

Paid Family & Medical Leave (PFML)

Contributions Bond Instructions and Worksheet

for January 1, 2020 Effective Date Exemptions

Submitting a Surety Bond for Self-Insured Private Plans Under the Massachusetts Family and Medical Leave Law, M.G.L. c. 175M

General Information About PFML Bond Coverage

A self-insured employer seeking an exemption from making Paid Family and Medical Leave (PFML) contributions must complete an exemption application and furnish a surety bond running to the Commonwealth of Massachusetts in an amount based upon its Massachusetts workforce size.

You may apply for an exemption electronically using your MassTaxConnect account by visiting <https://mtc.dor.state.ma.us/mtc>. For more information about exemptions, please visit <https://www.mass.gov/paid-family-and-medical-leave-contribution-exemptions-for-employers>.

Both the employer and a surety that is authorized to transact the business of indemnity and suretyship by the Massachusetts Division of Insurance must fully complete and execute the bond form. Please include your Federal Employer Identification Number (FEIN) on all bond submissions. An electronic surety bond is acceptable.

You may upload your complete bond form at the time of application or if you have already been provisionally approved for an exemption, you will receive further instructions about how to upload the bond form to your MassTaxConnect account. **Please do not send the bond form or other exemptions documentation directly to the Department of Family and Medical Leave (DFML).**

Contributions Bond Coverage

Exemption applications that are provisionally approved between December 21, 2019 and December 31, 2019 will have an exemption effective date and a bond effective date of **January 1, 2020**. The bond period will end on December 31, 2020.

A Contributions Bond will be required from employers with a January 1, 2020 effective date. The Contributions Bond is required so that the Commonwealth of Massachusetts may recover PFML contributions if an employer fails to maintain its self-insured PFML private plan prior to January 1, 2021.

Please note that the bond calculation and the bond form may change depending upon the effective date of your exemption. Please use this form and bond calculation for all exemptions with an effective date of January 1, 2020.

What Is Needed to Calculate the Contributions Bond Value

The Contribution Bond formula for exemptions effective January 1, 2020 is based on the following values, which are multiplied by the 52 weeks in the bond period:

- **Your 2018 Average Workforce Count:** To learn how to count your Massachusetts workforce, please visit: <https://www.mass.gov/info-details/whos-a-covered-individual-under-the-pfml-law>.
- **The 2018-2019 Statewide Average Weekly Wage:** The 2018-2019 Statewide Average Weekly Wage (SAWW) is \$1,383.41. The SAWW is determined by the Director of the Department of Unemployment Assistance annually on October 1st.
- **The 2019 PFML Contribution Rate:** This amount is set by the Director of the DFML annually on October 1st.
 - The 2019 PFML contribution rate for family leave only is 0.13%.
 - The 2019 PFML contribution rate for medical leave only is 0.62%.
 - The 2019 PFML contribution rate for both family and medical leave is 0.75%.

Contributions Bond Formula

For Family Leave Plans: 2018 Average Workforce Count x 2018-2019 SAWW x the 2019 PFML Family Leave Contribution Rate x 52 weeks

- 2018 Average Workforce Count x \$1,383.41 x 0.0013 x 52

For Medical Leave Plans: 2018 Average Workforce Count x 2018-2019 SAWW x the 2019 PFML Medical Leave Contribution Rate x 52 weeks

- 2018 Average Workforce Count x \$1,383.41 x 0.0062 x 52

For Family & Medical Leave Plans: 2018 Average Workforce Count x 2018-2019 SAWW x the 2019 PFML Family & Medical Leave Contribution Rate x 52 weeks

- 2018 Average Workforce Count x \$1,383.41 x 0.0075 x 52

Please round up to the nearest cent.

Examples of Contribution Bond Coverage Amounts

Family leave plans

- You have 20 covered individuals and you are applying for an exemption from family leave. Your required bond value is \$1,870.37.
- You have 250 covered individuals and you are applying for an exemption from family leave. Your required bond value is \$23,379.63.

Medical leave plans

- You have 20 covered individuals and you are applying for an exemption from medical leave. Your required bond value is \$8,920.23.
- You have 250 covered individuals and you are applying for an exemption from medical leave. Your required bond value is \$111,502.85.

