

MAINE STATE LEGISLATURE

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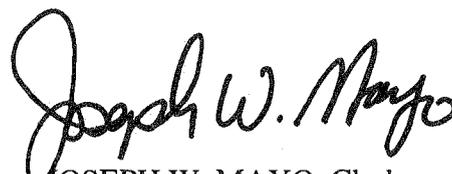
H.P. 716

House of Representatives, February 11, 1997

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

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

Reference to the Committee on Banking and Insurance suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative DAVIDSON of Brunswick.
Cosponsored by Representative PERRY of Bangor.

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

2
4 **Sec. 1. 24 MRSA §2601, first ¶**, as amended by PL 1993, c. 600,
Pt. B, §§21 and 22, is further amended to read:

6 Every insurer providing professional liability insurance in
8 this State to a person licensed by the Board of Licensure in
Medicine or the Board of Osteopathic Licensure or to any health
10 care provider shall make a periodic report of claims made under
the insurance to the department or board that regulates the
12 insured ~~and--to--the--Attorney--General~~. For purposes of this
section, a claim is made whenever the insurer receives
14 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:

16 **Sec. 2. 24 MRSA §2602, sub-§1**, as amended by PL 1991, c. 534,
18 §4, is further amended to read:

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

26 A. A final judgment or award to the claimant in any amount;

28 B. A settlement involving payment in any amount of money or
services; or

30 C. A final disposition not involving any payment of money
32 or services.

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

38 **Sec. 3. 24-A MRSA §237, sub-§2**, as enacted by PL 1985, c. 446,
§2, is amended to read:

40 **2. Direct gross premium.** Based on the annual statement
42 filed by each insurer pursuant to section 423, the superintendent
shall ascertain the amount of direct gross premium it received in
44 that year. For the purpose of this section only, "direct gross
premiums" means and includes policy, membership, annuity
46 considerations and other fees, policy dividends applied in
payment for insurance and other considerations for insurance
48 received by insurers, on account of policies or contracts
covering subjects of insurance, or risks located, resident or to
50 be performed in this State, after deducting return premiums or

2 dividends actually returned or credited to policyholders. On or
before March 1st of each year, the superintendent shall ascertain
4 for every insurer, workers' compensation individual self-insurer
and workers' compensation group self-insurer, the amount of total
6 actual paid workers' compensation losses and total actual paid
workers' compensation medical payments for the previous calendar
8 year. On or before March 1st of each year, the superintendent
shall ascertain for every workers' compensation individual
10 self-insurer and workers' compensation group self-insurer, the
amount of annual standard premium that would have been paid
during the previous calendar year.

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

14 **8. Confidentiality of form filings.** Forms filed as
16 required by this section and any supporting information are
confidential until the filing becomes effective. If an insurer
18 does not provide an effective date for the filings, the forms and
supporting information become public on the date the filing is
20 approved.

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

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

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

40 **1-A. Bureau of Insurance report.** On or before July 1st of
42 each year, the Bureau of Insurance shall provide to the
commissioner the amounts of actual losses, excluding medical
44 payments, paid by each workers' compensation individual
self-insurer and workers' compensation group self-insurer during
46 the previous calendar year.

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

2 D. Notwithstanding any provision of this chapter, any
4 authorization to self-insure may not be conditioned on a
6 bond or security deposit required of a public employer that
8 is a self-insurer may not exceed in excess of \$50,000, as
10 long as the public employer has for the State, the
12 University of Maine System or any county, city or town with
14 a state-assessed valuation equal to or in excess of
16 \$300,000,000 and either a bond rating equal to or in excess
18 of the 2nd highest standard as set by a national bond rating
20 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.~~

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

26 **4. Group self-insurers; application.** Except for the
28 provision relating to individual public employer self-insurers,
30 subsection 3 is equally applicable in all respects to group
32 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:

34 A. A payroll report for each participating employer of the
group for the 3 preceding annual fiscal periods;

36 B. A report of compensation losses incurred, payments plus
38 reserves, by each participating employer of the group for
the periods described in paragraph A;

40 C. A sworn itemized statement of the group's assets and
42 liabilities; satisfactory proof of financial ability to pay
44 compensation for the employers participating in the group
of continuance;

46 D. A description of the safety organization maintained by
48 the employer or group for the prevention of injuries;

50 E. A statement showing the kind of operations performed or
to be performed;

2 F. An indemnity agreement in a form prescribed by the
3 superintendent that jointly and severally binds the group
4 and each member to comply with the provisions of this Act;
5 and

6 G. Any other agreements, contracts or other pertinent
7 documents relating to the organization of the employers in
8 the group.

