



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services
Workers' Compensation Division
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BULLETIN NO. 147 (Revised) Jan. 25, 2010

To: Self-insured employers, self-insured employer groups, and other interested parties

Subject: Self-insured surety deposits

Effective: Immediately

This bulletin is issued under OAR 436-050-0150(3), which authorizes the director to determine the types of surety allowed for self-insured security deposits. The Workers' Compensation Division is republishing this bulletin to provide a revised Form 440-824, "Surety Bond." The division made no changes to Forms 440-1810, "Surety Rider," 440-3640a, "Irrevocable Standby Letter of Credit (Form A)," 440-3640b, "Irrevocable Standby Letter of Credit (Form B)," or 440-3529, "Memorandum of Understanding." You may copy the attached forms or download them from the division's Web site: <http://wcd.oregon.gov/forms/Pages/forms.aspx>. This bulletin replaces Bulletin 147 issued Sept. 22, 2006.

The following surety options will be acceptable under the circumstances described:

- 1) **Acceptable surety:** An employer requesting certification as a self-insured employer must use a surety bond or an irrevocable standby letter of credit (ISLOC) naming the Department of Consumer and Business Services (department) as obligee or applicant. Form 824 must be used for all surety bonds. Either Form 3640a or Form 3640b must be used for all irrevocable standby letters of credit.
- 2) **Increasing the amount of surety:** If an employer has a surety bond and it becomes necessary to increase the amount of surety, the employer must provide an endorsement to the existing bond using Form 1810, in the amount of the total deposit, naming the department as obligee.
- 3) **Decreasing the amount of surety:** If an employer has a surety bond as surety and is informed that the current amount is in excess of that required, the employer may retain the bond at its current level or reduce the bond by using Form 1810.
- 4) **Surety bond as partial surety:** The director may accept a surety bond as all or part of the security deposit. If the surety bond is part of the deposit, the certified self-insured employer may provide the remaining amount in the form of an ISLOC, and must use ISLOC Form 3640b. OAR 436-050-0165 also requires the certified self-insured employer to submit Form 3529, "Memorandum of Understanding," with the ISLOC Form A or ISLOC Form B, and lists the elements that must be included in the memorandum.
- 5) **Expiration of other forms of surety bond; replacement with department's bond:** If the employer's surety bond is terminated and the bond is on a form other than Form 824, Form 824 must be used as the replacement bond, naming the department as obligee.

- 6) **Termination of the surety bond:** The surety bond may be terminated by the surety, by giving to the director of the Department of Consumer and Business Services, Workers' Compensation Division, and the Principal, written notice stating that on a date not less than thirty (30) days after the date the notice is received by the director, such termination will be effective.
- 7) **Department acknowledgement of surety bond:** The Department of Consumer and Business Services, Workers' Compensation Division will maintain a notation on the face of each surety bond to record whether the department approves and accepts the new surety submitted by the Principal as substitute surety for the liabilities, obligations and the time period covered by the bond. The department will issue a written release.
- 8) **Effective date of surety bond:** The effective date of the surety must coincide with the date indicated by the department in condition number 1 of the surety bond.
- 9) **Irrevocable standby letter of credit (ISLOC) as security deposit:** Oregon Administrative Rules 436-050-0150, 436-050-0160, and 436-050-0165 provide that an ISLOC may be approved by the director as an alternative or supplementary type of security deposit. OAR 436-050-0165 lists the criteria the director will use to determine if an ISLOC is an acceptable security deposit. In the event the certified self-insured employer desires to provide the entire required security deposit in the form of an ISLOC and will not supplement the required security deposit amount by using a surety bond, the certified self-insured employer must use Form 3640a. This rule also requires the certified self-insured employer to submit Form 3529, "Memorandum of Understanding," with the ISLOC and lists the elements that must be included in the memorandum.
- 10) Irrevocable standby letters of credit and memorandums of understanding should be mailed or delivered to:

Department of Consumer and Business Services
Workers' Compensation Division, Self-Insurance Program
Compliance Section, In-Office Audit Unit
350 Winter Street, NE
P.O. Box 14480
Salem OR 97309-0405
- 11) **Maturity of other forms of security deposits; replacement with Form 440-824 or ISLOC:** Security deposits in the form of government securities or time deposit accounts that were accepted by the director as a security deposit before Jan. 1, 2004, that are registered in the book entry form, must be held in safekeeping at a depository approved by the director. Upon maturity, such security deposits must be replaced by Form 824 or Form 3640a. Otherwise, ISLOC Form 3640b must be used if a portion of the investments have not matured and remain as a recognized form of security.
- 12) **Power of attorney for surety bonds:** Surety bonds and surety riders submitted must be accompanied by a power of attorney authorizing the attorney-in-fact to sign on behalf of the bonding company up to the penal sum of the bond.

If you have questions about this bulletin, please contact the Department of Consumer and Business Services, Workers' Compensation Division, Compliance Section, 350 Winter Street NE, P.O. Box 14480, Salem, Oregon, 97309-0405, or call 503-947-7716 or 503-947-7699.

/s/ John L. Shilts

John L. Shilts, Administrator
Workers' Compensation Division

Attachments: 440-824, "Surety Bond" (Rev. 1/10)
440-1810, "Surety Rider" (Rev. 1/05)
440-3640a, "Irrevocable Standby Letter of Credit (Form A)" (Rev. 8/06)
440-3640b, "Irrevocable Standby Letter of Credit (Form B)" (Rev. 8/06)
440-3529, "Memorandum of Understanding" (Rev. 7/03)

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