

US EPA ARCHIVE DOCUMENT

ATTACHMENT 11

Section 811.707 Use of Multiple Financial Mechanisms

An owner or operator may satisfy the requirements of this Subpart by establishing more than one financial mechanism per site. These mechanisms are limited to trust funds, surety bonds guaranteeing payment, letters of credit and insurance. The mechanisms must be as specified in 35 Ill. Adm. Code 811.710, 811.711, and 811.713 through 811.720, as applicable, except that it is the combination of mechanisms, rather than the single mechanism, that must provide financial assurance for an aggregate amount at least equal to the current cost estimate for closure, post-closure care or corrective action, except that mechanisms guaranteeing performance, rather than payment, may not be combined with other instruments. The owner or operator may use any or all of the mechanisms to provide for closure and postclosure care of the site or corrective action.

(Source: Amended at 23 Ill. Reg. 2794, effective February 17, 1999)

Section 811.709 Trust Fund for Unrelated Sites

Any person may establish a trust fund for the benefit of the Agency which may receive funds from more than one owner or operator for closure of different sites. Such a trust fund must operate like the trust fund specified in 35 Ill. Adm. Code 807.710, except as follows:

- a) The trustee shall maintain a separate account for each site and shall evaluate such annually as of the day of creation of the trust;
- b) The trustee shall annually notify each owner or operator and the Agency of the evaluation of each owner or operator's account;
- c) The trustee shall release excess funds as required from the account for each site;
- d) The trustee shall reimburse the owner or operator or other person authorized to perform closure or postclosure care only from the account for that site.
- e) The Agency may direct the trustee to withhold payments only from the account for the site for which it has determined the cost of closure and postclosure care will be greater than the value of the account for that site pursuant to Section 811.710(g)(3).

(Source: Amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994)

Section 811.710 Trust Fund

- a) An owner or operator may satisfy the requirements of this Subpart by establishing a trust fund which conforms to the requirements of this Section and submitting an original signed duplicate of the trust agreement to the Agency.
- b) The trustee shall be an entity which has the authority to act as a trustee and:
 - 1) Whose trust operations are examined by the Illinois Commissioner of Banks and Trust Companies pursuant to the Illinois Banking Act (Ill. Rev. Stat. 1991, ch. 17, pars. 301 et seq. [205 ILCS 5/1 et seq.]); or
 - 2) Who complies with the Corporate Fiduciary Act (Ill. Rev. Stat. 1991, ch. 17, pars. 1551-1 et seq. [205 ILCS 620/1-1 et seq.]).

- c) The trust agreement must be on the forms specified in Appendix A, Illustration A, and the trust agreement must be accompanied by a formal certification of acknowledgement, on the form specified in Appendix A, Illustration B.
- d) Payments into the trust:
 - 1) For closure and post-closure care:
 - A) The owner or operator shall make a payment into the trust fund each year during the pay-in period.
 - B) The pay-in period is the number of years remaining until the assumed closure date.
 - C) Annual payments are determined by the following formula:
$$\text{Annual payment} = (\text{CE} - \text{CV}) / Y$$

where:

CE = Current cost estimate
CV = Current value of the trust fund
Y = Number of years remaining in the pay in period.
 - D) The owner or operator shall make the first annual payment prior to the initial receipt of waste for disposal. The owner or operator shall also, prior to such initial receipt of waste, submit to the Agency a receipt from the trustee for the first annual payment.
 - E) Subsequent annual payments must be made no later than 30 days after each anniversary of the first payment.
 - F) The owner or operator may accelerate payments into the trust fund, or may deposit the full amount of the current cost estimate at the time the fund is established.
 - G) An owner or operator required to provide additional financial assurance for an increase in the cost estimate because of an amendment to this Subchapter may provide such additional financial assurance pursuant to this subsection. The owner or operator may provide the increase by contributing to a new or existing trust fund

pursuant to this Section. Subsection (d)(2) notwithstanding, the pay-in period for such additional financial assurance shall be not less than three years.

2) For corrective action at MSWLF units:

- A) The owner or operator shall make payments into the trust fund annually over one-half of the estimated length of the corrective action program in the case of corrective action for known releases. This period is referred to as the pay-in period.
- B) The owner or operator shall make the first payment into the trust fund equal to at least one-half of the current cost estimate for corrective action divided by the number of years in the corrective action pay-in period, as defined in subsection (d)(2)(A) of this section. The amount of subsequent payments must be determined by the following formula:

$$\text{Next payment} = (\text{RB} - \text{CV}) / \text{Y}$$

where:

RB = Most recent estimate of the required trust fund balance for corrective action (i.e., the total costs that will be incurred during the second half of the corrective action period);

CV = Current value of the trust fund; and

Y = Number of years remaining in the pay-in period.

