

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2043
6

7 S.P. 740

In Senate, February 2, 1984

8 Reference to the Committee on Business Legislation. Ordered printed and
9 sent down for concurrence.

10 Submitted by the Department of Business Regulation pursuant to Joint
Rule 24.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Dutremble of York.

11 Cosponsors: Representative Tuttle of Sanford, Representative Brannigan
of Portland and Representative Telow of Lewiston.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FOUR
16

17 AN ACT to Define Primary Excess Insurer
18 Pursuant to Self-insurance under the Maine
19 Workers' Compensation Act.
20

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

23 Sec. 1. 39 MRSA §23, sub-§2, as amended by PL
24 1981, c. 484, §2, is further amended to read:

25 2. By furnishing satisfactory proof to the Su-
26 perintendent of Insurance of his solvency and finan-
27 cial ability to pay the compensation and benefits,
28 and deposit cash, satisfactory securities or a secu-
29 rity bond, with the Workers' Compensation Commission,
30 in such sum as the superintendent may determine; such
31 bond to run to the Treasurer of State and his succes-
32 sor in office, and to be conditional upon the faith-
33 ful performance of this Act relating to the payment
34 of compensation and benefits to any injured employee.

1 In case of cash being deposited, it shall be placed
2 at interest by the Treasurer of State, and the accu-
3 mulation of interest on said cash or securities so
4 deposited shall be paid to the employer depositing
5 the same. The superintendent may at any time in its
6 discretion deny to an employer the right to continue
7 in the exercise of the option granted by this sec-
8 tion.

9 Notwithstanding any provision of this section or
10 chapter, any bond or security deposit required of a
11 public employer which is a self-insurer shall not ex-
12 ceed \$50,000, provided that such public employer has
13 a net worth equal to or in excess of \$25,000,000 and
14 a state-assessed valuation equal to or in excess of
15 \$300,000,000. "Public employer" includes the State,
16 the University of Maine, counties, cities and towns.

17 In his consideration of a self-insuring entity's ap-
18 plication for authorization to operate a plan of
19 self-insurance, the superintendent may require or
20 permit an applicant to employ valid risk transfer by
21 the utilization of primary excess insurance. Stan-
22 dards respecting the application of primary excess
23 insurance shall be contained in a regulation promul-
24 gated by the superintendent pursuant to the Maine Ad-
25 ministrative Procedure Act, Title 5, chapter 375.
26 Primary excess insurance shall be defined as insur-
27 ance covering workers' compensation exposures in ex-
28 cess of risk retained by a self-insurer.

29 Sec. 2. 39 MRSA §23, sub-§2-A, as amended by PL
30 1981, c. 484, §§3 - 5, is further amended to read:

31 2-A. Group self-insurers; application. Except
32 for the provision relating to individual public em-
33 ployer self-insurers, subsection 2 shall be equally
34 applicable in all respects to group self-insurers.
35 Any employer or group of employers desiring to become
36 a self-insurer shall submit to the Superintendent of
37 Insurance with an application for self-insurance, in
38 a form prescribed by the superintendent the follow-
39 ing:

40 A. A payroll report for each participating em-
41 ployer of the group for 3 preceding annual fiscal
42 periods;

- 1 B. A report of compensation losses incurred,
2 payments plus reserves, by each participating em-
3 ployer of the group for the corresponding 3 annu-
4 al periods;
- 5 C. A sworn itemized statement of the group's as-
6 sets and liabilities; satisfactory proof of fi-
7 nancial ability to pay compensation for the em-
8 ployers participating in the group plan; the
9 group's reserves, their source and assurance of
10 continuance;
- 11 D. A description of the safety organization
12 maintained by the employer or group for the pre-
13 vention of injuries;
- 14 E. A statement showing the kind of operations
15 performed or to be performed; and
- 16 F. Any and all agreements, contracts or other
17 pertinent documents relating to the organization
18 of the employers in the group.

19 If, upon examination of the sworn financial statement
20 and other data submitted, the superintendent is sat-
21 isfied as to the ability of the employer or group to
22 make current compensation payments and that the em-
23 ployer's or group's tangible assets make reasonably
24 certain the payment of all obligations that may arise
25 under the Workers' Compensation Law, the application
26 shall be granted subject to the terms and conditions
27 setting out the exposure of cash deposits or securi-
28 ties or an acceptable surety bond, all as required by
29 the superintendent. Security against shock or catas-
30 trophe loss shall be provided either by depositing
31 securities with the Workers' Compensation Commission
32 in such amount as the superintendent may determine,
33 or by filing with the superintendent and the Workers'
34 Compensation Commission an insurance carrier's cer-
35 tificate of a standard self-insurer's primary excess
36 contract issued to the self-insurer or group in form
37 approved by the superintendent, providing ~~reinsurance~~
38 coverage against losses arising out of one injury in
39 such amounts as the superintendent may determine, or
40 a combination of the foregoing, satisfactory to the
41 superintendent. Notwithstanding any provision of
42 this section or chapter, no specific or aggregate ex-

1 cess insurance shall be required of any individual
2 public employer who is self-insured and has a net
3 worth equal to or in excess of \$25,000,000 and a
4 state-assessed valuation equal to or in excess of
5 \$300,000,000.

6 Yearly reports in a form prescribed by the superin-
7 tendent shall be filed by each self-insurer or group.
8 The superintendent may, in addition, require the fil-
9 ing of quarterly financial status reports whenever he
10 has reason to believe that there has been a deterio-
11 ration in the financial condition of either an indi-
12 vidual or group self-insurer which adversely affects
13 the individual's or group's ability to pay expected
14 losses. Said reports shall be filed within 30 days
15 after the superintendent's request, or at such time
16 as the superintendent shall otherwise set.

17 After approving any application for self-insurance,
18 the superintendent shall promptly notify the Workers'
19 Compensation Commission and forward to it copies of
20 the application and all supporting materials.

21 STATEMENT OF FACT

22 This bill specifically defines coverages obtained
23 by workers' compensation self-insurers to be con-
24 tracts of primary excess insurance subject to the
25 Maine Insurance Guaranty Association Act, the Revised
26 Statutes, Title 24-A, chapter 57, subchapter III.

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