**Section 2909.40 Collateral Requirements**

a) Exempt insurers are not required to comply with the requirements of this Part.

b) As provided in this Part, every nonexempt insurer writing workers' compensation policies that are subject to a large deductible agreement covering employees located in Illinois must require full collateralization of the policyholders' obligations under the agreement, including policyholder obligations for employees located in other states.

1) The initial collateral:

A) shall be determined by first computing the standard premium and then determining the amount by which the standard premium is reduced as a result of the large deductible credit; and

B) shall be set at the amount of the large deductible credit subject to other adjustments based on the insured's financial status, anticipated payment pattern of losses, the existence and attachment point of an aggregate deductible limit, and the expected development above and below the deductible sufficient to secure the nonexempt insurer against the potential deductible reimbursement liability it is assuming.

2) At least annually, the collateral shall be adjusted periodically pursuant to the large deductible agreement by first determining the amount of open case reserves on all claims reported under the policy plus the expense reserve for those expenses covered by the large deductible agreement and an allowance for incurred but not reported (IBNR) claims, limited by the per claim or aggregate cap as provided in the large deductible agreement. The collateral is then adjusted upward or downward based on the reserve amount as calculated in subsection (b)(1) compared to the collateral being held on the date of each adjustment. If the large deductible agreement or any other law requires the collateral to be an amount higher than the amount required in Section 2909.50, then the higher amount shall apply.

c) If the collateral is in the form of a surety bond, it shall be issued by a company that is authorized to transact business by the Department and whose strength and size ratings from A.M. Best Company are not less than "A" and "V", respectively, shall contain an evergreen clause and cannot be cancelled or nonrenewed without 60 days' notice to the nonexempt insurer. The nonexempt insurer shall require the policyholder to replace a cancelled or nonrenewed surety bond with collateral that meets the requirements of this Section.

d) If the collateral is a letter of credit, it must be clean, irrevocable, contain an evergreen clause and be issued by a financial institution with an office physically located within Illinois and whose deposits are federally insured. The nonexempt insurer shall require the policyholder to replace any nonrenewed letter of credit with collateral that meets the requirements of this Section.