

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Amend the Maine Workers' Compensation Act of 1992 Regarding Coordination of Benefits**

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

**Sec. 1. 39-A MRS §221, sub-§2**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed and the following enacted in its place:

**2. Definitions.** As used in this section, the following terms have the following meanings.

A. "After-tax amount" means the gross amount of any benefit under subsection 3, paragraph A, subparagraph (2), (3), (4) or (5) reduced by the prorated weekly amount that would have been paid, if any, under the Federal Insurance Contributions Act, 26 United States Code, Sections 3101 to 3126, state income tax and federal income tax, calculated on an annual basis using as the number of exemptions the disabled employee's dependents plus the employee, and without excess itemized deductions. In determining the "after-tax amount" the tables provided for in section 102, subsection 1 must be used. The gross amount of any benefit under subsection 3, paragraph A, subparagraph (2), (3), (4) or (5) is presumed to be the same as the average weekly wage for purposes of the table. The applicable 80% of after-tax amount as provided in the table, multiplied by 1.25, is conclusive for determining the "after-tax amount" of benefits under subsection 3, paragraph A, subparagraph (2), (3), (4) or (5).

B. "Disability insurance policy" does not include a life insurance policy that includes a disability feature.

**Sec. 2. Retroactivity.** This Act applies retroactively to all injuries including pending cases and cases on appeal.

### **SUMMARY**

This bill, which is in response to the decision of the Maine Supreme Judicial Court in Nichols v. S.D. Warren/Sappi, 2007 ME 103, 928 A.2d 732, provides that "disability insurance policy," as used in the coordination of benefits provisions of the Maine Workers' Compensation Act of 1992, does not include a life insurance policy that includes a disability feature.