

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE
FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

ering the audit of the operational aspects of the fund, as well as suggestions which the auditor may deem advisable for the proper administration of the fund. The auditor shall produce the audit report on the forms required by the accounting system established by the Department of Audit in Title 5, section 243.

The audit shall include an accounting of receipts, expenditures, disbursements, allocations, apportionments and methods for calculating requests for transfers from the fund covering each account of the municipal cost component and the Unorganized Territory Education and Services Fund. The audit shall also include a review of the accounting procedure used by agencies or governmental entities receiving transfers from the fund to determine whether the expenditures and transfers from the fund have been used in compliance with laws of this State.

Effective September 23, 1983.

CHAPTER 509

H.P. 1325 - L.D. 1758

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

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

Sec. 1. 39 MRSA §22, as amended by PL 1981, c. 471, §§1 and 2, is repealed.

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

§22-B. Approval of insurance policies and rates

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

1. Policies. Every insurance company issuing workers' compensation insurance policies covering the payment of compensation and benefits provided for in this Act shall file with the Superintendent of Insurance:

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

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

Premium rates less than those approved may be used and filed with the superintendent. If the superintendent has reason to believe that the filing produces rates which are inadequate or unfairly discriminatory, he may disapprove them under Title 24-A, chapters 23 and 25.

2. Approval of rates. The superintendent shall apply the procedures and standards of this section in investigating, reviewing and approving or disapproving rates.

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

B. He may make or cause to be made investigations as he may deem necessary to satisfy himself that the rates to be promulgated are just and reasonable.

C. He may at any time, after public hearing, withdraw his approval of a previously approved rate filing.

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

A. For each of the 3 calendar years immediately preceding the date of the filing:

(1) The actual gross earned premiums allocable to the coverage of risks in this State;

(2) For unearned premium, earned premium, loss and loss expense reserve funds, and capital and surplus subject to investment, allocable to the coverage of risks in this State:

(a) The amount of investments of each type of funds;

(b) The types of investments of all of these funds; and

(c) The annual income amounts, before taxes, generated by the aggregate of

these investments;

(3) The gross rate of return on admitted assets;

(4) The amount of dividends or the equivalent allowed or returned to policyholders, members or subscribers;

(5) The aggregate annual expenses allocable to the coverage of risks in this State, including acquisition and field supervision expenses, taxes, licenses and fees, other than federal income tax, and general expenses, each stated separately. Safety engineering expense and loss control services' expense shall be stated separately under general expense;

(6) The aggregate annual losses and loss adjustment expense allocable to the coverage of risks in this State;

(7) The total loss reserves for this coverage being held at the beginning and end of each calendar year and the annual paid losses, including methods and interest rates used in determining present value for the reserves to which they apply; and

(8) The changes and improvements instituted in loss control and employee safety engineering;

B. For each risk classification:

(1) The rate presently applicable to the classification;

(2) The rate proposed for the classification;

(3) Loss experience in this State for each of the 3 most recent years available, including, in each classification, payroll, number of serious workers' compensation cases, number of nonserious cases, the losses, including medical expenses incurred with respect to each type of case, loss adjustment expense and the total of all losses and expenses incurred; and

(4) The information required by this paragraph shall be presented in tabular form;

C. If data reported is determined by percentage

factors, rather than actual expense, there shall be stated an explanation of the basis of the factors used;

D. Statements or exhibits that reasonably substantiate assumptions, methodology or calculations used in support of the proposed rates or to generate the information or data in the filing; and identification of any of those that are known or believed to be contrary to established policy of the superintendent; and

E. Any other information required to be included by the superintendent.

4. Aggregate data. Aggregate expense data, annual loss and loss adjustment expense data and loss experience data required to be reported under subsection 3, paragraph A, subparagraphs (5) and (6) and paragraph B, subparagraph (3) shall be based on expense and experience data pertaining to this State, except as otherwise provided in this subsection. The profit factor used in establishing the rates requested, the rate of return on the investment allocable to the coverage of risks in this State represented by that profit factor, and the facts, assumptions and calculations employed to derive that profit factor and rate of return shall also be reported in the aggregate.

A. To the extent that the Maine expense and experience data is not fully credible, the superintendent may allow reporting of and consider data from outside this State.

