
SECOND SUBSTITUTE HOUSE BILL 1938

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas, Mielke, Horn and Reams)

Read first time 01/29/96.

1 AN ACT Relating to administration of the responsibilities of self-
2 insurers; and amending RCW 51.14.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.14.020 and 1995 c 31 s 1 are each amended to read
5 as follows:

6 (1) An employer may qualify as a self-insurer by establishing to
7 the director's satisfaction that he or she has sufficient financial
8 ability to make certain the prompt payment of all compensation under
9 this title and all assessments which may become due from such employer.
10 Each application for certification as a self-insurer submitted by an
11 employer shall be accompanied by payment of a fee of one hundred fifty
12 dollars or such larger sum as the director shall find necessary for the
13 administrative costs of evaluation of the applicant's qualifications.
14 Any employer who has formerly been certified as a self-insurer and
15 thereafter ceases to be so certified may not apply for certification
16 within three years of ceasing to have been so certified.

17 (2)(a) A self-insurer may be required by the director to supplement
18 existing financial ability by depositing in an escrow account in a
19 depository designated by the director, money and/or corporate or

1 governmental securities approved by the director, or a surety bond
2 written by any company admitted to transact surety business in this
3 state, or provide an irrevocable letter of credit issued by a federally
4 or state chartered commercial banking institution authorized to conduct
5 business in the state of Washington filed with the department. The
6 money, securities, bond, or letter of credit shall be in an amount
7 reasonably sufficient in the director's discretion to insure payment of
8 reasonably foreseeable compensation and assessments but not less than
9 the employer's normal expected annual claim liabilities and in no event
10 less than one hundred thousand dollars. In arriving at the amount of
11 money, securities, bond, or letter of credit required under this
12 subsection, the director shall take into consideration the financial
13 ability of the employer to pay compensation and assessments and his or
14 her probable continuity of operation. However, a letter of credit
15 shall be acceptable only if the self-insurer has a net worth of not
16 less than five hundred million dollars as evidenced in an annual
17 financial statement prepared by a qualified, independent auditor using
18 generally accepted accounting principles. The money, securities, bond,
19 or letter of credit so deposited shall be held by the director solely
20 for the payment of compensation by the self-insurer and his or her
21 assessments. In the event of default the self-insurer loses all right
22 and title to, any interest in, and any right to control the surety.
23 The amount of surety may be increased or decreased from time to time by
24 the director. The income from any securities deposited may be
25 distributed currently to the self-insurer.

26 (b) The letter of credit option authorized in (a) of this
27 subsection shall not apply to self-insurers authorized under RCW
28 51.14.150 or to self-insurers who are counties, cities, or municipal
29 corporations.

30 (3) Securities or money deposited by an employer pursuant to
31 subsection (2) of this section shall be returned to him or her upon his
32 or her written request provided the employer files the bond required by
33 such subsection.

34 (4) If the employer seeking to qualify as a self-insurer has
35 previously insured with the state fund, the director shall require the
36 employer to make up his or her proper share of any deficit or
37 insufficiency in the state fund as a condition to certification as a
38 self-insurer.

1 (5) A self-insurer may reinsure a portion of his or her liability
2 under this title with any reinsurer authorized to transact such
3 reinsurance in this state: PROVIDED, That the reinsurer may not
4 participate in the administration of the responsibilities of the self-
5 insurer under this title. Such reinsurance may not exceed eighty
6 percent of the liabilities under this title. Subsidiary companies,
7 holding companies, or affiliated legal entities of the reinsurer not
8 involved in providing reinsurance shall be allowed to participate in
9 the administration of the responsibilities of the self-insurer under
10 this title; provided, that the participation in the administration of
11 claims by such companies shall be in a manner consistent with the
12 intent of this title and not in conflict with their fiduciary
13 responsibility to the self-insured employer.

14 (6) For purposes of the application of this section, the department
15 may adopt separate rules establishing the security requirements
16 applicable to units of local government. In setting such requirements,
17 the department shall take into consideration the ability of the
18 governmental unit to meet its self-insured obligations, such as but not
19 limited to source of funds, permanency, and right of default.

20 (7) The director shall adopt rules to carry out the purposes of
21 this section including, but not limited to, rules respecting the terms
22 and conditions of letters of credit and the establishment of the
23 appropriate level of net worth of the self-insurer to qualify for use
24 of the letter of credit. Only letters of credit issued in strict
25 compliance with the rules shall be deemed acceptable.

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