

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985
Chapters 384-End

AND AT THE

FIRST SPECIAL SESSION

November 13, 1985

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1985

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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

24-A MRSA §2159-A, as amended by PL 1979, c. 663, §142, is repealed and the following enacted in its place:

§2159-A. Insurance discrimination solely on account of blindness prohibited

No insurer authorized to transact business in this State may refuse to insure or continue to insure, limit the amount, extent or kind of coverage available to an individual or charge an individual a rate different from that normally charged for the same coverage solely because the insured or the applicant for insurance is blind or partially blind.

No insurer authorized to transact business in this State may refuse to insure or continue to insure, limit the amount, extent or kind of coverage available to an individual or charge an individual a rate different from that normally charged for the same coverage solely because the insured or the applicant for insurance has a physical or mental handicap, as defined in Title 5, section 4553, subsection 7-A, other than blindness or partial blindness, unless the basis for that action is clearly demonstrated through sound actuarial evidence.

Effective September 19, 1985.

CHAPTER 446

S.P. 555 - L.D. 1501

AN ACT Establishing Assessments to Defray the Expense of Maintaining the Bureau of Insurance.

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

Sec. 1. 24 MRSA §2332 is enacted to read:

§2332. Assessment for the recoupment of expenses related to the regulation of nonprofit hospital or medical service organizations and nonprofit health care plans

There shall be an assessment levied annually by the Superintendent of Insurance upon nonprofit hospital or medical service organizations and nonprofit health care plans licensed to do business in this State in proportion to their respective subscription income derived from business operations in this State during the year ending December 31st immediately preceding the fiscal year for which assessment is made. The annual assessment upon all hospital or medical service organizations and health care plans shall be applied to the budget of the bureau for the fiscal year commencing July 1st. The assessment shall be in an amount not exceeding .00015 of subscription income. When the superintendent calculates the amount of the annual assessment, he shall consider, among other factors, the staffing level required to administer the nonprofit health care regulatory program of the bureau.

1. Expense of examination. The expense of examination of any corporation described in section 2301 shall continue to be borne by the corporation examined. The expense of examination consistent with section 2307 shall not be considered when determining the assessment for the recoupment of expenses related to the nonprofit health care regulatory program of the bureau.

2. Subscription income. Based on the annual statement filed by each nonprofit hospital or medical service organization or health care plan pursuant to section 2306, the superintendent shall ascertain the amount of subscription income received in that year. For the purpose of this section only, "subscription income" means and includes subscription premium and other considerations received by hospital or medical service organizations and health care plans, on account of certificates or contracts covering risks located, resident or to be performed in this State, after deducting subscription or other contract consideration returns.

3. Minimum assessment. In any year in which a nonprofit hospital or medical service organization or health care plan has no subscription income derived from business operations in this State, or in which subscription income is not sufficient to produce at the rate prescribed an amount equal to or in excess of \$100, the minimum assessment payable shall be \$100.

4. Notification of assessment. On or before April 30th of each year, the superintendent shall no-

tify each nonprofit hospital or medical service organization and health care plan of the assessment due.

5. Time of payment. Payment shall be made on or before June 1st.

6. Revocation or suspension. If the assessment is not paid to the superintendent on or before the prescribed date, the certificate of authority of any nonprofit hospital or medical service organization or health care plan to transact business in this State may be revoked or suspended by the superintendent after a hearing thereon or upon waiver of hearing by the nonprofit hospital or medical service organization or health care plan until the assessment is paid.

7. Recalculation of assessment. Immediately following the close of the fiscal year ending June 30, 1987, and at the close of each 2nd succeeding fiscal year, the superintendent shall recalculate the assessment made against each party assessed after giving recognition to actual expenditures for the nonprofit health care regulatory program of the bureau during the preceding biennial period. On or before October 1st, the superintendent shall render to each party assessed a statement showing the difference between their respective recalculated assessment and the amount they had paid with respect to the preceding biennium. Any overpayment of annual assessment resulting from complying with the requirements of this section shall be refunded or, at the option of the assessed party, applied as a credit against the assessment for the succeeding fiscal year. Any overpayment of \$100 or less shall be applied as a credit against the assessment for the succeeding fiscal year.

