary capacity all moneys which the administrator receives to pay claims and claim adjustment expenses. All resident and quasi-resident licensees shall place all such money for claims and claim adjustment expenses for residents of this State, whether received from a plan sponsor or insurer or from the ATF of the administrator, in a special fiduciary account in a financial institution located in this State. The account shall be designated a "Claims Administration Service Account" ("CASA"). Funds belonging to 2 or more plans may be held in the same CASA, provided the administrator's records clearly indicate the funds belonging to each plan. Checks drawn on the CASA shall indicate on their face that they are drawn on the CASA of the administrator.
- (g) No deposit shall be made into a CASA and no disbursement shall be made from a CASA except for claims and claims adjustment expenses. For each plan where a CASA is required, the balance in the CASA shall at all times be the amount deposited less claims and claims adjustment expenses paid. If the CASA balance is less than such amount, the administrator shall be deemed to have misappropriated fiduciary funds and to have acted in a financially irresponsible manner.
- (h)(1) Administrators shall maintain detailed books and records which reflect all transactions involving the receipt and disbursement of:
- (i) Contributions and premiums received on behalf of a plan sponsor or insurer; and
 - (ii) Claims and claim adjustment expenses received and paid on behalf of a plan sponsor or insurer.
- (2) The detailed preparation, journalizing and posting of such books and records must be maintained on a timely basis and all journal entries for receipts and disbursements shall be supported by evidential matter, which must be referenced in the journal entry so that it may be traced for verification. Administrators shall prepare and maintain monthly financial institution account reconciliations of any ATF and CASA established by the administrator. The minimum detail required shall be as follows:
- (i) The sources, amounts and dates of any moneys received and deposited by the administrator.
 - (ii) The date and person to whom a disbursement is made. If the amount disbursed does not agree with the amount billed or authorized, the administrator shall prepare a written record as to the reason.
 - (iii) A description of the disbursement in such detail to identify the source document substantiating the purpose of the disbursement.
- (i) Failure to maintain accurately and timely the books and records required above shall be deemed untrustworthy, hazardous or injurious to participants in the plan or the public and financially irresponsible.
- (j) This Section shall not apply to nonresident administrators who are subject to substantially similar requirements in their state of domicile.

FindLaw Codes are provided courtesy of Thomson Reuters Westlaw, the industry-leading online legal research system (<https://legalsolutions.thomsonreuters.com/law-products/westlaw-legal-research/>). For more detailed codes research information, including annotations and citations, please visit Westlaw (<https://www.westlaw.com/>).

FindLaw Codes may not reflect the most recent version of the law in your jurisdiction. Please verify the status of the code you are researching with the state legislature or via Westlaw before relying on it for your legal needs.

RESEARCH THE LAW [Cases & Codes \(https://caselaw.findlaw.com/\)](https://caselaw.findlaw.com/) / [Opinion Summaries \(https://caselaw.findlaw.com/summary.html\)](https://caselaw.findlaw.com/summary.html) / [Sample Business Contracts \(https://corporate.findlaw.com/contracts.html\)](https://corporate.findlaw.com/contracts.html) / [Research An Attorney or Law Firm \(https://lawyers.findlaw.com/\)](https://lawyers.findlaw.com/)

MANAGE YOUR PRACTICE [Law Technology \(https://technology.findlaw.com/\)](https://technology.findlaw.com/) / [Law Practice Management \(https://practice.findlaw.com/\)](https://practice.findlaw.com/) / [Law Firm Marketing Services \(https://www.lawvermarketing.com/\)](https://www.lawvermarketing.com/) / [Corporate Counsel Center \(https://corporate.findlaw.com/\)](https://corporate.findlaw.com/)

MANAGE YOUR CAREER [Legal Career Job Search \(https://careers.findlaw.com/\)](https://careers.findlaw.com/) / [Online CLE \(https://westlegaledcenter.com/home/homepage.jsf?sc_cid=Findlawclecntrtab\)](https://westlegaledcenter.com/home/homepage.jsf?sc_cid=Findlawclecntrtab) / [Law Student Resources \(https://lawstudents.findlaw.com/\)](https://lawstudents.findlaw.com/)

NEWS AND COMMENTARY [Law Commentary \(https://supreme.findlaw.com/legal-commentary.html\)](https://supreme.findlaw.com/legal-commentary.html) / [Featured Documents \(https://blogs.findlaw.com/courtside/\)](https://blogs.findlaw.com/courtside/) / [Newsletters \(https://newsletters.findlaw.com/\)](https://newsletters.findlaw.com/) / [Blogs \(https://legalblogs.findlaw.com/\)](https://legalblogs.findlaw.com/) / [RSS Feeds \(https://www.findlaw.com/rss-index.html\)](https://www.findlaw.com/rss-index.html)

GET LEGAL FORMS [Legal Forms for Your Practice \(https://www.uslegalforms.com/lpfindlaw\)](https://www.uslegalforms.com/lpfindlaw)

ABOUT US [Company History \(https://company.findlaw.com/company_info.html\)](https://company.findlaw.com/company_info.html) / [Media Relations \(https://company.findlaw.com/media_relations.html\)](https://company.findlaw.com/media_relations.html) / [Contact Us \(https://company.findlaw.com/contacts.html\)](https://company.findlaw.com/contacts.html) / [Privacy \(https://www.thomsonreuters.com/en/privacy-statement.html\)](https://www.thomsonreuters.com/en/privacy-statement.html) / [Cookies \(https://info.evidon.com/pub_info/15540?v=1&nt=0&nw=false\)](https://info.evidon.com/pub_info/15540?v=1&nt=0&nw=false) / [Advertising \(https://company.findlaw.com/adkit/index.html\)](https://company.findlaw.com/adkit/index.html) / [Jobs \(https://company.findlaw.com/employment/employment.html\)](https://company.findlaw.com/employment/employment.html)

FIND US ON

Copyright © 2019, Thomson Reuters. All rights reserved.