



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 608

H.P. 424

House of Representatives, February 16, 2017

An Act Regulating Employee Benefit Excess Insurance

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LAWRENCE of South Berwick.
Cosponsored by Senator WHITTEMORE of Somerset.

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

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

4 **§2452. Employee benefit excess insurance; nondiscrimination; prohibitions**

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

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

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

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

23 **SUMMARY**

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