



The Commonwealth of Massachusetts

Division of Industrial Accidents

Leverett Saltonstall Building, Government Center

100 Cambridge Street, Boston 02202

I.A.B. FILE NO.

ATTENTION OF:

MARCH 10, 1986

CIRCULAR LETTER NO. 222

- TO: ALL INSURANCE COMPANIES, ALL SELF-INSURERS AND WORKMEN'S COMPENSATION AGENTS OF DEPARTMENTS OF THE COMMONWEALTH AND COUNTIES, CITIES, TOWNS AND DISTRICTS SUBJECT TO THE WORKMEN'S COMPENSATION LAW (GENERAL LAWS, CHAPTER 152, AS AMENDED).
- RE: THE INDUSTRIAL ACCIDENT BOARD VOTED AT ITS MEETING OF MARCH 3, 1986, TO ADOPT THE FOLLOWING RULES GOVERNING SELF-INSURANCE (SECTION 25A, CHAPTER 152), BEGINNING APRIL 1, 1986.

Very truly yours,

Francis J. Joyce
Francis J. Joyce
Secretary

FJJ/mpv

SELF-INSURANCE

1. Every employer desiring to be licensed as a self-insurer shall make application therefor on forms provided by the department. Applications to be a self-insurer shall be filed with the Office of Insurance at least thirty days prior to the proposed effective date of said license. The application shall contain:

- (a) a sworn itemized statement of the assets and liabilities of the applicant.
- (b) a payroll report for the preceding fiscal year of the applicant.
- (c) a detailed description of the nature and kind of business carried on by the applicant.

In addition to the foregoing, each applicant shall be required to furnish its State of Incorporation; the location of its principal offices in the commonwealth; the location of its principal offices outside of the commonwealth; its legal entity; the names and addresses of owners, officers, directors or members conducting the business; its total number of employees in the commonwealth; the assets it owns and operates in the commonwealth; the period of time the applicant has been engaged in business in the commonwealth; its status as a subsidiary or as affiliated in any way with any other employer; a list of classifications of all operations and estimated payroll for the next year, information regarding whether actual or proposed reinsurance is aggregate or specific and the maximum amount of any such coverage; the name of the actual or proposed surety and reinsurer, the effective date of the actual or proposed policy; the outstanding liabilities of previous years and the amount covered by reinsurance, if any; the amount of reserve, if any, carried for future payments on past accidents; information regarding whether the safety requirements of the Department of Labor and Industries have been met; the arrangements proposed to be made for injured employees; and a proposal regarding its intention to furnish a bond or securities pursuant to G. L. 152 Sec. 25A. The application must be signed under penalty of perjury by an officer of the applicant. The applicant shall attach to its application a copy of its latest annual report, certified by a public accounting firm. Applicants shall, upon request of the department, furnish any additional information the department may require. The application and any additional information submitted shall be confidential and used only for the purpose of determining the ability of the employer to be a self-insurer.

2. The department may decline to approve an application for self-insurance or revoke a self-insurance license if the employer is unable to demonstrate that it will be able to meet all

its obligations under G. L. 152. Evidence of ability to meet such obligations shall include: a business history of not less than two years, a net worth of not less than one million dollars, and a number of full time employees of not less than twenty-five. The following factors shall also be considered in determining if an applicant can meet the obligations imposed on self-insurers under G. L. 152:

- (a) ratio of tangible net worth to annual self-insurance retention;
- (b) ratio of current assets to current liabilities;
- (c) ratio of debt to tangible net worth;
- (d) profit and loss history;
- (e) number of employees and type of business being conducted;
- (f) compensation loss history and proposed excess insurance coverage;
- (g) ratio of net worth to annual compensation premium;
- (h) actual or proposed methods of administering workers' compensation claims;
- (i) ability to obtain reinsurance and to deposit a surety bond or securities as provided by Rule 5 below;
- (j) organizational structure and management background;
- (k) safety engineering program;
- (l) source and reliability of the financial information submitted by the applicant.

