

By Senator Calatayud

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1 A bill to be entitled
2 An act relating to multiple-employer welfare
3 arrangements; amending s. 624.438, F.S.; revising
4 eligibility requirements for a bona fide group to
5 qualify as a multiple-employer welfare arrangement;
6 providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Paragraph (b) of subsection (1) of section
11 624.438, Florida Statutes, is amended to read:

12 624.438 General eligibility.—

13 (1) To meet the requirements for issuance of a certificate
14 of authority and to maintain a multiple-employer welfare
15 arrangement, an arrangement:

16 (b) Must be established by a trade association, industry
17 association, professional association of employers or
18 professionals, or a bona fide group that ~~as defined in 29 C.F.R.~~
19 ~~part 2510.3-5 which~~ has a constitution or bylaws specifically
20 stating its purpose and which has been organized for purposes in
21 addition to obtaining or providing insurance.

22 1. A trade association consists of member employers who are
23 in the same trade as recognized by the appropriate licensing
24 agency.

25 2. An industry association consists of member employers who
26 are in the same major group code, as defined by the Standard
27 Industrial Classification Manual issued by the federal Office of
28 Management and Budget, unless restricted by subparagraph 1. or
29 subparagraph 3.

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30 3. A professional association consists of member employers
31 who are of the same profession as recognized by the appropriate
32 licensing agency.

33 4. A bona fide group that is an employee welfare benefit
34 plan includes a group or association of employers which meets
35 all of the following requirements:

36 a. The primary purpose of the group or association is to
37 offer and provide health coverage to its employer members and
38 their employees. However, the group or association must also
39 have at least one substantial business purpose unrelated to such
40 primary purpose. For purposes of this sub-subparagraph, a
41 substantial business purpose is deemed to exist if the group or
42 association would be a viable entity in the absence of
43 sponsoring an employee benefit plan. A substantial business
44 purpose includes promoting common business interests of its
45 members or the common economic interests in a given trade or
46 employer community and is not required to be a for-profit
47 activity.

48 b. Each employer member of the group or association which
49 participates in the group health plan is a person acting
50 directly as an employer of at least one employee who is a
51 participant covered under the plan.

52 c. The group or association has a formal organizational
53 structure with a governing body and has bylaws or other similar
54 indications of formality.

55 d. The functions and activities of the group or association
56 are controlled by its employer members, and the group's or
57 association's employer members that participate in the group
58 health plan control the plan. Control must be present both in

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59 form and in substance.

60 e. The employer members have a principal place of business
61 in the same region that does not exceed the boundaries of a
62 single state or metropolitan area, even if the metropolitan area
63 includes more than one state.

64 f. The group or association does not make health coverage
65 through the group's or association's group health plan available
66 to any person other than:

67 (I) An employee of a current employer member of the group
68 or association;

69 (II) A former employee of a current employer member of the
70 group or association who became eligible for coverage under the
71 group health plan when the former employee was an employee of
72 the employer; or

73 (III) A beneficiary, such as a spouse or dependent child,
74 of an individual described in sub-sub-subparagraph (I) or sub-
75 sub-subparagraph (II).

76 g. The group or association and the health coverage offered
77 by the group or association comply with the nondiscrimination
78 provisions of s. 627.6699.

79 h. The group or association is not a health insurance
80 issuer described in s. 733(b)(2) of the Employee Retirement
81 Income Security Act of 1974, 29 U.S.C. s. 1191b(b)(2), or owned
82 or controlled by such a health insurance issuer or by a
83 subsidiary or affiliate of such a health insurance issuer, other
84 than to the extent such entities participate in the group or
85 association in their capacity as employer members of the group
86 or association.

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88 The requirements of this paragraph do not apply to an
89 arrangement licensed before April 1, 1995, regardless of the
90 nature of its business. However, an arrangement exempt from the
91 requirements of this paragraph may not expand the nature of its
92 business beyond that set forth in the articles of incorporation
93 of its sponsoring association as of April 1, 1995, except as
94 authorized in this paragraph.

95 Section 2. This act shall take effect July 1, 2023.