

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION
December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION
January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

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

J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

fuel assistance agency for the State and may apply for, receive, distribute and administer federal funds on behalf of the State for weatherization, energy conservation and fuel assistance pursuant to the Weatherization Assistance for Low-income Persons Program administered through the United States Department of Energy and the Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services in accordance with rules adopted under the Maine Administrative Procedure Act; **and**

Sec. 3. 30-A MRSA §4741, sub-§16, as enacted by PL 1991, c. 629, §3, is amended to read:

16. Certification of bonds. The director of the Maine State Housing Authority is the State's designee to certify to the United States Secretary of the Treasury that housing-related bonds issued in the State satisfy the applicable ceiling requirements of the federal Internal Revenue Code-; **and**

Sec. 4. 30-A MRSA §4741, sub-§17 is enacted to read:

17. Comprehensive housing affordability strategy coordinator. The Maine State Housing Authority is designated the comprehensive housing affordability strategy coordinator for the State and has the power to prepare and submit on behalf of the State the annual comprehensive housing affordability strategy called for in the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625 (1990) and to undertake all monitoring and certification procedures required under that law. The Maine State Housing Authority shall represent the State in carrying out the HOME Investment Partnerships Program created by the Cranston-Gonzalez National Affordable Housing Act.

Sec. 5. 30-A MRSA §4907, sub-§1, as amended by PL 1991, c. 574, §3, is further amended to read:

1. Limitations on amount of outstanding principal. The Maine State Housing Authority may not at any time have an aggregate principal amount outstanding, in excess of ~~\$1,050,000,000~~ \$1,150,000,000 of mortgage purchase bonds secured by the Housing Reserve Fund or a Capital Reserve Fund to which section 4906, subsection 3, paragraph A applies. Mortgage purchase bonds of the Maine State Housing Authority secured by capital reserve funds to which section 4906, subsection 3, paragraph A does not apply, bond or mortgage insurance, direct or indirect contract with the United States, purchase or repurchase agreement of guaranty with a banking or other financial organization or other credit arrangements securing the bonds may be issued up to \$100,000,000 per calendar year in an aggregate principal amount outstanding at any time not to exceed \$300,000,000.

Sec. 6. 30-A MRSA §5055, as amended by PL 1991, c. 610, §24, is further amended to read:

§5055. Models for urban housing revitalization; evaluation

The state authority and the interagency task force shall develop models for the revitalization of deteriorating residential areas in urban areas based on the results of the study and monitoring of the demonstration zones as provided in section 5052. The state authority and the interagency task force shall review and evaluate the plans and programs applied to the demonstration zones and report their preliminary findings and recommendations to the Governor and the joint standing committee of the Legislature having jurisdiction over housing matters by December 30, 1992 and December 30, 1993, with a final report to be submitted by December 30, 1994. This final report must include:

1. Strategy. The strategy applied in each zone to revitalize housing and neighborhoods;

2. Number of buildings and units. The number of buildings and units of affordable housing developed; or rehabilitated in each zone;

3. Causes of blight and deterioration. The major causes of urban blight and deterioration in each zone and the programs applied to these causes; and

4. Effectiveness of assistance and programs. The effectiveness of the assistance and programs provided in each zone, including, but not limited to, job training and educational programs; and law enforcement and crime prevention programs.

See title page for effective date.

CHAPTER 872

S.P. 877 - L.D. 2238

An Act to Facilitate Self-insurance and Group Self-insurance under the Maine Workers' Compensation Act

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

Sec. 1. 24-A MRSA §707, sub-§1, ¶C, as amended by PL 1991, c. 385, §5, is further amended to read:

C. Workers' compensation and employer's liability. Insurance, ~~whether~~ written on a primary ~~or~~ excess basis, of the obligations accepted by, imposed upon or assumed by employers under law for death, disablement or injury of employees;

Sec. 2. 24-A MRSA §707, sub-§1, ¶C-1, as enacted by PL 1991, c. 385, §5, is amended to read:

C-1. Employee benefit excess insurance. Insurance, protecting an employer against higher than expected obligations under an employee benefit plan, at retention levels that do not have the effect of making the plan an insured plan. Reinsurance provided to employers that self-insure their workers' compensation exposures pursuant to Title 39, section 23 does not constitute employee benefit excess insurance. The transaction of employee benefit excess insurance does not constitute the conduct of the business of reinsurance;

