

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representative Vess

A Bill

HOUSE BILL 1961

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 11-9-404(a)(3) TO ALLOW
GROUP SELF-INSURERS TO LOWER WORKERS_ COMPENSATION RATES
TO EXISTING MEMBERS IF THE INSURANCE COMMISSIONER HAS
APPROVED NEW, LOWER RATES; AND FOR OTHER PURPOSES."

Subtitle

"AN ACT TO ALLOW GROUP SELF-INSURERS TO
LOWER WORKERS_ COMPENSATION RATES TO
EXISTING MEMBERS IF THE INSURANCE
COMMISSIONER HAS APPROVED NEW, LOWER
RATES."

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 commission, under such rules and regulations as it may prescribe, may permit two (2) or more employers engaged in the same type of business activity or pursuit to enter into agreements to pool their liabilities under this section for the purposes of qualifying as self-insurers, and each such approved group shall be classified as a homogeneous self-insurer. The commission, under such rules and regulations as it may prescribe, may permit two (2) or more employers who are members of the same trade or professional association to enter into agreements to pool their liabilities under this section for the purposes of qualifying as self-insurers, and each such approved group shall be classified as a common self-insurer. The trade or professional association shall have been in active existence for at least three (3) years and such associations shall have a constitution or by-laws and all trustees shall be participants in the common

1 *self-insurer program; shall have members that support the association by*
2 *regular payment of dues on an annual, semi-annual, quarterly, or monthly*
3 *basis; and shall be created in good faith for purposes other than that of*
4 *creating workers' compensation common self-insurer pools. No two (2) trade*
5 *or professional associations shall be allowed to combine or join each other*
6 *and qualify as a common self-insurer. In order to qualify group*
7 *self-insurers, these groups shall furnish to or satisfy the commission as to*
8 *the following:*

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

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

16 (ii) An individual application by each member of the
17 *groups* applying for coverage in the fund;

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

24 (C)(i) *That the groups deposit and maintain with the commission*
25 *acceptable securities or have posted a surety bond issued by a corporate*
26 *surety authorized to do business in the State of Arkansas, in an amount*
27 *determined by the commission, but not less than two hundred thousand dollars*
28 *(\$200,000).*

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

32 (D) *That there exist ample facilities and competent personnel of*
33 *good character within the groups, or through an approved service*
34 *organization, for the groups to service their own program with respect to*
35 *underwriting matters, claims and adjusting, industrial safety engineering,*

1 accounting, and financial management;

2 (E) *That the groups maintain excess insurance with an insurance*
3 *company authorized to do business in this state in an amount acceptable to*
4 *the commission. However, this subdivision shall not be applicable to*
5 *municipalities, counties, or the State of Arkansas and its political*
6 *subdivisions;*

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

15 (G) (i) *If the Arkansas Insurance Commissioner has approved new,*
16 *lower Workers_ Compensation rates, then the trustees of an approved*
17 *homogeneous self-insurer or common self-insurer can at their discretion lower*
18 *the rates for existing members effective no earlier than the date the new,*
19 *lower rates were approved by the Insurance Commissioner. The trustees may,*
20 *at their discretion, apply these new, lower rates to new members enrolled on*
21 *or after the date the new rates were approved by the Insurance Commissioner.*

22 (ii) *Any taxes payable to the Arkansas Workers_*
23 *Compensation Commission or the State of Arkansas shall be adjusted based on*
24 *any change because of the change in rates under § 11-9-404(a)(3)(G)(i).*

25 (iii) *The trustees of a homogeneous self-insurer group or*
26 *common self-insurer group who elect to apply new, lower rates to existing*
27 *members or who elect to use new, lower rates for new members under the*
28 *provisions of § 11-9-404(a)(3)(G)(i) shall notify the Workers_ Compensation*
29 *Commission of their rate change and state the effective date for this rate*
30 *change;"*

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32 SECTION 2. *The provisions of this act shall apply retroactively to*
33 *March 1, 1995.*

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35 SECTION 3. *All provisions of this act of a general and permanent*

1 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
2 Code Revision Commission shall incorporate the same in the Code.

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4 SECTION 4. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or applications of the act which can be given effect without
7 the invalid provision or application, and to this end the provisions of this
8 act are declared to be severable.

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10 SECTION 5. All laws and parts of laws in conflict with this act are
11 hereby repealed.

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13 SECTION 6 . EMERGENCY. It is hereby found and determined by the
14 *Eightieth General Assembly of the State of Arkansas that this act allows*
15 *homogeneous self-insurer groups or common self-insurer groups to lower*
16 *Workers_ Compensation rates when lower rates have been approved by the*
17 *Insurance Commissioner; that new, lower rates became effective March 1, 1995*
18 *and this act applies retroactively to that date; and to effectively carry out*
19 *the provisions of this act it should become effective immediately.*
20 Therefore, an emergency is hereby declared to exist and this act being
21 necessary for the immediate preservation of the public peace, health and
22 safety shall be in full force and effect from and after its passage and
23 approval.

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/s/Rep. Vess

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