

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1192

S.P. 448

In Senate, March 21, 1991

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator RICH of Cumberland

Cosponsored by Senator THERIAULT of Aroostook, Representative HASTINGS of Fryeburg and Representative TAMMARO of Baileyville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act Relating to Workers' Compensation Self-insurance.



Be it enacted by the People of the State of Maine as follows:

2
4 Sec. 1. 39 MRSA §23, sub-§6, ¶A, as amended by PL 1987, c.
272, §1, is further amended to read:

6 A. The bond or security deposit required of an individual
7 self-insurer shall may not be less than the greater of an
8 ~~amount-determined-by-the-following-formula-or-\$50,000,-The~~
9 ~~bond-or-security-deposit-shall-be-the-greater-of \$50,000 or~~
10 an amount equal to the loss and loss adjustment expense
11 portion of the annual standard premium for the prospective
12 fiscal coverage period or plus 25% of the annual standard
13 premiums for the period plus, as applicable, the value of
14 outstanding loss reserves minus recoveries from all excess
15 carriers and subrogation reduced to net collections plus-25%
16 of--annual--standard--premiums--for--the--prospective--fiscal
17 coverage-period. The percentage factor used to determine the
18 portion of annual standard premium allocated for loss and
19 loss adjustment expenses shall must be acceptable to the
20 superintendent. For the purposes of this paragraph, "annual
21 standard premium" means the annual premium produced by
22 applying the manual rates, rating rules, excluding any
23 premium discount, and the experience rating procedure
24 approved by the Superintendent of Insurance for the Safety
25 Pool of the residual market mechanism, as described in Title
26 24-A, section 2350, to the exposure and experience of the
27 individual self-insurer.

28
29 ~~For-individual-self-insurers-who-have-a-net-worth-equal-to~~
30 ~~or-in-excess-of-\$10,000,000,-who-have-had-positive-net~~
31 ~~earnings-demonstrated-by-certified-statements-of-financial~~
32 ~~condition-in-at-least-3-of-the-5-latest-fiscal-years,~~
33 ~~including-therein-one-of-the-2-most-recent-years,-and-whose~~
34 ~~mean-annual-earnings-for-the-5-latest-fiscal-years-are-at~~
35 ~~least-equal-to-the-normal-annual-premium-for-the-prospective~~
36 ~~fiscal-coverage-period,-the-minimum-security-deposit-or-bond~~
37 ~~shall-be-an-amount-determined-by-the-formula-above-or-as~~
38 ~~hereinafter--adjusted--for--applicable--levels--of--working~~
39 ~~capital-funds.-~~

40
41 ~~An-employer-meeting-the-above-test-may-deduct-from-the-penal~~
42 ~~value-of-its-surety-bond-or-from-market-value-of-securities~~
43 ~~deposited,-an-amount-not-exceeding-demonstrated-working~~
44 ~~capital-in-such-current-statement-of-financial-condition;~~
45 ~~the-bond-or-deposit-shall-not-be-less-than-\$100,000.-~~

46
47 ~~For--those--self-insurers--unable--to--meet--the--foregoing~~
48 ~~standards,-the-security-deposit-shall-be-governed-by-this~~
49 ~~subsection. Self-insurers failing-these-tests shall deposit~~
50 ~~acceptable funds or a sufficient surety bond in-that-amount~~
51 ~~produced-by-the-formula-to-be written by a corporate surety~~
52 ~~which that meets the qualifications prescribed by~~
regulations of the superintendent.

2 Within 30 days after notice by the Superintendent of
Insurance, the self-insurer shall post the deposit
4 indicated. This deadline may be extended by the
superintendent for good cause, but in no event may exceed
6 one year from the deadline for compliance as stated in the
notice given to the self-insurer.

8
A bond or security deposit in excess of the amount
10 prescribed by this subsection may be required if the
superintendent determines that the self-insurer has
12 experienced a deterioration in financial condition which
that adversely affects the self-insurer's ability to pay
14 expected losses.

16 No judgment creditor other than claimants for benefits under
this Act ~~may have a right~~ is entitled to levy upon the
18 self-insurer's assets held in such that deposit.

20 **Sec. 2. 39 MRSA §23, sub-§6, ¶B,** as enacted by PL 1981, c.
484, §7, is amended to read:

22 B. All individual self-insurers shall maintain specific
24 excess insurance unless the superintendent, in ~~his~~ the
superintendent's discretion, waives such-a that requirement.
26 Specific excess insurance shall generally must have a limit
of at least \$2,000,000. Higher limits may be required for
28 those businesses with a high risk of multiple injury from a
single occurrence. The retention underlying specific excess
30 policies shall must be the lowest retention generally
available for businesses of similar size and exposure, but
32 may, at the superintendent's discretion, be established at
higher levels consistent with the employer's claims
34 experience and financial condition.

36 All individual self-insurers shall maintain aggregate excess
insurance unless the superintendent, in ~~his~~ the
38 superintendent's discretion, waives such-~~requirements~~ that
requirement.

40 The superintendent shall adopt rules to establish maximum
42 levels of retained exposure respecting both specific and
aggregate insurance regarding employers that qualify as
44 individual self-insurers. Standards adopted in the rule
46 must take into account each self-insurer's financial
strength, volatility of operations, probability of exposure
48 to multiple claims from a single loss event and potential
for maintenance of financial viability throughout the period
50 for which benefits must be secured.

2

STATEMENT OF FACT

4 Employers who self-insure workers' compensation benefits and
6 currently meet specific criteria may post a security deposit or
8 surety bond with the Treasurer of State to be an approved
10 self-insurer. Under certain circumstances the amount of a
12 deposit may be as small as \$100,000 even though the self-insured
14 obligations of the employer are substantially greater.

16 This bill removes the current qualification standards by
18 which a self-insurer may make a limited security deposit and
20 requires the Superintendent of Insurance to adopt rules with new
22 standards. Those standards must take into account the financing
24 ability of the employer, the probability of exposure to
26 high-level losses and the self-insurer's financial strength.