Sec. 3. 39 MRSA §23, sub-§2, as amended by PL 1991, c. 615, Pt. A, §24, is further amended to read:

2. Proof of solvency and financial ability to pay; trust. By furnishing satisfactory proof to the Superintendent of Insurance of solvency and financial ability to pay the compensation and benefits, and deposit cash, satisfactory securities, irrevocable standby letters of credit issued by a qualified financial institution or a surety 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 the Treasurer of State's 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 or securities being deposited, the cash or securities must be placed in an account at interest by the Treasurer of State, and the accumulation of interest on the cash or securities so deposited must be credited to the account and may not be paid to the employer to the extent that the interest is required to support any present value discounting in the determination of the amount of the deposit. Any security deposit must be held by the Treasurer of State in trust for the benefit of the self-insurer's employees for the purposes of making payments under the Act.

An individual self-insurer may, with the approval of the superintendent, use a surety bond, an irrevocable standby letter of credit or financial assets, including cash deposits and acceptable securities, singly or in combination to satisfy the self-insurer's responsibility to post security required by the superintendent. An individual self-insurer that proposes to use an irrevocable standby letter of credit shall maintain at all times a net worth of not less than \$50,000,000, have a ratio of current assets to current liabilities of at least 1.1 to 1 and have a ratio of long-term debt to tangible net worth not in excess of 1.3 to 1. For purposes of this section, "tangible net worth" means equity less assets that have no physical existence and depend on expected future benefits for their ascribed value.

An employer who seeks to use an irrevocable standby letter of credit as proof to the superintendent of provision of required security shall file with the superintendent

ent a copy of the proposed letter of credit, copies of any agreements or other documents establishing the terms and conditions of the employer's reimbursement obligations to the financial institution issuing the letter of credit, together with copies of any required security agreements, mortgages or other agreements or documents granting security for the employer's reimbursement obligations and any other agreements that contain conditions, restrictions or limitations of any kind upon the employer, the superintendent or the Treasurer of State. The superintendent, upon receipt of the original irrevocable standby letter of credit, shall promptly forward it to the Treasurer of State.

The superintendent shall adopt rules to establish the qualifications for financial institutions issuing irrevocable standby letters of credit, that must include maintenance of a long-term unsecured debt rating of at least A by either Moody's Investors Service, Inc. or Standard and Poor's Corporation, and to prescribe the form of the irrevocable standby letter of credit that may be used to satisfy, in whole or in part, the employer's responsibility under this subsection to post security. The irrevocable standby letter of credit must be the individual obligation of the issuing financial institution, may not be subject to any agreement, condition or qualification between the financial institution and the employer and may not in any way be contingent on reimbursement by the employer. If the rating of an issuing financial institution that has issued an irrevocable standby letter of credit pursuant to this subchapter falls below the required standard, the employer must obtain a new irrevocable standby letter of credit from a qualified financial institution or must provide substitute proof of solvency and financial ability to pay consistent with this section. The irrevocable standby letter of credit is automatically extended for one year from the date of expiration unless, 90 days prior to any expiration date, the issuing financial institution notifies the Superintendent of Insurance that the financial institution elects not to renew the irrevocable standby letter of credit.

An irrevocable standby letter of credit that has been issued by a qualified financial institution and accepted by the superintendent binds the issuing financial institution to pay one or more drafts drawn by the Treasurer of State as long as the draft does not exceed the total amount of the irrevocable standby letter of credit. Any draft presented by the Treasurer of State must be promptly honored if accompanied by the certification of the superintendent that any obligation under this chapter has not been paid when due or that a proceeding in bankruptcy has been initiated by or with respect to the employer in a court of competent jurisdiction.

If the superintendent certifies that the superintendent has been notified by the issuing financial institution that the irrevocable standby letter of credit will expire by its terms in 30 days or less, that the irrevocable standby letter of credit was not replaced within 15 days after that

notice to the superintendent by a substitute irrevocable standby letter of credit and that other eligible security of equal value has not been posted, then the full amount of the irrevocable letter of credit must be paid over to the Treasurer of State without further certification.