- C) The owner or operator shall make the initial payment into the trust fund no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.

Board Note. Changes to subsection (d) are derived from 40 CFR 258.74 (a)(2), (a)(4), and (a)(5) (1992).

- e) The trustee shall evaluate the trust fund annually, as of the day the trust was created or on such earlier date as may be provided in the agreement. The trustee shall notify the owner or operator and the Agency of the value within 30 days after the evaluation date.

- f) If the owner or operator of a MSWLF unit establishes a trust fund after having used one or more alternative mechanisms specified in this Subpart, the initial payment into the trust fund must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to the specifications of this Section.

Board Note. Subsection (f) is derived from 40 CFR 258.74 (a)(6) (1992).

- g) Release of excess funds:

- 1) If the value of the financial assurance is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Agency for a release of the amount in excess of the current cost estimate.
- 2) Within 60 days after receiving a request from the owner or operator for a release of funds, the Agency shall instruct the trustee to the owner or operator such funds as the Agency specifies in writing to be in excess of the current cost estimate.

- h) Reimbursement for closure, postclosure care and corrective action expenses:

- 1) After initiating closure or corrective action, an owner or operator, or any other person authorized to perform closure or postclosure care or corrective action, may request reimbursement for closure or postclosure care or corrective action expenditures, by submitting itemized bills to the Agency.
- 2) Within 60 days after receiving the itemized bills for closure or postclosure care activities or correction action, the Agency shall determine whether the expenditures are in accordance with the closure or postclosure care or corrective action plan. The Agency shall instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing as expenditures in accordance with the closure or postclosure care or corrective action plan.
- 3) If the Agency determines, based on such information as is available to it, that the cost of closure and postclosure care or corrective action will be greater than the value of the trust fund, it shall withhold reimbursement of such amounts as it determines are necessary to preserve the fund in order to accomplish closure and postclosure care or corrective action until it determines that the owner or operator is no longer required to maintain financial

assurance for closure and postclosure care or corrective action. In the event the fund is inadequate to pay all claims, the Agency shall pay claims according to the following priorities:

- A) Persons with whom the Agency has contracted to perform closure or postclosure care or corrective action activities (first priority);
- B) Persons who have completed closure or postclosure care or corrective action authorized by the Agency (second priority);
- C) Persons who have completed work which furthered the closure or postclosure care or corrective action (third priority);
- D) The owner or operator and related business entities (last priority).

(Source: Amended in R93-10 at 18 Ill. Reg. 1308, effective January 13, 1994)

Section 811.711 Surety Bond Guaranteeing Payment

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond which conforms to the requirements of this Section and submitting the bond to the Agency. A surety bond obtained by an owner or operator of an MSWLF unit must be effective before the initial receipt of waste or before April 9, 1997 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), or such later date granted pursuant to Section 811.700(g), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.
- b) The surety company issuing the bond shall be LICENSED TO TRANSACT THE BUSINESS OF INSURANCE BY THE DEPARTMENT OF INSURANCE, pursuant to the Illinois Insurance Code [215 ILCS 5], OR AT A MINIMUM THE INSURER MUST BE LICENSED TO TRANSACT THE BUSINESS OF INSURANCE OR APPROVED TO PROVIDE INSURANCE AS AN EXCESS OR SURPLUS LINES INSURER BY THE INSURANCE DEPARTMENT IN ONE OR MORE STATES, and approved by the U.S. Department of the Treasury as an acceptable surety. Section 21.1(a.5) of the Act [415 ILCS 5/21.1(a.5)]

BOARD NOTE: The U.S. Department of the Treasury lists acceptable sureties in its Circular 570.

