

MAINE STATE LEGISLATURE

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(New Draft of H.P. 1810, L.D. 1795)
(EMERGENCY)
SECOND REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document **No. 2082**

H.P. House of Representatives,

H. P. 2223 House of Representatives, March 23, 1982
Reported by Representative Pouliot from the Committee on Business Legislation and printed under Joint Rules No. 2.
EDWIN H. PERT, Clerk

STATE OF MAINE

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

**AN ACT to Amend the Law Establishing the
Maine Self-Insurance Guarantee Association.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Public Law 1981, chapter 484, inter alia, created the Maine Self-Insurance Guarantee Association requiring the filing by self-insurers of certain information with the Superintendent of Insurance by certain specified times; and

Whereas, it will not be possible to make some filings within the statutory deadlines; and

Whereas, it is necessary to define more clearly the liabilities of the Maine Self-Insurance Guarantee Association; and

1 Whereas, in the judgment of the Legislature, these
2 facts create an emergency within the meaning of the Consti-
3 tution of Maine and require the following legislation as
4 immediately necessary for the preservation of the public
5 peace, health and safety; now, therefore,

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

7 Sec. 1. 39 MRSA §23, sub-§5, ¶A, as last amended by PL
8 1979, c. 577, §9, is further amended to read:

9 A. "Self-insurance," as used herein, shall be deemed
10 to be the system of securing compensation as provided
11 in ~~subsection 4~~ subsections 2 to 11.

12 Sec. 2. 39 MRSA §23, sub-§11 is enacted to read:

13 11. Registration of self-insurers. Registration of
14 self-insurers shall be governed as follows.

15 A. On or before August 1, 1982, all employers claiming
16 the status of self-insurer as defined by this Title on
17 that date shall apply for registration with the Bureau
18 of Insurance on forms prescribed by the superintendent.
19 The application shall contain a statement identifying
20 the employer as a self-insurer, which includes the
21 legal organization and name of each self-insuring
22 employer. The superintendent may require the submis-
23 sion of any further information he deems necessary in
24 order to determine whether a self-insurer has been
25 approved pursuant to this section or is authorized to
26 act as a self-insurer pursuant to section 25. In the
27 event that an employer is unable to establish that it
28 has been approved to act as a self-insurer by either
29 the superintendent or the Workers' Compensation Commis-
30 sion, or is authorized to act as such pursuant to
31 section 25, the superintendent shall deny the applica-
32 tion for registration. Upon denial of registration, an
33 employer may make application for approval to act as a
34 self-insurer in accordance with all requirements of
35 this Act and the regulations promulgated pursuant to
36 this Act.

37 B. On January 1st of each year, the superintendent
38 shall promulgate an official list of self-insurers
39 which are approved and registered as of that date and
40 the list of self-insurers shall be forwarded to the
41 Maine Self-Insurance Guarantee Association. The super-

1 intendent shall add to the list at any time during the
2 year the name or names of any self-insurer or
3 self-insurers which he has approved and registered
4 subsequent to the promulgation of the list and shall
5 similarly delete the name or names of any self-insurer
6 or self-insurers whose authority to self-insure has
7 been terminated. Additions to or deletions from the
8 official list of self-insurers shall be forwarded to
9 the Maine Self-Insurance Guarantee Association when
10 made. Failure to become registered pursuant to this
11 subsection shall result in the automatic termination of
12 an employer's authority to self-insure under this Act.

13 **Sec. 3. 39 MRSA §23-A, sub-§2, ¶C is enacted to read:**

14 C. In determining the membership of the association
15 pursuant to paragraphs A and B for any date after Janu-
16 ary 1, 1983, no employer claiming self-insurer status
17 may be deemed to be a member of the association on any
18 date after January 1, 1983, unless that employer is at
19 that time registered as a self-insurer by the superin-
20 tendent pursuant to section 23, subsection 11.

21 **Sec. 4. 39 MRSA §23-A, sub-§3, 3rd sentence, as**
22 **enacted by PL 1981, c. 484, §8, is amended to read:**

23 Vacancies on the board shall be filled for the remaining
24 period of the term in the same manner as initial appoint-
25 ments, except that vacancies may be filled by majority vote
26 of the remaining directors, subject to the approval of the
27 superintendent, until the next annual meeting of the mem-
28 bers.