Any proceeds from a draw on such an irrevocable standby letter of credit by the Treasurer of State must be held by the Treasurer of State on behalf of workers' compensation claimants to secure payment of claims until either the Superintendent of Insurance authorizes the Treasurer of State to release those proceeds to the employer upon provision by the employer of replacement security adequate to meet the requirements for security set by the superintendent or the superintendent directs distribution of the proceeds in accordance with this Title.

The Superintendent of Insurance shall consider the following form of letter acceptable.

IRREVOCABLE STANDBY LETTER OF CREDIT

Irrevocable standby letter of credit no.

We hereby issue our irrevocable standby letter of credit (hereinafter referred to as "letter of credit") in favor of the Treasurer of State, State of Maine for drawings up to U.S. \$..... effective immediately and expiring immediately at our(bank address)..... with our close of business on

We hereby undertake to honor promptly your sight draft(s) drawn on us, indicating our letter of credit no., for all or part of this letter of credit if presented at(bank address)..... on or before the expiration date or any automatically extended date.

Except as stated in this letter of credit, this undertaking is not subject to any condition or qualification. The obligation of the bank under this letter of credit is the individual obligation of the bank, in no way contingent upon reimbursement with respect thereto.

It is a condition of this letter of credit that it is automatically extended without amendment for one year from the expiration of this letter of credit, or any future expiration date, unless 90 days prior to any expiration date we notify the chair of the Workers' Compensation Commission and the Superintendent of Insurance by registered mail that we elect not to consider this letter of credit renewed for any additional period.

It is a further condition of this letter of credit that any interruptions of the bank's conduct of business caused by an Act of God, riot, civil commotion, insurrection, war or other cause beyond the

bank's control will automatically extend the expiration date of the letter of credit, as well as any future expiration date, by the period of the interruption.

To the extent not inconsistent with Maine law, this letter of credit is subject to and governed by the Uniform Customs and Practice for Documentary Credits, 1983, International Chamber of Commerce Publication No. 400. If any legal proceedings are initiated with respect to payment of this letter of credit, it is agreed that such proceedings are subject to Maine courts and law.

The superintendent shall prescribe the form of the surety bond that may be used to satisfy, in whole or in part, the employer's responsibility under this section to post security. The bond must be continuous, be subject to nonrenewal only upon not less than 60 days' notice to the superintendent and cover payment of all present and future liabilities incurred under the Act while the bond is in force and cover payments that become due while the bond is in force that are attributable to injuries incurred in prior periods and otherwise unsecured by cash, irrevocable standby letters of credit or acceptable securities. A bond must be held until all payments secured thereby have been made or until it has been replaced by a bond issued by a qualified successor surety that covers all outstanding liabilities. Payments under the bond are due within 30 days after notice has been given to the surety by the commission that the principal has failed to make a payment required under the terms of an award, agreement or governing law. ~~A surety bond may not be used to fund a trust established to satisfy the requirements of this section may not be funded by a surety bond.~~ An irrevocable standby letter of credit may be utilized by a group self-insurer that maintains a trust account actuarially funded to the 90th confidence level as long as the value of the letter of credit does not exceed 5% of the value of the 90th confidence level.

As an alternative to the method described in the first paragraph of this subsection, an eligible employer may establish an actuarially fully 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 superintendent requires that the value of trust assets be at least equal to the present value of ultimate expected incurred claims and claims settlement costs. The present value of ultimate expected incurred claims and claims settlement costs for a group self-insurer may not be more than the amount actuarially determined considering the value of trust assets and ~~excess insurance~~ reinsurance to satisfy a 90% confidence level. A group self-insurer may elect to fund at a higher confidence level through the use of cash, marketable securities, ~~surety bonds~~ or excess insurance. If a member of a group self-insurer terminates its membership in the group for any reason, then that member shall fund its proportionate share of the

