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House of Representatives, March 14, 2013

An Act Relating to Employee Leasing Company Registration

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative VOLK of Scarborough.
Cosponsored by Senator: CLEVELAND of Androscoggin.

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

2 **Sec. 1. 32 MRSA §14051, sub-§5**, as enacted by PL 1991, c. 468, §4, is amended
3 to read:

4 **5. Superintendent.** "Superintendent" means the Superintendent of ~~Insurance~~
5 Consumer Credit Protection.

6 **Sec. 2. 32 MRSA §14054, sub-§2**, as enacted by PL 1991, c. 468, §4, is repealed
7 and the following enacted in its place:

8 **2. Treatment of fees.** Fees provided for by this chapter are appropriated for the use
9 of the Bureau of Consumer Credit Protection. Any balance of these funds does not lapse
10 but must be carried forward to be expended for the same purpose in the following year.

11 **Sec. 3. 32 MRSA §14055, sub-§1, ¶B**, as amended by PL 1991, c. 885, Pt. E,
12 §42 and affected by §47, is further amended to read:

13 B. The ~~superintendent~~ Superintendent of Insurance shall adopt rules governing the
14 provision of workers' compensation insurance as required by Title 39-A, chapter 9 for
15 workers provided by an employee leasing company to any client company. These
16 rules must be consistent with subsection 2 and reflect consideration of the needs and
17 operational efficiencies of employee leasing companies and the costs to the workers'
18 compensation system. If either the employee leasing company or the client company
19 has secured the payment of compensation in conformity with former Title 39, chapter
20 1 or Title 39-A, chapter 9, the immunity from liability described in that chapter
21 extends to and is binding on the client company, the employee leasing company, all
22 employees leased to any client company and any other employees of the employee
23 leasing company or the client company. An employee leasing company is not
24 responsible for securing the payment of compensation in conformity with Title 39-A
25 nor deprived of the defenses listed in Title 39-A, section 103 with respect to those
26 persons for whom the provision of benefits is not required under Title 39-A in the
27 absence of an employee leasing arrangement.

28 **Sec. 4. 32 MRSA §14055, sub-§2, ¶A**, as amended by PL 1991, c. 885, Pt. E,
29 §43 and affected by §47, is further amended to read:

30 A. Under rules adopted pursuant to subsection 1, paragraph B, the ~~superintendent~~
31 Superintendent of Insurance may provide a determination of the circumstances and
32 conditions, if any, under which an employee leasing company may be the
33 policyholder of a workers' compensation insurance policy providing coverage to
34 employees leased to client companies. Additionally or alternatively, the
35 ~~superintendent~~ Superintendent of Insurance may require by rule that:

36 (1) The employee leasing company purchase separate policies through the Maine
37 Employers' Mutual Insurance Company, established pursuant to Title 24-A,
38 section 3703, for client companies subject to Title 39-A; and

39 (2) The policies be assigned to one servicing carrier and, to the extent practical,
40 administered on a unified basis. The ~~superintendent~~ Superintendent of Insurance

1 also may provide by rule that the employee leasing company or the President of
2 the Maine Employers' Mutual Insurance Company request from the
3 ~~superintendent~~ Superintendent of Insurance a waiver of a rule adopted pursuant
4 to this subparagraph if it is impractical for one servicing carrier to service all the
5 client companies of an employee leasing company.

6 **Sec. 5. 32 MRSA §14055, sub-§5**, as amended by PL 1997, c. 29, §2, is further
7 amended to read:

8 **5. Disclosure.** The employee leasing company shall disclose to client companies
9 services to be rendered, including costs, and the respective rights and obligations of the
10 parties prior to entering into or receiving a leasing arrangement. This disclosure must
11 include a statement that the client company may take complaints to the Bureau of
12 ~~Insurance~~ Consumer Credit Protection.

13 **SUMMARY**

14 This bill transfers registration of employee leasing companies from the Department of
15 Professional and Financial Regulation, Bureau of Insurance to the Bureau of Consumer
16 Credit Protection. Current rule-making authority regarding workers' compensation
17 insurance issued to employee leasing companies is retained by the Superintendent of
18 Insurance. The bill amends the law to direct complaints of client companies with respect
19 to employee leasing companies to the Bureau of Consumer Credit Protection.