

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 990

H. P. 853

House of Representatives, March 12, 1975

Reported by Mr. Tierney from Committee on Labor. Printed under Joint Rules No. 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

**AN ACT Concerning Appeals from a Determination that an Employing Unit
is an Employer Subject to the Employment Security Law.**

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

26 MRSA § 1082, sub-§ 14 is repealed and the following enacted in place thereof:

14. Determination of employer or employment; appeal.

A. Determination. The Director of Unemployment Compensation or a representative of the commission duly authorized by the commission to do so shall determine whether an employing unit is an employer and whether services performed for or in connection with the business of the employing unit constitute employment, and shall give written notice of the determination to the employing unit. Unless such employing unit, within 15 calendar days after notification was mailed to its last known address files an appeal from such determination, such determination shall be final.

B. Redetermination. After a determination has been made under paragraph A, the Director of Unemployment Compensation or a representative of the commission may within one year reconsider the determination in the light of additional evidence and make a redetermination and shall give written notice of the redetermination to the employing unit. Unless such employing unit, within 15 calendar days after notification was mailed to its last known address files an appeal from such redetermination, such redetermination shall be final.

C. Commission review. The commission may on its own motion within 15 days of mailing any determination or redetermination made under para-

graph A or paragraph B either affirm, modify or set aside any such determination or redetermination on the basis of evidence previously submitted in such case or commence action to hold a hearing in accordance with the requirements of paragraph D to obtain additional evidence. The commission's decision shall be mailed to the last known address of the employing unit and such decision may be appealed to the courts within the time limits and under the provisions of paragraph E.

D. Appeal. Upon appeal of such determination or redetermination, the commission shall after affording the employing unit a reasonable opportunity for a fair hearing, make findings of fact and render its decision which may affirm, modify, or reverse the determination of the Director of Unemployment Compensation or its representative. Such hearings shall be conducted in accordance with the regulations of the commission consistent with section 1194, subsection 6. The commission shall notify the parties to the proceeding of its findings of fact and decision, and such decision becomes final within 15 calendar days after the date of mailing such decision. In the absence of appeal therefrom, the determination of the commission, together with the record of the proceeding under this subsection, shall be admissible in any subsequent material proceeding under this chapter, and if supported by evidence, and in the absence of fraud, shall be conclusive, except as to errors of law, upon any employing unit which was a party to the proceeding under this subsection.

E. Appeals to courts. Within the time provided in paragraph D the employing unit may appeal by commencing an action in the Superior Court of Kennebec County, and any party to the proceeding before the commission shall be made a party thereto. The complaint need not be verified, but shall state the ground upon which relief is sought. A copy of the complaint shall be served upon the commission or upon such person as it may designate. The commission shall certify and file with its answer to the complaint the original or certified copies of all documents and papers and a transcript of all testimony taken in the matter, together with the commission's findings, and decision therein. Upon the motion of any party, the court may order additional testimony or evidence to be offered and, upon the basis of all the evidence before it, shall affirm or reverse the decision of the commission. An appeal may be taken from the decision of said court to the Supreme Judicial Court in the same manner, but not inconsistent with this chapter, as is provided in civil actions.

STATEMENT OF FACT

This is to provide that determinations of the commission regarding coverage become conclusive and binding except for errors of law upon any employing unit which participates in the proceedings and it provides for the reexamination of a determination should evidence be discovered in subsequent proceedings to reverse the determination.