

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

S.P. 568 - L.D. 1724

An Act To Create a Logging Dispute Resolution Board and To Require Proof of Ownership Documents To Be Available within 14 Days of Request

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

Sec. 1. 26 MRSA §872, sub-§2, as amended by PL 2011, c. 620, §1, is further amended to read:

2. Proof of ownership required. An employer in this State who applies for a bond worker in a logging occupation shall provide proof of the employer's ownership of any logging equipment used by that worker in the course of employment, including proof of ownership of at least one piece of logging equipment for every 2 bond workers employed by the employer in a logging occupation. The employer shall provide proof of ownership as required by this subsection on a form provided by the Commissioner of Labor. The proof required by this subsection must include, but not be limited to, a receipt for payment for the equipment purchased in a bona fide transaction and documentation of payment of any tax assessed on the equipment pursuant to Title 36, chapter 105 for the year in which the bond worker is employed by the employer. Proof of ownership must be carried in the equipment and, upon request by the department or its designee, the operator of equipment subject to this section shall provide proof of ownership. If proof of ownership is not provided within ~~30~~ 14 calendar days of such a request, a fine of not less than \$5,000 and not more than \$25,000 may be assessed against that employer and collected by the Commissioner of Labor. Notwithstanding section 3, information regarding proof of ownership is not confidential and may be disclosed to the public. If the equipment is leased by the employer, the employer shall provide the name, address and telephone number of the leasing company and its affiliates and subsidiaries; the names, addresses and telephone numbers of the leasing company's owner or owners, its agent and members of its board of directors; and a copy of the lease document. A lease is sufficient to meet the ownership requirement of this section only if it is a bona fide lease and:

- A. The lease consists of an arm's length transaction between unrelated entities or is a transfer of equipment between affiliated companies;
- B. The lease document contains a specific duration and lease amount;

C. The lessor is not an entity owned or controlled by a bond worker or a bond worker's spouse, parent, child, sibling, aunt, uncle or cousin or person related to a bond worker in the same manner by marriage, or by any combination of a bond worker and the bond worker's family members described in this paragraph;

D. The lessor is a leasing business as evidenced by a lease of logging equipment to at least 3 different, unrelated entities within each of the past 3 years; and

E. The lessor provides proof of payment of personal property tax assessed on the leased equipment.

Sec. 2. 26 MRSA §872, sub-§2-A, as corrected by RR 2013, c. 1, §42, is amended to read:

2-A. Notification. An employer filing for certification from the United States Department of Labor to hire a bond worker to operate logging equipment shall at the time of filing notify the Maine Department of Labor and provide, for the year in which the bond worker is employed, the number of bond workers requested; a list of each piece of logging equipment, including serial number, a bond worker will operate; receipts for payment for the logging equipment purchased in bona fide transactions; and documentation of payment of any tax assessed on the logging equipment pursuant to Title 36, chapter 105. An employer shall notify the Maine Department of Labor within ~~30~~ 14 calendar days of the date on which a bond worker begins work in the State and shall specify the name of the bond worker and the anticipated locations where the bond worker will be conducting work and shall provide a copy of the United States Customs and Border Protection's entry form for that worker. The employer shall certify to the Maine Department of Labor that the employer is not requiring the bond worker to engage in point-to-point hauling of forest products within the State or to otherwise violate federal cabotage laws. If the notification is not provided within ~~30~~ 14 calendar days of the date on which a bond worker begins work, a fine of not less than \$5,000 and not more than \$25,000 must be assessed against that employer and collected by the Commissioner of Labor.

Sec. 3. 26 MRSA §931, first ¶, as amended by PL 2021, c. 421, §1, is further amended to read:

The State Board of Arbitration and Conciliation, in this subchapter called "the "board," consists of 3 members appointed by the Governor from time to time upon the expiration of the terms of the several members for terms of 3 years. One member must be an employer of labor or selected from an association representing employers of labor, and another must be an employee or selected from a bona fide trade or labor union. The 3rd member must represent the public interests of the State and serves as chair. Vacancies occurring during a term must be filled for the unexpired term. When meeting to deliberate or vote with respect to a matter before the board, members of the board are entitled to receive \$150 a day per meeting for their services for the time actually employed in the discharge of their official duties. For all other purposes, members of the board are entitled to receive \$300 a day for their services for the time actually employed in the discharge of their official duties. They are entitled to receive their traveling and all other necessary expenses. The costs for services rendered and expenses incurred by the State Board of Arbitration and Conciliation and any state allocation program charges must be shared equally by the parties to the proceedings and must be paid into a special fund administered by the Maine Labor Relations Board. Authorization for services rendered and expenditures incurred by the