- c) The surety bond must be on the forms specified in Appendix A, Illustration C, D, or H.
- d) Any payments made under the bond will be placed in the landfill closure and postclosure fund within the State Treasury.
- e) Conditions:
 - 1) The bond must guarantee that the owner or operator will provide closure and postclosure care in accordance with the approved closure and postclosure care plans. If the facility is an MSWLF unit, then the corrective action bond must guarantee that the owner or operator will implement corrective action in accordance with Section 811.326.
 - 2) The surety will become liable on the bond obligation when, during the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator:
 - A) Abandons the site;
 - B) Is adjudicated bankrupt;
 - C) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction;
 - D) Notifies the Agency that it has initiated closure or corrective action, or initiates closure or corrective action, but fails to close the site or provide postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans; or
 - E) For a corrective action bond, fails to implement corrective action at an MSWLF unit in accordance with Section 811.326
- f) Penal sum:

- 1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.
 - 2) The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases.
- g) Term:
- 1) The bond must be issued for a term of at least five years and must not be cancelable during that term.
 - 2) If the owner or operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond must be automatically extended for one twelve-month period starting with the date of expiration of the bond. During such extension the bond will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.
 - 3) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at an MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action program at an MSWLF unit, or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action in compliance with this Part.
- h) Cure of default and refunds:
- 1) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at an MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action at an MSWLF unit or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action in compliance with this Part.
 - 2) After closure and postclosure care have been completed in accordance with the plans and requirements of this Part or after the completion of corrective action at an MSWLF unit in accordance Section 811.326, the Agency shall refund any unspent money which was paid into the "Landfill Closure and Postclosure Fund"

by the surety.

BOARD NOTE: MSWLF corrective action language at subsection (a) is derived from 40 CFR 258.74(b)(1) (1996). P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60337), USEPA added 40 CFR 258.70(c) (1996), codified here as Section 811.700(g), to allow states to waive the compliance deadline until April 9, 1998. The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

(Source: Amended at 21 Ill. Reg. 15831, effective November 25, 1997)

Section 811.712 Surety Bond Guaranteeing Performance

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond which conforms to the requirements of this Section and submitting the bond to the Agency. A surety bond obtained by an owner or operator of an MSWLF unit must be effective before the initial receipt of waste or before April 9, 1997 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), or such later date granted pursuant to Section 811.700(g), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.
- b) The surety company issuing the bond shall be LICENSED TO TRANSACT THE BUSINESS OF INSURANCE BY THE DEPARTMENT OF INSURANCE, pursuant to the Illinois Insurance Code [215 ILCS 5], OR AT A MINIMUM THE INSURER MUST BE LICENSED TO TRANSACT THE BUSINESS OF INSURANCE OR APPROVED TO PROVIDE INSURANCE AS AN EXCESS OR SURPLUS LINES INSURER BY THE INSURANCE DEPARTMENT IN ONE OR MORE STATES, and approved by the U.S. Department of the Treasury as an acceptable surety. Section 21.1(a.5) of the Act [415 ILCS 5/21.1(a.5)]

BOARD NOTE: The U.S. Department of the Treasury lists acceptable sureties in its Circular 570.

- c) The surety bond must be on the forms as specified in Appendix A, Illustration C, D, or H.
- d) Any payments made under the bond will be placed in the landfill closure and postclosure fund within the State Treasury.
- e) Conditions:
 - 1) The bond must guarantee that the owner or operator will provide closure and postclosure care in accordance with the closure and postclosure care plans in the permit. If the facility is an MSWLF unit, then a corrective action bond must guarantee that the owner or operator will implement corrective action in accordance with Section 811.326. The surety shall have the option of providing closure and postclosure care or carrying out corrective action, or of paying the penal sum.
 - 2) The surety will become liable on the bond obligation when, during the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator:
 - A) Abandons the site;
 - B) Is adjudicated bankrupt;
 - C) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction; or
 - D) Notifies the Agency that it has initiated closure or corrective action, or initiates closure or corrective action, but fails to close the site or provide postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans.
 - E) For a corrective action bond, fails to implement corrective action at an MSWLF unit in accordance with Section 811.326
- f) Penal sum:
 - 1) The penal sum of the bond must be in an amount at least equal to the current cost estimate.