10 If, upon examination of the sworn financial statement and other
11 data submitted, the superintendent is satisfied as to the ability
12 of the employer or group to make current compensation payments
13 and that the employer's or group's tangible assets make
14 reasonably certain the payment of all obligations that may arise
15 under this Act, the application must be granted subject to the
16 terms and conditions setting out the exposure of cash deposits or
17 securities or an acceptable surety bond, as required by the
18 superintendent. Security against shock or catastrophe loss must
19 be provided either by depositing securities with the board in
20 such amount as the superintendent may determine or by filing with
21 the superintendent and the board an insurance carrier's
22 certificate of a standard self-insurer's reinsurance contract
23 issued to the self-insurer or group in a form approved by the
24 superintendent, providing coverage against losses arising out of
25 one injury in such amounts as the superintendent may determine,
26 or a combination of the foregoing, satisfactory to the
27 superintendent. Notwithstanding any provision of this chapter,
28 no specific or aggregate reinsurance may be required of any
29 individual public employer ~~who is self-insured and has a~~
30 ~~state-assessed valuation equal to or in excess of \$300,000,000~~
31 ~~and either a net worth equal to or in excess of \$25,000,000 or a~~
32 ~~bond rating equal to or in excess of the 2nd highest standard as~~
33 ~~set by a national bond rating organization, provided that, if the~~
34 ~~self-insurer relying on a bond rating is a county, city or town,~~
35 ~~it shall value or cause to be valued its unpaid workers'~~
36 ~~compensation claims pursuant to sound accepted actuarial~~
37 ~~principles that is self-insured and qualifies for the alternative~~
38 security requirements of subsection 3, paragraph D. This value
39 ~~must be incorporated in the annual audit of the county, city or~~
40 ~~town together with disclosure of funds appropriated to discharge~~
41 ~~incurred claims expenses.~~

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44 Yearly reports in a form prescribed by the superintendent must be
45 filed by each self-insurer or group. The superintendent may, in
46 addition, require the filing of quarterly financial status
47 reports whenever the superintendent has reason to believe that
48 there has been a deterioration in the financial condition of
49 either an individual or group self-insurer that adversely affects
50 the individual's or group's ability to pay expected losses. The

2 reports must be filed within 30 days after the superintendent's
3 request or at such time as the superintendent shall otherwise set.

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

8 **Sec. 9. 39-A MRSA §404, sub-§2**, as amended by PL 1995, c. 594,
9 §7, is further amended by amending the first paragraph to read:

10 **2. Membership required.** All self-insurers, as defined in
11 under this Title, must be members of the association as a
12 condition of authority to self-insure in this State, except that
13 all public employers that are individual self-insurers, ~~with a~~
14 ~~state-assessed valuation equal to or in excess of \$300,000,000~~
15 ~~and have either a net worth equal to or in excess of \$25,000,000~~
16 ~~or a bond rating equal to or in excess of the 2nd highest~~
17 ~~standard as set by a national bond rating organization, are not~~
18 ~~subject to this subsection. Public employers that are~~ and quality
19 for the alternative security requirements of section 403,
20 subsection 3, paragraph D and group self-insurers with whose
21 membership consists exclusively of public employers and whose
22 members have in the aggregate a state-assessed valuation equal to
23 or in excess of \$5,000,000,000 are not subject to this
24 subsection. However, if a self-insurer relying on a bond rating
25 is a county, city or town, it shall value or cause to be valued
26 its unpaid workers' compensation claims pursuant to sound
27 accepted actuarial principles. This value must be incorporated
28 in the annual audit of the county, city or town together with
29 disclosure of funds appropriated to discharge incurred claims
30 expenses. The association shall perform its functions under a
31 plan of operation established or amended, or both, and approved
32 by the superintendent and shall exercise its powers through the
33 board of directors established in this section.

36 **Sec. 10. 39-A MRSA §404, sub-§4, ¶A**, as amended by PL 1995, c.
37 398, §5, is amended by repealing sub-¶(1) and enacting the
38 following in its place:

40 (1) On or before July 15th of each year, the Bureau of
41 Insurance shall provide to the Maine Self-Insurance
42 Guarantee Association the amounts of annual standard
43 workers' compensation premiums written by each
44 individual self-insurer and group self-insurer during
45 the previous calendar year. The Maine Self-Insurance
46 Guarantee Association may request additional
47 information from self-insurers to verify the accuracy
48 of the amounts reported.

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

4
5 **1. Annual standard premium.** The superintendent shall
6 utilize the annual standard premium for each approved
7 self-insurer as reported to the Bureau of Insurance ~~by the Maine~~
8 ~~Self-Insurance--Guarantee--Association~~ pursuant to Title 24-A,
9 section 404 237, subsection 4 2 in determining the amount of the
10 assessment.

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SUMMARY

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15 Sections 1 and 2 eliminate the requirement that insurers
16 providing medical professional liability insurance report claims
17 and information on the disposition of claims to the Attorney
18 General.

19 Sections 3, 6, 10 and 11 reduce the reporting requirement
20 for workers' compensation self-insurers to one report from 2 by
21 eliminating the requirement that each individual self-insurer and
22 group self-insurer report aggregate benefits paid and the annual
23 standard premium to the Maine Self-Insurance Guarantee
24 Association. This data would be filed with the Bureau of
25 Insurance and the bureau would be responsible for its
26 distribution to the Maine Department of Labor, Workers'
27 Compensation Board and Maine Self-Insurance Guarantee Association.

28 Section 4 clarifies that forms filed with the bureau become
29 public when effective, or if no effective date is provided, the
30 forms become public when approved.

31 Section 5 clarifies that notice and mailing time
32 requirements apply to the cancellation of casualty insurance
33 policies that are in effect for 60 days or less.

34 Sections 7, 8 and 9 authorize the State or the University of
35 Maine System to post security at the level of \$50,000 under the
36 public employer provisions of the self-insurance laws. Those
37 sections clarify that the valuation, net worth and bond rating
38 tests apply only to municipalities and counties.

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