

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 599

H.P. 471

House of Representatives, February 8, 2001

**An Act to Eliminate Maine Employers' Mutual Insurance Company
Industry and Geographic Divisions and Related Advisory Boards and
Other Outdated Provisions.**

Reference to the Committee on Banking and Insurance suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative O'NEIL of Saco.
Cosponsored by Senator LaFOUNTAIN of York and
Representative MAYO of Bath.

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

Sec. 1. 24-A MRSA §3701, as amended by PL 1997, c. 661, §1, is further amended to read:

§3701. Purpose

The Maine Employers' Mutual Insurance Company is established for the purposes of providing workers' compensation insurance and employers' liability insurance incidental to and written in connection with workers' compensation coverage to employers of this State at the highest level of service and savings consistent with reasonable applicable actuarial standards and the sound financial integrity of the company. It is also the purpose of the company to encourage employer involvement and to be responsive to each ~~division's~~ employer experience, and advice, ~~practice and operating effectiveness.~~

Sec. 2. 24-A MRSA §3702, sub-§3, as amended by PL 1997, c. 661, §2, is repealed.

Sec. 3. 24-A MRSA §3710, as amended by PL 1997, c. 661, §9, is further amended to read:

§3710. Funding; surplus

2. Ongoing funding. The company:

~~A. Shall collect from each applicant an advance premium of 25% of the estimated annual premium and shall bill subsequent premiums with advance notice to insureds to ensure that, if periodic premiums are not paid by insureds in a timely manner, adequate time is available to give proper notice of cancellation prior to a previously collected premium being fully earned;~~

B. May assess its policyholders for additional funds to meet operating needs or as required by law; and

C. May provide premium payment plans and premium financing programs ~~providing payment terms other than those specified in paragraph A. Until the company has obtained the surplus otherwise required under this Title for casualty insurance companies, the company must receive approval from the superintendent before implementing these programs.~~

~~**3. Transition surplus, premium levels.** Notwithstanding other provisions of this Title, the company is permitted to operate for a period of up to 10 years with a level of surplus less than that otherwise required for a mutual insurer authorized to write casualty insurance if the following conditions are met.~~

2 A. -- The superintendent shall set the confidence level, which
is the probability that the provision of actual costs will
4 be less than the actual costs by a certain percentage, for
the company. -- The company shall establish its rates at a
6 level to cover its anticipated overhead expenses and to
cover, on a discounted basis, the actuarially determined
8 incurred claims and claim settlement costs at not less than
the confidence level set by the superintendent.

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12 B. -- The company shall annually file with the superintendent
an actuarial analysis of its reserves and its proposed rate
level. -- The company shall establish its reserves, including
14 provisions for incurred but not reported reserves, at not
less than the confidence level set by the superintendent.

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18 C. -- Any surpluses from any fund year must be retained by the
company and credited toward its surplus account. -- No surplus
20 may be returned to policyholders or credited to other fund
years until the superintendent has certified that the
22 company has achieved the surplus level required of an
assessable domestic mutual insurance company authorized to
write casualty insurance.

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26 D. -- Not later than 10 years from January 1, 1993, the
company, through premiums, retained dividends, sale of
28 bonds, assessments or any other legally authorized means,
shall accumulate surplus and obtain certification from the
superintendent that the company has obtained the surplus
30 otherwise required under this Title. -- If the superintendent
finds, after hearing, that inadequate surplus exists and the
32 10-year transition period has expired, the superintendent
shall declare the company impaired and take appropriate
34 action to rehabilitate or liquidate the company. -- If the
superintendent finds that surplus is not being accumulated
36 at an adequate rate consistent with its premium volume
during the 10-year period, the superintendent shall so
38 inform the board.

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42 E. -- If the superintendent finds at the expiration of 10
years of company operations, or earlier, that the company
has accumulated or otherwise obtained surplus as required
44 pursuant to this Title for casualty insurance companies
operating on the cash plan, the requirements contained in
46 paragraphs A to C terminate. -- The company shall at that
point be subject to the standards of section 410 and other
48 sections of this Title applicable to a mutual casualty
insurer writing workers' compensation insurance.

2 **Sec. 4. 24-A MRSA §3712-A**, as enacted by PL 1997, c. 661,
§11, is repealed.

