

MAINE STATE LEGISLATURE

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M
A.S.

L.D. 1499

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BANKING AND INSURANCE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1068, L.D. 1499, Bill, "An Act Concerning the Regulation of Certain Commercial Contracts of Insurance"

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

'Sec. 1. 24-A MRSA §2412-A is enacted to read:

§2412-A. Large commercial contracts

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Contract of insurance" means a contract of insurance, as defined in section 3, that provides for property or casualty insurance coverages or a combination of property or casualty insurance, excluding workers' compensation, medical malpractice, life, health and disability insurance.

B. "Large commercial policyholder" means an insurance contract holder that is a corporation, partnership, trust, sole proprietorship or other business or public entity and that has certified that it meets:

(1) At least 2 of the following 3 criteria:

(a) A net worth of \$10,000,000 as certified by a certified public accountant or public accountant authorized to do business in this State;

2 (b) Net revenue or sales of \$5,000,000 as
4 certified by a certified public accountant or
 public accountant authorized to do business in
 this State; or

6 (c) A total of more than 25 employees per
8 individual company or more than 50 employees per
 holding company; and

10 (2) The following criteria:

12 (a) The use of an employed or retained risk
14 manager to procure insurance. For purposes of this
16 division, "risk manager" means a chartered
18 property and casualty underwriter, an associate in
 risk management, a certified risk manager or a
 licensed insurance consultant; and

20 (b) Aggregate property and casualty insurance
22 premium payments, excluding workers' compensation,
 medical malpractice, life, health and disability
 insurance premiums as follows:

24 (i) Until December 31, 2000, \$90,000;

26 (ii) From January 1, 2001 until December 31,
28 2001, \$75,000;

30 (iii) From January 1, 2002 until December 31,
32 2002, \$60,000; and

34 (iv) From January 1, 2003 until December 31,
 2003, \$50,000.

36 "Large commercial policyholder" also includes a nonprofit or
38 public entity with an annual budget or assets of \$25,000,000
40 or more that meets the criteria listed in subparagraph (2)
 and a municipality with a population of 20,000 or more that
 meets the premium criteria listed in subparagraph (2),
 division (b).

42 A commercial policyholder that meets the premium criteria
44 listed in subparagraph (2), division (b) but that does not
46 meet 3 of the qualifying criteria listed in either
 subparagraph (1) or subparagraph (2), division (a) may
48 petition the superintendent for a waiver of the remaining
 criteria. The superintendent may grant a waiver if the
 superintendent determines that the applicant for a waiver is

2 sufficiently qualified to act as a large commercial
3 policyholder.

4 2. Regulation of policy; establishing rates. The
5 provisions of section 2412, subsections 1 to 5 and subsection 8;
6 sections 2413, 2418, 2421 and 2438 to 2445; and chapter 25,
7 subchapter 1, except for section 2302, subsection 1, paragraph B,
8 as the provisions relate to the filing, approval and fixing of or
9 establishing rates, do not apply to any contract of insurance
10 issued to a large commercial policyholder pursuant to this
11 section. Section 2404, subsection 4 also does not apply to any
12 contract of insurance issued pursuant to this section to a large
13 commercial policyholder.

14 3. Underwriting files. Notwithstanding subsection 2, an
15 insurer issuing contracts of insurance to large commercial
16 policyholders shall maintain underwriting files; premium, loss
17 and expense statistics; claims files and records; written
18 certification from the large commercial policyholder that it
19 meets the criteria for a large commercial policyholder under
20 subsection 1, paragraph B; and financial and other records with
21 regard to such contracts that are subject to examination by the
22 superintendent. A large commercial policyholder shall annually
23 file a certification as a large commercial policyholder with the
24 insurer.

25 4. Disclaimer required. Each policy issued to a large
26 commercial policyholder pursuant to this section must include a
27 disclaimer with language similar to the following:

28 "The contract provisions, rates and rating plans provided
29 for in this policy are exempt from the filing and approval
30 requirements of the Bureau of Insurance."

31 5. Suspension of program by superintendent. If the
32 superintendent finds at any time that a sufficient degree of
33 competition does not exist for a particular line, class or type
34 of insurance, then the superintendent may deem the provisions of
35 this section waived for so long as a sufficient degree of
36 competition does not exist. After waiver by the superintendent,
37 upon the request of 5 or more interested parties, the
38 superintendent, within 45 days of the request, shall hold a
39 hearing at which interested parties may present evidence as to
40 whether a sufficient degree of competition exists for the
41 particular line, class or type of insurance.

42 6. Annual report. An insurer that issues policies pursuant
43 to this section shall report annually to the superintendent
44 beginning on February 1, 2001 and continuing until February 1,
45 2005. The report must be made on a form prescribed by the
46 superintendent.

1 superintendent and must include information relating to the
2 number of policies issued each year sorted by line of insurance;
3 the number of policies renewed each year sorted by line of
4 insurance; and any other pertinent information required by the
5 superintendent.

6
7 7. Bureau report. On or before March 1, 2005, the
8 superintendent shall report to the joint standing committee of
9 the Legislature have jurisdiction over insurance matters on the
10 insurers issuing contracts to large commercial policyholders
11 under this section. The report must contain the superintendent's
12 recommendations as to any changes in the criteria established in
13 this section to qualify as a large commercial policyholder.'

14
15 Further amend the bill by inserting at the end before the
16 summary the following:

17
18 **FISCAL NOTE**

19
20 The deregulation of certain commercial insurance lines will
21 result in insignificant reductions of dedicated revenue to the
22 Bureau of Insurance from insurance form filing fees. The bureau
23 may realize some minor administrative savings as a result of the
24 deregulation if there is a reduction in form filings requiring
25 reviews. These savings may be somewhat offset by minor costs to
26 the bureau to review annual reports submitted by insurers to
27 report on the operation of the large commercial contracts
28 provisions.'

29
30
31 **SUMMARY**

32
33 This amendment replaces the bill. It authorizes the
34 issuance of certain property and casualty insurance policies
35 without rate-filing and form-filing requirements to qualifying
36 large commercial policyholders. The amendment defines the
37 criteria that must be met to qualify as a large commercial
38 policyholder, contains disclosure provisions and requires annual
39 reporting by insurers on the policies issued to large commercial
40 policyholders. The amendment gives the Superintendent of
41 Insurance the authority to deem the provisions of the statute
42 waived if there is not sufficient competition for a particular
43 line, class or type of insurance. The amendment requires the
44 Superintendent of Insurance to report to the Legislature before
45 March 1, 2005 on the insurers issuing contracts to large
46 commercial policyholders.

47
48 This amendment also adds a fiscal note to the bill.