

MAINE STATE LEGISLATURE

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OK
R.O.S.

L.D. 1843

(Filing No. S-625)

STATE OF MAINE
SENATE
114TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT " A " to S.P. 705, L.D. 1843, Bill, "An Act to Exempt Medical Malpractice Captive Insurance Companies from the Requirement to Obtain Certificates of Authority to Transact Insurance in the State of Maine"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'24-A MRSA §407-A is enacted to read:

§407-A. Certificate of authority requirements for domestic medical malpractice insurers wholly owned by nonprofit hospitals

1. Nothing in this Title may be construed to require a domestic insurer that is directly or indirectly controlled by a domestic nonprofit hospital or hospital holding company with net worth of at least \$50,000,000, which solely insures against the medical malpractice risk of its parent, or a subsidiary or affiliate of the parent and its employees and which independently bears none of the medical malpractice risks of its parent or the parent's affiliates or subsidiaries, but is wholly reinsured by a foreign or domestic reinsurer otherwise authorized to transact insurance under this Title, to comply with any other requirements of this Title as a prerequisite to obtaining a certificate of authority to transact insurance in this State except as specifically provided in this section.

2. Domestic insurers seeking to obtain a certificate of authority to transact insurance in this State under this section shall comply with the following requirements.

A. A domestic insurer that intends to transact insurance in this State under this section must, prior to doing business, furnish notice to the superintendent that:

(1) Identifies the date the insurer was formed in this State;

2 (2) Specifies the lines and classifications of
3 liability insurance that the insurer intends to provide;

4 (3) Identifies the insurance company from which the
5 insurer intends to purchase its reinsurance and the
6 domicile of that company;

7 (4) Specifies the subsidiaries or affiliates, if any,
8 to whom insurance will be offered whose risks are
9 resident or located in this State, and that
10 subsidiary's or affiliate's relationship to the
11 insurer's parent company;

12 (5) Identifies the parent company of the insurer and
13 submits, in a form acceptable to the superintendent,
14 sufficient evidence to show that the parent has net
15 worth of at least \$50,000,000;

16 (6) Identifies the principal place of business of the
17 insurer; and

18 (7) Provides other information that may be required by
19 the superintendent to verify that the insurer is
20 qualified to transact insurance under this section and
21 to issue a certificate of authority so limited.

22 B. The domestic insurer shall submit to the superintendent
23 for approval any reinsurance agreement, including amendments
24 to that agreement, it enters into in order to satisfy the
25 requirements of subsection 1.

26 C. The domestic insurer shall notify the superintendent of
27 its registered agent or register with the Secretary of State
28 and designate the superintendent as its agent solely for the
29 purpose of receiving service of legal documents or process.

30 D. A domestic insurer that intends to do business or is
31 doing business in this State under this section shall notify
32 the superintendent no less than annually of any subsequent
33 change or lack of change in any information or other items
34 provided pursuant to this section, except that any amendment
35 to a reinsurance agreement must be submitted for approval
36 not later than the date of its execution.

37 E. A domestic insurer qualified under this section may not
38 solicit insurance transactions or sell insurance to any
39 person or for any risk not eligible to be insured under
40 subsection 1.

41 F. A domestic insurer qualified under this section may not
42 offer insurance policy coverage prohibited by the laws of
43 this State.

This amendment addresses concerns raised by the Bureau of Insurance about possible circumvention of the protections afforded by the Maine Insurance Code if domestic insurers that are wholly owned by a nonprofit hospital were allowed to insure medical providers and qualify for certificate of authority without regard to capitalization and other requirements for such certificates under the Maine Insurance Code by providing that any risk assumed by such insurers be fully reinsured by domestic or foreign reinsurers under reinsurance agreements subject to the superintendent's approval, and by requiring that only domestic insurers wholly owned by a hospital or hospital holding company with net worth of \$50,000,000 qualify under this provision. In addition, the amendment provides that these domestic insurers provide certain information to the Superintendent of Insurance, no less often than annually, to allow verification of the insurer's qualifications to transact insurance under this section. Certificates of authority will then be issued in the usual manner provided for in the Maine Insurance Code. Solicitation or sale of any kind of insurance other than medical malpractice is prohibited.

(Senator THERIAULT)
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