29 **Sec. 5. 39 MRSA §23-A, sub-§4, ¶A, sub-¶(1), last sen-**
30 **tence, as enacted by PL 1981, c. 484, §8, is amended to**
31 **read:**

32 These reports shall be due on or before February
33 15th July 15th following the close of that calen-
34 dar year, except that this deadline may be
35 extended by the superintendent for up to 3 addi-
36 tional months for good cause shown;

37 **Sec. 6. 39 MRSA §23-A, sub-§4, ¶A, sub-¶(2), div. (a)**
38 **and (b), as enacted by PL 1981, c. 484, §8, are amended to**
39 **read:**

40 (a) Each individual self-insurer shall be
41 annually assessed an amount equal to 1% of
42 the annual standard premium which would have

1 been paid by that individual self-insurer
2 during the prior calendar year; payment to
3 the association shall be made no later than
4 April 15th September 15th following the close
5 of that calendar year. Where any such
6 assessment is paid based in whole or in part
7 upon estimates of annual standard premium for
8 the prior calendar year, there shall be made
9 in the next year's assessment an adjustment
10 of the assessment of such prior year based on
11 actual audited annual standard premium.
12 Regardless of the size of the fund referred
13 to in subparagraph (3), during its first 12
14 months of membership, no individual self-
15 insurer may discount or reduce this 1%
16 assessment;

17 (b) Each group self-insurer shall be annu-
18 ally assessed an amount equal to .1% of the
19 total annual standard premium which would
20 have been paid by all the members of that
21 group self-insurer during the prior calendar
22 year; payment to the association shall be no
23 later than April 15th September 15th follow-
24 ing the close of that calendar year. Where
25 any such assessment is paid based in whole or
26 in part upon estimates of annual standard
27 premium for the prior calendar year, there
28 shall be made in the next year's assessment
29 an adjustment of the assessment of such prior
30 year based on actual audited annual standard
31 premium. Regardless of the size of the fund
32 referred to in subparagraph (3), during its
33 first 12 months of membership, no group self-
34 insurer may discount or reduce this .1%
35 assessment.

36 **Sec. 7. 39 MRSA §25 is repealed and the following**
37 **enacted in its place:**

38 §25. Approval of benefit system in use January 1, 1915

39 1. Benefit system. Subject to the approval of the
40 Superintendent of Insurance, any employer may continue with
41 his employees, in lieu of the compensation, benefits and
42 insurance provided by this Act, the system thereof which was
43 used by such employer on January 1, 1915. No such substi-
44 tute system may be approved unless it confers benefits upon
45 injured employees at least equivalent to the benefits pro-
46 vided by this Act, nor if it requires contributions from the

1 employees, unless it confers benefits in addition to those
2 provided under this Act at least commensurate with such con-
3 tributions. Such substitute system may be terminated by the
4 superintendent with the advice of the commission on reason-
5 able notice and hearing to the interested parties, if it
6 appears that the substitute system is not fairly administer-
7 ed, or if its operation discloses latent defects threatening
8 its solvency, or if for any substantial reason it fails to
9 accomplish the purposes of this Act. Notwithstanding Title
10 5, section 10051, the superintendent is expressly granted
11 the authority to revoke or suspend the authority of an
12 employer to continue with a substitute system of benefits
13 under this section after a hearing held in accordance with
14 Title 5, chapter 375, subchapter IV, and Title 24-A, chapter
15 3. An employer who is authorized to substitute a plan under
16 sections 21 to 27 shall give his employees notice thereof in
17 a form to be prescribed by the commission, and a statement
18 of the plan approved shall be filed with the superintendent.

19 2. Substitute benefit plan. The authority of any
20 employer to continue a substitute benefit plan pursuant to
21 this section shall, without exception, terminate automati-
22 cally on June 30, 1983. On or before that date, each such
23 employer shall secure the compensation and other benefits
24 required by this Act in one or more of the ways prescribed
25 by section 23 and in so doing shall be subject to all appli-
26 cable requirements imposed by statute and any regulations
27 promulgated pursuant thereto. Failure to comply with the
28 requirements of this subsection shall constitute failure to
29 secure payment of compensation provided for by this Act
30 within the meaning of section 104-A and shall subject the
31 employer to the penalties prescribed by that section.

32 **Emergency clause.** In view of the emergency cited in
33 the preamble, this Act shall take effect when approved.

34 STATEMENT OF FACT

35 This new draft makes certain minor changes in the bill.
36 It also ensures that the Maine Self-Insurance Guarantee
37 Association will not be held liable for litigations of any-
38 one not properly registered as a self-insurer by the dates
39 specified in the new draft. Further, it provides for the
40 conversion of employers with a substitute benefit system to
41 the status of self-insurers no later than June 30, 1983.
42 Finally, the new draft allows vacancies on the association's

1 board to be filled by majority vote of the board until the
2 next annual membership meeting.

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