MAINE STATE LEGISLATURE

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	L.D. 2171
2	(Filing No. H-904)
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8	STATE OF MAINE HOUSE OF REPRESENTATIVES 114TH LEGISLATURE
10	SECOND REGULAR SESSION
12	COMMITTEE AMENDMENT " $oldsymbol{\mathcal{A}}$ " to H.P. 1565, L.D. 2171, Bill, "An
14	Act to Amend the Workers' Compensation Insurance Laws"
16	Amend the bill by inserting before the enacting clause the following:
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20	'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and
22	Whereas, under the "fresh start" provision of the workers'
24	compensation reform law enacted in 1987, the Superintendent of Insurance is required to determine annually, beginning in 1990,
26	whether the premiums in the residual workers' compensation market were greater or less than the losses and expenses in the market,
28	and to surcharge or credit employers in the State as a result of the determination; and
30	Whoreas the bending to make this determination for the
32	Whereas, the hearings to make this determination for the first time have already begun; and
34	Whereas, this legislation amends the laws relating to those proceedings; and
36	proceedings; and
38	Whereas, the Legislature intends these changes to apply to the 1990 determinations; and
40	Whereas, in the judgment of the Legislature, these facts
42	create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and

Further amend the bill by inserting after section 2 the following:

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safety; now, therefore,'

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Sec. 3. 24-A MRSA §2367, first \P , as amended by PL 1987, c. 716, \S 1, is further amended to read:

Beginning in1990, the superintendent shall 6 determine,--after-hearing--but-on-er-before-March--15th-of-each year, whether premiums collected from risks in the residual market and investment income allocable to those premiums are 8 greater or less than the incurred losses and expenses associated with that market. The superintendent shall hold a hearing before 10 making the determination and issue the determination by the 12 earlier of June 1st or the date of decision concerning any request for a rate change pending before the superintendent on 14 January 1st of that year. In establishing surcharges under this section, the superintendent may approve application of surcharges to policies issued on or after January 1st, but prior to the date 16 of the superintendent's order, provided that the policies contain 18 language approved by the superintendent which that is sufficient to notify policyholders that they may be subject to surcharges 20 approved after the effective date of their policies. purposes of this section, the residual market shall-be is the 22 Accident Prevention Account and the Safety Pool. For purposes of this section, "deficit" means the amount by which incurred losses 24 and expenses associated with the residual market exceed premiums collected from risks in that market and investment income 26 allocable to those premiums. The superintendent shall also determine whether insurers have in good faith made their best efforts to maximize the number of risks in the voluntary market 28 workers' compensation insurance in the State. superintendent may make timely and appropriate requests for any 30 data deemed determined necessary by the superintendent to make these determinations.' 32

Further amend the bill in section 3 by striking out all of subsection 3 (page 4, lines 40 to 51) and inserting in its place the following:

- '3. Application of credit or surcharge. Credits or surcharges ordered by the superintendent shall apply to policies issued or renewed during the calendar year after the order of the superintendent is issued or for such other period as the superintendent may order. In the case of an employer who was insured during the policy year for which the surplus or deficit has been determined but who is self-insured in the year in which the surcharge or credit is ordered, individually or as part of a group, the surcharge must be applied to the lowest of the:
- 48 A. Discounted standard premium applicable to the employer for the period during which the employer was insured in the policy year the deficit was created;

COMMITTEE AMENDMENT "A" to H.P. 1565, L.D. 2171

	B. Manual premium applicable to the employer for the
2	year prior to the year to which the surcharge is
4	applied, multiplied by a fraction, the numerator of which is the number of days the employer was insured in
•	the policy year the deficit was created and the
6	denominator of which is 365; or
8	C. Discounted standard premium applicable to the
	employer for the year prior to the year to which the
10	surcharge is applied, multiplied by a fraction, the
12	numerator of which is the number of days the employer was insured in the policy year the deficit was created
12	and the denominator of which is 365.
14	4.50 4.50 4.50 4.50 4.50 4.50 4.50 4.50
	The superintendent shall adopt rules to determine the method of
16	collecting any surcharge or paying any credit ordered with
	respect to self-insured employers subject to surcharge or credit.
18	Funther smand the hill be stuiking out all of continue E and
20	Further amend the bill by striking out all of sections 5 and 6 and inserting in their place the following:
22	'Sec. 5. 24-A MRSA §2367, sub-§7 is enacted to read:
24	7. Exemption from 1990 surcharge. Notwithstanding this section, employers who were policyholders during the policy year
26	for which the deficit was determined but who are self-insured in
	1990 are not subject to any surcharge ordered in 1990. This
28	subsection does not exempt those employers from surcharges
	ordered after 1990 with respect to the deficit determined for the
30	policy year beginning January 1, 1988.
32	Sec. 6. Application; retroactivity. Sections 1 and 2 of this Act
J 2	apply only to workers' compensation insurance policies issued or
34	renewed on or after the effective date of this Act. Section 3 of
	this Act is retroactive to March 15, 1990. Sections 4 and 6 of
36	this Act are retroactive to November 20, 1987.
38	Further amend the bill by renumbering the sections to read consecutively.
40	consecutively.
-	Further amend the bill by inserting before the statement of
42	fact the following:
14	'Emergency clause. In view of the emergency cited in the
16	preamble, this Act takes effect when approved.
48	FISCAL NOTE
50	The cost of additional rulemaking required by this bill can
	be absorbed within the existing resources of the Bureau of
52	Insurance.'

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STATEMENT OF FACT

The amendment changes the deadline for the Superintendent of Insurance to make a determination in the "fresh start" proceedings from the current statutory requirement of March 15th to the earlier of June 1st or the date the superintendent issues a decision in any filing of a rate change request pending before the superintendent on January 1st.

The amendment also clarifies the calculation of the surcharge for employers who were insured in the policy year for which a deficit is determined, but who are self-insured in the year a surcharge is ordered. Self-insured employers do not pay premiums, so it is necessary to establish a base for applying the surcharge. The base is set as the lowest of 3 amounts, which are types of premium equivalents, designed to ensure an equitable distribution of the surcharge among self-insured employers. The amendment also exempts those self-insured employers from any surcharge ordered in 1990. This does not exempt self-insured employers from any surcharges ordered after 1990 for deficits from the 1988 policy year.

Finally, the amendment removes the notice requirement in the bill, adds an emergency preamble and emergency clause and adds a fiscal note.

Reported by the Committee on Banking and Insurance
Reproduced and distributed under the direction of the Clerk of the
House
3/9/90 (Filing No. H-904)