Both family and medical leave plans

- You have 20 covered individuals and you are applying for an exemption from both family and medical leave. Your required bond value is \$10,790.60.
- You have 250 covered individuals and you are applying for an exemption from both family and medical leave. Your required bond value is \$134,882.48.



What Will Happen at the End of the Bond Period?

Before the bond period expires on December 31, 2020, the employer must renew its self-insured private plan exemption approval by submitting a renewal application in MassTaxConnect.

At that time, a new bond will be required to cover the employer's obligation to cover the repayment of PFML contributions if an employer fails to maintain its PFML private plan as well as the obligation to provide paid family and/or medical leave benefits to its covered workforce on or after January 1, 2021.

Because of these additional obligations, the renewal bond value will be greater than the Contributions Bond value outlined above.

We will update our bond guidance once the new bond values are available for exemptions with effective dates of April 1, 2020 and later. For more information, please visit <https://www.mass.gov/info-details/bond-requirements-for-approved-self-insured-plans>.

Paid Family & Medical Leave Contributions Bond

Know all persons by these presents:

That,

Employer or Covered Business Entity (hereinafter referred to as “the Principal”)

Business Address of the above-named Principal

having filed with the Massachusetts Department of Family and Medical Leave an application for an exemption from collecting, remitting, and paying contributions for paid family and/or medical leave with an exemption effective date of **January 1, 2020**, and

Surety

Business Address of above-named Surety

as Surety, a corporation duly organized and existing under the laws of the State/Commonwealth/Territory of: _____ and being duly authorized to transact the business of indemnity and suretyship in this Commonwealth of Massachusetts by its Division of Insurance, are held and firmly bound to the to the Commonwealth of Massachusetts, (hereinafter referred to as the “Obligee”) in the sum of \$ _____. We hereby obligate and bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has applied to the Department of Family and Medical Leave for an exemption from the obligation to remit contributions pursuant to M.G.L. c. 175M, § 6 by offering paid family and/or medical leave benefits to its covered workforce through a self-insured private plan to begin on or before January 1, 2021 and is required to provide this bond under M.G.L. c. 175M, § 11(a)(2)(i) and 458 CMR 2.07(4).

The payment of an amount up to this sum, becomes effective upon the condition that the Department of Family and Medical Leave finds that the Principal has failed to comply with the requirements of M.G.L. c. 175M and 458 CMR 2.00, which may require the assessment of the penalty prescribed in 458 CMR 2.07(7)(e)1 or retroactive contributions as provided in 458 CMR 2.07(7)(f).

If the Principal shall faithfully comply with all ordinances, rules and regulations which have been or may hereafter be in force concerning its exemption and save and keep the Obligee harmless from all loss or damage for which it may sustain or for which it may be liable under M.G.L. c. 175M and 458 CMR 2.00, then this obligation shall be null and void; otherwise, it will remain in full force and effect.

The Obligee has agreed to accept this Bond, and it shall remain in full force and effect until **December 31, 2020**. Prior to the expiration of the Bond Period, the Principal must renew its application for an exemption, at which time, a new Bond will be required in an amount sufficient to bind its obligation to provide paid family and/or medical leave benefits to its covered workforce on or after January 1, 2021 through a private plan as set forth in M.G.L. c. 175M, § 11.

This bond shall not be cumulative. Under no circumstances shall the Surety's liability exceed the penal sum stated herein. In addition, this bond does not provide coverage to any indirect loss or costs incurred by the Obligee including, but not limited to legal fees, court costs, expert fees or interest.

No suit may be maintained to enforce any liability arising under this Bond unless brought within one (1) year from the expiration date of the Bond Period. The aggregate liability of the Surety under this bond shall not exceed the amount of this bond as set forth above, unless amended by rider.

No right of action shall accrue on this bond to or for the use of any person, entity or corporation other than the Obligee and this bond cannot be assigned to any other party without the written consent of the Surety.

SIGNED, SEALED AND DATED , this _____ day of _____ 20__.

For Principal:

By: _____

For Surety:

By: _____

Imprinted Seal of the Surety Company: