

# MAINE STATE LEGISLATURE

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1 (After Deadline)

2 FIRST REGULAR SESSION  
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE  
5

6 Legislative Document

No. 1648

7  
8 H.P. 1239

House of Representatives, May 20, 1983

9 Approved for introduction by a majority of the Legislative Council  
10 pursuant to Joint Rule 27.

11 Received by the Clerk of the House on May 20, 1983. Referred to the  
Committee on Business Legislation and printed pursuant to Joint Rule 14.

EDWIN H. PERT, Clerk

Presented by Speaker Martin of Eagle Lake.

12 Cosponsors: Senator Pray of Penobscot, Representative Brannigan of  
Portland and Senator Clark of Cumberland.

13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-THREE  
17

18 AN ACT to Clarify the Rate Filing  
19 Procedures and Standards for Workers'  
20 Compensation Insurance.  
21

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

24 Sec. 1. 39 MRSA §22, as amended by PL 1981, c.  
25 471, §§1 and 2, is repealed.

26 Sec. 2. 39 MRSA §22-B is enacted to read:

27 §22-B. Approval of insurance policies and rates

28 The following provisions shall apply to approval  
29 of insurance policies and rates by the Superintendent  
30 of Insurance.

31 1. Policies. Every insurance company issuing  
32 workers' compensation insurance policies covering the

1 payment of compensation and benefits provided for in  
2 this Act shall file with the Superintendent of Insur-  
3 ance:

4 A. A copy of the form of the policies. A policy  
5 may not be issued until the superintendent has  
6 approved the form; and

7 B. Its classification of risks and their premium  
8 rates and any subsequent proposed classifications  
9 and premium rates, which may not take effect  
10 until the superintendent has approved them.

11 2. Approval of rates. The superintendent shall  
12 apply the procedures and standards of this section in  
13 investigating, reviewing and approving or disapprov-  
14 ing rates.

15 A. He may require the filing of specific rates  
16 for workers' compensation insurance, including  
17 classifications of risks, experience or any other  
18 rating information from insurance companies  
19 authorized to transact insurance in this State.

20 B. He may make or cause to be made investiga-  
21 tions as he may deem necessary prior to approving  
22 or disapproving rates.

23 C. He may at any time withdraw his approval of a  
24 classification of risks or premium rates and  
25 approve a revised classification or premium  
26 rates.

27 3. Contents of filing. A rate filing shall  
28 include, for each company included in the filing:

29 A. For each of the 3 immediately preceding cal-  
30 endar years and each completed calendar quarter  
31 in the year immediately preceding the date of the  
32 filing:

33 (1) A balance sheet meeting usual account-  
34 ing standards;

35 (2) A profit and loss statement meeting  
36 usual accounting standards;

- 1                   (3) The actual gross earned premiums allo-  
2                   cable to the coverage of risks in this  
3                   State;
- 4                   (4) The number of employees in this State  
5                   presently insured through policies;
- 6                   (5) The amount and type of investments of  
7                   unearned premium, earned premium, loss and  
8                   loss expense reserve funds, including recap-  
9                   tured reserves and capital surplus, alloca-  
10                  ble to the coverage of risks in this State,  
11                  and the annual income amounts generated by  
12                  those investments;
- 13                  (6) The profit factor and the rate of  
14                  return on investment;
- 15                  (7) The amount of dividends, savings or  
16                  unabsorbed premium deposits allowed or  
17                  returned to policyholders, members or sub-  
18                  scribers;
- 19                  (8) The aggregate annual expenses allocable  
20                  to the coverage of risks in this State,  
21                  including acquisition and field supervision  
22                  expenses, taxes, licenses and fees, other  
23                  than federal income tax, and general  
24                  expenses, each stated separately. Safety  
25                  engineering expense and loss control ser-  
26                  vices' expense shall be stated separately  
27                  under general expense;
- 28                  (9) The aggregate annual losses and loss  
29                  adjustment expense allocable to the coverage  
30                  of risks in this State; and
- 31                  (10) The changes and improvements insti-  
32                  tuted in loss control and employee safety  
33                  engineering;

34                  B. For each risk classification:

- 35                   (1) The rate presently applicable to the  
36                   classification;
- 37                   (2) The rate proposed for the classifica-  
38                   tion;

1           (3) Loss experience in this State for each  
2           of the 3 immediately preceding calendar  
3           years and each completed calendar quarter in  
4           the year immediately preceding the date of  
5           the filing, including, in each classifica-  
6           tion, payroll, number of serious workers'  
7           compensation cases, number of nonserious  
8           cases, the losses, including medical  
9           expenses incurred with respect to each type  
10           of case, loss adjustment expense and the  
11           total of all losses and expenses incurred;  
12           and

13           (4) The information required by this para-  
14           graph shall be presented in tabular form.  
15           The tables shall indicate, with respect to  
16           each classification, the relative weight  
17           given to experience in this State and to  
18           national experience in determining the  
19           applicable rate;

20           C. Expense data, aggregate annual loss and loss  
21           adjustment expense data and loss experience data  
22           required to be reported under paragraph A,  
23           subparagraphs (8) and (9) and paragraph B,  
24           subparagraph (3) shall be based on experience in  
25           this State, except as follows:

26           (1) Experience outside this State may only  
27           be used in a filing if it would result in an  
28           insurance rate below that which would result  
29           from experience in this State; or

30           (2) If the superintendent finds that no  
31           credible experience in this State is avail-  
32           able, he may allow reporting of and consider  
33           experience from outside this State, but he  
34           shall adjust that experience, as he may deem  
35           reasonable, to reflect prospective experi-  
36           ence in this State;

37           D. If data reported is determined by percentage  
38           factors, rather than actual expense, there shall  
39           be stated an explanation of the basis of the fac-  
40           tors used;

1 E. Statements or exhibits that state and explain  
2 all facts, assumptions, methodology or calcula-  
3 tions used in support of the proposed rates or  
4 to generate the information or data in the  
5 filing; and identification of any of those that  
6 are known or believed to be contrary to estab-  
7 lished policy of the superintendent;

8 F. A detailed description of changes in opera-  
9 tions during the 3 immediately preceding calendar  
10 years and the part of the calendar year immedi-  
11 ately preceding the filing that may affect the  
12 interpretation of the information or data provi-  
13 ded in the filing;

14 G. The profit factor used in establishing the  
15 rates requested, the rate of return on the  
16 investment allocable to the coverage of risks in  
17 this State represented by that profit factor, and  
18 the facts, assumptions and calculations employed  
19 to derive that profit factor and rate of return;  
20 and

21 H. Any other information required to be included  
22 by the superintendent.

23 4. Additional information. The superintendent  
24 may require, at any time, any additional information  
25 he deems necessary and may reasonably extend the time  
26 period established in subsection 8 to allow time to  
27 provide that information.

28 5. Standards for approval. To approve a rate  
29 filing, the superintendent shall find that, from the  
30 filing and sworn testimony, the rating organization  
31 or insurer has established that the proposed rates  
32 shall provide a just and reasonable rate of return  
33 that is not excessive, inadequate or unfairly dis-  
34 criminate.

35 A. In determining if there will be a just and  
36 reasonable rate of return, the superintendent  
37 shall consider:

38 (1) The profit factor used in establishing  
39 the rate requested and its relationship to  
40 the return on the investment allocable to  
41 the coverage of risks in this State;

1           (2) The reported and prospective dividends,  
2           savings or unabsorbed premium deposits  
3           allowed or returned to policyholders, mem-  
4           bers or subscribers;

5           (3) The reported and prospective investment  
6           income earned or realized from funds gener-  
7           ated from business in this State;

8           (4) The reported and prospective loss  
9           reserves, including reported and prospective  
10           discount rates applied to those reserves;

11           (5) Reported and prospective annual losses  
12           and loss adjustment expenses;

13           (6) The measures taken to contain costs,  
14           including loss control, loss adjustment and  
15           employee safety engineering programs;

16           (7) The effect of the proposed rates on the  
17           insured; and

18           (8) The relationship of the aggregate  
19           amount of operating expenses reported by all  
20           companies to the annual operating expenses  
21           reported in the filing and the annual insur-  
22           ance expense exhibits filed by each company  
23           with the bureau.

24           B. The justness and reasonableness of rates  
25           shall be determined for the period in which the  
26           rates will be in effect.

27           C. In determining just and reasonable rates, the  
28           superintendent may consider whether the companies  
29           are operating efficiently, utilizing sound man-  
30           agement practices, reasonably investing their  
31           funds and making reasonable efforts to control  
32           losses and to improve employee safety engineer-  
33           ing.

34           D. The rating organization or insurer shall have  
35           the burden of proving that the proposed rates  
36           meet the requirements of this section and Title  
37           24-A, chapters 23 and 25. This subsection and  
38           subsection 3 shall be strictly construed in

1 determining if the burden of proof has been met.

2 E. A rate filing may not be approved unless the  
3 superintendent finds that the information sup-  
4 plied in the filing and sworn testimony is accu-  
5 rate, complete and sufficient to meet the re-  
6 quirements of this section.

7 6. Public record. A rate filing shall be a  
8 public record and shall be available for public  
9 review and inspection.

10 7. Information for parties and intervenors. A  
11 party or intervenor may make written application to  
12 the superintendent for an order that a rating orga-  
13 nization or insurer which has presented a filing pro-  
14 duce any information relevant to whether the filing  
15 rates meet the requirements of this section and Title  
16 24-A, except for information relating to a particular  
17 claim. If the rating organization or insurer fails  
18 to furnish the information within the time prescribed  
19 by the superintendent, the party or intervenor making  
20 the request may make written application to the  
21 superintendent for an order disapproving the filing.  
22 If, after hearing, the superintendent determines that  
23 the failure to furnish the information was without  
24 good cause, he shall issue an order for disapproval  
25 of the filing.

26 8. Public hearing. The superintendent shall  
27 hold a public hearing, as provided in Title 24-A,  
28 sections 229 and 235, on each filing. The public  
29 hearing shall be conducted not sooner than 30 days  
30 and not later than 60 days of the receipt of the rate  
31 filing by the Bureau of Insurance. The superinten-  
32 dent shall approve or disapprove that filing and  
33 state his findings in a written order issued within  
34 180 days from the receipt of the filings by the  
35 bureau, unless he extends this limit under subsection  
36 4. If the superintendent denies a filing, any fur-  
37 ther filing shall be deemed to be a new filing, sub-  
38 ject to this public hearing requirement.

39 9. Subsequent filing. A rating organization or  
40 insurer may not file a rate filing within 180 days of  
41 receiving approval or disapproval of a prior rate  
42 filing, unless required to do so by the superinten-





1 information about all of their financial affairs that  
2 relate to their workers' compensation insurance busi-  
3 ness in this State.

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