

# D R A F T

## SUMMARY

Permits Director of Department of Consumer and Business Services to release surety bond or other security on deposit with director if self-insured employer or self-insured employer group obtains paid-up insurance policy satisfactory to director.

## A BILL FOR AN ACT

1  
2 Relating to security for liability of self-insured employers in workers' com-  
3 pensation cases; amending ORS 656.443.

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

5 **SECTION 1.** ORS 656.443 is amended to read:

6 656.443. (1) If an employer or self-insured employer group defaults in  
7 payment of compensation or other payments due to the Director of the De-  
8 partment of Consumer and Business Services under this chapter, the director  
9 may, on notice to the employer or self-insured employer group and any  
10 insurer providing workers' compensation insurance coverage, a surety bond  
11 or other security to the employer or self-insured employer group, use money  
12 or interest and dividends on securities, sell securities or institute legal pro-  
13 ceedings on any insurance policy, surety bond or other security for which a  
14 notice of coverage has been filed with the director to the extent necessary  
15 to make such payments.

16 (2) Before any default by the employer or self-insured employer group, the  
17 employer or group is entitled to all interest and dividends on securities on  
18 deposit and to exercise all voting rights, stock options and other similar in-  
19 cidents of ownership of the securities.

20 (3)(a) If for any reason the certification of a self-insured employer or

1 self-insured employer group is canceled or terminated, the surety bond or  
2 other security deposited with the director must remain on deposit or in ef-  
3 fect, as the case may be, for a period of at least 62 months after the employer  
4 ceases to be a self-insured employer, **unless the director accepts in lieu**  
5 **of the surety bond or other security a policy of paid-up insurance that**  
6 **is satisfactory to the director.**

7 **(b) The director may require an employer that secures a policy of**  
8 **paid-up insurance also to keep on deposit with the director or main-**  
9 **tain in effect a surety bond or other security** [*The surety bond or other*  
10 *security must be maintained*] in an amount necessary to secure [*the*] out-  
11 standing and contingent liability arising from [*the*] accidental injuries [*se-*  
12 *cured by the surety bond or other security*] and to ensure the payment of  
13 claims for aggravation and claims arising under ORS 656.278 based on those  
14 accidental injuries.

15 **(c) If the director has required a surety bond or other security to**  
16 **remain on deposit with the director or in effect,** at the expiration of the  
17 62-month period, or of another period the director may consider proper, the  
18 director may accept in lieu of the surety bond or other security deposited  
19 with the director a policy of paid-up insurance in a form approved by the  
20 director.

21 **(d) The director may adopt rules necessary to implement the pro-**  
22 **visions of this subsection.**

23 (4) If a self-insured employer or self-insured employer group is in default,  
24 is decertified by the director or cancels the employer's or the group's certi-  
25 fication under ORS 656.434, the director may:

26 (a) Order members of the group to pay an assessment for the continuing  
27 claim liabilities as specified in ORS 656.430 (7)(a)(D)(i); and

28 (b) Determine the claims processing agent that processes claims of the  
29 self-insured employer or self-insured employer group. The claims processing  
30 agent may be the assigned claims agent selected under ORS 656.054.

31 (5) Member assessments collected under subsection (4) of this section

1 must be deposited in the Consumer and Business Services Fund created in  
2 ORS 705.145.

3 (6) Failure to pay an assessment ordered under subsection (4) of this  
4 section subjects members of the self-insured employer group to civil penalties  
5 as provided in ORS 656.745.

6 (7) A claims processing agent that the director designates under sub-  
7 section (4) of this section, other than the State Accident Insurance Fund  
8 Corporation, may choose the legal counsel the claims processing agent em-  
9 ploys for representation under this section.

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