

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

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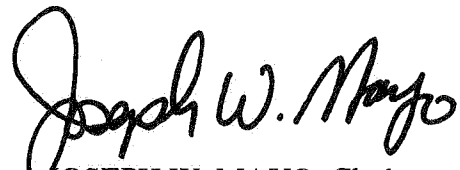
H.P. 815

House of Representatives, February 18, 1997

An Act to Apply Risk-based Capital Standards to Insurers.

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Banking and Insurance suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative CARLETON of Wells.

Cosponsored by Representatives: MAYO of Bath, O'NEIL of Saco, SAXL of Bangor.

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

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3
4 **Sec. 1. 24-A MRSA §6451, sub-§§3 and 4**, as enacted by PL 1993, c. 634, Pt. A, §1, are amended to read:

6 **3. Domestic insurer.** "Domestic insurer" means any ~~life-or~~ health insurance company ~~organized~~ domiciled in this State.

8
9 **4. Foreign insurer.** "Foreign insurer" means any ~~life-or~~ health insurance company that is authorized to do business in this State under section 404 but is not domiciled in this State.

12 **Sec. 2. 24-A MRSA §6451, sub-§4-A** is enacted to read:

14 **4-A. Life or health insurer.** "Life or health insurer" means any insurance company described in section 409, subsection 3 and authorized to do business in this State under section 410, or a licensed property and casualty insurer writing only accident and health insurance.

20 **Sec. 3. 24-A MRSA §6451, sub-§6**, as enacted by PL 1993, c. 634, Pt. A, §1, is amended to read:

24 **6. Negative trend.** "Negative trend" means, with respect to a life or health insurer, a negative trend over a period of time, as determined in accordance with the trend test calculation included in the risk-based capital instructions.

28 **Sec. 4. 24-A MRSA §6451, sub-§6-A** is enacted to read:

30 **6-A. Property and casualty insurer.** "Property and casualty insurer" means any insurance company authorized to do business in this State under section 410 except a life or health insurer or single line mortgage guaranty insurer, financial guaranty insurer or title insurer.

36 **Sec. 5. 24-A MRSA §6452, sub-§2**, as enacted by PL 1993, c. 634, Pt. A, §1, is amended to read:

40 **2. Determination of a life or health insurer's risk-based capital.** An A life or health insurer's risk-based capital must be determined in accordance with the formula set forth in the risk-based capital instructions. The formula must take into account, and may adjust for the covariance between, the following:

46 A. The risk with respect to the insurer's assets;

48 B. The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;

50

2 C. The interest rate risk with respect to the insurer's
business; and

4 D. All other business risks and such other relevant risks
as are set forth in the risk-based capital instructions,
6 determined in each case by applying the factors in the
manner set forth in the risk-based capital instructions.
8

10 **Sec. 6. 24-A MRSA §6452, sub-§4** is enacted to read:

12 **4. Determination of a property and casualty insurer's**
risk-based capital. A property and casualty insurer's risk-based
capital is determined in accordance with the formula set forth in
the risk-based capital instructions. The formula must take into
account and may adjust for the covariance between the following:

16 **A. Asset risk;**

18 **B. Credit risk;**

20 **C. Underwriting risk; and**

22 **D. All other business risks and such other relevant risks**
as are set forth in the risk-based capital instructions,
determined in each case by applying the factors set forth in
the risk-based capital instructions.
24
26

28 **Sec. 7. 24-A MRSA §6453, sub-§1, ¶A,** as enacted by PL 1993, c.
634, Pt. A, §1, is amended to read:

30 **A. The filing of a risk-based capital report by an insurer**
32 **that indicates that:**

34 (1) The insurer's total adjusted capital is greater
than or equal to its regulatory action level risk-based
36 capital but less than its company action level
risk-based capital; or

38 (2) The A life or health insurer has total adjusted
40 capital that is greater than or equal to its company
action level risk-based capital but less than the
42 product of its authorized control level risk-based
capital and 2.5 and has a negative trend;

44 **Sec. 8. 24-A MRSA §6456, sub-§2,** as enacted by PL 1993, c.
46 634, Pt. A, §1, is amended to read:

48 **2. Superintendent duties; mandatory control level event.**
When a mandatory control level event occurs, the superintendent
50 shall take those actions that are necessary to cause the insurer

2 to be placed under regulatory control under chapter 57. If the
3 superintendent takes those actions, the mandatory control level
4 event is deemed sufficient grounds for the superintendent to take
5 action under chapter 57, and the superintendent has the rights,
6 powers and duties with respect to the insurer as are set forth in
7 chapter 57. If the superintendent takes actions pursuant to an
8 adjusted risk-based capital report, the insurer is entitled to
9 those protections that are afforded to insurers under the
10 provisions of chapter 57, subchapter II pertaining to summary
11 proceedings. Notwithstanding any provision of this section to
12 the contrary, the superintendent may forego action for up to 90
13 days after the mandatory control level event if the
14 superintendent finds there is a reasonable expectation that the
15 mandatory control level event may be eliminated within the 90-day
16 period, or, in the case of a property and casualty insurer that
17 is not authorized to write new business, the superintendent may
18 allow the insurer to continue to run off its existing business
under the superintendent's supervision.

20 **Sec. 9. 24-A MRSA §6459**, as enacted by PL 1993, c. 634, Pt.
21 A, §1, is repealed and the following enacted in its place:

22 **§6459. Supplemental provisions**

23 **1. Existing authority supplemented.** The provisions of this
24 chapter are supplemental to any other provisions of the laws of
25 this State and do not preclude or limit any other powers or
26 duties of the superintendent under those laws, including, but not
27 limited to, sections 417, 3423 and 3424 and chapter 57.

28 **2. Rules.** The superintendent may adopt rules to carry out
29 the purposes of this chapter. Rules adopted pursuant to this
30 chapter are routine technical rules as defined in Title 5,
31 chapter 375, subchapter II-A.

32 **3. Exemptions.** The superintendent may exempt from the
33 application of this chapter any domestic property and casualty
34 insurer that:

35 **A. Writes business only in the State;**

36 **B. Writes direct annual premium of \$2,000,000 or less; and**

37 **C. Assumes no reinsurance in excess of 5% of direct premium**
38 **written.**

SUMMARY

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4 This bill requires property and casualty insurers doing
6 business in this State to meet certain risk-based capital
8 standards. Similar standards have been applicable to life and
health insurers for several years. The standards are based on
National Association of Insurance Commissioners model legislation
as part of the nationwide insurance regulatory agency
accreditation effort.