liabilities and obligations of the trust to the 95% confidence level. If for any reason the departing member fails to fund its proportionate share of the trust's exposure to the 95% level of confidence, then the remaining members of the group shall make such additional contribution no later than the anniversary date of the program as required to fund the departing member's exposure in accordance with this provision. Trust assets must consist of cash or marketable securities of a type and risk character as specified in subsection 7 and have a situs in the United States. The trustee shall submit a report to the superintendent not less frequently than quarterly that lists the assets comprising the corpus of the trust, including a statement of their market value and the investment activity during the period covered by the report. The trust must be established and maintained subject to the condition that trust assets may not be transferred or revert in any manner to the employer except to the extent that the superintendent finds that the value of the trust assets exceeds the present value of incurred claims and claims settlement costs with an actuarially indicated margin for future loss development. In all other respects, the trust instrument, including terms for certification, funding, designation of trustee and pay out, must be as approved by the superintendent; provided that the value of the trust account must be actuarially calculated at least annually by a casualty actuary who is a member of the American Academy of Actuaries 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 in relation to its operating needs.

Notwithstanding any provision of this section or chapter, any bond or security deposit required of a public employer that is a self-insurer may not exceed \$50,000, provided that such public employer has a state-assessed valuation equal to or in excess of \$300,000,000 and either a bond rating equal to or in excess of the 2nd highest standard as set by a national bond rating agency or a net worth equal to or in excess of \$25,000,000. If a county, city or town relies upon a bond rating, it shall value or cause to be valued its unpaid workers' compensation claims pursuant to sound accepted actuarial principles. This value must be incorporated in the annual audit of the county, city or town together with disclosure of funds appropriated to discharge incurred claims expenses. "Public employer" includes the State, the University of Maine System, counties, cities and towns.

In 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~~ reinsurance, subject to the provisions of

subsection 6. Standards respecting the application of ~~primary excess insurance~~ reinsurance must be contained in a ~~regulation promulgated~~ rule adopted by the superintendent pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. ~~Primary excess insurance~~ Reinsurance must be defined as insurance covering workers' compensation exposures in excess of risk retained by a self-insurer.

As a further alternative to the methods described in this subsection, an employer is eligible for approved self-insurance status pursuant to this Act if the employer submits a written guarantee of the obligations incurred pursuant to this Act, the guarantee to be issued by a United States or Canadian corporation that is a member of an affiliated group of which the employer is a member, and which corporation is solvent and demonstrates an ability to pay the compensation and benefits, and the guarantee is in a form acceptable to the superintendent. The guarantor shall provide quarterly financial statements, audited annual financial statements and such other information as the superintendent may require, and the employer shall provide a bond as otherwise required by this Act in an amount not less than \$1,000,000. Any such guarantor is deemed to have submitted to the jurisdiction of the Workers' Compensation Commission and the courts of this State for purposes of enforcing any such guarantee. The guarantor, in all respects, is bound by and subject to the orders, findings, decisions or awards rendered against the employer for payment of compensation and any penalties or forfeitures provided under this Act. The superintendent, following hearing, may revoke the self-insured status of the employer if at any time the assets of the guarantor become impaired, encumbered or are otherwise found to be inadequate to support the guarantee.

Each individual self-insurer must submit with its application and not less frequently than annually thereafter a financial statement of current origin that has been audited by a certified public accountant. In the case of a self-insurer that qualifies on the basis of a financial guarantee, the superintendent may accept an audited financial statement of the guarantor in satisfaction of this requirement if combining statements are provided in an array that is reconciled to the consolidated report unless the self-insured entity comprises such a minimal proportion of total consolidated operations that audit reliance can not be taken therefrom.

Sec. 4. 39 MRSA §23, sub-§2-A, as amended by PL 1989, c. 435, §§3, 4 and 5, is further amended by amending the 2nd paragraph to read:

If, upon examination of the sworn financial statement and other data submitted, the superintendent is satisfied as to the ability of the employer or group to make current compensation payments and that the employer's or group's tangible assets make reasonably certain the payment of all obligations that may arise under the Work-

