

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 760

H. P. 605

House of Representatives, February 23, 1979

Referred to the Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Wyman of Pittsfield.

Cosponsor: Mr. Tarbell of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Require the Disclosure of Relevant Information in Workers'
Compensation Rate Filing Proceedings.**

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

39 MRSA § 22 as last amended by PL 1977, c. 696, § 397, is repealed and the following enacted in its place:

§ 22. Approval of insurance policies and rates by the Superintendent of Insurance

1. Approval required. Every insurance company issuing workers' compensation insurance policies covering the payment of compensation and benefits provided for in this Act shall file with the Superintendent of Insurance a copy of the form of the policies and no policy shall be issued until he has approved the form. It shall file its classification of risks and premium rates relating thereto, and any subsequent proposed classification thereof, none of which shall take effect until the Superintendent of Insurance has approved the same as adequate for the risks to which they respectively apply. He may require the filing of specific rates for workers' compensation insurance including classifications of risks, experience or any other rating information from insurance companies authorized to transact insurance in Maine and may make or cause to be made such investigations as may be deemed necessary to satisfy himself that the rates are

correct and proper before giving his approval and permitting the rates to be promulgated for the use of those companies. The Superintendent of Insurance may at any time withdraw his approval of any classification of risks or premium rates relating thereto and approve a revised classification thereof.

2. Contents of Filing. In addition to any other information required by the Insurance Code or the Superintendent of Insurance, every workers' compensation rate filing shall indicate for each risk classification and for each of the 5 calendar years preceding that in which the filing is made, the following:

A. Loss and loss adjustment expense experience in this state, including the total payroll in each classification, number of serious workers' compensation cases, number of nonserious cases, the losses and expenses, including medical expenses, incurred with respect to each type of case and the total for all losses and expenses incurred;

B. Loss and loss adjustment expense experience in the United States, including the total payroll in each classification, number of serious workers' compensation cases, number of nonserious cases, the losses and expenses, including medical expenses, incurred with respect to each type of case and the total for all losses and expenses incurred;

C. The present rate applicable to the classification; and

D. The rate proposed in the filing for the classification.

The information required by this section shall be presented in tabular form. The tables shall also indicate with respect to each classification the relative weight given to experience in this State and experience in the United States in determining the applicable rate. All classifications shall conform, as nearly as is practical, to the latest Standard Industrial Classifications utilized by the United States Department of Labor.

3. Burden of proof. Any rating organization or insurer presenting a workers' compensation rate filing shall have the burden of proving, by sworn testimony, that the proposed rates are correct and proper and that they meet the requirements of Title 24-A, chapters 23 and 25.

A. In addition to all other requirements, the rating organization or insurer shall establish, for each of the 5 calendar years immediately preceding that in which the filing is made, the following:

(1) The gross premiums derived from the coverage of risks in this State, excluding any premiums unearned at the beginning of the calendar year in which the filing is made;

(2) The annual investment of any revenues derived from the coverage of risks in this State and the annual income generated by that investment;

(3) The annual operating expenses allocable to the coverage of risks in this State; and

(4) The annual loss and loss adjustment expense allocable to the coverage of risks in this State, excluding any loss and loss adjustment expense incurred under policies written prior to the beginning of the 5 calendar-year period immediately preceding the calendar year in which the filing is made.

B. The rating organization or insurer shall also establish:

(1) That any profit factor used in the filing will produce only a just and reasonable return on the investment of funds derived from the coverage of risks in this State, with due consideration being given to the current earnings potential of the investment;

(2) That the methods for determining loss reserves, including the discount rates applied to those reserves, are reasonable, with due consideration being given to the current earnings potential of investing those reserves; and

(3) That the insurer, or insurers represented by the rating organization, have taken reasonable measures to contain costs including, without limitation, the provision of adequate loss adjustment, safety engineering and loss control services.

No workers' compensation rate filing shall be approved in the absence of evidence that the information or data relied upon has been verified by independent audit.

4. Information for parties and intervenors. Any rating organization or insurer which has presented a workers' compensation rate filing shall, within 30 days after written request, furnish to any party or intervenor in a proceeding concerning the filing, any information which is pertinent to a determination whether the filing and rates meet the requirements of this Title and Title 24-A. If the rating organization or insurer, without good cause, fails to furnish the information within the prescribed time, the party or intervenor may make written application to the Superintendent of Insurance for an order disapproving the filing. If, after hearing, the superintendent determines that the failure to furnish the information was without good cause, he shall issue an order for disapproval of the filing.

STATEMENT OF FACT

Subsection 1 effects no substantive change in the present law.

Subsection 2 requires that the filing present, in tabular form, the Maine experience, the United States experience, the relative weight given to each, the present rate and the proposed rate for each employment classification. Recent rate filings have been incomprehensible to employers as well as the public who have wished to be informed about the proposals made.

Subsection 3 places the burden of proof on the rating organization or insurer to establish revenues, expenses, loss data, investment and return on capital. It requires sworn testimony and verification by audit. It requires proof comparable to what utilities must present to the Public Utility Commission in justification of

their rates. This proposal proceeds on the premise that the citizen who pays a workers' compensation premium under a rate determined by a state official is entitled to the same protection and standard of proof as the citizen who pays a utility bill. It also requires the applicant to prove that it has taken reasonable measures to contain cost, such as safety engineering and loss adjustment.

Subsection 4 requires that information be provided to parties and intervenors so that they can adequately prepare for participation in the hearing conducted by the Superintendent of Insurance to consider the rate filings.