

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

D. Information pertaining to the personal history, general character or conduct of members of ~~an~~ the employee's immediate family; ~~and~~

D-1. Personal information pertaining to the employee's race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability and marital status; social security number; home telephone number and home address; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance. When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The Director of the Bureau of Human Resources, upon the request of the employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; and

E. Except as provided in section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed.

For purposes of this paragraph, "final written decision" means:

- (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days;

This subsection does not preclude union representatives from having access to personnel records, consistent with subsection 4, that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection remain confidential and are not open for public inspection;

See title page for effective date.

CHAPTER 125

H.P. 651 - L.D. 904

An Act to Clarify the Audit Requirement of the Maine State Housing Authority

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

Whereas, the 90-day period will not terminate until after the deadline for the next annual financial report of the Maine State Housing Authority; and

Whereas, the clarification in this law in a timely manner will avoid confusion and unneeded expense; 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,

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

Sec. 1. 30-A MRSA §4910, as amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended to read:

§4910. Annual report

The director of the Maine State Housing Authority shall prepare and submit to the Governor and the bank superintendent annually a complete report and a complete financial report duly audited and certified by the Department of Audit or a qualified public accountant to be distributed in the same way as state departmental reports.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 25, 1997.

CHAPTER 126

H.P. 716 - L.D. 980

An Act to Amend Provisions Applicable to Property Casualty Insurers and Reporting Requirements to the Bureau of Insurance

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

Sec. 1. 24 MRSA §2601, first ¶, as amended by PL 1993, c. 600, Pt. B, §§21 and 22, is further amended to read:

Every insurer providing professional liability insurance in this State to a person licensed by the Board of Licensure in Medicine or the Board of Osteopathic Licensure or to any health care provider shall make a periodic report of claims made under the insurance to the department or board that regulates the insured ~~and to the Attorney General~~. For purposes of this section, a claim is made whenever the insurer receives information from an insured, a patient of an insured or an attorney that an insured's liability for malpractice is asserted. The report must include:

Sec. 2. 24 MRSA §2602, sub-§1, as amended by PL 1991, c. 534, §4, is further amended to read:

1. Report; finality of judgment or award. The insurer shall make a report of disposition to the board or department that regulates the insured ~~and to the Attorney General~~ as provided in subsection 2 if any claim subject to section 2601 results in:

- A. A final judgment or award to the claimant in any amount;
- B. A settlement involving payment in any amount of money or services; or
- C. A final disposition not involving any payment of money or services.

For purposes of this subsection, a judgment or award is final when it can not be appealed, and a disposition is final when it results from judgment, dismissal, withdrawal or abandonment.

Sec. 3. 24-A MRSA §2382-F is enacted to read:

§2382-F. Report required

In order to comply with Title 26, section 61, subsection 1-A, on or before March 1st of each year, every workers' compensation insurer shall file a report with the superintendent showing the amount of total actual paid workers' compensation losses and the total actual paid workers' compensation medical payments for the previous calendar year.

Sec. 4. 24-A MRSA §2412, sub-§8 is enacted to read:

8. Confidentiality of form filings. Forms filed as required by this section and any supporting information are confidential until the filing becomes

effective. If an insurer does not provide an effective date for the filings, the forms and supporting information become public on the date the filing is approved.

Sec. 5. 24-A MRSA §2908, sub-§8, as amended by PL 1991, c. 25, §1, is further amended to read:

8. This Except for the definitions in subsection 1 and cancellation notice requirements set forth in subsection 5, this section does not apply to any insurance policy that has not been previously renewed if the policy has been in effect less than 60 days at the time notice of cancellation is mailed or otherwise delivered, except as provided in subsection 1, paragraph A and subsection 5, paragraphs A and C. This section does not apply to any policy subject to the Maine Automobile Insurance Cancellation Control Act, subchapter II. This section does not apply to any assigned risk program. The superintendent may suspend, in whole or in part, the applicability of this section to any insurer if, in the superintendent's discretion, its application will endanger the ability of the insurer to fulfill its contractual obligations.

Sec. 6. 26 MRSA §61, sub-§1-A is enacted to read:

1-A. Bureau of Insurance report. On or before July 1st of each year, the Bureau of Insurance shall provide to the commissioner the amounts of actual losses, excluding medical payments, paid by each workers' compensation individual self-insurer and workers' compensation group self-insurer during the previous calendar year.

Sec. 7. 39-A MRSA §403, sub-§3, ¶D, as enacted by PL 1995, c. 398, §2, is amended to read:

D. Notwithstanding any provision of this chapter, ~~any authorization to self-insure may not be conditioned on a bond or security deposit required of a public employer that is a self-insurer may not exceed in excess of \$50,000, as long as the public employer has for the State, the University of Maine System or any county, city or town with~~ 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 \$35,000,000. If a county, city or town that is a self-insurer relies upon a bond rating to qualify under this paragraph, 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.~~

Sec. 8. 39-A MRSA §403, sub-§4, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

4. Group self-insurers; application. Except for the provision relating to individual public employer self-insurers, subsection 3 is equally applicable in all respects to group self-insurers. Any employer or group of employers desiring to become a self-insurer shall submit to the Superintendent of Insurance with an application for self-insurance, in a form prescribed by the superintendent, the following:

- A. A payroll report for each participating employer of the group for the 3 preceding annual fiscal periods;
- B. A report of compensation losses incurred, payments plus reserves, by each participating employer of the group for the periods described in paragraph A;
- C. A sworn itemized statement of the group's assets and liabilities; satisfactory proof of financial ability to pay compensation for the employers participating in the group plan; and the group's reserves, their source and assurance of continuance;
- D. A description of the safety organization maintained by the employer or group for the prevention of injuries;
- E. A statement showing the kind of operations performed or to be performed;
- F. An indemnity agreement in a form prescribed by the superintendent that jointly and severally binds the group and each member to comply with the provisions of this Act; and
- G. Any other agreements, contracts or other pertinent documents relating to the organization of the employers in the group.