- 2) The Agency shall approve a reduction in the penal sum whenever the current cost estimate decreases.
- g) Term:
- 1) The bond must be issued for a term of at least five years and must not be cancelable during that term.
 - 2) If the owner or operator fails to provide substitute financial assurance prior to expiration of a bond, the term of the bond must be automatically extended for one twelve-month period starting with the date of expiration of the bond. During such extension, the bond will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.
- h) Cure of default and refunds:
- 1) The Agency shall release the surety if, after the surety becomes liable on the bond, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at an MSWLF unit, unless the Agency determines that the closure or postclosure care plan, corrective action at an MSWLF unit, or the amount of substituted financial assurance is inadequate to provide closure and postclosure care or implement corrective action at an MSWLF unit in compliance with this Part.
 - 2) After closure and postclosure care have been completed in accordance with the closure and postclosure care plans and the requirements of this Part or after the completion of corrective action at an MSWLF unit in accordance with Section 811.326, the Agency shall refund any unspent money which was paid into the "Landfill Closure and Postclosure Fund" by the surety.
- i) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the Agency releases the owner or operator from the requirements of this Subpart.

BOARD NOTE: MSWLF corrective action language at subsection (a) is derived from 40 CFR 258.74 (b)(1) (1996). P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become

effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60337), USEPA added 40 CFR 258.70(c) (1996), codified here as Section 811.700(g), to allow states to waive the compliance deadline until April 9, 1998. The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

(Source: Amended at 21 Ill. Reg. 15831, effective November 25, 1997)

Section 811.713 Letter of Credit

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining an irrevocable standby letter of credit which conforms to the requirements of this Section and submitting the letter to the Agency. A letter of credit obtained by an owner or operator of an MSWLF unit must be effective before the initial receipt of waste or before April 9, 1997 (the effective date of the financial assurance requirements under RCRA Subtitle D regulations), or such later date granted pursuant to Section 811.700(g), whichever is later, in the case of closure and post-closure care, or no later than 120 days after the remedy has been selected in accordance with the requirements of Section 811.325.
- b) The issuing institution shall be an entity which has the authority to issue letters of credit and:
 - 1) Whose letter-of-credit operations are regulated by the Illinois Commissioner of Banks and Trust Companies pursuant to the Illinois Banking Act [205 ILCS 5]; or
 - 2) Whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- c) Forms:
 - 1) The letter of credit must be on the forms specified in Appendix A, Illustration E.
 - 2) The letter of credit must be accompanied by a letter from the owner or operator, referring to the letter of credit by number, the name and address of the issuing institution, and the effective date of the letter, and providing the following information: the name and address of the site and the amount of funds assured for closure and

postclosure care of the site, or for corrective action at an MSWLF unit by the letter of credit.

- d) Any amounts drawn by the Agency pursuant to the letter of credit will be deposited in the landfill closure and postclosure fund within the State Treasury.
- e) Conditions on which the Agency may draw on the letter of credit:
 - 1) The Agency shall draw on the letter of credit if the owner or operator fails to perform closure or postclosure care in accordance with the closure and postclosure care plans, or fails to implement corrective action at an MSWLF unit in accordance with Section 811.326.
 - 2) The Agency shall draw on the letter of credit when the owner or operator:
 - A) Abandons the site;
 - B) Is adjudicated bankrupt;
 - C) Fails to initiate closure of the site or postclosure care or corrective action when ordered to do so by the Board pursuant to Title VII of the Act, or when ordered to do so by a court of competent jurisdiction;
 - D) Notifies the Agency that it has initiated closure or corrective action, or initiates closure or corrective action, but fails to Provide closure and postclosure care or corrective action in accordance with the closure and postclosure care or corrective action plans; or
 - E) For a corrective action bond, fails to implement corrective action at an MSWLF unit in accordance with Section 811.326
- f) Amount:
 - 1) The letter of credit must be issued in an amount at least equal to the current cost estimate.
 - 2) The Agency shall approve a reduction in the amount whenever the current cost estimate decreases.

g) Term:

- 1) The letter of credit must be issued for a term of at least five years and must be irrevocable during that term.
- 2) If the owner or operator fails to substitute alternative financial assurance prior to expiration of a letter of credit, the term of the letter of credit must be automatically extended for one twelve-month period starting with the date of expiration. During such extension, the letter of credit will cease to serve as financial assurance satisfying the requirements of this Part, and will not excuse the owner or operator from the duty to provide substitute financial assurance.

h) Cure of default and refunds:

- 1) The Agency shall release the financial institution if, after the Agency is allowed to draw on the letter of credit, the owner or operator or another person provides financial assurance for closure and postclosure care of the site or corrective action at an MSWLF unit, unless the Agency determines that a plan or the amount of substituted financial assurance is inadequate to provide closure and postclosure care, or implement corrective action at an MSWLF unit, as required by this Part.
- 2) After closure and postclosure care have been completed in accordance with the closure and postclosure care plans and the requirements of this Part or after the completion of corrective action at an MSWLF unit in accordance with Section 811.326, the Agency shall refund any unspent money which was paid into the "Landfill Closure and Postclosure Fund" by the financial institution.