B. Aggregate loss experience data shall:

(1) Include and be categorized as required in subsection 3, paragraph B, subparagraph (3); and

(2) Be presented in tabular form. The tables shall indicate, with respect to each classification, the relative weight given to experience in this State and to national experience in determining the applicable rate.

5. Additional information. The superintendent may require, at any time, any additional information he deems necessary and may reasonably extend the time periods established in subsection 9 to allow time to provide that information.

6. Standard for approval. The provisions of this subsection apply to approval or disapproval of rate filings.

A. To approve a rate filing, the superintendent shall find that, from the filing and sworn testimony, the rating organization or insurer has established, in addition to all other requirements, that:

(1) The proposed rates are just and reasonable and not excessive, inadequate or unfairly discriminatory;

(2) The profit factor used in establishing the rate requested will produce only a just and reasonable return on investment allocable to the coverage of risks in this State; and

(3) The reported loss reserves, including the discount rates applied to those reserves, are reasonable.

B. In determining if the proposed rates are just and reasonable, the superintendent shall consider:

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

(2) The reported investment income earned or realized from funds generated from business in this State;

(3) The reported loss reserves, including the methods and the interest rates used in determining the present value for reported reserves;

(4) Reported annual losses and loss adjustment expenses;

(5) The measures taken to contain costs, including loss control, loss adjustment and employee safety engineering programs;

(6) The relationship of the aggregate amount of operating expenses reported by all companies to the annual operating expenses reported in the filing and the annual insurance expense exhibits filed by each company with the bureau; and

(7) The operating and management efficiency of the companies.

C. The justness and reasonableness of rates shall be determined for the period in which the rates shall be in effect.

D. The rating organization or insurer shall have the burden of proving that the proposed rates meet the requirements of this section and Title 24-A, chapters 23 and 25.

E. A rate filing may not be approved unless the superintendent finds that the information supplied in the filing and sworn testimony is accurate and sufficient to meet the requirements of this section.

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

8. Information for parties and intervenors. A party or intervenor may make written application to the superintendent for an order that a rating organization or insurer, which has presented a filing, produce any information relevant to whether the filing rates meet the requirements of this section and Title 24-A, except for information relating to a particular claim. If the rating organization or insurer fails to furnish the information within the time prescribed by the superintendent, the party or intervenor making the request may make written application to the superintendent for an order disapproving the filing. If, after a hearing, the superintendent determines that the failure to furnish the information was without good cause, he shall issue an order for disapproval of the filing.

9. Public hearing. The superintendent shall hold a public hearing, as provided in Title 24-A, sections 229 and 235, on each filing. The public hearing shall be conducted not sooner than 30 days and not later than 120 days of the receipt of the rate filing by the Bureau of Insurance, unless he extends these limits under subsection 5. The superintendent shall approve or disapprove that filing and state his findings in a written order issued within 180 days from the receipt of the filings by the bureau, unless he extends this limit under subsection 5. If the superintendent denies a filing, any further filing shall be deemed to be a new filing, subject to this public hearing requirement.

10. Subsequent filing. A rating organization or insurer may not file a rate filing within 180 days of receiving approval of a prior rate filing.

11. Procedures; rules. Subject to the applica-

ble requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, the superintendent may adopt rules establishing procedures for the administration of this section, including, but not limited to, procedures governing submission of petitions for intervenor status, prefiling of testimony and exhibits, information requests, subpoenas, prehearing conferences and conduct of hearings.

12. Costs. For the purpose of determining whether the filing meets the requirements of this section, the superintendent may employ staff personnel and outside consultants. The reasonable costs related to the review of workers' compensation rate filings, including conduct of the hearing, shall be borne by the rating organizations or insurers making the filing.

Effective September 23, 1983.

CHAPTER 510

H.P. 1331 - L.D. 1771

AN ACT to Conform the Meaning of
Approved Training in the Employment Security
Law to Federal Definitions.

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

Whereas, recent federal interpretation of United States Public Law 97-300 as enacted by Congress October 13, 1982, indicates Maine's employment security law does not conform at this time to United States Public Law 97-300, Section 302; and

Whereas, this lack of conformity could result in the loss of unemployment benefits unjustly to individuals attempting to become employed through entering into temporary skills training programs which will provide the skills necessary for secure employment; and

Whereas, the lack of conformity with federal law could ultimately result in the loss of federal funds duly appropriated to the State; 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 preser-