

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 852

H.P. 629

House of Representatives, February 20, 2003

An Act To Promote Alternatives in Group Self-insurance

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative O'NEIL of Saco.

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

2 **Sec. 1. 39-A MRSA §403, sub-§4.** as amended by PL 1997, c. 126,
4 §8, is further amended to read:

6 **4. Group self-insurers; application.** Except for the
7 provision relating to individual public employer self-insurers,
8 subsection 3 is equally applicable in all respects to group
9 self-insurers. Any employer or group of employers desiring to
10 become a self-insurer shall submit to the Superintendent of
11 Insurance with an application for self-insurance, in a form
12 prescribed by the superintendent, the following:

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

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

19 C. A sworn itemized statement of the group's assets and
20 liabilities; satisfactory proof of financial ability to pay
21 compensation for the employers participating in the group
22 plan; and the group's reserves, their source and assurance
23 of continuance;

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

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

28 F. An indemnity agreement in a form prescribed by the
29 superintendent that jointly and severally binds the group
30 and each member to comply with the provisions of this Act;
31 and

32 G. Any other agreements, contracts or other pertinent
33 documents relating to the organization of the employers in
34 the group.

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42 If, upon examination of the sworn financial statement and other
43 data submitted, the superintendent is satisfied as to the ability
44 of the employer or group to make current compensation payments
45 and that the employer's or group's tangible assets make
46 reasonably certain the payment of all obligations that may arise
47 under this Act, the application must be granted subject to the
48 terms and conditions setting out the exposure of cash deposits or
49 securities or an acceptable surety bond, as required by the
50 superintendent. ~~See~~ Except as provided in subsection 4-A,

2 security against shock or catastrophe loss must be provided
either by depositing securities with the board in such amount as
4 the superintendent may determine or by filing with the
superintendent and the board an insurance carrier's certificate
6 of a standard self-insurer's reinsurance contract issued to the
self-insurer or group in a form approved by the superintendent,
8 providing coverage against losses arising out of one injury in
such amounts as the superintendent may determine, or a
10 combination of the foregoing, satisfactory to the
superintendent. Notwithstanding any provision of this chapter,
12 no specific or aggregate reinsurance may be required of any
individual public employer that is self-insured and qualifies for
14 the alternative security requirements of subsection 3, paragraph
D.

16 Yearly reports in a form prescribed by the superintendent must be
filed by each self-insurer or group. The superintendent may, in
18 addition, require the filing of quarterly financial status
reports whenever the superintendent has reason to believe that
20 there has been a deterioration in the financial condition of
either an individual or group self-insurer that adversely affects
22 the individual's or group's ability to pay expected losses. The
reports must be filed within 30 days after the superintendent's
24 request or at such time as the superintendent shall otherwise set.

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

30 **Sec. 2. 39-A MRS §403, sub-§4-A** is enacted to read:

32 **4-A. Group self-insurers reinsurance alternative account.**
34 As an alternative to obtaining a reinsurance contract providing
coverage against losses arising out of one injury, group
36 self-insurers may participate in an account established by the
Superintendent of Insurance as provided in this subsection.

38 A. Upon the petition of 3 or more authorized group
self-insurers, the Superintendent of Insurance shall create
40 an account for the deposit of funds in lieu of reinsurance.
The account, called the "Workers' Compensation Group
42 Self-insurance Specific Reinsurance Alternative Account,"
and referred to in this section as "the account," may be
44 used as an alternative to obtaining a reinsurance contract
providing coverage against losses arising out of one injury.

46 B. The purpose of the account is to accumulate funds to
48 provide coverage against losses arising out of one injury in
excess of \$500,000. Any group self-insurer that is subject
50 to joint and several liability pursuant to subsection 4,

2 paragraph F may pay funds into the account as an
3 alternative to obtaining specific reinsurance. A group
4 self-insurer who pays into the account shall continue to
5 make annualized payments into the account for at least 3
6 years.

7 C. Only those injuries that occur on or after the date of
8 first payment to the account by the injured person's group
9 self-insurer are eligible for coverage pursuant to this
10 subsection.

11 D. Payments into the fund must be made as follows:

12 (1) The first year, payment by each participating
13 group must be in an amount equal to the average premium
14 payment for specific excess insurance made by that
15 group self-insurer for each of the 3 years immediately
16 preceding the first payment into the account;

17 (2) The Superintendent of Insurance may require that
18 payments for the 2nd and 3rd years be increased by a
19 maximum of 10% per year over the payment made the first
20 year; and

21 (3) The superintendent may require that payments for
22 the 4th and 5th years be made by all groups in an
23 amount not to exceed each group's 3rd payment.

24 E. Claims may be made against the account as follows:

25 (1) A group self-insurer may make claims against the
26 account for reimbursement of losses in excess of
27 \$500,000 arising out of one injury; and

28 (2) A group self-insurer who makes a claim against the
29 account, commencing with the next anniversary date of
30 that group self-insurer's participation in the account,
31 shall pay into the account the lesser of:

32 (a) The amount claimed from the account; and

33 (b) One year's contribution of an amount not to
34 exceed rates for reinsurance from that same time
35 period quoted by a reinsurer acceptable to the
36 Superintendent of Insurance;

37 If one year's contribution is insufficient to fully
38 reimburse the account for the claim amount, the group
39 self-insurer shall continue to make annual payments to
40 the account until the claim amount is repaid to the
41 account.

2 F. The account may not be used for any purpose other than
3 as provided in this subsection.

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5 G. After the account is established, if at any time there
6 are no group self-insurers participating, the Superintendent
7 of Insurance shall terminate the account. Any funds
8 remaining in the account must be returned, on a pro rata
9 basis, to those group self-insurers who participated in the
10 account during the 24 months prior to the termination of the
11 account.

12 The superintendent shall adopt rules to implement this
13 subsection. Rules adopted pursuant to this subsection are
14 routine technical rules as defined in Title 5, chapter 375,
15 subchapter 2-A.

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SUMMARY

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20 This bill allows the Superintendent of Insurance within the
21 Department of Professional and Financial Regulations to establish
22 the Workers' Compensation Group Self-insurance Specific
23 Reinsurance Alternative Account, an alternative method for group
24 self-insurers to secure payment on specific claims that exceed
25 \$500,000. The superintendent is required to establish the
26 account if 3 or more group self-insurers request the creation of
27 the account. Participation in the account is required for a
28 minimum of 3 years. Payments by the group self-insurers into the
29 account are based on the rates of reinsurance and adjusted by the
30 superintendent. Claims may be made for an injury occurring on or
31 after the date of first deposit into the account but must be
32 repaid in full through annualized payments by the group
33 self-insurer.
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