8. Deposit with Treasurer of State. The superintendent shall deposit all payments made pursuant to this section with the Treasurer of State. The money shall be used for the sole purpose of recouping the expenses related to the nonprofit health care regulatory program of the Bureau of Insurance.

9. Applicability. This section applies with respect to fiscal years commencing on or after July 1, 1986.

Sec. 2. 24-A M RSA §237 is enacted to read:

§237. Assessment for expense of maintaining the Bureau of Insurance

The expense of maintaining the Bureau of Insurance shall be assessed annually by the Superintendent of Insurance against all insurers licensed to do business in this State in proportion to their respective direct gross premium written on business in this State during the year ending December 31st immediately preceding the fiscal year for which assessment is made. The annual assessment upon all insurers shall be applied to the budget of the bureau for the fiscal year commencing July 1st. The assessment shall be in an amount not exceeding .0015 of total direct premiums written. When the superintendent calculates the amount of the annual assessment, he shall consider, among other factors, the staffing level required to administer the responsibilities of the bureau.

1. Expense of examination. The expense of examination of an insurer or of any person regulated by section 222 shall continue to be borne by the person examined. The expense of examination consistent with section 228 shall not be considered when determining the assessment for maintaining the Bureau of Insurance.

2. Direct gross premium. Based on the annual statement filed by each insurer pursuant to section 423 the superintendent shall ascertain the amount of direct gross premium it received in that year. For the purpose of this section only, "direct gross premiums" means and includes policy, membership, annuity considerations and other fees, policy dividends applied in payment for insurance and other considerations for insurance received by insurers, on account of policies or contracts covering subjects of insurance, or risks located, resident or to be performed in this State, after deducting return premiums or dividends actually returned or credited to policyholders.

3. Minimum assessment. In any year in which an insurer has no direct gross premium writings in this State, or in which direct gross premium written is not sufficient to produce at the rate prescribed an amount equal to or in excess of \$100, the minimum assessment payable by any insurer shall be \$100.

4. Notification of assessment. On or before April 20th of each year, the superintendent shall notify each insurer of the assessment due. When an extension of the time of filing an annual statement is granted for good cause by the superintendent pursuant to section 423, subsection 1, the insurer shall be assessed a provisional amount of \$100. Upon receipt of the insurer's annual statement the provisional as-

assessment shall be adjusted to effect a final assessment for the fiscal year at the same rate utilized by the superintendent and which was levied upon all insurers by the general assessment of April 20th.

5. Time of payment. Payment shall be made on or before June 1st.

6. Revocation or suspension. If the assessment is not paid to the superintendent on or before the prescribed date, the license or certificate of authority of any insurer to transact business in this State may be revoked or suspended by the superintendent after a hearing thereon or upon waiver of hearing by the insurer until the assessment is paid. There shall be no reinstatement of certificate of authority prior to payment of the balance of the assessment.

7. Recalculation of assessment. Immediately following the close of the fiscal year ending June 30, 1987, and at the close of each 2nd succeeding fiscal year, the superintendent shall recalculate the assessment made against each party assessed after giving recognition to actual expenditures of the bureau during the preceding biennial period. On or before October 1st, the superintendent shall render to each party assessed a statement showing the difference between their respective recalculated assessment and the amount they had paid with respect to the preceding biennium. Any overpayment of annual assessment resulting from complying with the requirements of this section shall be refunded or, at the option of the assessed party, applied as a credit against the assessment for the succeeding fiscal year. Any overpayment of \$100 or less shall be applied as a credit against the assessment for the succeeding fiscal year.

8. Deposit with Treasurer of State. The superintendent shall deposit all payments made pursuant to this section with the Treasurer of State. The money shall be used for the sole purpose of paying the expenses of the Bureau of Insurance.

9. Exclusions. This section does not apply to fraternal benefit societies, as defined in section 4101; assessment mutual insurance companies, as defined in section 3603; joint underwriting associations, subject to section 2322; and health maintenance organizations, as defined in section 4203.