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 this Act, the application must be granted subject to the terms and conditions setting out the exposure of cash deposits or securities or an acceptable surety bond, as required by the superintendent. Security against shock or catastrophe loss must be provided either by depositing securities with the board in such amount as the superintendent may determine

or by filing with the superintendent and the board an insurance carrier's certificate of a standard self-insurer's reinsurance contract issued to the self-insurer or group in a 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 chapter, no specific or aggregate 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 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 that is self-insured and qualifies for the alternative security requirements of subsection 3, paragraph D. 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.~~

Yearly reports in a form prescribed by the superintendent must be filed by each self-insurer or group. The superintendent may, in addition, require the filing of quarterly financial status reports whenever the superintendent has reason to believe that there has been a deterioration in the financial condition of either an individual or group self-insurer that adversely affects the individual's or group's ability to pay expected losses. The reports must be filed within 30 days after the superintendent's request or at such time as the superintendent shall otherwise set.

After approving any application for self-insurance, the superintendent shall promptly notify the board and forward to it copies of the application and all supporting materials.

Sec. 9. 39-A MRSA §403, sub-§17 is enacted to read:

17. Report required. In order to comply with Title 26, section 61, subsection 1-A, on or before March 1st of each year, every individual workers' compensation self-insurer and workers' compensation group self-insurer shall file a report with the superintendent showing the amount of total actual paid workers' compensation losses and the total actual paid workers' compensation medical payments for the previous calendar year.

Sec. 10. 39-A MRSA §404, sub-§2, as amended by PL 1995, c. 594, §7, is further amended by amending the first paragraph to read:

2. Membership required. All self-insurers, as defined in under this Title, must be members of the association as a condition of authority to self-insure in this State, except that all public employers that are individual self-insurers, with a state assessed valuation equal to or in excess of \$300,000,000 and have either a net worth equal to or in excess of \$25,000,000 or a bond rating equal to or in excess of the 2nd highest standard as set by a national bond rating organization, are not subject to this subsection. Public employers that are and qualify for the alternative security requirements of section 403, subsection 3, paragraph D and group self-insurers with whose membership consists exclusively of public employers and whose members have in the aggregate a state-assessed valuation equal to or in excess of \$5,000,000,000 are not subject to this subsection. However, if a 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 must be incorporated in the annual audit of the county, city or town together with disclosure of funds appropriated to discharge incurred claims expenses. The association shall perform its functions under a plan of operation established or amended, or both, and approved by the superintendent and shall exercise its powers through the board of directors established in this section.

Sec. 11. 39-A MRSA §404, sub-§4, ¶A, as amended by PL 1995, c. 594, §8, is further amended by repealing subparagraph (1).

Sec. 12. 39-A MRSA §404, sub-§7, ¶D is enacted to read:

D. On or before May 15th of each year, the Bureau of Insurance shall provide to the Maine Self-Insurance Guarantee Association the annual standard workers' compensation premium for each individual and group workers' compensation self-insurer and each individual and group workers' compensation self-insurer's payroll by class and experience modification factor for the previous calendar year. For the purposes of this paragraph, the definitions of annual standard premium in subsection 4 apply. The Maine Self-Insurance Guarantee Association may request additional information from workers' compensation self-insurers to verify the accuracy of the amounts reported.

Sec. 13. 39-A MRSA §409, first ¶, as amended by PL 1993, c. 313, §40, is further amended to read:

The Superintendent of Insurance shall annually assess make an assessment on self-insuring employers approved pursuant to section 403, respecting the operations of each self-insurer conducted in the State

to defray the cost of administration of the Bureau of Insurance. On or before March 1st of each year, every individual workers' compensation self-insurer and group workers' compensation self-insurer shall report to the superintendent the self-insurer's experience modification factor for the previous calendar year. The superintendent shall calculate the amount of annual standard premium that would have been paid during the previous calendar year for every individual workers' compensation self-insurer and group workers' compensation self-insurer. The annual assessment upon approved self-insuring employers must be calculated using the imputed annual standard premium relating to business operations in the State that each self-insurer would have paid during the previous calendar year pursuant to manual rates established by the principal rating organization in the State and using the experience rating procedure approved by the Superintendent of Insurance for that self-insurer. For the purposes of this section, the definitions of annual standard premium in section 404, subsection 4 apply. The assessment must be applied to the budget of the bureau for the fiscal year commencing July 1st. The assessment must be in an amount not exceeding 11/100 of 1% of the imputed annual standard premium. When the superintendent calculates the amount of the annual assessment, the superintendent may consider, among other things, the staffing level required to administer workers' compensation self-insurance oversight responsibilities of the bureau. All information filed by self-insurers in compliance with this section is confidential in accordance with section 403, subsection 15.

Sec. 14. 39-A MRSA §409, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Annual standard premium. The superintendent shall utilize the annual standard premium for each approved self-insurer as reported to calculated by the Bureau of Insurance by the Maine Self-Insurance Guarantee Association pursuant to this section 404, subsection 4 in determining the amount of the assessment.

See title page for effective date.

CHAPTER 127

H.P. 718 - L.D. 982

An Act to Conform the Maine Tax Laws for 1996 with the United States Internal Revenue Code

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