

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-449)
110TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 1187, L.D. 1411, Bill,
"AN ACT to Amend the Law Concerning Inherited Liability of
Certain Business Firms for Severance Pay."

Amend the Bill by striking out everything after the
enacting clause and inserting in its place the following:

'Sec. 1. 26 MRSA §625-B, sub-§1, ¶I is enacted to read:

I. "Related employers" means one employer operating
in more than one form or 2 or more employers whose owner-
ship or directing interests are shared. Relationships
included under this provision include those between
an employer and:

(1) A member of his family;

(2) A trustee or representative acting in the employ-
er's behalf; or

(3) A corporation, partnership or association in
which the employer or any of the employer's directors,
officers or partners are directors, officers or
partners, or have a financial interest, direct or
indirect; but the ownership of not over 10% of any
class of stock issued by a corporation whose shares
are traded on any national securities exchange or
are regularly quoted by any member of a national or
regional association of securities dealers shall not
be considered "a financial interest."

Sec. 2. 26 MRSA §625-B, sub-§3-A is enacted to read:

3-A. Inherited liability of successor employers. The inherited severance pay liability of an employer is limited in the following manner.

A. No unrelated successor employer inherits severance pay liability from an employer who, with regard to ending his ownership of the business, was granted a discharge under the Federal Bankruptcy Code, Chapter 7, and was insolvent at that time, as defined in the Federal Bankruptcy Code in Chapter 1, Section 101.

B. In cases other than adjudicated bankruptcies provided for in paragraph A, the inherited severance pay liability of an unrelated successor employer is limited to that amount attributable to each eligible employee's service since September 23, 1971.

C. The limitation on liability created by this subsection shall not apply to an employer who is related to any person who directly or indirectly owned the covered establishment within the 10-year period preceding its acquisition by the successor employer, unless the predecessor related employer was entitled, at the time he conveyed or disposed of the business, to the limitation on liability claimed under this subsection.

Statement of Fact

This amendment, like the original bill, seeks to encourage new investment in Maine business by reducing the burden of severance pay liability on successor employers, while maintaining protection for the rights of long-standing and loyal Maine workers.

Section ~~one~~ more clearly defines the concept of "related employers" than did the bill, by referring to standards presently used in Maine's corporation laws.

Section 2 creates the limitation on inherited liability.

First, the section provides that after an employer is driven to liquidation by insolvency, successor employers are not subject to inherited severance pay liability. This ^{is} limited to unrelated employers to ensure that the bankruptcy exception is not misused.

Second, successor employers are relieved of any liability based upon services rendered to a predecessor before September 23, 1971, the effective date of the severance pay law. This can have a substantial impact on reducing liability.

At the same time, section 2 assures that the employers to benefit from the limitation on liability are good faith purchasers, and that sales to related persons or companies will not be used to subvert the policy of the law. The final language provides that related employers who do not fall into the latter category will also be entitled to the limitation.

Reported by Report "D" of the Committee on Labor.
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