

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

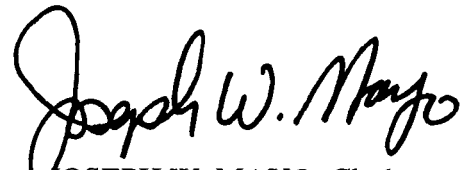
No. 266

H.P. 207

House of Representatives, January 27, 1995

**An Act to Revise the Security Deposit and Reinsurance Requirements
for Individual Self-insurers.**

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


JOSEPH W. MAYO, Clerk

Presented by Representative CARLETON of Wells.

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

2
4 **Sec. 1. 39-A MRSA §403, sub-§8, ¶A**, as amended by PL 1993, c.
491, §1, is further amended to read:

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

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

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

40 Self-insurers that are unable to meet the preceding
42 standards shall deposit acceptable funds or a surety bond in
44 that amount produced by the formula described in this
46 paragraph written by a corporate surety that meets the
48 qualifications prescribed by rules adopted by the
50 superintendent. A self-insurer that is unable to meet the
preceding standards solely because of an election under
generally accepted accounting principles for the treatment
of liabilities is not required to post bonds or make
deposits if the self-insurer was eligible to make an

2 alternative election that would have enabled the
3 self-insurer to meet the preceding standards.

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

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

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

22 **STATEMENT OF FACT**

24
25 Maine businesses that self-insure must demonstrate
26 sufficient financial health to cover liabilities, or they are
27 required to post bonds and security. The financial health of a
28 Maine business is determined with reference to its profit and
29 loss statements, which must be completed in accordance with
30 generally accepted accounting principles. These generally
31 accepted accounting principles allow businesses to elect
32 different treatment of losses for accounting purposes. Current
33 law does not provide flexibility to businesses that elect to
34 absorb paper losses for accounting purposes when those losses do
35 not reflect the underlying financial health of the business.
36 This bill allows a self-insurer to continue to self-insure
37 without posting a bond if the alternative election under
38 generally accepted accounting principles would show that the
39 business is financially sound.