

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 940

H. P. 697

House of Representatives, February 18, 1971

Referred to committee on Business Legislation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Sheltra of Biddeford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Establishing a Pool Underwriting Association for Fire and
Extended Coverage Insurance.

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

R. S., T. 24-A, c. 41, sub-c. I-A, additional. Chapter 41 of Title 24-A of the Revised Statutes is amended by adding a new subchapter I-A to read as follows:

SUBCHAPTER I-A

POOL UNDERWRITING

§ 3011. Definitions

As used in this subchapter, unless the context clearly requires otherwise, the following words shall have the following meanings:

1. Association. "Association" means the pool underwriting association established pursuant to this subchapter.
2. Extended coverage. "Extended coverage" means insurance coverage against direct loss to property by windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles and smoke.
3. Fire insurance. "Fire insurance" means insurance coverage against loss of or damage to any property resulting from fire.
4. Insurable property. "Insurable property" means real property at fixed locations anywhere in this State, or the tangible personal property located thereon with an insurable value not in excess of the limits provided in the

plan of operation of the association and in no event more than \$1,500,000, which property is determined by the association, after inspection and pursuant to criteria specified in the plan of operation, to be in insurable condition, provided that neighborhood or area location shall not be considered in determining insurable condition and provided further that property shall not be deemed insurable which has characteristics of ownership, condition, occupancy or maintenance which are violative of public policy.

5. Net direct premiums. "Net direct premiums" means gross direct premium written on property in this State for fire and extended coverage insurance, including the fire and extended coverage components of homeowners and commercial multiple peril package policies as computed by the commissioner, less return premiums or the unused or unabsorbed portions of premium deposits.

6. Plan of operation. "Plan of operation" means the plan of operation approved pursuant to section 3012.

§ 3012. Pool underwriting association

1. Creation. A pool underwriting association is created consisting of all insurers authorized to write and engaged in writing within this State fire and extended coverage insurance, including insurers covering such perils in homeowners and commercial multiple peril package policies, but excluding assessment cooperative fire insurance companies transacting business. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to continue to transact such kinds of insurance in this State.

2. Powers. The association shall, pursuant to this subchapter and the plan of operation and with respect to fire and extended coverage insurance on insurable property, have the power, on behalf of its members:

- A. To cause to be issued policies of insurance to applicants;
- B. To assume reinsurance from its members; and
- C. To cede reinsurance.

3. Plan

A. Within 90 days following the effective date of this Act, the directors of the association shall submit to the commissioner, for his review, a proposed plan of operation consistent with this subchapter, which shall provide for economical, fair and nondiscriminatory administration and for the prompt and efficient provision of fire and extended coverage insurance to promote orderly community development and which shall contain other matters including, but not limited to, preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities, management of the association, assessment of members to defray losses and expenses, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance and procedures for determining amounts of insurance to be provided.

B. The plan of operation shall be subject to approval by the commissioner, after consultation with affected individuals and organizations and shall take effect 10 days after having been approved by him. If the commissioner disapproves all or any part of the proposed plan of operation, the directors of the association shall within 30 days submit for review an appropriately revised plan of operation or part thereof, and if the directors fail to do so, the commissioner shall promulgate a plan of operation or part thereof, as the case may be.

C. The directors of the association may, on their own initiative or at the request of the commissioner, amend the plan of operation, subject to approval by the commissioner.

§ 3013. Procedures

1. Application

A. Any person having an insurable interest in insurable property, who has made a diligent effort in the normal insurance market to procure fire and extended coverage insurance from an authorized insurer, shall, on or after the effective date of the plan of operation, be entitled to apply to the association for such coverage. Such application may be made on behalf of an applicant by a broker or agent authorized by him.

B. If the association determines that

(1) The property is insurable; and

(2) There is no unpaid, uncontested premium due from the applicant for prior insurance on the property as shown by the insured having failed to make written objection to charges within 30 days after billing, then the association, upon receipt of the premium, or such portion thereof as is prescribed in the plan of operation, shall cause to be issued a policy of fire insurance for a term of one year which shall also include, upon application therefor, extended coverage insurance. The property must be approved or rejected within 30 days by the association.

2. Rates and rating plans. Any member of the association may cede to the association fire and extended coverage insurance written on insurable property, to the extent, if any, and on the terms and conditions set forth in the plan of operation.

A. Rates, rating plans and rating rules applicable to insurance written by the association shall be in accordance with filings filed from time to time with the commissioner for risks rated by the principal fire rating organization in this State and applicable to such insurance, provided that on or before April 15, 1972, and on or before April 15th of each succeeding year, the rating organization designated by the association for that purpose shall submit a rate filing in proper form based on the association's loss and expense experience, together with such other information as the commissioner may require. The commissioner shall review such rate filing.

B. Filed rating rules or plans may continue to provide standards for the application of surcharges for risks containing unsafe or hazardous conditions, provided that such rating rules or plans shall provide for prompt removal of such condition surcharges upon the elimination of such unsafe hazardous conditions.

§ 3014. Participation

1. Insurers. All insurers which are members of the association shall participate in its writings, expenses, profits and losses in the proportion that the net direct premiums of each such member, but excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year bear to the aggregate net direct premiums written in this State by all members of the association. Each insurer's participation in the association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year as disclosed in the annual statements and other reports filed by the insurer with the commissioner. Coverages available through the association are fire and extended coverage insurance. The premium on any insurance policy provided for under this subchapter shall be payable to the Maine association and 10% of the gross premium shall be payment as a commission to the Maine agent.

2. Directors. The association shall be governed by a board of 11 directors, elected annually by cumulative voting by the members of the association, whose votes in such election shall be weighted in accordance with each member's net direct premiums written during the preceding calendar year. The first board shall be elected at a meeting of the members or their authorized representatives, which shall be held within 30 days after the effective date of this Act, at a time and place designated by the commissioner.

§ 3015. Appeals and judicial review

Any applicant to the association and any person insured pursuant to this subchapter, or their representatives, or any affected insurer, may appeal to the commissioner within 30 days after any ruling, action or decision by or on behalf of the association, with respect to those items the plan of operation defines as appealable matters. All orders of the commissioner made pursuant to this subchapter shall be subject to judicial review.

§ 3016. Privileged communications

Reports of inspection performed by or on behalf of the association shall be available to members of the association, applicants and the commissioner.

There shall be no liability on the part of, and no cause of action of any nature shall arise against, the association or its agents or employees, the insurer or the commissioner or their authorized representatives, for any statements made in good faith by them in any reports or communications concerning risks insured or to be insured by the association or at any administrative hearings conducted in connection therewith.

§ 3017. Annual statements

The association shall file in the office of the commissioner, annually on or before the first day of March, a statement which shall contain information

with respect to its transactions, conditions, operations and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed by the commissioner and shall be in such form as is approved by him. The commissioner may at any time require the association to furnish him with additional information with respect to its transactions, condition or any matter connected therewith which he considers to be material and which will assist him in evaluating the scope, operation and experience of the association.

§ 3018. Examinations

The commissioner may make an examination into the affairs of the association whenever he deems it expedient. Such examination shall be conducted and the report thereon filed in the manner prescribed in section 3017. The expenses of every such examination shall be borne and paid by the association.

STATEMENT OF FACT

The intent of this bill is to make insurance available to the citizens and property owners of the State of Maine who are in good faith entitled to but who are unable to procure such insurance through ordinary methods.