

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 49

H.P. 40

House of Representatives, January 9, 2001

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**An Act Regarding Civil Actions Involving Insurance Coverage.**

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

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative SAVAGE of Buxton.

Cosponsored by Senator DOUGLASS of Androscoggin and

Representatives: BRYANT of Dixfield, BULL of Freeport, DUDLEY of Portland, DUNLAP of Old Town, O'NEIL of Saco, PATRICK of Rumford, PERRY of Bangor, SMITH of Van Buren.

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

4 **Sec. 1. 24-A MRSA §2436-B** is enacted to read:

6 **§2436-B. Declaratory judgment actions involving insurance policies**

8 **1. Definition.** For purposes of this section, "insured" means a natural person and does not include a corporation, trust, partnership, incorporated or unincorporated association or any other legal entity.

12 **2. Costs and attorney's fees.** In an action pursuant to Title 14, chapter 707 to determine an insurer's contractual duty to defend an insured under an insurance policy, if the insured prevails in such action, the insurer shall pay court costs and reasonable attorney's fees.

18 **3. Application.** This section does not apply to life, health, disability or workers' compensation insurance.

22 **4. Construction.** This section may not be construed to permit any assignment of rights by an insured to any other person or to create or extend any right or cause of action for a 3rd-party claimant under an insurance policy.

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28 **SUMMARY**

30 This bill requires an insurer to pay costs and attorney's fees if the insured prevails in a declaratory judgment action to determine an insurer's contractual duty to defend the insured. It defines an insured as a natural person and excludes corporations, trusts, partnerships, incorporated or unincorporated associations and other legal entities from the definition of an insured. No right or cause of action is created or extended to 3rd-party claimants under an insurance policy and insureds are not permitted to assign any rights under a policy to any other person. The bill does not apply to life, health, disability and workers' compensation insurance.