

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1565, L.D. 2171, Bill, "An Act to Amend the Workers' Compensation Insurance Laws"

Amend the bill by inserting before the enacting clause the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, under the "fresh start" provision of the workers' compensation reform law enacted in 1987, the Superintendent of Insurance is required to determine annually, beginning in 1990, whether the premiums in the residual workers' compensation market were greater or less than the losses and expenses in the market, and to surcharge or credit employers in the State as a result of the determination; and

Whereas, the hearings to make this determination for the first time have already begun; and

Whereas, this legislation amends the laws relating to those proceedings; and

Whereas, the Legislature intends these changes to apply to the 1990 determinations; and

Whereas, in the judgment of the Legislature, these facts 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 safety; now, therefore, '

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

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

4
5 Beginning in 1990, the superintendent shall annually
6 determine, ~~--after-hearing-but-on-or-before-March-15th-of--each~~
7 year, whether premiums collected from risks in the residual
8 market and investment income allocable to those premiums are
9 greater or less than the incurred losses and expenses associated
10 with that market. The superintendent shall hold a hearing before
11 making the determination and issue the determination by the
12 earlier of June 1st or the date of decision concerning any
13 request for a rate change pending before the superintendent on
14 January 1st of that year. In establishing surcharges under this
15 section, the superintendent may approve application of surcharges
16 to policies issued on or after January 1st, but prior to the date
17 of the superintendent's order, provided that the policies contain
18 language approved by the superintendent ~~which~~ that is sufficient
19 to notify policyholders that they may be subject to surcharges
20 approved after the effective date of their policies. For
21 purposes of this section, the residual market ~~shall-be~~ is the
22 Accident Prevention Account and the Safety Pool. For purposes of
23 this section, "deficit" means the amount by which incurred losses
24 and expenses associated with the residual market exceed premiums
25 collected from risks in that market and investment income
26 allocable to those premiums. The superintendent shall also
27 determine whether insurers have in good faith made their best
28 efforts to maximize the number of risks in the voluntary market
29 for workers' compensation insurance in the State. The
30 superintendent may make timely and appropriate requests for any
31 data ~~deemed~~ determined necessary by the superintendent to make
32 these determinations.'

33
34 Further amend the bill in section 3 by striking out all of
35 subsection 3 (page 4, lines 40 to 51) and inserting in its place
36 the following:

37 '**3. Application of credit or surcharge.** Credits or
38 surcharges ordered by the superintendent ~~shall~~ apply to policies
39 issued or renewed during the calendar year after the order of the
40 superintendent is issued or for such other period as the
41 superintendent may order. In the case of an employer who was
42 insured during the policy year for which the surplus or deficit
43 has been determined but who is self-insured in the year in which
44 the surcharge or credit is ordered, individually or as part of a
45 group, the surcharge must be applied to the lowest of the:

46
47 A. Discounted standard premium applicable to the
48 employer for the period during which the employer was
49 insured in the policy year the deficit was created;
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STATEMENT OF FACT

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6 The amendment changes the deadline for the Superintendent of
Insurance to make a determination in the "fresh start"
8 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
10 the superintendent on January 1st.

12

The amendment also clarifies the calculation of the
14 surcharge for employers who were insured in the policy year for
which a deficit is determined, but who are self-insured in the
16 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
18 types of premium equivalents, designed to ensure an equitable
distribution of the surcharge among self-insured employers. The
20 amendment also exempts those self-insured employers from any
surcharge ordered in 1990. This does not exempt self-insured
22 employers from any surcharges ordered after 1990 for deficits
from the 1988 policy year.

24

26 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)