

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 1939

H.P. 1403

House of Representatives, December 14, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Clerk of the House on December 14, 1989. Referred to the Committee on Banking and Insurance and 1600 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative RYDELL of Brunswick.

Cosponsored by Senator THERIAULT of Aroostook, Senator COLLINS of Aroostook and Representative DONALD of Buxton.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act to Amend the Guaranty Association Law to Provide a More
Equitable Special Assessment.**

(EMERGENCY)



2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

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6 Whereas, the Maine Insurance Guaranty Association imposes an
assessment against member insurers which has a disproportionate
impact on companies that have a very small number of
8 policyholders against whom to levy the assessment; and

10 Whereas, the assessment will result in a premium increase of
from \$115 to \$985 for medical malpractice insurance premiums; and

12
14 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
16 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

20 **Sec. 1.** 24-A MRSA §4440-A, sub-§2, as enacted by PL 1989, c.
22 67, §8, is repealed and the following enacted in its place:

24 **2. Limit on assessment.** Subject to the 2% limitation, an
assessment made under this section may not exceed 5% of the
26 average of a member insurer's net income of the 3 years prior to
the year in which the assessment is made for any member insurer:

28 A. That has surplus of less than \$12,000,000 and either a
ratio of total net direct written premium to total surplus
30 greater than 2 or net income of less than \$250,000 for the
year preceding the assessment. For purposes of this
32 subsection, "net income" means the sum of underwriting
income and investment income, net of dividends to
34 policyholders and federal and foreign income taxes incurred,
as reported on the insurer's annual statement filed with the
36 superintendent. "Total surplus" means surplus as regards
policyholders, as reported on the insurer's annual statement
38 filed with the superintendent; or

40 B. That has a surplus of less than \$12,000,000 and has
42 fewer than 3,000 policyholders.

44 **Sec. 2. Application; retroactivity.** This bill is applicable both
retroactively and prospectively to special assessments made under
46 the Maine Revised Statutes, Title 24-A, section 4440-A, whether
those assessments were made before or after the effective date of
48 this Act.

50 **Emergency clause.** In view of the emergency cited in the
preamble, this Act shall take effect when approved.

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STATEMENT OF FACT

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6 This bill amends the Maine Insurance Guaranty Association
7 provision that imposes a special assessment on all member
8 insurers to expand the circuit breaker. Under the current law,
9 small insurers with low premium-to-surplus ratios or small net
10 income have their special assessment limited to 5% of net
11 income. This bill extends that circuit breaker, which limits the
12 impact of the special assessment, to member insurers who have a
very small policyholder base.