ers' Compensation Act, the application shall must be granted subject to the terms and conditions setting out the exposure of cash deposits or securities or an acceptable surety bond, all as required by the superintendent. Security against shock or catastrophe loss shall must be provided either by depositing securities with the Workers' Compensation Commission in such amount as the superintendent may determine, or by filing with the superintendent and the Workers' Compensation Commission an insurance carrier's certificate of a standard self-insurer's primary-excess reinsurance contract issued to the self-insurer or group in form approved by the superintendent, providing coverage against losses arising out of one injury in such amounts as the superintendent may determine, or a combination of the foregoing, satisfactory to the superintendent. Notwithstanding any provision of this section or chapter, no specific or aggregate excess-insurance reinsurance may be required of any individual public employer who is self-insured and has a state-assessed valuation equal to or in excess of \$300,000,000 and either a net worth equal to or in excess of \$25,000,000 or has a bond rating equal to or in excess of the 2nd highest standard as set by a national bond rating organization, provided that if the self-insurer relying on a bond rating is a county, city or town it shall value or cause to be valued its unpaid workers' compensation claims pursuant to sound accepted actuarial principles. This value shall must be incorporated in the annual audit of the county, city or town together with disclosure of funds appropriated to discharge incurred claims expenses.

Sec. 5. 39 MRSA §23, sub-§4, ¶¶M and N, as enacted by PL 1985, c. 219, are amended to read:

M. In any fiscal year, ~~no~~ a group self-insurer may not be required to obtain aggregate excess-insurance reinsurance with a policy limit that exceeds a multiple of 1.5 of its annual standard workers' compensation premium for that fiscal year. The superintendent may set lower policy limits for aggregate excess-insurance reinsurance where, in ~~his~~ the superintendent's judgment, lower limits may be prudent.

N. Upon approval by the superintendent, a group self-insurer may dedicate a portion of its unimpaired surplus to increase its self-insured retention level under the aggregate excess-insurance reinsurance policy by an amount equal to the amount of surplus so dedicated. The superintendent before granting ~~his~~ approval shall consider among other factors:

- (1) The level of alternate revenues available to the group self-insurer to cover the further assumed costs; and
- (2) The adequacy of the fund's surplus to meet obligations of the group self-insurer.

At the expiration of a period of 10 calendar days after the superintendent has received a plan for the dedication of a portion of the unimpaired surplus of a group self-insurer to increase its self-insured retention level and any additional information the superintendent has ~~deemed~~ determined necessary, the plan shall must be deemed approved unless prior to the expiration of that time period it has been affirmatively approved or disapproved by the superintendent.

Sec. 6. 39 MRSA §23, sub-§4-A, ¶¶A and D, as enacted by PL 1989, c. 435, §8, are amended to read:

A. Any approval granted by the superintendent to an individual self-insurer or group self-insurer shall must be for a term of not more than one year. Application for renewal of approval to self-insure shall must be submitted to the superintendent not less than 21 days prior to the self-insurer's renewal date, except that evidence of excess reinsurance coverage may be submitted up to 3 working days prior to renewal. A renewal application shall must contain all reports, statements and other data required to be filed annually under rules adopted by the superintendent; copies of any proposed excess reinsurance contracts, binders or cover notes; evidence of security posted; notice of any changes in servicing arrangements; and notice of any change in control of the self-insurer and its effect, if any, on guarantees provided pursuant to subsection 2. The superintendent may refuse to grant or renew self-insurance approval based upon any of the following grounds:

- (1) Failure to submit any information required by law or rule or which is reasonably requested by the superintendent;
- (2) Failure of a self-insurer to establish that it has met all applicable requirements of law or rule;
- (3) Fraud or misrepresentation in the application; or
- (4) Any ground upon which approval may be suspended or revoked as provided in subsection 9.

D. When a self-insurer's excess reinsurance contract expires on a date other than the renewal date for its self-insurance approval, the self-insurer shall file evidence of any required excess reinsurance coverage no later than 3 working days before the date of expiration of its coverage.

Sec. 7. 39 MRSA §23, sub-§6, as enacted by PL 1989, c. 435, §9, is amended by amending the first paragraph to read:

6. Security deposit and reinsurance requirements for individual self-insurers. The following security deposit and ~~excess insurance~~ reinsurance requirements apply to individual self-insurers.

Sec. 8. 39 MRSA §23, sub-§6, ¶A, as amended by PL 1987, c. 272, §1, is further amended by amending the 2nd paragraph to read:

For individual self-insurers who have a net worth equal to or in excess of \$10,000,000; who have had positive net earnings demonstrated by certified statements of financial condition ~~in~~ audited by a certified public accountant for at least 3 of the 5 latest fiscal years, including therein one of the 2 most recent years; and whose mean annual earnings for the 5 latest fiscal years are at least equal to the normal annual premium for the prospective fiscal coverage period, the minimum security deposit or bond ~~shall~~ must be an amount determined by the formula above or as hereinafter adjusted for applicable levels of working capital funds.