10. Applicability. This section applies with respect to fiscal years commencing on or after July 1, 1986.

Sec. 3. 24-A MRSA §604, sub-§2, as amended by PL 1973, c. 625, §136, is further amended to read:

2. The Treasurer of State shall credit the following funds to the Insurance Regulatory Fund:

A. The balance, if any, remaining on January 1, 1970 of funds allocated to the bureau pursuant to Title 24, section 372;

B. Fees, licenses and other charges collected and remitted by the superintendent under section 601 (fee schedule), or as increased pursuant to section 428 (retaliatory provision); and

C. Amounts collected for investigation reports under section 1519; and

D. Such other amounts as may be expressly required by law to be so credited. Amounts assessed by the superintendent under Title 24, section 2332;

E. Amounts assessed by the superintendent under section 237;

F. Amounts assessed by the superintendent under Title 39, section 29; and

G. Such other amounts as may be expressly required by law to be so credited.

Interest earned on assessments credited to the fund shall be credited to the fund.

Sec. 4. 39 MRSA §23, sub-§2, as amended by PL 1983, c. 668, §1, is further amended to read:

2. By furnishing satisfactory proof to the Superintendent of Insurance of his solvency and financial ability to pay the compensation and benefits, and deposit cash, satisfactory securities or a security bond, with the Workers' Compensation Commission, in such sum as the superintendent may determine pursuant to subsection 6; such bond to run to the Treasurer of State and his successor in office, and to be conditional upon the faithful performance of this Act relating to the payment of compensation and benefits to any injured employee. In case of cash being deposited, it shall be placed at interest by the Treasurer of State, and the accumulation of interest on said cash or securities so deposited shall be paid to the employer depositing the same. The superintendent may at any time in his discretion, upon not less than 3

days notice and following hearing, for cause deny to an employer the right to continue in the exercise of the option granted by this section.

As an alternative to the method described in the first paragraph of this subsection, an eligible employer may establish an actuarially funded trust, funded at a level sufficient to discharge those obligations incurred by the employer pursuant to this Act as they become due and payable from time to time, provided that the value of trust assets shall be at least equal to the present value of such incurred claims. The trust asset shall consist of cash or marketable securities of a type and risk character as specified in subsection 7, and shall have a situs in the United States. In all other respects, the trust instrument, including terms for certification, funding, designation of trustee and pay out shall be as approved by the superintendent; provided, that the value of the trust account shall be actuarially calculated at least annually and adjusted to the required level of funding. For purposes of this paragraph, an "eligible employer" is one who is found by the superintendent to be capable of paying compensation and benefits required by this Act and:

A. Has positive net earnings; or

B. Can demonstrate a level of working capital adequate to its operating needs.

Notwithstanding any provision of this section or chapter, any bond or security deposit required of a public employer which is a self-insurer shall not exceed \$50,000, provided that such public employer has a net worth equal to or in excess of \$25,000,000 and a state-assessed valuation equal to or in excess of \$300,000,000. "Public employer" includes the State, the University of Maine, counties, cities and towns.

In his consideration of a self-insuring entity's application for authorization to operate a plan of self-insurance, the superintendent may require or permit an applicant to employ valid risk transfer by the utilization of primary excess insurance. Standards respecting the application of primary excess insurance shall be contained in a regulation promulgated by the superintendent pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. Primary excess insurance shall be defined as insurance covering workers' compensation exposures in excess of risk retained by a self-insurer.

Sec. 5. 39 MRSA §29 is enacted to read:

§29. Assessment for the expenses of administering the self-insurer's Workers' Compensation Program

There shall be an assessment levied annually by the Superintendent of Insurance upon self-insuring employers approved pursuant to section 23, respecting the operations of each self-insurer conducted in this State to defray the cost of administration of the Bureau of Insurance. The annual assessment upon approved self-insuring employers shall be calculated using imputed annual standard premium relating to business operations in this State which each self-insurer would have paid during the previous calendar year pursuant to manual rates established by the principal rating organization in this State and using the experience rating procedure approved by the Superintendent of Insurance for that self-insurer. The assessment shall be applied to the budget of the bureau for the fiscal year commencing July 1st. The assessment shall be in an amount not exceeding 1/10 of 1% of imputed annual standard premium. When the superintendent calculates the amount of the annual assessment, he shall consider, among other things, the staffing level required to administer workers' compensation self-insurance oversight responsibilities of the bureau.

