

MAINE STATE LEGISLATURE

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New Draft of H. P. 821, L. D. 975
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1630

H. P. 1517

House of Representatives, May 20, 1981

Reported by the Minority from the Committee on Labor. Printed under
Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Relating to Self-insurance under the Workers' Compensation Act.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 39 MRSA § 23, sub-§ 2-A, 2nd ¶ from the end, as amended by PL 1979, c. 577, § 2, is further amended by adding after the first sentence a new sentence to read:

The superintendent may, in addition, require the filing of quarterly financial status reports whenever he finds that there has been a significant deterioration in the financial condition of either an individual or a group self-insurer.

Sec. 2. 39 MRSA § 23, sub-§§ 6 to 10 are enacted to read:

6. Security deposit and excess insurance requirements for individual self-insurers. The following security deposit and excess insurance requirements apply to individual self-insurers.

A. The bond or security deposit required of an individual self-insurer with a net worth in excess of \$25,000,000 and positive net earnings in 4 of the preceding 5 years shall be \$50,000. The security deposit required of all other individual self-insurers shall, subject to a minimum of \$50,000, be an amount determined by the following formula: Sixty percent of current annual standard premium plus outstanding workers' compensation liabilities minus recoveries from all excess carriers and subrogations. If the employer has submitted a certified audit in fulfillment of its financial reporting requirements, the deposit required

shall be reduced by the employer's net current assets. If the employer retains an aggregate excess policy, the retention if less shall be substituted for the 60% of current standard premium in the formula.

B. Except as provided in this paragraph, all individual self-insurers shall maintain specific excess insurance unless the superintendent, in his discretion, waives such a requirement. Specific excess insurance shall generally have a limit of at least \$2,000,000. Higher limits may be required for those businesses with a high risk of multiple injury from a single occurrence. The retention underlying specific excess policies shall be the lowest retention generally available for businesses of similar size and exposure, but may, at the superintendent's discretion, be established at higher levels consistent with the employer's claims experience and financial condition.

All individual self-insurers with a net worth of less than \$25,000,000 shall maintain aggregate excess insurance unless the superintendent, in his discretion, waives the requirements. The amount of excess insurance shall be subject to individual determination by the superintendent at the time of application. No aggregate excess insurance may be required of individual self-insurers with a net worth in excess of \$25,000,000, unless the superintendent finds the self-insurer's financial condition has deteriorated to the extent of adversely affecting the self-insurer's ability to pay expected losses.

7. Acceptable deposit funds or surety bond. In addition to cash, the deposit funds acceptable to the superintendent as a security deposit include, but are not limited to, United States Government bonds, notes or bills; revenue bonds of states or political subdivisions of the United States which are guaranteed and rated in the 3 highest grades by a national rating agency, such as Moodys, Standard & Poors, Fitch; certificates of deposit issued by a duly chartered commercial bank or thrift institution in the State which are protected by the Federal Deposit Insurance Corporation; savings certificates issued by any savings and loan association in the State which are protected by the Federal Savings and Loan Insurance Corporation; and surety bonds in a form prescribed by the superintendent which are issued by any corporate surety which meets the qualifications prescribed by regulation of the superintendent.

8. Qualifications for excess carriers. No workers' compensation contract or policy issued after the effective date of this section may be recognized by the superintendent in considering the ability of an individual or group self-insurer to fulfill its financial obligations under the Act, unless the contract or policy is issued by an admitted or an approved nonadmitted insurance company or by an alien or domestic unincorporated insurer which meets the minimum admission qualifications prescribed in Title 24-A.

9. Grounds for revocation. The following may constitute grounds for revocation of the right to continue the option to self-insure:

A. Substantial failure to comply with this section and any applicable regulations prescribed by the superintendent;

- B. Substantial failure to comply with any lawful order of the superintendent;**
- C. Willful noncompliance with the Workers' Compensation Act;**
- D. Committing an unfair or deceptive act or practice as defined in Title 24-A, sections 2151 to 2167;**
- E. Deterioration of financial condition adversely affecting the self-insurers' ability to pay expected losses; or**
- F. Failure to pay any lawful assessment of the Maine Insurance Guaranty Association.**

10. Confidentiality of certain information. All financial information and all information relating to individual compensation cases which is required, by statute or regulation, to be filed with or made available to the superintendent, by either individual or group self-insurers, shall be confidential and may be used by the superintendent only for the purpose of administering this section.

STATEMENT OF FACT

The purpose of this new draft is to provide the Bureau of Insurance with specific statutory standards for regulating employers or groups of employers who elect to self-insure under the Workers' Compensation Act.