

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1402

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H.P. 1045

House of Representatives, March 5, 2001

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**An Act to Clarify and Update the Security Requirements for Employers  
Self-insured for Workers' Compensation Liabilities.**

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Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Labor suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MATTHEWS of Winslow.  
Cosponsored by Senator EDMONDS of Cumberland and  
Representatives: O'NEIL of Saco, SULLIVAN of Biddeford, Senators: DOUGLASS of  
Androscoggin, LaFOUNTAIN of York, SAWYER of Penobscot.

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

2  
3 Sec. 1. 39-A MRSA §403, sub-§8, ¶A, as amended by PL 1995, c.  
4 594, §4, is repealed and the following enacted in its place:

6 A. Each individual self-insurer shall post a bond, security  
7 deposit or letter of credit in an amount that, except as  
8 otherwise provided in this paragraph, is no less than the  
9 loss and loss adjustment expense portion of the annual  
10 standard premium, as defined in section 404, subsection 4,  
11 paragraph E, for the prospective fiscal coverage period plus  
12 outstanding incurred liabilities minus recoveries from all  
13 reinsurance and subrogation reduced to net collections.  
14 Outstanding incurred liabilities for an individual  
15 self-insurer must be developed to ultimate from a current  
16 actuarial evaluation of undischarged claims and claims  
17 settlement liabilities performed by a casualty actuary who  
18 is a member of the American Academy of Actuaries or its  
19 successor organization, except that if a current actuarial  
20 evaluation is not available the outstanding incurred  
21 liabilities may be developed from current case reserves by  
22 applying the ratio of ultimate loss and claim settlement  
23 reserves to current loss and claim settlement reserves from  
24 the most recent actuarial evaluation.

26 (1) A self-insurer's minimum required security level  
27 may not be less than \$50,000.

28 (2) The minimum required security level for a  
29 self-insurer with consistently reported outstanding  
30 case reserves less than \$500,000 is 25% of the annual  
31 standard premium for the prospective fiscal coverage  
32 period, plus outstanding incurred liabilities, minus  
33 recoveries from all reinsurance and subrogation reduced  
34 to net collections. Outstanding incurred liabilities  
35 may be estimated by applying a development ratio of 2.5  
36 to current case reserves.

37 (3) An individual self-insurer may reduce its minimum  
38 required security level by an amount not to exceed the  
39 self-insurer's demonstrated working capital, as  
40 determined by the Superintendent of Insurance on the  
41 basis of a current audited statement of financial  
42 condition, as long as:

43 (a) The self-insurer has a tangible net worth  
44 equal to or in excess of \$10,000,000;

45 (b) The self-insurer has had positive net  
46 earnings demonstrated by certified statements of  
47  
48  
49  
50

2 financial condition audited by a certified public  
3 accountant for at least 3 of the 5 latest fiscal  
4 years, including one of the 2 most recent years,  
5 and its mean annual earnings for the 5 latest  
6 fiscal years are at least equal to the normal  
7 annual premium for the prospective fiscal coverage  
8 period, or it was eligible to make an alternative  
9 election, under Statement of Financial Accounting  
10 Standard No. 106, Employers' Accounting for  
11 Postretirement Benefits Other Than Pensions, that  
12 would have otherwise satisfied these earnings  
13 requirements;

14 (c) The reduction does not exceed \$10,000,000 and  
15 does not reduce the minimum required security  
16 level below \$100,000; and

17 (d) The self-insurer is not organized as a sole  
18 proprietorship, partnership or limited liability  
19 company, except that the superintendent may  
20 authorize a limited liability company to deduct  
21 demonstrated working capital from its minimum  
22 required security level by rules adopted under  
23 this section. Rules adopted pursuant to this  
24 section are routine technical rules pursuant to  
25 Title 5, chapter 375, subchapter II-A.

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27  
28 (4) With the superintendent's approval, affiliated  
29 individual self-insurers may post security on a  
30 consolidated basis.

31  
32 Within 30 days after receiving notice from the  
33 superintendent, the self-insurer shall post the required  
34 bond, security deposit or letter of credit. This deadline  
35 may be extended by the superintendent for good cause, but  
36 may not exceed one year from the deadline for compliance as  
37 stated in the notice given to the self-insurer.

38  
39 A bond, security deposit or letter of credit in excess of  
40 the amount prescribed by this subsection may be required if  
41 the superintendent determines that the self-insurer has  
42 experienced a deterioration in financial condition that  
43 adversely affects the self-insurer's ability to pay expected  
44 losses.

45  
46 A judgment creditor other than a claimant for benefits under  
47 this Act does not have a right to levy upon the  
48 self-insurer's assets held in deposit pursuant to this  
49 paragraph.

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