1. Annual standard premium. The superintendent shall utilize annual standard premium for each approved self-insurer as reported to the Bureau of Insurance by the Maine Self-Insurance Guarantee Association pursuant to section 23-A, subsection 4, in determining the amount of the assessment.

2. Expense of examination. The expense of examination of group self-insurers subject to section 23, subsection 4, paragraph L shall continue to be borne by the person examined.

3. Minimum assessment. In any year in which a self-insurer has no annual standard premium in this State or in which the annual standard premium is not sufficient to produce at the rate prescribed by law an amount equal to or in excess of \$100, the minimum assessment payable by any self-insurer shall be \$100.

4. Notification of assessment. On or before April 1st, next following receipt of the report from the Maine Self-Insurance Guarantee Association, the Superintendent of Insurance shall notify each self-insurer of the assessment due.

5. Time of payment. Payment shall be made on or before June 1st.

6. Revocation or termination. If the assessment is not paid on or before June 1st, the right of any individual or group to continue the option of self-insurance may be revoked or terminated by the Superintendent of Insurance.

7. Recalculation of assessment. Immediately following the close of the fiscal year ending June 30, 1987, and at the close of each fiscal year thereafter, the Superintendent of Insurance shall recalculate the assessment upon each self-insurer subject to this section. If, in any instance, any assessment paid under this section is based in whole or in part upon annual standard premium estimated in the calendar year utilized for assessment purposes, the recalculation shall recognize actual audited annual standard premium, as available, for each affected self-insurer. Actual expenditures of the Bureau of Insurance during the preceding fiscal year shall also be recognized. On or before October 1st, the Superintendent of Insurance shall render to each self-insurer a statement showing the difference between their respective recalculated assessment and the amount they paid during the preceding fiscal year. Any overpayment of annual assessment resulting from complying with the requirements of this section shall be refunded or, at the option of the assessed party, applied as a credit against the assessment for the succeeding fiscal year. Any overpayment of \$100 or less shall be applied as a credit against the assessment for the succeeding fiscal year.

8. Deposit with Treasurer of State. The Superintendent of Insurance shall deposit all payments made pursuant to this section with the Treasurer of State. The money shall be used for the sole purpose of paying the expenses of the Bureau of Insurance for administration of the Self-insurer's Workers' Compensation Program.

9. Exclusions. This section does not apply to the State or the University of Maine.

10. Applicability. This section applies with respect to fiscal years commencing on or after July 1, 1986.

Sec. 6. Report. On or before January 15th, annually, the Bureau of Insurance shall report to the Joint Standing Committee on Business and Commerce. The report shall contain at a minimum the following

1. Money collected. The amount of money credited to the Insurance Regulatory Fund under the Maine Revised Statutes, Title 24-A, section 604, subsection 2 and the sources of the credits;

2. Assessments. The rates of assessment made under the Maine Revised Statutes, Title 24, section 2332, Title 24-A, section 237 and Title 39, section 29 and the factors that determined the rates; and

3. Expenditures. The expenditures made from the fund and the purposes for which they were made.

Sec. 7. Allocation. The following funds are allocated from the Insurance Regulatory Fund in order to carry out the purposes of this Act.

1986-87

BUSINESS, OCCUPATIONAL AND
PROFESSIONAL REGULATION,
DEPARTMENT OF

Bureau of Insurance
Personal Service \$1,137,975

Effective September 19, 1985.

CHAPTER 447

S.P. 190 - L.D. 508

AN ACT to Exempt Leased Farm Equipment from Use Tax.

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

Sec. 1. 36 MRSA §2013, sub-§1, ¶C, as amended by PL 1981, c. 680, is further amended to read:

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the United States Internal Revenue Code:

(1) New or used machinery and equipment for use by the purchaser directly and primarily in commercial agricultural production, including self-propelled vehicles, attachments