

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 346

S.P. 108

In Senate, January 20, 2005

An Act To Amend Group Insurance Funding Requirements

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator PERRY of Penobscot.
Cosponsored by Representative PERRY of Calais and
Senators: MAYO of Sagadahoc, MILLS of Somerset, Representative: MARRACHÉ of
Waterville.

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

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Sec. 1. 39-A MRSA §403, sub-§3. ¶C. as amended by PL 1995, c.
4 619, §7, is further amended to read:

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C. A self-insurer may establish an actuarially determined fully funded trust, funded at a level sufficient to discharge those obligations incurred by the employer pursuant to this Act as they become due and payable from time to time, as long as the Superintendent of Insurance requires that the value of trust assets be at least equal to the present value of ultimate expected incurred claims and claims settlement costs, plus required safety margins and, if determined necessary by the superintendent, administrative costs for the operation of the plan of self-insurance. For the purpose of determining whether an actuarially determined fully funded trust has a surplus of funds in excess of that required by this subsection, the superintendent shall consider, based upon the group's audit for all completed plan years, only the following assets held outside the trust account: cash up to \$10,000; accounts receivable, limited to amounts collected and deposited in the trust account by the date of the surplus distribution; accrued interest on trust account assets that will be collected and deposited in the trust account within 6 months from the date of the surplus determination; tangible assets that will be converted to cash and deposited in the trust account prior to the distribution date of any surplus; and a letter of credit to be used to partially fund the trust to the extent allowed under this section and rules adopted by the superintendent, as supported in the actuarial review. The superintendent shall consider cash held outside the trust account in excess of \$10,000 if the self-insurer provides, to the superintendent's satisfaction, documentation regarding why the money is being held outside the trust account. An actuarially determined fully funded trust must be funded as follows, as determined by the superintendent.

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(1) For individual and group self-insurers, the amount of security must be determined based upon an actuarial review. The actuarial review must take into consideration the use by a group self-insurer of any irrevocable standby letter of credit. Except as provided in subparagraph (3), initial funding for each plan year must be maintained at the 90% or higher confidence level. Funding after the completion of the initial plan year may be established no lower than the 75% confidence level if the following has occurred:

- 2 (a) A year considered for reduction is completed;
- 4 (b) The supporting actuarial review includes an
6 evaluation of the completed year experience with
8 claims evaluated not less than 6 months from the
10 end of the plan year, or in the case of a group
12 self-insurer in existence for at least 36 months,
not less than 4 months from the end of the plan
year; and
- (c) For individual self-insurers, prior approval
from the superintendent is obtained.

14 For the purposes of determining the confidence level,
16 all completed years at the same confidence level may be
18 aggregated. For individual self-insurers, funds may
20 not be released from the trust or transferred between
22 years except as approved by the superintendent. The
24 governing body of a group self-insurer may at any time
26 declare a surplus of funds above the required
28 confidence level, but may only release funds after the
30 completion of any plan year. The superintendent may
32 request information regarding any such declaration.
34 Any distribution of surplus must be based upon an
36 actuarial review of all outstanding obligations for all
38 completed plan years, an audited financial statement of
the group for all completed plan years and a surplus
distribution worksheet for all completed plan years on
a form approved by the superintendent. The group
self-insurer must provide the required information
within 10 days after the distribution. Any surplus
declared or distributed pursuant to this paragraph is
subject to adjustment after review by the
superintendent within 60 days of the receipt of the
required information. Any deficit below the required
confidence level, as determined by the superintendent,
that results from a distribution under this paragraph
must be funded within 45 days from the date of the
notice by the superintendent.

40 (2) A group self-insurer may elect to fund at a higher
42 confidence level through the use of cash, marketable
44 securities or reinsurance. If a member of a group
46 self-insurer terminates membership in the group for any
48 reason, that member shall fund the member's
proportionate share of the liabilities and obligations
of the trust to the 95% confidence level. If for any
reason the departing member fails to fund the member's
proportionate share of the trust's exposure to the 95%
50 level of confidence, the remaining members of the group

2 shall make the additional contribution no later than
the anniversary date of the program as required to fund
4 the departing member's exposure in accordance with this
provision.

6 (3) Depending upon the financial condition of the
self-insurer, and if approved by the superintendent, a
8 self-insurer that has maintained an actuarially
determined fully funded trust for a period of 5 or more
10 consecutive years may fund all years, including the
prospective fund year, in the aggregate at the 75% or
12 higher confidence level. Subject to approval by the
superintendent, a self-insurer that has maintained an
14 actuarially determined fully funded trust for a period
of 10 or more consecutive years may fund all years,
16 including the prospective fund year, in the aggregate
at the 65% or higher confidence level.

18 (4) Trust assets must consist of cash or marketable
20 securities of a type and risk character as specified in
subsection 9. The trustee shall submit a report to the
22 superintendent not less frequently than quarterly that
lists the assets comprising the corpus of the trust,
24 including a statement of their market value and the
investment activity during the period covered by the
26 report. The trust must be established and maintained
subject to the condition that trust assets may not be
28 transferred or revert in any manner to the employer
except to the extent that the superintendent finds that
30 the value of the trust assets exceeds the present value
of incurred claims and claims settlement costs with an
32 actuarially indicated margin for future loss
development. In all other respects, the trust
34 instrument, including terms for certification, funding,
designation of trustee and payout, must be as approved
36 by the superintendent, except that the value of the
trust account must be actuarially calculated at least
38 annually by a casualty actuary who is a member of the
American Academy of Actuaries and adjusted to the
40 required level of funding.

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SUMMARY

46 This bill provides that a self-insured group workers'
compensation trust that has been in existence for 10 years may,
upon approval of the superintendent, fund at the 65% or higher
48 confidence level.