

**§14055. Insurance; unemployment insurance; benefit plans**

**1. Benefits.** The following provisions govern the provision of benefits by employee leasing companies to their employees.

A. A registered employee leasing company qualifies as an "other group" within the meaning of Title 24-A, sections 2612-A and 2808 for purposes of procurement of group life and health insurance with respect to employees leased to a client company. A registered employee leasing company qualifies as an eligible group within the meaning of Title 24-A, section 2884 for purchase of group legal services insurance. Any employee welfare plan or benefit, other than workers' compensation insurance, provided to employees leased to a client company on less than a fully insured basis may be provided only subject to and in accordance with Title 24-A, chapter 81. [PL 1995, c. 618, §21 (RPR).]

B. The Superintendent of Insurance shall adopt rules governing the provision of workers' compensation insurance as required by Title 39-A, chapter 9 for workers provided by an employee leasing company to any client company. These rules must be consistent with subsection 2 and reflect consideration of the needs and operational efficiencies of employee leasing companies and the costs to the workers' compensation system. If either the employee leasing company or the client company has secured the payment of compensation in conformity with former Title 39, chapter 1 or Title 39-A, chapter 9, the immunity from liability described in that chapter extends to and is binding on the client company, the employee leasing company, all employees leased to any client company and any other employees of the employee leasing company or the client company. An employee leasing company is not responsible for securing the payment of compensation in conformity with Title 39-A nor deprived of the defenses listed in Title 39-A, section 103 with respect to those persons for whom the provision of benefits is not required under Title 39-A in the absence of an employee leasing arrangement. [PL 2013, c. 257, §3 (AMD).]

[PL 2013, c. 257, §3 (AMD).]

**2. Workers' compensation.** Workers' compensation insurance for employees leased to client companies is subject to the following.

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

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

(2) The policies be assigned to one servicing carrier and, to the extent practical, administered on a unified basis. The Superintendent of Insurance also may provide by rule that the employee leasing company or the President of the Maine Employers' Mutual Insurance Company request from the Superintendent of Insurance a waiver of a rule adopted pursuant to this subparagraph if it is impractical for one servicing carrier to service all the client companies of an employee leasing company. [PL 2013, c. 257, §4 (AMD).]

B. When workers' compensation coverage is provided by means of insurance maintained by the employee leasing company through the residual market mechanism, the rules may further provide for the application of experience modification factors, premium surcharges and deductibles consistent with Title 24-A, section 2386. To the extent that a workers' compensation insurance policy is issued to an employee leasing company, experience modification factors applicable to a

company that becomes a client company of the employee leasing company after the effective date of this section are calculated by using the client company's experience modification factor:

- (1) Throughout the term of the employee leasing arrangement; or
- (2) For no more than the first 3 years of the employee leasing arrangement if the requirements of the rules adopted by the superintendent are met. [RR 1999, c. 1, §47 (COR).]

C. Each employee leasing company that carries workers' compensation insurance for its leased employees shall maintain and make available to its workers' compensation carrier information required by rules adopted by the superintendent pursuant to this chapter. An employee leasing company shall promptly notify its workers' compensation insurance carrier and the residual market manager of the termination of the employee leasing company's relationship with any client company for which it provides workers' compensation insurance. [PL 1991, c. 468, §4 (NEW).] [PL 2013, c. 257, §4 (AMD).]

**3. Unemployment insurance.** An employee leasing company's responsibility for unemployment insurance is governed by Title 26, section 1221-A and as follows.

A. During the term of the leasing arrangement, the employee leasing company is responsible for payment of unemployment contributions, penalties and interest due pursuant to Title 26, chapter 13 on wages paid to employees leased to client companies, except for compensation paid to sole proprietors of or partners in the client company. [PL 1991, c. 468, §4 (NEW); PL 1991, c. 468, §6 (AFF).]

B. The employee leasing company shall report all unemployment contributions due under its state employer identification number, using its contribution rate. The employee leasing company shall keep separate records and submit separate quarterly wage reports to the Bureau of Unemployment Compensation for each of its client companies. [PL 1995, c. 560, Pt. G, §18 (AMD).] [PL 1995, c. 560, Pt. G, §18 (AMD).]

**4. Other insurance.** Employees leased to a client company by an employee leasing company remain the employees of the client company for purposes of general liability insurance, automobile insurance, fidelity bonds, surety bonds and employer's liability insurance carried by the client company. Employees leased to a client company by an employee leasing company are not deemed employees of the employee leasing company for purposes of general liability insurance, automobile insurance, fidelity bonds, surety bonds or employer's liability insurance carried by the employee leasing company unless the employees are included by specific reference in the applicable insurance contract or bond. [PL 1991, c. 468, §4 (NEW).]

**5. Disclosure.** The employee leasing company shall disclose to client companies services to be rendered, including costs, and the respective rights and obligations of the parties prior to entering into or receiving a leasing arrangement. This disclosure must include a statement that the client company may take complaints to the Bureau of Consumer Credit Protection. [PL 2013, c. 257, §5 (AMD).]

#### SECTION HISTORY

PL 1991, c. 468, §4 (NEW). PL 1991, c. 468, §6 (AFF). PL 1991, c. 885, §§E42,43 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1995, c. 560, §G18 (AMD). PL 1995, c. 618, §§21,22 (AMD). PL 1997, c. 29, §2 (AMD). RR 1999, c. 1, §47 (COR). PL 2013, c. 257, §§3-5 (AMD).

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