

MAINE STATE LEGISLATURE

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R. O. S.

L.D. 266

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DATE: 5/3/95

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BANKING AND INSURANCE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 207, L.D. 266, Bill, "An Act to Revise the Security Deposit and Reinsurance Requirements for Individual Self-insurers"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate in time to allow the Superintendent of Insurance to exercise the powers granted to the Superintendent of Insurance through this legislation in matters involving certain self-insurance applications; and

Whereas, current law may deny the Superintendent of Insurance the discretion contemplated by this legislation with regard to the posting of bonds by self-insurers under certain circumstances; and

Whereas, the posting of bonds may involve considerable expense that might otherwise be avoided under the limited circumstances contemplated by this Legislation; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of

COMMITTEE AMENDMENT

R. & S.

COMMITTEE AMENDMENT "A" to H.P. 207, L.D. 266

2 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
3 safety; now, therefore,

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

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8 **Sec. 1. 39-A MRSA §403, sub-§8, ¶A**, as amended by PL 1993, c.
491, §1, is further amended to read:

10 A. The bond or security deposit required of an individual
12 self-insurer must be at least an amount determined by the
following formula or \$50,000, whichever is larger. The bond
14 or security deposit must be in an amount equal to the loss
and loss adjustment expense portion of the annual standard
16 premium for the prospective fiscal coverage period or the
outstanding loss reserves minus recoveries from all excess
18 carriers and subrogation reduced to net collections plus 25%
of annual standard premiums for the prospective fiscal
20 coverage period, whichever is larger. The percentage factor
used to determine the portion of annual standard premium
22 allocated for loss and loss adjustment expenses must be
acceptable to the Superintendent of Insurance. For the
24 purposes of this paragraph, "annual standard premium" is as
defined in section 404, subsection 4.

26 For individual self-insurers who have a net worth equal to
or in excess of \$10,000,000; who have had positive net
28 earnings demonstrated by certified statements of financial
condition audited by a certified public accountant for at
30 least 3 of the 5 latest fiscal years, including one of the 2
most recent years; and whose mean annual earnings for the 5
32 latest fiscal years are at least equal to the normal annual
premium for the prospective fiscal coverage period, the
34 minimum security deposit or bond must be an amount
determined by the formula in this paragraph or as adjusted
36 for applicable levels of working capital funds.

38 An employer meeting the standards of this paragraph may
deduct from the penal value of its surety bond or from the
40 market value of securities deposited an amount not exceeding
demonstrated working capital in such current statement of
42 financial condition; the bond or deposit must be at least
\$100,000.

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46 Self-insurers that are unable to meet the preceding
standards shall deposit acceptable funds or a surety bond in
that amount produced by the formula described in this
48 paragraph written by a corporate surety that meets the
qualifications prescribed by rules adopted by the
50 superintendent. The minimum security deposit or bond amount

2 may be adjusted for applicable levels of working capital
3 funds if the self-insurer was eligible to make an
4 alternative election, under Statement of Financial
5 Accounting Standard No. 106, Employers' Accounting for
6 Postretirement Benefits Other Than Pensions, that would have
7 otherwise caused the self-insurer to have both positive net
8 earnings for at least 3 of the 5 latest fiscal years,
9 including one of the 2 most recent years, and mean annual
10 earnings for the 5 latest fiscal years equal to the normal
11 annual premium for the prospective fiscal coverage period.

12 Within 30 days after notice by the superintendent, the
13 self-insurer shall post the deposit indicated. This deadline
14 may be extended by the superintendent for good cause, but in
15 no event may exceed one year from the deadline for
16 compliance as stated in the notice given to the self-insurer.

17 A bond or security deposit in excess of the amount
18 prescribed by this subsection may be required if the
19 superintendent determines that the self-insurer has
20 experienced a deterioration in financial condition that
21 adversely affects the self-insurer's ability to pay expected
22 losses.

23 No judgment creditor other than claimants for benefits under
24 this Act has a right to levy upon the self-insurer's assets
25 held in deposit pursuant to this paragraph.

26 **Emergency clause.** In view of the emergency cited in the
27 preamble, this Act takes effect when approved.'

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34 **STATEMENT OF FACT**

35 This amendment clarifies that the intent of the bill is to
36 allow a self-insurer to adjust the required bond or reinsurance
37 level if the company was eligible to make an alternative election
38 for the accounting for postretirement benefits that would
39 otherwise have qualified the self-insurer for the working capital
40 offset. The amendment also adds an emergency preamble and an
emergency clause to the bill.