Sec. 9. 39 MRSA §23, sub-§6, ¶B, as enacted by PL 1981, c. 484, §7, is amended to read:

B. All individual self-insurers shall maintain specific ~~excess insurance~~ reinsurance unless the superintendent, in ~~his~~ the superintendent's discretion, waives such a requirement. Specific ~~excess insurance~~ reinsurance ~~shall~~ must generally have a limit of at least \$2,000,000. Higher limits may be required for those businesses with a high risk of multiple injury from a single occurrence. The retention underlying specific ~~excess insurance~~ reinsurance policies ~~shall~~ must be the lowest retention generally available for businesses of similar size and exposure, but may, at the superintendent's discretion, be established at higher levels consistent with the employer's claims experience and financial condition.

All individual self-insurers shall maintain aggregate ~~excess insurance~~ reinsurance unless the superintendent, in ~~his~~ the superintendent's discretion, waives such requirements.

Sec. 10. 39 MRSA §23, sub-§6, ¶C, as enacted by PL 1989, c. 435, §9, is amended to read:

C. The superintendent may adopt rules establishing specific requirements applicable to security deposits and ~~excess insurance~~ reinsurance, including, but not limited to, provisions governing standards for waiver of ~~excess insurance~~ reinsurance, use of trusts in lieu of security deposits and release or application of deposit funds.

Sec. 11. 39 MRSA §23, sub-§7, as amended by PL 1989, c. 435, §10, is further amended to read:

7. Acceptable deposit funds or surety bonds; letters of credit. In addition to cash, the deposit funds acceptable to the superintendent as a security deposit ~~shall~~ include United States Government bonds, notes or bills, issued or guaranteed by the United States of America; bonds secured by the full faith, credit and taxing power of political subdivisions of the United States rated in the 3 highest grades by a national rating agency such as Moody's Investors Service, Inc., Standard and Poor's Corporation or Fitch; Investors Service, Inc. as of the foregoing ~~year-end~~ year-end; money market funds ~~which are~~ invested only in United States Government or government agency obligations with a maturity not exceeding one year; high grade commercial paper rated as either A-1 or P-1 by a nationally recognized bond rating service such as Moody's Investors Service, Inc., Standard and Poor's Corporation or Fitch Investors Service, Inc., or money market funds invested in such paper; certificates of deposit issued by a duly chartered commercial bank or thrift institution in the State ~~which is~~ protected by the Federal Deposit Insurance ~~corporation, and~~ Corporation if such a bank or institution possesses assets of at least \$100,000,000 and maintains a ratio of capital to assets equal to or greater than 6 1/2%; savings certificates issued by any savings and loan association in the State ~~which are~~ protected by the Federal Savings and Loan Insurance Corporation; ~~and~~ if such an association possesses assets of at least \$100,000,000 and maintains a ratio of capital to assets equal to or greater than 6 1/2%; surety bonds in a form prescribed by the superintendent ~~which are~~ issued by any corporate surety ~~which that~~ meets the qualifications prescribed by rule of the superintendent, irrevocable standby letters of credit issued to the Treasurer of State by financial institutions with long-term unsecured debt ratings of at least A by either Moody's Investors Service, Inc. or Standard and Poor's Corporation or with commercial paper within the 3 highest short-term rating categories established by Moody's Investors Service, Inc. or Standard and Poor's Corporation and such other investments approved by the superintendent.

Sec. 12. 39 MRSA §23, sub-§7-A, as amended by PL 1989, c. 435, §11, is further amended to read:

7-A. Form of reinsurance contracts. All ~~primary excess insurance~~ reinsurance contracts issued or renewed after the effective date of this subsection ~~shall~~ must be issued by companies that meet the requirements of subsection 8 and ~~shall~~ must name the self-insurer and the Maine Self-Insurance Guarantee Association as coinsureds to the extent of their respective interests. These ~~excess reinsurance~~ reinsurance contracts ~~shall~~ must recognize the Maine Self-Insurance Guarantee Association's rights of recovery, within the terms of coverage provided by the contract, for payments made by the association to or on behalf of claimants regarding covered claims and for claims in the course of settlement, the value of which when reduced to payments will create an obligation on the part of the ~~excess reinsurance~~ reinsurance carrier to reimburse the association to the extent of funds disbursed by the

association to discharge covered claims. The requirements of this subsection ~~shall~~ apply to any excess reinsurance contract issued to any individual or group self-insurer as part of a self-insurance program approved for use within this State and ~~shall be~~ are in addition to any other requirement applicable to excess reinsurance contracts imposed by law or rule.

