

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representative M. Wilson, *and Cash*

A Bill

HOUSE BILL 1360

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE §11-9-404 TO DEFINE
HOMOGENEOUS SELF-INSURER GROUPS AS USED RELATIVE TO THE
ARKANSAS SELF-INSURER PROGRAM; AND FOR OTHER PURPOSES."

Subtitle

"DEFINING HOMOGENEOUS SELF-INSURER
GROUPS AS USED RELATIVE TO THE ARKANSAS
SELF-INSURER PROGRAM."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code §11-9-404 (a)(3) is amended to read as follows:

"(3) The Arkansas Workers_ Compensation Commission, under such rules and regulations as it may prescribe, may permit two (2) or more homogeneous employers to enter into agreement to pool their liabilities under this section for the purposes of qualifying as self-insurers, and each employer member of such approved group shall be classified as a self-insurer. Homogeneity for the purpose of this section is defined as employers engaged in a common business. Common business shall reflect only employers with the same business. Any group of employers not meeting the homogeneity definition as prescribed in this section, desiring to form a self-insured group by pooling their workers_ compensation liabilities, shall be considered heterogeneous and must qualify under such rules and regulations as the Arkansas Department of Insurance may prescribe. Any new group or existing group electing to underwrite membership within the heterogeneous definition; by vertical integration, horizontal integration, trade association or otherwise not meeting the homogeneity definition, must be submitted to and approved by the

1 Arkansas Department of Insurance. Any heterogeneous group regulated by the
2 Arkansas Department of Insurance shall be specifically exempted and not
3 required to pay assessments to the Arkansas Self-Insurer Guaranty Fund. In
4 order to qualify as a homogeneous group self-insurer, the group shall furnish
5 to or satisfy the Arkansas Workers_ Compensation Commission as to the
6 following:

7 (A) An application on a form prescribed by the commission by an
8 elected board of trustees to establish a self-insurance fund to be
9 administered under the direction of the trustees. The application shall be
10 accompanied by:

11 (i) An indemnity agreement in a form satisfactory to the commission
12 jointly and severally binding the group and each member of the group to
13 comply with the provisions of the Workers' Compensation Law; and

14 (ii) An individual application by each member of the group applying
15 for coverage in the fund;

16 (B) A current, audited financial statement of each member of the group
17 showing a combined net worth of all members applying for coverage of not less
18 than one million dollars (\$1,000,000), a combined ratio of current assets to
19 current liabilities of not less than one-to-one, and working capital of an
20 amount establishing financial ability and liquidity sufficient to pay normal
21 compensation claims promptly;

22 (C)(i) That the group deposits and maintains with the commission
23 acceptable securities or has posted a surety bond issued by a corporate
24 surety authorized to do business in the State of Arkansas, in an amount
25 determined by the commission, but not less than two hundred thousand dollars
26 (\$200,000).

27 (ii) However, this subdivision shall not be applicable to
28 municipalities, counties, or the State of Arkansas and its political
29 subdivisions;

30 (D) That there exist ample facilities and competent personnel of good
31 character within the group, or through an approved service organization, for
32 the group to service its own program with respect to underwriting matters,
33 claims and adjusting, industrial safety engineering, accounting, and
34 financial management;

35 (E) That the group maintains excess insurance with an insurance

1 company authorized to do business in this state in an amount acceptable to
2 the commission. However, this subdivision shall not be applicable to
3 municipalities, counties, or the State of Arkansas and its political
4 subdivisions;

5 (F) That such financial statements, payroll records, accident
6 experience, and compensation reports and such other reports and statements
7 are filed at such time and in such manner as the commission shall require.
8 However, any fund which fails or refuses to file the reports within the time
9 limits prescribed by the commission shall be subject to a civil penalty in
10 such amount as the commission may prescribe not to exceed one hundred dollars
11 (\$100) per infraction per day, and the failure or refusal may be considered
12 good cause for revocation or suspension of self-insurance privileges;"

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14 SECTION 2. All provisions of this act of a general and permanent
15 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
16 Code Revision Commission shall incorporate the same in the Code.

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18 SECTION 3. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

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24 SECTION 4. All laws and parts of laws in conflict with this act are
25 hereby repealed.

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28 /s/Rep. M. Wilson, et al

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