4 **Sec. 5. 24-A MRSA §3714, first ¶**, as enacted by PL 1991, c.
885, Pt. C, §8, is amended to read:

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8 The following provisions apply to the financial operation of
the company ~~and the divisions~~.

10 **Sec. 6. 24-A MRSA §3714, sub-§1**, as amended by PL 1997, c.
661, §13, is repealed.

12 **Sec. 7. 24-A MRSA §3714, sub-§3**, as enacted by PL 1991, c.
14 885, Pt. C, §8, is repealed.

16 **Sec. 8. 24-A MRSA §3714, sub-§6**, as corrected by RR 1993, c.
1, §66, is repealed.

18 **Sec. 9. 24-A MRSA §3714, sub-§7** is enacted to read:

20 7. High-risk program. The company shall maintain a
22 high-risk program subject to the following provisions.

24 A. An employer must be placed in the high-risk program if
26 the employer has at least 2 lost-time claims, each greater
than \$10,000, and a threshold loss ratio greater than 1.0
over the last 3 years for which data is available.

28 B. The board, with the approval of the superintendent, may
30 modify the eligibility standards for the high-risk program
32 if those standards limit those in the program to employers
who have measurably adverse loss experience, have a
34 relatively high claim frequency record or have demonstrated
an attitude or practice of noncompliance with reasonable
safety requirements or claims management standards.

36 C. Eligibility requirements must be applied annually at the
38 policy renewal date or, if the necessary claim history is
40 not available at that time, 30 days after notice to the
insured.

42 D. Deductibles in the high-risk program are subject to this
44 paragraph.

46 (1) A deductible applies to all coverage for
48 policyholders in the high-risk program that meet the
following qualifications:

50 (a) A net annual premium of \$20,000 or more,
52 subject to adjustment pursuant to this paragraph,
in the State;

2 (b) A premium not subject to retrospective
 rating; and

4 (c) The policyholder's threshold loss ratio is
 1.0 or greater.

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8 The deductible is \$1,000 a claim but applies only to
 wage loss benefits paid on injuries occurring during
10 the year of coverage. The sum of all deductibles in
 one year of coverage may not exceed the lesser of 15%
12 of net annual payment for coverage or \$25,000. Each
 loss to which a deductible applies must be paid in full
14 by the company. After the year of coverage has
 expired, the policyholder shall reimburse the company
16 the amount of the deductibles. This reimbursement is
 considered as payment for coverage for purposes of
 cancellation or nonrenewal.

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20 The board shall adjust annually the \$20,000
 payment-of-coverage level established in this
22 subparagraph to reflect any change in rates for the
 high-risk program and any change in wage levels in the
24 preceding calendar year. Changes in wage levels are
 determined by reference to changes in the state average
26 weekly wage, as computed by the Department of Labor.
 Any adjustment is rounded off to the nearest \$1,000
 increment.

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30 (2) The board may modify, with the approval of the
 superintendent, the mandatory deductible elements. Any
32 modification or elimination of this rating feature must
 consider the incentive impact on an employer, the
34 reasonableness of the retained cost relative to the
 claim history, safety record or claims management
36 practices of affected employers and the ability of all
 employers to absorb these costs.

38 E. The board may file with the superintendent retrospective
40 rating plans that, after hearing, may be imposed on an
 employer with a demonstrated record of repeated serious
42 violations of workplace health and safety rules and
 regulations such as those adopted under Title 26, chapter 6
44 or 29 United States Code, Chapter 15, whichever is
 applicable.

46 F. The board shall develop and file with the superintendent
48 and, if not disapproved by the superintendent, make
 available to policyholders on a voluntary basis
 retrospective rating plans.

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G. Not more than 30 days after assignment to the high-risk program, a policyholder may appeal the assignment in writing to the bureau.

SUMMARY

This bill updates the charter of the Maine Employers' Mutual Insurance Company, or MEMIC. The bill eliminates MEMIC industry or geographic divisions and their advisory boards because of the substantially diminished role such divisions and boards play in the operation of MEMIC. It also eliminates certain funding and accounting language rendered obsolete since the Superintendent of Insurance certified the company as having adequate surplus. It preserves the high-risk division as a separate program subject to standards that previously applied to the high-risk division.