

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 886 - L.D. 1372

**An Act to Amend the Workers' Compensation Self-insurance Laws to Allow
for the Use of Fronting Companies**

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

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

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

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

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

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

(2) The fronting company must:

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

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

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

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

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

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

(e) Operate in accordance with its plan of operation as long as no workers' compensation insurance coverage is issued or provided in another jurisdiction until the fronting company receives prior approval in another jurisdiction. If the superintendent determines that the fronting company is not operating in accordance with its plan of operation or that the operations of the fronting

company are adversely impacting the Bureau of Insurance's compliance with financial accreditation standards of the National Association of Insurance Commissioners or other applicable laws or regulations, the superintendent may order the fronting company to commence a plan to cease operations.

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

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

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

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

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