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HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 886, L.D. 1372, "An Act to Amend the Workers' Compensation Self-insurance Laws to Allow for the Use of Fronting Companies"

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

'Sec. 1. 39-A MRSA §403, sub-§4-B is enacted to read:

4-B. Group self-insurance reinsurance fronting arrangements. This subsection governs group self-insurance reinsurance fronting arrangements.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Fronting arrangement" means a situation in which a fronting company issues a policy for workers' compensation insurance to an employer member of a group self-insurer licensed under this Title and cedes all of the premium and exposure of the policy for out-of-state employees to the self-insured group.

(2) "Fronting company" means an entity that engages in a fronting arrangement. A fronting company may be owned by one or more group self-insurers or by a group self-insurance reinsurance account.

(3) "National Association of Insurance Commissioners" has the same meaning as in Title 24-A, section 15.

(4) "Superintendent" means the Superintendent of Insurance.

B. Beginning June 1, 2024 and until May 31, 2029, an employer member of a group self-insurer licensed under this Title may insure its employees through a fronting arrangement under the following conditions.

(1) The group self-insurer must:

(a) Be a member of a group self-insurance reinsurance account, and the assets of the members of the group self-insurance reinsurance account must be available to satisfy the obligations of a fronting company if the assets of the

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1 group self-insurer are inadequate to cover the obligations of the fronting
2 company;

3 (b) Ensure that the members of the group have a net worth of at least
4 \$50,000,000 or an amount reasonably determined by the superintendent;

5 (c) Insure members of the group that employ employees who live or work in
6 a state other than this State and that are subject to the workers' compensation
7 laws of that state; and

8 (d) Provide that members of a group self-insurer are jointly and severally liable
9 for the workers' compensation obligations of an employer member of a group
10 self-insurer whose out-of-state employees are insured by a fronting company.

11 Any fronting arrangement must require the group self-insurer or group self-
12 insurance reinsurance account to assume all responsibility for administration and
13 claims handling for the fronting company. More than one group self-insurer may
14 enter into a fronting arrangement with the same fronting company. The obligations
15 of a fronting company ceded to a group self-insurer must be included in the
16 actuarial analysis of the group and such other filings as the superintendent may
17 require under this section.

18 (2) The fronting company must:

19 (a) Have capital in the amount of \$500,000 or an amount reasonably
20 determined by the superintendent;

21 (b) Submit a plan of operation to the superintendent, establish a board of
22 directors and establish bylaws and procedures by which all the powers and
23 duties of the fronting company are performed, including, but not limited to,
24 defining the date and conditions upon which the fronting company will
25 commence coverage for claims. The plan of operation is subject to the review
26 and approval of the superintendent based on the consideration, including, but
27 not limited to, of:

28 (i) The financial accreditation standards of the National Association of
29 Insurance Commissioners; and

30 (ii) Whether the fronting company has received demonstrated interest
31 from a regulatory agency in another jurisdiction to authorize the fronting
32 company to provide workers' compensation insurance coverage in that
33 jurisdiction;

34 (c) Provide a detailed explanation of each fronting arrangement, including the
35 process by which all exposures are ceded to a group self-insurer;

36 (d) Be subject to examination and regulation by the superintendent. The board
37 of directors of a fronting company under this subsection shall submit, within
38 120 days after the close of each fiscal year, an audited financial report, an
39 actuarial report, an audited financial statement and other information the
40 superintendent may require; and

41 (e) Operate in accordance with its plan of operation as long as no workers'
42 compensation insurance coverage is issued or provided in another jurisdiction
43 until the fronting company receives prior approval in another jurisdiction. If

1 the superintendent determines that the fronting company is not operating in
2 accordance with its plan of operation or that the operations of the fronting
3 company are adversely impacting the Bureau of Insurance's compliance with
4 financial accreditation standards of the National Association of Insurance
5 Commissioners or other applicable laws or regulations, the superintendent may
6 order the fronting company to commence a plan to cease operations.

7 C. The provisions of Title 24-A and rules adopted under that Title relating to the
8 formation, review, approval and operation of a workers' compensation insurance
9 company do not apply to a fronting company established under this subsection except
10 to the extent that those provisions and rules are consistent with the requirements of this
11 subsection and any rules adopted pursuant to paragraph D.

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

15 **Sec. 2. 39-A MRSA §403, sub-§4-C** is enacted to read:

16 **4-C. Continuation of authority to administer and handle claims; group self-**
17 **insurer; fronting arrangement.** Beginning June 1, 2029, an employer member of a group
18 self-insurer licensed under this Title may not insure its employees through a fronting
19 arrangement, except that a group self-insurer or group self-insurance reinsurance account
20 may continue to administer and handle claims for an employer member through a fronting
21 arrangement in place prior to June 1, 2029.

22 **Sec. 3. Rulemaking.** The Superintendent of Insurance shall provisionally adopt the
23 rules required in the Maine Revised Statutes, Title 39-A, section 403, subsection 4-B,
24 paragraph D no later than January 1, 2024.'

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

SUMMARY

27 This amendment replaces the bill and does the following.

28 1. It provides that an employer member of a group self-insurer licensed under the
29 Maine Revised Statutes, Title 39-A may insure its employees through a fronting
30 arrangement beginning June 1, 2024 and until May 31, 2029.

31 2. It provides that the assets of the members of the group self-insurance reinsurance
32 account must be available to satisfy the obligations of a fronting company if the assets of
33 the group self-insurer are inadequate to cover the obligations of the fronting company.
34 3. It requires that the members of a group self-insurance reinsurance account have at
35 least \$50,000,000 in net worth.

36 4. It clarifies that the requirements of Title 24-A and rules adopted under Title 24-A
37 do not apply to a fronting company except to the extent that those provisions and rules are
38 consistent with the requirements set forth in the legislation and any rules for fronting
39 companies adopted by the Superintendent of Insurance pursuant to the amendment.
40

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1 5. It requires the Superintendent of Insurance to adopt rules to implement the
2 requirements of the legislation and provides that the rules are major substantive rules. The
3 rules must be provisionally adopted by the superintendent no later than January 1, 2024.

4 6. It provides that beginning June 1, 2029 a group self-insurer or group self-insurance
5 reinsurance account may only administer and handle claims for an employer member
6 through a fronting arrangement in place prior to June 1, 2029.

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FISCAL NOTE REQUIRED
(See attached)