## MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

### FIRST REGULAR SESSION-2001

Legislative Document

No. 1402

H.P. 1045

House of Representatives, March 5, 2001

Millient M. Mac Failand

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

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, 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:

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4	594,	Sec. 1. 39-A MRSA §403, sub-§8, ¶A, as amended by PL 1995, c. §4, is repealed and the following enacted in its place:
6		A. Each individual self-insurer shall post a bond, security deposit or letter of credit in an amount that, except as
8		otherwise provided in this paragraph, is no less than the loss and loss adjustment expense portion of the annual
10		standard premium, as defined in section 404, subsection 4, paragraph E, for the prospective fiscal coverage period plus
12		outstanding incurred liabilities minus recoveries from all
14		reinsurance and subrogation reduced to net collections.  Outstanding incurred liabilities for an individual
16		self-insurer must be developed to ultimate from a current actuarial evaluation of undischarged claims and claims
18		settlement liabilities performed by a casualty actuary who is a member of the American Academy of Actuaries or its
20		successor organization, except that if a current actuarial evaluation is not available the outstanding incurred
22		liabilities may be developed from current case reserves by applying the ratio of ultimate loss and claim settlement
24		reserves to current loss and claim settlement reserves from the most recent actuarial evaluation.
26		(1) A self-insurer's minimum required security level may not be less than \$50,000.
28		(2) The minimum required security level for a
30		self-insurer with consistently reported outstanding case reserves less than \$500,000 is 25% of the annual
32		standard premium for the prospective fiscal coverage period, plus outstanding incurred liabilities, minus
34		recoveries from all reinsurance and subrogation reduced to net collections. Outstanding incurred liabilities
36		may be estimated by applying a development ratio of 2.5 to current case reserves.
38		(3) An individual self-insurer may reduce its minimum
40		required security level by an amount not to exceed the self-insurer's demonstrated working capital, as
42		determined by the Superintendent of Insurance on the basis of a current audited statement of financial
44		condition, as long as:
46		(a) The self-insurer has a tangible net worth equal to or in excess of \$10,000,000;
48		09 401 to 01 11 tacess 01 \$10,000,000,

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(b) The self-insurer has had positive net

earnings demonstrated by certified statements of

financial condition audited by a certified public 2 accountant for at least 3 of the 5 latest fiscal years, including one of the 2 most recent years, 4 and its mean annual earnings for the 5 latest fiscal years are at least equal to the normal 6 annual premium for the prospective fiscal coverage period, or it was eligible to make an alternative election, under Statement of Financial Accounting 8 Standard No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions, that 10 would have otherwise satisfied these earnings 12 requirements; 14 (c) The reduction does not exceed \$10,000,000 and does not reduce the minimum required security level below \$100,000; and 16 (d) The self-insurer is not organized as a sole 18 proprietorship, partnership or limited liability 20 company, except that the superintendent may authorize a limited liability company to deduct demonstrated working capital from its minimum 22 required security level by rules adopted under this section. Rules adopted pursuant to this 24 section are routine technical rules pursuant to 26 Title 5, chapter 375, subchapter II-A. 28 (4) With the superintendent's approval, affiliated individual self-insurers may post security on a 30 consolidated basis. Within 30 days after receiving notice from the 32 superintendent, the self-insurer shall post the required 34 bond, security deposit or letter of credit. This deadline may be extended by the superintendent for good cause, but may not exceed one year from the deadline for compliance as 36 stated in the notice given to the self-insurer. 38 A bond, security deposit or letter of credit in excess of 40 the amount prescribed by this subsection may be required if the superintendent determines that the self-insurer has experienced a deterioration in financial condition that 42 adversely affects the self-insurer's ability to pay expected 44 losses. 46 A judgment creditor other than a claimant for benefits under this Act does not have a right to levy upon the 48 self-insurer's assets held in deposit pursuant to this paragraph. 50

Sec. 2. 39-A MRSA §404, sub-§4, ¶D, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

No An individual self-insurer may not be assessed in any calendar year an amount greater than 2.5% of the annual standard premium that would have been paid by that self-insurer during the prior calendar year. Ne A group self-insurer may not be assessed in any calendar year an amount greater than .25% of the total annual standard premium that would have been paid by all the members of that group self-insurer during the prior calendar year. maximum--assessment--does--not--provide--in--any--one--year--an amount-sufficient-to-make-all-necessary-payments,--the-funds available-must-be-prorated-and-the-unpaid-pertion-must-be paid-as-soon-thereafter-as-funds-become-available. If the association exhausts its financial resources, the caps in this paragraph and paragraph C do not apply, and individual and group self-insurers must be assessed proportionately in the same manner as provided in paragraph C.

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There must be established in the plan of operations a mechanism to calculate the assessments required by this section by a simple and equitable means to convert from any policy or fund years year that are is different from a calendar year.

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#### **SUMMARY**

This bill changes the security and assessment provisions for self-insured employers in order to address financial risks currently borne by injured workers and self-insured employers as a result of the current structure of the Maine Self-Insurance Guarantee Association assessment mechanism.

It changes the basis for calculating the minimum security requirements to an actuarially determined liability in place of the case reserves that are used under current law and limits the unsecured liability that may be authorized under the working capital offset to \$10,000,000, a level equal to 5 times the Maine Self-Insurance Guarantee Association funding cap. The bill also authorizes the Maine Self-Insurance Guarantee Association to levy assessments in excess of the otherwise-applicable limits when necessary to avoid a default in benefit payments to injured workers.