3. A parent corporation and a subsidiary shall be treated as one entity for a self-insurance license provided that:

- (a) The parent corporation has filed a completed application together with completed individual applications for each subsidiary.
- (b) The required corporate surety bond is a guaranty for the obligations of each individual subsidiary as well as for those of the parent.

4. The Office of Insurance shall make a recommendation to the Commissioner of the department as to the suitability of the applicant for a self-insurance license or renewal. The Commissioner shall approve or disapprove such application prior

to the effective date of such license or renewal. Any applicant aggrieved by a decision of the Commissioner shall have fourteen days within which to request a review of such decision. Such applicant shall be granted an administrative review by the Commissioner within sixty days of receipt of a timely request for such review. The applicant may be represented by counsel at such review. If, after said review, the Commissioner does not reverse his decision to deny a self-insurance license or renewal to the applicant, said applicant shall be given written notice of such decision together with the reasons therefor. An applicant shall have ten days from the receipt of such notice to file a petition in the superior court for Suffolk County for a review thereof.

5. As a condition precedent to the issuance of a license to an employer, the employer shall deposit with the state treasurer securities or furnish a surety bond in an amount determined by the department together with satisfactory evidence that the reinsurance required by the department under G.L. 152 sec. 25A (2) (c) is in effect. Every self-insurer shall keep on deposit an amount of securities, or shall furnish a surety bond in an amount, equal to its liabilities both incurred or to be incurred as shall be determined by the department, provided that in either event the minimum deposit shall be \$100,000.

6. The deposit required by G. L. 152 sec. 25A (2) (a), or the securities to be deposited with the State Treasurer after demand made by the department in conformity with the provisions of a surety bond furnished by a self-insurer as provided in G.L. 152 sec 25A (2) (b) shall be in the form of cash or such bonds, notes or other negotiable obligations which may be legal investments for savings banks in the commonwealth as determined from time to time by the Commissioner of Banks. Registered securities shall be registered as follows: "Treasurer and Receiver General of the Commonwealth of Massachusetts in trust for the benefit and security of the employees of the self-insurer and any subsidiary of such self-insurer included under the license of the self-insuring parent." Any securities deposited shall be accompanied by an agreement in the form approved by the department and deposited with such securities in the office of the State Treasurer.

7. Any employer who has obtained a license as a self-insurer under the provisions of G. L. 152 sec. 25A (2) (a) who thereafter ceases to be a self-insurer under said sub-paragraph, shall not be entitled to the return of the deposit for a period of at least six months following the date he ceases to be a self-insurer as aforesaid, unless he furnishes a single-premium noncancellable policy as set forth in said sec. 25A (2) (a).

8. Every self-insurer shall file with the department the names and addresses of all persons or attorneys, at least one of whom shall reside in the commonwealth, engaged by it to investigate, settle or adjust claims arising under G. L. 152, and any such person or attorney appearing before the department shall have full power and authority to act for the self-insurer in any matter before the department. No person or attorney whose name and address has not been filed with the department as engaged by a self-insurer may represent such self-insurer before the department.

9. Any employer holding a license as a self-insurer who proposes to cease doing business in the commonwealth, or who proposes to dispose of, by sale or otherwise, the controlling interests of the business for which the license was issued shall notify the department in writing prior to such proposed action.

10. Employers licensed as self-insurers shall comply with the claims handling practices required of insurers under G. L. 152 and with any rules and regulations relating to such practices promulgated thereunder. The failure of any self-insurer seasonably to carry out the terms of an approved agreement between such self-insurer and an employee, or the terms of any order, decision or other requirement of the department shall be reasonable cause for revocation of, or failure to renew, the license of such self-insurer. Any self-insurer who knowingly furnishes to the department inaccurate or misleading information shall have given reasonable cause for revocation of, or failure to renew, the license of such self-insurer.