

Assembly Bill No. 176

Passed the Assembly May 3, 2001

Chief Clerk of the Assembly

Passed the Senate July 5, 2001

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 11715 of the Insurance Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 176, Nation. Workers' compensation: security deposits.

Existing law authorizes workers' compensation insurers and other specified insurers reinsuring the same risks under disability insurance to deposit, instead of a bond, certain investment instruments or securities, including securities registered with a qualified depository located in a reciprocal state. Existing law requests that these deposits be made with the Treasurer or in a bank or savings and loan association authorized to engage in the trust business, or a trust company. However, if the deposit consists of securities registered with a qualified depository located in a reciprocal state, the deposit may be made only in a bank that is licensed to do business and located in California and that is a qualified custodian with a specified minimum amount of deposits.

This bill would provide that a deposit of securities registered with a qualified depository located in a reciprocal state must be made in a bank or savings and loan association authorized to engage in the trust business, or a trust company, that is licensed to do business and located in California, and that is a qualified custodian with a specified minimum amount of deposits.

The people of the State of California do enact as follows:

SECTION 1. Section 11715 of the Insurance Code is amended to read:

11715. (a) Any workers' compensation insurer, or insurer that reinsures the injury, disablement, or death portions of policies of workers' compensation insurance under the class of disability insurance, may, in lieu of and for the same purpose as the bond required by Section 11690, and upon payment of the fee prescribed in this article, deposit cash instruments, approved letters of credit, or approved interest-bearing securities or approved stocks readily convertible into cash, investment certificates or share accounts issued by a savings and loan association doing business in this state



and insured by the Federal Deposit Insurance Corporation, certificates of deposit or savings deposits in a bank licensed to do business in this state, or approved securities registered with a qualified depository located in a reciprocal state as defined in Section 1104.9. The deposit shall be made from time to time as demanded by the commissioner and may be made with the Treasurer, or a bank or savings and loan association authorized to engage in the trust business pursuant to Division 1 (commencing with Section 99) or Division 2 (commencing with Section 5000) of the Financial Code, or a trust company. A deposit of securities registered with a qualified depository located in a reciprocal state as defined in Section 1104.9 may only be made in a bank or savings and loan association authorized to engage in the trust business pursuant to Division 1 (commencing with Section 99) or Division 2 (commencing with Section 5000) of the Financial Code, or a trust company, licensed to do business and located in this state that is a qualified custodian as defined in paragraph (1) of subdivision (a) of Section 1104.9 and that maintains deposits of at least seven hundred fifty million dollars (\$750,000,000). The deposit shall be made subject to the approval of the commissioner under those rules and regulations that he or she shall promulgate. The deposit shall be maintained at a deposit value of not less than twenty-five thousand dollars (\$25,000), nor less than the reserves required of the insurer to be maintained under any of the provisions of Article 1 (commencing with Section 11550) of Chapter 1 of Part 3 of Division 2, relating to loss reserves on workers' compensation business of the insurer in this state, nor less than the sum of the amounts specified in subdivision (a) of Section 11699.

(b) Any workers' compensation insurer electing to bring itself within the provisions of subdivision (a) by submitting securities, stock, investment certificates, or share deposits registered in a depositor's name, shall execute a trust agreement in a form approved by the commissioner between the insurer, the institution in which the deposit is made or, where applicable, the qualified custodian of the deposit, and the commissioner, that grants to the commissioner the authority to withdraw the deposit as set forth in Section 11716. The insurer shall also execute and deliver in duplicate to the commissioner a power of attorney in favor of the commissioner for the purposes specified in Section 11690, supported by a resolution of the depositor's board of directors. The



power of attorney and director's resolution shall be on forms approved by the commissioner, shall provide that the power of attorney cannot be revoked or withdrawn without the consent of the commissioner, and shall be acknowledged as required by law.

(c) The commissioner shall require payment of one hundred seventy-seven dollars (\$177) in advance as a fee for the initial filing and the first semiannual review of each letter of credit specified in subdivision (a). In addition, each workers' compensation insurer depositing a letter of credit shall pay an annual fee of one hundred eighteen dollars (\$118) in advance on account of the letter until its expiration or revocation. This fee shall be for annual periods commencing each January 1 and shall be due and payable on the following April 1.

(d) The commissioner shall require payment of one hundred eighteen dollars (\$118) in advance as a fee for the initial filing of a trust agreement with a bank, savings and loan association, or trust company on deposits made pursuant to subdivision (a). An additional fee of one hundred eighteen dollars (\$118) shall be payable for each amendment, supplement, or other change to the deposit agreement. In addition, the commissioner shall require the payment of fifty-eight dollars (\$58) in advance for receiving and processing deposit schedules pursuant to this section. An additional fee of twenty-nine dollars (\$29) shall be payable for each withdrawal, substitution, or any other change in the deposit.

(e) Any workers' compensation insurer that elects to deposit cash or cash equivalents pursuant to this section shall be entitled to a prompt refund of those deposits in excess of the amount determined by the commissioner pursuant to subdivision (a). The commissioner shall cause to be refunded any deposits determined by the commissioner to be in excess of the amount required by subdivision (a) within 30 days of that determination. In the alternative, an insurer may use any excess deposit funds to offset a demand by the commissioner to increase its deposit due to the failure of a reinsurer to post a bond or deposit pursuant to Section 11690.

(f) If a reinsurer has not maintained a bond as required by Section 11690, or has not maintained deposits as required by subdivision (a), or a combination thereof, in amounts equal to the amounts of deposit credits claimed by its ceding insurers, the commissioner, after notifying the insurer and its ceding insurers of



the deposit shortfall and allowing 45 days from the date of the notice for the deposit shortfall to be corrected, may disallow all or a portion of the reserve credits claimed by the ceding insurers.



Approved _____, 2001

Governor

