



LESSOR EMPLOYING UNITS

Missouri Employment Security Regulation – 8 CSR 10-4.160

PURPOSE: This rule establishes procedures for complying with the surety bond or securities aspect of section 288.032.2(2), RSMo.

(1) Each lessor employing unit shall maintain a listing of its client lessees and a listing of employees leased to each client lessee. Each lessor employing unit shall file with its quarterly contribution and wage report the listing of its client lessees. The listings of client lessees and employees leased to each client lessees shall be available for audit and inspection by the Division of Employment Security.

(2) Any lessor employing unit desiring to post a surety bond with the Division of Employment Security in accordance with section 288.032.2, RSMo of the Missouri Employment Security Law, Chapter 288, RSMo shall execute a surety bond in the amount set forth in section 288.032.2, RSMo. The surety bond shall be on a form provided, or approved, by the division. Any bond not on the form provided by the division shall be submitted to the division for approval prior to its being executed.

(3) The surety bond must be issued by an insurance company licensed for bonding in the state on behalf of the applicant. The form must bear the seal of the insurance company, the effective date and be accompanied by a power of attorney letter signed by the attorney-in-fact and it must also contain the signature of the applicant.

(4) The Division of Employment Security may reject a surety bond issued by an insurance company which has been suspended by the Missouri Department of Insurance. The division may require a lessor employing unit which has a surety bond issued by an insurance company suspended by the Missouri Department of Insurance to replace that bond with a new surety bond issued by a company in good standing with the Missouri Department of Insurance. The replacement bond must be bought by the lessor employing unit within thirty (30) days of notification by the division.

(5) Any lessor employing unit depositing securities with the Division of Employment Security in accordance with section 288.032.2, RSMo shall also execute an Assignment and Escrow Agreement provided by the division. The agreement shall contain a provision in which the lessor employing unit consents to an audit of its records prior to the release or cancellation of the securities tendered with the agreement.

(6) Any securities deposited in a depository designated by the director of the Division of Employment Security pursuant to section 288.032.2, RSMo shall be accompanied by the signed statement of a licensed broker identifying each security and setting forth its current market value. Should the combined value of those deposited securities be less than the required amount, the lessor employing unit shall immediately deposit additional securities to raise the value to the required amount. After that, the lessor employing unit shall submit with its quarterly contribution and wage reports.

(A) A statement signed by a licensed broker setting forth the market value on the first business day of that month of each security so deposited; and

(B) An attestation by the broker stating that s/he has no interest in and is not affiliated in any way with the lessor employer or the corporation(s) that issued the stocks included in the market value statement.

(7) Pursuant to section 288.032.2, RSMo, a lessor employing unit, in lieu of a surety bond or securities, may obtain a certificate of deposit issued by any state or federally chartered financial institution in an amount equivalent to the amount required for a surety bond. The certificate of deposit shall be made payable jointly to the employing unit and the Division of Employment Security. The lessor employing unit shall forward the certificate of deposit, along with an executed Assignment and Escrow Agreement, to the division. The lessor employing unit shall forward to the division the certificate of deposit and an executed Assignment and Escrow Agreement on a form provided by the division.

(8) The director of the Division of Employment Security shall notify any lessor employing unit who has posted a corporate surety bond, deposited marketable securities, or obtained a certificate of deposit, of the dollar amount required for that year to comply with the provisions of section 288.032.2, RSMo. The notification shall be mailed to each lessor employing unit not later than the end of February of each calendar year.

(9) Neither the obligation for payment nor the bond, securities, or certificate of deposit securing payment of unemployment contributions pursuant to section 288.032.2, RSMo of the Missouri Employment Security Law shall be released until the Division of Employment Security is satisfied, either by audit or otherwise, that all contributions liability on account of the bond, securities or certificate of deposit has been paid. This section of this rule shall not be construed to increase the liability of the surety in excess of the face amount of the bond regardless of the period of time the bond remains in effect, nor shall it be construed to affect the right of any surety to terminate the bond in accordance with the terms of the bond.

(10) The forms provided by the division to be used to comply with this rule may be obtained by contacting the division at 573-751-3331; by writing the Division of Employment Security, Attention Liability Unit, P.O. Box 59, Jefferson City, MO 65104-0059; or by downloading the form through the division's Internet web site at <http://www.dolir.state.mo.us/es/>.

AUTHORITY: section 288.220, RSMo Supp. 1999. Original rule filed Dec. 2, 1992, effective June 7, 1993. Amended: Filed Feb. 2, 1995, effective Aug. 30, 1995. Amended: Filed May 2, 2000, effective Nov. 30, 2000.*

**Original authority 288.220, RSMo 1951, amended 1955, 1961, 1963, 1967, 1971, 1995.*