

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act Regulating Employee Benefit Excess Insurance**

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

**Sec. 1. 24-A MRS §2452**, as enacted by PL 1991, c. 385, §11, is amended to read:

### **§ 2452. Employee benefit excess insurance; nondiscrimination; prohibitions**

**1. Discrimination prohibited.** A policy of employee benefit excess insurance may not discriminate unfairly among or against beneficiaries of the underlying benefit plan, or treat conditions related to the Human Immunodeficiency Virus, or HIV, more restrictively than other sicknesses or disabling conditions.

**2. Commutation clause.** A policy of employee benefit excess insurance may not contain a commutation clause that extinguishes the excess carrier's gross claims liability to the insured person through the recapture of loss reserves, unless the policy contains a provision giving the insured the option of requiring that the funds transferred in support of such a commutation have been evaluated by a qualified health actuary who is a member of the American Academy of Actuaries and has certified that the aggregate value of reserves to be recaptured are reasonably adequate to discharge the insured's expected liability for future costs of the health benefits covered by the excess policy.

**3. Review.** An employee benefit excess insurance form is not exempt from the review provisions otherwise applicable under section 2412 on the ground that the form is designed for insurance on a particular subject.

**4. Prohibition.** An insurer or a subsidiary of an insurer may not provide employee benefit excess insurance to an employer that is eligible for a small group health plan, as defined in section 2808-B.

### **SUMMARY**

This bill provides that an insurer or a subsidiary of an insurer may not provide employee benefit excess insurance to an employer that is eligible for a small group health plan.