Excess insurance Reinsurance contracts ~~shall~~ must further specify that the excess reinsurance carrier and the Maine Self-Insurance Guarantee Association may enter into agreements on the terms of settlement and distribution of benefits accruing to claimants within the limits of the authority of the parties to make settlements with respect to any coverage year.

To the extent that the Maine Self-Insurance Guarantee Association succeeds to a recovery of benefits from any excess reinsurance carrier on behalf of claimants, those benefits ~~shall~~ must be timely disbursed by the association to or on behalf of claimants as they become due and payable pursuant to this Act. Funds recovered under primary excess reinsurance contracts on behalf of claimants ~~shall~~ must be applied consistent with the terms of coverage under the contract, to loss, loss adjustment expense and attorneys' fees ~~which that~~ are payable under the Act.

Sec. 13. 39 MRSA §23, sub-§8, as amended by PL 1989, c. 435, §12, is further amended to read:

8. Qualifications for reinsurance carriers. ~~No~~ A workers' compensation contract or policy issued after the effective date of this section may not be recognized by the superintendent in considering the ability of an individual or group self-insurer to fulfill its financial obligations under this Act, unless the contract or policy is issued by an admitted insurance company or a reinsurance company that meets on a continuous basis the requirements of Title 24-A, chapter 9, subchapter III and the reinsurance company has been approved by the Superintendent of Insurance to issue in this State contracts of primary workers' compensation reinsurance, or by Lloyd's of London, a syndicate of unincorporated alien insurers which that has established and maintains United States trust funds consistent with the requirements of Title 24-A, section 731, paragraph C chapter 9, subchapter III. Each contract of primary workers' compensation reinsurance that is proposed for use in this State must be filed for approval in the manner set out in Title 24-A, section 2412. Insofar as is practicable, a contract so approved may be modified with less than 30 days advance filing notice if the superintendent determines the modifications suggested are not contrary to provisions of Title 24-A, section 2412, this Title or Bureau of Insurance Rule Chapter 250 and are necessary to effect required reinsurance coverage to authorize the self-insurer to operate a plan of workers' compensation self-insurance.

Sec. 14. Rule required. The Bureau of Insurance shall adopt a rule by August 1, 1992 to adjust the

premium for the workers' compensation classification for professional hockey players to reflect the employer's contractual obligation to continue salary and medical benefits during the course of any injury.

Sec. 15. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1992-93

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Bureau of Insurance

Positions	(1.0)
Personal Services	\$44,490
All Other	1,500
Capital Expenditures	9,050
TOTAL	\$55,040

Provides funds for the salary, fringe benefits and general operating expenses of one Financial Analyst position and for computer equipment.

Sec. 16. Transition provision. The provisions of the Bureau of Insurance Rule Chapter 250 governing primary excess insurance apply to reinsurance contracts required or provided under this Act until the Bureau of Insurance has adopted conforming amendments to Chapter 250.

See title page for effective date.

CHAPTER 873

H.P. 1583 - L.D. 2233

An Act to Protect Taxpayer Rights by Amending the Taxpayer Bill of Rights and Making More Equitable Tax Penalty and Appeal Provisions

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

Sec. 1. 36 MRSA §112, sub-§1, as enacted by PL 1981, c. 364, §7, is amended to read:

1. General powers and duties. The State Tax Assessor shall administer and enforce the tax laws enacted under this Title and, pursuant to this Title, may make such adopt rules and require such information to be reported as ~~he deems~~ is necessary. The State Tax Assessor shall provide, at the time of issuance by the assessor, to one or more entities that publish a monthly state tax service all rules, bulletins, taxpayer notices or alerts, no-