

# MAINE STATE LEGISLATURE

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**MINORITY**

Date: 2/24/20

(Filing No. S-4/64)

**HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

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**STATE OF MAINE  
SENATE  
129TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 185, L.D. 598, Bill, "An Act Regulating Employee Benefit Excess Insurance"

Amend the bill by striking out everything after the enacting clause and inserting the following:

**Sec. 1. 24-A MRSA §2452-A is enacted to read:**

**§2452-A. Employee benefit excess insurance for small groups; rating practices**

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

A. "Carrier" means an entity authorized to issue employee benefit excess insurance in this State.

B. "Eligible employee" means an employee who is eligible for a small employer's sponsored health benefit plan and includes a sole proprietor, a partner of a partnership and an independent contractor, if these individuals are included as employees under the small employer's health benefit plan.

C. "Employee" means an employee as defined under the federal Employee Retirement Income Security Act of 1974.

D. "Enrolled employee" means an eligible employee who has elected coverage in the small employer's sponsored health benefit plan.

E. "Premium rate" means the total amount due from a small employer to a carrier for the provision of employee benefit excess insurance.

F. "Small employer" means an employer eligible for a small group health plan under section 2808-B or under the federal Affordable Care Act.

**2. Rating practices.** The following requirements apply to the rating practices of carriers providing employee benefit excess insurance to small employers.

**COMMITTEE AMENDMENT**

1 A. A carrier may not vary the premium rate due to the gender, health status, claims  
2 experience or policy duration of the group of eligible employees or members of the  
3 group or any other rating factor not specified in this section.

4 B. A carrier may vary the premium rate by using the following allowable case  
5 characteristics:

6 (1) The attained ages of the covered population;

7 (2) The geographic area of the small employer; and

8 (3) The family status of the enrolled employees.

9 C. For purposes of paragraph B, a carrier may use approximations to calculate  
10 allowable case characteristics as long as any approximation method used by a carrier  
11 is applied uniformly among all small employers. An acceptable approximation  
12 method includes using the attained ages of enrolled employees with tier-based  
13 membership factors to approximate the attained ages of the covered population or  
14 using a prior census to estimate the actual enrollment.

15 D. The premium rates calculated at issue, or at renewal, may not change during the  
16 policy year if the allowable case characteristics of a small employer group change.

17 **3. Reporting.** Beginning March 15, 2021, and annually thereafter, a carrier offering  
18 employee benefit excess insurance to small employers shall file a report with the  
19 superintendent detailing for the prior calendar year any instances in which the carrier  
20 declined to offer coverage as applied for and any instances in which the carrier's quoted  
21 renewal premium rate represented an increase larger than 20% to a small employer. The  
22 report must be provided in a form and manner determined by the superintendent and  
23 include the following information, at a minimum: the identification number for the  
24 policyholder; the number of enrolled employees in both the calendar year for which the  
25 report is made and the prior calendar year, if known; and the reason the carrier declined  
26 to offer coverage to the small employer or the reason for the carrier's premium increase  
27 for the small employer.'

28 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
29 section number to read consecutively.

30 **SUMMARY**

31 This amendment is the minority report of the committee and replaces the bill. The  
32 amendment sets forth requirements for rating of employee benefit excess insurance  
33 offered to small employers and for reporting information related to employee benefit  
34 excess insurance for small employers to the Superintendent of Insurance.