State Board of Arbitration and Conciliation is the responsibility of the Executive Director of the Maine Labor Relations Board. All costs must be paid from that special fund. The executive director may estimate costs upon receipt of a request for services and collect those costs prior to providing the services. The executive director shall bill or reimburse the parties, as appropriate, for any difference between the estimated costs that were collected and the actual costs of providing the services. Once one party has paid its share of the estimated cost of providing the service, the matter is scheduled for hearing. A party who has not paid an invoice for the estimated or actual cost of providing services within 60 days of the date the invoice was issued is, in the absence of good cause shown, liable for the amount of the invoice together with a penalty in the amount of 25% of the amount of the invoice. Any penalty amount collected pursuant to this section remains in the special fund administered by the Maine Labor Relations Board and that fund does not lapse. The executive director is authorized to collect any sums due and payable pursuant to this section through civil action. In such an action, the court shall allow litigation costs, including court costs and reasonable attorney's fees, to be deposited in the General Fund if the executive director is the prevailing party in the action. The executive director shall, annually, on or before July 1st, make a report of the activities of the State Board of Arbitration and Conciliation to the Governor. The board shall from time to time adopt rules of procedure as it determines necessary, including rules for the Logging Dispute Resolution Board pursuant to chapter 47. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 26 MRSA c. 47 is enacted to read:

CHAPTER 47

LOGGING DISPUTE RESOLUTION BOARD

§3701. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Board. "Board" means the Logging Dispute Resolution Board established in section 3702.

2. Forest land. "Forest land" means land used primarily for growth of trees to be harvested for commercial use.

3. Forest landowner. "Forest landowner" means a person that owns or possesses economic control over more than 50,000 acres of forest land.

4. Forest products harvester. "Forest products harvester" means an individual who qualifies as an independent contractor under section 1043, subsection 11, paragraph E and who is engaged in harvesting trees from forest land for a forest landowner.

§3702. Establishment

1. Establishment. The Logging Dispute Resolution Board is established, under the authority of the State Board of Arbitration and Conciliation established in chapter 9, subchapter 2-A, to conduct proceedings under this chapter.

§3703. Members; terms; compensation; quorum

1. Members. The board consists of the following 3 members:

A. Two members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over labor matters, as follows:

(1) One member representing forest landowners; and

(2) One member with experience in dispute resolution and arbitration representing forest products harvesters from a list submitted by the Maine AFL-CIO or its successor organization; and

B. The chair of the State Board of Arbitration and Conciliation, who serves as an ex officio member and as chair of the board.

2. Terms; alternates. Members of the board appointed under subsection 1, paragraph A serve terms of 2 years. The Governor shall appoint 2 alternate members to represent each interest set forth in subsection 1, paragraph A. Alternate members serve for the same terms, have the same responsibilities and duties and are entitled to the same privileges and emoluments as members. The alternate chairs of the State Board of Arbitration and Conciliation under section 931 shall serve as alternate chairs of the board. When for any reason a member of the board cannot participate in a particular proceeding, an alternate member having the same qualifications shall act as a member of the board in that proceeding. The member described in subsection 1, paragraph B does not need to be the same individual in each proceeding.

3. Compensation of members. Notwithstanding Title 5, section 12004-B, subsection 1, the chair of the board is entitled to a rate of compensation of \$300 per day for participating in board proceedings. The other members are entitled to a rate of compensation of \$200 per day. All board members are entitled to travel and other expenses in the same manner as for State Board of Arbitration and Conciliation members under section 931.

4. Quorum. Two members of the board constitute a quorum. A vacancy in the board does not impair the power of the remaining members to exercise the powers of the board.

§3704. Board duties

The board may hear and decide disputes between a forest products harvester and forest landowner in accordance with this section related to wage violations, payout amounts, contract violations or disputes related to hiring.

At a hearing, the board shall hear all interested persons who come before it and make an award, if appropriate, and written opinion, which is binding on the parties to the complaint. The chair of the board shall publish the board's written opinion and any award.

§3705. Filing of complaint

1. Who may file complaint. A forest products harvester or forest landowner may file a complaint with the board stating the facts of a dispute. The filing must contain any information as required by the board by rule.

2. Limitation on time to file complaint. A forest products harvester or forest landowner may not file a complaint more than 2 years after an alleged dispute.

§3706. Proceedings

1. Cost. The costs of board members' per diem and necessary expenses, as well as related state allocation program charges, must be borne by the party against whom the board decides. The Executive Director of the Maine Labor Relations Board is authorized to collect any sums due and payable pursuant to this subsection through civil action. In such an action, the court shall allow litigation costs, including court costs and reasonable attorney's fees, to be deposited in the General Fund if the executive director is the prevailing party in the action.

2. Appeal. A decision of the board under this chapter constitutes a final agency action and is subject to judicial review pursuant to Title 5, chapter 375, subchapter 7.

3. Enforcement. A party to a decision of the board under this chapter may bring a civil action in Superior Court to enforce a decision of the board.

4. Applicability of State Board of Arbitration and Conciliation provisions. The following provisions apply to board proceedings under this chapter:

A. To the extent not inconsistent with this chapter, section 931; and

B. Sections 932 and 939.

§3707. Rules

The State Board of Arbitration and Conciliation in accordance with section 931 may adopt rules to implement this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.