

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

species more than 7 days before the opening or more than 7 days after the closing of the regular open season for that species; or to fish, trap or hunt in any area permanently closed to those activities by state law or rule.

See title page for effective date.

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## CHAPTER 224

### H.P. 1045 - L.D. 1402

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

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

**Sec. 1. 39-A MRSA §403, sub-§8, ¶A**, as amended by PL 1995, c. 594, §4, is repealed and the following enacted in its place:

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

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

(2) The minimum required security level for a self-insurer with consistently reported outstanding case reserves less than \$500,000 is 25% of the annual standard premium for the prospective fiscal coverage period, plus outstanding incurred liabilities, minus recoveries from all reinsurance and subrogation reduced to net collections. Outstanding incurred liabilities may be es-

timated by applying a development ratio of 2.5 to current case reserves.

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

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

(b) The self-insurer has had positive net earnings demonstrated by certified statements of financial condition audited by a certified public accountant for at least 3 of the 5 latest fiscal years, including one of the 2 most recent years, and its mean annual earnings for the 5 latest fiscal years are at least equal to the normal annual premium for the prospective fiscal coverage period, or it was eligible to make an alternative election, under Statement of Financial Accounting Standard No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions, that would have otherwise satisfied these earnings requirements;

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

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

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

Within 30 days after receiving notice from the superintendent, the self-insurer shall post the required 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 stated in the notice given to the self-insurer.

A bond, security deposit or letter of credit in excess of 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 adversely affects the self-insurer's ability to pay expected losses.

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

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

C. The following pertains to postinsolvency assessment.

(1) In the event the assets of the fund are not sufficient to pay the obligations of the association, the association shall make an additional assessment as follows.

(a) Each individual self-insurer must be assessed an amount not in excess of ~~2%~~ 4% each year of the annual standard premium that would have been paid by the individual self-insurer during the prior calendar year. The assessments of each member individual self-insurer must be in the proportion that the annual standard premium of the individual self-insurer for the ~~premium~~ preceding calendar year bears to the annual standard premium of all member self-insurers for the preceding calendar year.

(b) Each group self-insurer must be assessed an amount not in excess of .2% each year 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. The assessments of each member group self-insurer must be in the proportion that the annual standard premium of the group self-insurer for the ~~premium~~ preceding calendar year bears to the annual standard premium of all member self-insurers for the preceding calendar year.

(2) Each member self-insurer must be notified of the assessment no later than 30 days before it is due.

(3) The association may exempt or defer, in whole or in part, the assessment of any member self-insurer, if the assessment would cause that member's financial statement to reflect liabilities in excess of assets.

(4) Delinquent assessments, except as provided in subparagraph (3), must bear interest at the rate to be established by the board, but not exceed the discount rate of the Federal Reserve Bank, Boston, Massachusetts, on the due date of the assessment, plus 4% annually, computed from the due date of the assessment.

(5) The association shall establish in the plan of operations a mechanism to calculate the assessments required by subparagraph (1) by a simple and equitable means to convert from policy or fund years that are different from a calendar year.

D. ~~No~~ An individual self-insurer may not be assessed in any calendar year an amount greater than ~~2.5%~~ 4% of the annual standard premium that would have been paid by that self-insurer during the prior calendar year. ~~No~~ 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. If the 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 portion must be paid as soon thereafter as funds become available~~ association shall secure financing as provided for in the plan of operation.

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 a policy or a fund ~~years~~ year that ~~are~~ is different from a calendar year.

See title page for effective date.

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**CHAPTER 225**

**H.P. 753 - L.D. 972**

**An Act Regarding Modified Show Vehicles**

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

**Sec. 1. 29-A MRSA §101, sub-§35-A** is enacted to read: