

1	L.D. 105
3	(Filing No. H- 270)
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7	STATE OF MAINE HOUSE OF REPRESENTATIVES
9	114TH LEGISLATURE FIRST REGULAR SESSION
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13	COMMITTEE AMENDMENT "A" to H.P. 74, L.D. 105, Bill, "An Act
15	to Curtail Fraud in the Workers' Compensation System"
10	Amend the bill by striking out all of the title and
17	inserting in its place the following:
19	'An Act to Permit the Reopening of Certain Workers' Compensation Cases'
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	Further amend the bill by striking out everything after the
23	enacting clause and before the statement of fact and inserting in its place the following:
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27	'Sec. 1. 39 MRSA 3102, as amended by PL 1977, c. 709, §5, is repealed and the following enacted in its place:
29	<u>§102. Reopening for mistake of fact or fraud</u>
31	1. Agreements. Upon the petition of either party at any
33	time, the commission may annul any agreement which has been approved by the commission if it finds that the agreement has
	been entered into through mistake of fact by the petitioner or
35	through fraud. Except in the case of fraud on the part of the
	employee, an employee is not barred by any time limit from filing
37	a petition to have the matters covered by the agreement
	determined in accordance with this Act as though the agreement
39	had not been approved.
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41	2. Compensation payment scheme. Notwithstanding section 51-B, subsection 7, a party may petition the commission within
43	one year of initiation of the payment scheme, award or decree to
	reopen any case in which fraud on the part of the opposing party
45	is alleged. If the commission finds that the petitioning party
	had exercised due diligence in investigating the initial claim
47	and further finds that fraud occurred, the commission may

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reopen the case as to any issue which may have been affected by 1 the fraudulent act and may terminate or modify an employer's obligation to make payment upon a finding that fraud on the part 3 of a party affected the employer's obligation to make payment. 5 Except in the case of fraud on the part of the employee, an employee is not barred by any time limit from filing a petition 7 to have any issues determined in accordance with this Act as though the payment scheme had not been initiated. 9 Sec. 2. Application. 11 This Act applies only to injuries occurring on or after the effective date of this Act. 13 FISCAL NOTE 15 17 This legislation may result in additional petitions and hearings before the Workers' Compensation Commission. These costs can be absorbed within existing resources.' 19 21 STATEMENT OF FACT 23 This amendment replaces the original bill and makes the 25 following changes. 27 1. The amendment limits a party's ability to file a petition to reopen a case due to alleged fraud by requiring that 29 petition to be filed within one year after initiation of the payment scheme, award or decree. 31 2. The amendment further limits a party's ability to file a petition for reopening by establishing a prerequisite that the 33 party had exercised due diligence in investigating the claim 35 initially. 37 The amendment adds a provision to ensure that an 3. employee who successfully petitions for reopening due to fraud on 39 the part of the employer or insurer is not barred by a statute of limitations from pursuing redress against that employer or 41 insurer. 43 The amendment adds an application section so that the 4. Act applies only to injuries occurring on or after the effective 45 date. 47 5. The amendment adds a fiscal note. 49 The amendment allows the reopening of cases where fraud occurred while preventing abuse of the reopening provision and 51 supporting the goals of the early-pay system to encourage

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 early investigation and settlement of claims. For these reasons, a party must have exercised due diligence in investigating the initial claim and in any event may not file a petition for reopening after one year from the initiation of the payment scheme, award or decree. Both of these requirements are adapted from the Maine Rules of Civil Procedure, Rule 60(b), which governs the reopening of civil court judgments.

Reported by the Committee on Labor Reproduced and distributed under the direction of the Clerk of the House (Filing No. H-270)