

# Enrolled Senate Bill 96

Sponsored by Senator THOMSEN (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to exemption from security requirements for self-insured employer groups; amending ORS 656.407.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 656.407 is amended to read:

656.407. (1) An employer shall establish proof with the Director of the Department of Consumer and Business Services that the employer is qualified either:

(a) As a carrier-insured employer by causing proof of coverage provided by an insurer to be filed with the director; or

(b) As a self-insured employer by establishing proof that the employer has an adequate staff qualified to process claims promptly and has the financial ability to make certain the prompt payment of all compensation and other payments that may become due to the director under this chapter.

(2) Except as provided in subsection (3) of this section, a self-insured employer shall establish proof of financial ability by providing security that the director determines acceptable by rule. The security must be in an amount reasonably sufficient to insure payment of compensation and other payments that may become due to the director but not less than the employer's normal expected annual claim liabilities and in no event less than \$100,000. In arriving at the amount of security required under this subsection, the director may take into consideration the financial ability of the employer to pay compensation and other payments and probable continuity of operation. The security shall be held by the director to secure the payment of compensation for injuries to subject workers of the employer and to secure other payments that may become due from the employer to the director under this chapter. Moneys received as security under this subsection shall be deposited with the State Treasurer in an account separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. The amount of security may be increased or decreased from time to time by the director.

(3)(a) A city [or], county **or a qualified self-insured employer group** that wishes to be exempt from subsection (2) of this section may make written application therefor to the director. The application shall include a copy of the [city's or county's] most recent annual audit **of the city, county or qualified self-insured employer group** [as] filed with the Secretary of State under ORS 297.405 to 297.740, information regarding the establishment of a loss reserve account for the payment of compensation to injured workers and such other information as the director may require. The director shall approve the application and the city [or], county **or qualified self-insured employer group** shall be exempt from subsection (2) of this section if the director finds that:

(A) The city, [or] county **or qualified self-insured employer group** has been [a] self-insured [employer] in compliance with subsection (2) of this section for more than three consecutive years prior to making the application referred to in this subsection [as an independently self-insured employer and not as part of a self-insured group].

(B) The city [or], county **or qualified self-insured employer group** has in effect a loss reserve account:

(i) That is actuarially sound and that is adequately funded as determined by an annual audit under ORS 297.405 to 297.740 to pay all compensation to injured workers and amounts due the director pursuant to this chapter. A copy of the annual audit shall be filed with the director. Upon a finding that there is probable cause to believe that the loss reserve account is not actuarially sound, the director may require a city [or], county **or qualified self-insured employer group** to obtain an independent actuarial audit of the loss reserve account. The requirements of this subsection are in addition to and not in lieu of any other audit or reporting requirement otherwise prescribed by or pursuant to law.

(ii) That is dedicated to and may be expended only for the payment of compensation and amounts due the director by the city [or], county **or qualified self-insured employer group** under this chapter.

(b) The director shall have the first lien and priority right to the full amount of the loss reserve account required to pay the present discounted value of all present and future claims under this chapter.

(c) The city [or], county **or qualified self-insured employer group** shall notify the director no later than 60 days prior to any action to discontinue the loss reserve account. The city [or], county **or qualified self-insured employer group** shall advise the director of the [city's or county's] plans of the city, county **or qualified self-insured employer group** to submit the security deposits required in subsection (2) of this section, or obtain coverage as a carrier-insured employer prior to the date the loss reserve account ceases to exist. If the city [or], county **or qualified self-insured employer group** elects to discontinue self-insurance, it shall submit such security as the director may require to insure payment of all compensation and amounts due the director for the period the city [or], county **or qualified self-insured employer group** was self-insured.

(d) In order to requalify as a self-insured employer, the city [or], county **or qualified self-insured employer group** must deposit prior to discontinuance of the loss reserve account such security as is required by the director pursuant to subsection (2) of this section.

(e) Notwithstanding ORS 656.440, if prior to the date of discontinuance of the loss reserve account the director has not received the security deposits required in subsection (2) of this section, the [city's or county's] certificate of self-insurance of the city, county **or qualified self-insured employer group** is automatically revoked as of that date.

(4) As used in this section, “qualified self-insured employer group” means a self-insured employer group that is a municipal corporation or a public corporation, as those terms are defined in ORS 297.405.

**Passed by Senate April 3, 2013**

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House June 12, 2013**

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Tina Kotek, Speaker of House

**Received by Governor:**

.....M,....., 2013

**Approved:**

.....M,....., 2013

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2013

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Kate Brown, Secretary of State