BOARD NOTE: MSWLF corrective action language at subsection (a) is derived from 40 CFR 258.74 (c)(1) (1996). P.A. 89-200, signed by the Governor on July 21, 1995 and effective January 1, 1996, amended the deadline for financial assurance for MSWLFs from April 9, 1995 to the date that the federal financial assurance requirements actually become effective, which was April 9, 1997. On November 27, 1996 (61 Fed. Reg. 60337), USEPA added 40 CFR 258.70(c) (1996), codified here as Section 811.700(g), to allow states to waive the compliance deadline until April 9, 1998. The other clarifying changes reflect the inclusion of financial assurance requirements for implementing corrective action at MSWLF units under this Section.

(Source: Amended at 21 Ill. Reg. 15831, effective November 25, 1997)

Section 811.714 Closure Insurance

- a) An owner or operator may satisfy the requirements of this Subpart by obtaining closure and postclosure care insurance which conforms to the requirements of this Section and submitting an executed duplicate original of such insurance policy to the Agency.
- b) The insurer shall be LICENSED TO TRANSACT THE BUSINESS OF INSURANCE BY THE DEPARTMENT OF INSURANCE, pursuant to the Illinois Insurance Code [215 ILCS 5], OR AT A MINIMUM THE INSURER MUST BE LICENSED TO TRANSACT THE BUSINESS OF INSURANCE OR APPROVED TO PROVIDE INSURANCE AS AN EXCESS OR SURPLUS LINES INSURER BY THE INSURANCE DEPARTMENT IN ONE OR MORE STATES. Section 21.1(a.5) of the Act [415 ILCS 5/21.1(a.5)]
- c) The policy must be on forms approved by the Illinois Department of Insurance pursuant to the Illinois Insurance Code or on forms approved by the insurance department of one or more states.
- d) Face amount:
 - 1) The closure and postclosure care insurance policy must be issued for a face amount at least equal to the current cost estimate. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.
 - 2) The Agency shall approve a reduction in the amount of the policy whenever the current cost estimate decreases.
- e) The closure and postclosure care insurance policy must guarantee that funds will be available to close the site and to provide postclosure care thereafter. The policy must also guarantee that, once closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties as the Agency specifies. The insurer will be liable when:
 - 1) The owner or operator abandons the site;

- 2) The owner or operator is adjudicated bankrupt;
 - 3) The Board, pursuant to Title VIII of the Act, or a court of competent jurisdiction orders the site closed;
 - 4) The owner or operator notifies the Agency that it is initiating closure; or
 - 5) Any person initiates closure with approval of the Agency.
- f) Reimbursement for closure and postclosure care expenses:
- 1) After initiating closure, an owner or operator or any other person authorized to perform closure or postclosure care may request reimbursement for closure and postclosure care expenditures by submitting itemized bills to the Agency.
 - 2) Within 60 days after receiving bills for closure or postclosure care activities, the Agency shall determine whether the expenditures are in accordance with the closure or postclosure care plan. The Agency shall direct the insurer to make reimbursement in such amounts as the Agency specifies in writing as expenditures in accordance with the closure and postclosure care plans.
 - 3) If the Agency determines based on such information as is available to it that the cost of closure and postclosure care will be greater than the face amount of the policy, it shall withhold reimbursement of such amounts as it deems prudent until it determines that the owner or operator is no longer required to maintain financial assurance. In the event the face amount of the policy is inadequate to pay all claims, the Agency shall pay claims according to the following priorities:
 - A) Persons with whom the Agency has contracted to perform closure or postclosure care activities (first priority);
 - B) Persons who have completed closure or postclosure care authorized by the Agency (second priority);
 - C) Persons who have completed work which furthered the closure or postclosure care (third priority);
 - D) The owner or operator and related business entities (last priority).

g) Cancellation:

- 1) The owner or operator shall maintain the policy in full force and effect until the Agency releases the insurer pursuant to Section 811.702.
 - 2) The policy must provide that the insurer may not cancel, terminate or fail to renew the policy, except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration the premium due is paid.
- h) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably