

MAINE STATE LEGISLATURE

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L.D. 1853

DATE: 4.2.04

(Filing No. S-489)

INSURANCE AND FINANCIAL SERVICES

Reported by:

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 692, L.D. 1853, Bill, "An Act To Amend the Laws Relating to Property Insurance"

Amend the bill by striking out the title and substituting the following:

'An Act To Amend the Laws Relating to Property and Casualty Insurance and To Authorize the Superintendent of Insurance To Establish a Mandatory Market Assistance Program'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

PART A

Sec. A-1. 24-A MRSA §2304-A, sub-§1, as repealed and replaced by PL 1991, c. 377, §10, is amended to read:

1. Every insurer shall file with the superintendent, except as to inland marine risks, which by general custom of the business are not written according to manual rates or rating plans, every manual rate, minimum premium, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which that it proposes to use. ~~Every-sueh~~ The filing must state the effective date of the filing, and indicate the character and extent of the coverage contemplated. ~~Every-sueh~~ The filing must be made not less than 30 days in advance of the stated effective date unless that 30-day requirement is waived by the superintendent. The effective date may be suspended by the superintendent for a period of time not to exceed 60 days, except that the effective date for filings made electronically may not be suspended.

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2 **Sec. A-2. 24-A MRSA §2412, sub-§2**, as amended by PL 1973, c. 585, §12, is further amended to read:

4 2. Every such filing shall ~~must~~ be made not less than 30
6 days in advance of any such delivery. At the expiration of such
8 the 30 days, the form so filed ~~shall-be~~ is deemed approved unless
10 prior thereto it has been affirmatively approved or disapproved
12 by order of the superintendent. Approval of ~~any-such~~ the form by
14 the superintendent ~~shall-constitute~~ constitutes a waiver of any
16 unexpired portion of such ~~the~~ waiting period. The superintendent
18 may extend by not more than an additional 30 days the period
20 within which ~~he~~ the superintendent may so affirmatively approve
22 or disapprove any such form, by giving notice to the insurer of
24 such ~~the~~ extension before expiration of the initial ~~30--days~~
30-day period, except that the effective date of a filing made
electronically for a coverage under a health, life or annuity
product may not be extended. At the expiration of any-such ~~the~~
period as so extended, and in the absence of such prior
affirmative approval or disapproval, any such form ~~shall-be~~ is
deemed approved. The superintendent may at any time, after
hearing and for cause shown, withdraw any such approval.

22 **Sec. A-3. 24-A MRSA §3049, sub-§3**, as enacted by PL 1973, c.
24 239, is amended to read:

26 3. Discovery of fraud or material misrepresentation by
28 either any one of the following:

- 30 A. The insured or his ~~the insured's~~ representative in
obtaining the insurance; or
- 32 B. The named insured in pursuing a claim under the policy;

34 **Sec. A-4. 24-A MRSA §3049, sub-§4**, as enacted by PL 1973, c.
36 239, is repealed and the following enacted in its place:

- 38 4. Discovery of either:
 - 40 A. Negligent acts or omissions by the insured substantially
increasing any of the hazards insured against; or
 - 42 B. A failure to disclose a material fact in relation to the
application for insurance that would, if coverage is
effectuated without knowledge by the insurer, substantially
alter the terms of the policy;

46 **Sec. A-5. 24-A MRSA §3049, sub-§5**, as enacted by PL 1973, c.
48 239, is amended to read:

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5. Physical changes in the insured property which that result in the property becoming uninsurable;

Sec. A-6. 24-A MRSA §3049, sub-§§6 to 10 are enacted to read:

6. The insured property is vacant and custodial care is not maintained on the property;

7. The presence of a trampoline on the premises if the insured is notified that the policy will be cancelled if the trampoline is not removed and the trampoline, after notice, remains on the property 30 or more days after the date of notice;

8. The presence of a swimming pool upon the insured property that is not fenced in, in accordance with the standards established in Title 22, section 1631, if the pool remains in noncompliance with those standards for 30 days after notice by the insurer of the defective condition and intent to cancel the policy;

9. A loss occasioned by a dog bite, unless, after notice of cancellation or nonrenewal is received, the insured removes the dog; or

10. Failure to comply with reasonable loss control recommendations within 90 days after notice from the insurer.

Sec. A-7. 24-A MRSA §3049, 2nd ¶, as amended by PL 1979, c. 663, §§150 and 151 is further amended to read:

This section shall does not apply to any policy or coverage which that has been in effect less than 60 90 days at the time notice of cancellation is received by the named insured, or 90 120 days in the case of residential property which that is expected to be continuously unoccupied for 3 months in any 12-month period and which that is other than the insured's primary residence, unless it is a renewal policy. An insured shall does not have the right to a hearing before the Superintendent of Insurance for the purpose of contesting cancellation of a new policy that has been in force less than 60 90 days or 90 120 days in the case of residential property other than the insured's primary residence which that is expected to be continuously unoccupied for 3 months in any 12-month period.

Sec. A-8. 24-A MRSA §3051, as amended by PL 1979, c. 347, §12, is further amended to read:

§3051. Notice of intent

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2 No An insurer shall may not fail to renew a policy except by
3 notice to the insured as provided in this subchapter. A notice of
4 intention not to renew shall is not be effective unless received
5 by the named insured at least 30 days prior to the expiration
6 date of the policy. A ~~post-office--department~~ post office
7 certificate of mailing to the named insured at ~~his~~ the insured's
8 last known address shall ~~be~~ is conclusive proof of receipt on the
9 3rd calendar day after mailing. The reason shall must accompany
10 the notice of intent not to renew, together with notification of
11 the right to apply for a hearing before the Superintendent of
12 Insurance within 30 days as provided.

13
14 The reason or reasons for the intended nonrenewal action
15 shall must accompany the notice of intent not to renew and the
16 reason or reasons shall must be explicit. Explanations such as
17 "underwriting reasons," "underwriting experience," "loss record,"
18 "location of risk," "credit report" and similar insurance terms
19 are not by themselves acceptable explanations of an insurer's
20 intended nonrenewal of a policy insuring property of the kind
21 defined in section 3048. The reason for nonrenewal shall must be
22 a good faith reason and rationally related to the insurability of
23 the property or a ground for cancellation pursuant to section
24 3049.

25 This section shall does not apply:

- 26
27 1. If the insurer has manifested its willingness to renew;
28 or
29
30 2. If the insured fails to pay any premium due or any
31 advance premium required by the insurer for renewal.

32
33 **Sec. A-9. 24-A MRSA §3054**, as amended by PL 1989, c. 172,
34 §8, is further amended to read:

35 **§3054. Hearing before Superintendent of Insurance**

36
37 Any A named insured who has received a statement of reason
38 for cancellation, or of reason for an insurer's intent not to
39 renew a policy, may, within 30 days of the receipt of a statement
40 of reason, request a hearing before the Superintendent of
41 Insurance. The purpose of this hearing shall ~~be~~ is limited to
42 establishing the existence of the proof or evidence used by the
43 insurer in its reason for cancellation or intent not to renew.
44 The burden of proof of the reason for cancellation or intent not
45 to renew shall ~~be-upon~~ is on the insurer. If an insurer's reason
46 for nonrenewal is not based on a ground for cancellation
47 permitted under section 3049, the insurer must provide proof or
48 evidence that the reason for nonrenewal is a good faith reason
49 and rationally related to the insurability of the property. A
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2 statement from the insurer that the risk does not meet the
3 insurer's underwriting guidelines alone is not considered
4 sufficient proof or evidence. The superintendent shall adopt
5 rules for carrying out this section. The superintendent shall
6 ~~have the authority to~~ may order the policy to continue in effect
7 both pending and, if the superintendent finds in favor of the
8 insured, subsequent to a hearing. If the superintendent finds in
9 favor of the insurer at a hearing, the superintendent may order
10 the policy to remain in force for 14 days to allow the insured to
11 obtain other coverage.

12 **Sec. A-10. 24-A MRSA §§3057, 3058 and 3059** are enacted to read:

13 **§3057. Actions related to age of dwelling prohibited**

14 An insurance company authorized to transact business in this
15 State may not cancel or refuse to issue or renew a property
16 insurance policy subject to this subchapter solely on the basis
17 of the age of the dwelling and without consideration of the
18 current condition of the property.

19 **§3058. Refusal based on previous owner's losses**

20 An insurance company authorized to transact business in this
21 State may not refuse to issue a property insurance policy subject
22 to this subchapter for the sole reason that a previous owner of
23 the property submitted claims for losses to the property.

24 **§3059. Insurer valuation of property; increase in premium; notice**

25 **1. Increase in valuation.** If an insurer determines that
26 the stated insured value of a property covered by a policy
27 subject to this subchapter should be increased to depict more
28 accurately its current value and the increase in valuation will
29 result in an increase in premium for the policy, then the
30 increase in the stated insured value and the corresponding
31 increase in premium may be implemented only at the time of
32 renewal.

33 **2. Notice.** If an insurer increases the stated insured
34 value in accordance with subsection 1, then the insurer must
35 provide notice to the named insured on the policy at least 30
36 days prior to the effective date of the renewal policy stating
37 the reason for the increase in premium and the amount of premium
38 increase associated with the increase in valuation. The notice
39 also must state that upon written request by the named insured
40 the insurer will disclose the specific reasons and specific
41 property characteristics that contributed to the resulting
42 increase in stated value.

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2 **3. Exemptions.** This section does not apply to routinely
4 scheduled increases in valuation under the policy based on
inflation or to increases in the stated insured value of a
6 property agreed to by the insured.

8 **Sec. A-11. 39-A MRSA §403, sub-§4-A,** as enacted by PL 2003, c.
315, §2, is amended by amending the first paragraph to read:

10 **4-A. Group self-insurance reinsurance account.** As an
12 alternative to obtaining a reinsurance contract providing
14 coverage against losses arising out of one occurrence, a group
16 self-insurer may participate in a group self-insurance
18 reinsurance account, referred to in this subsection as "an
20 account," as provided in this subsection. More than one account
22 may be established pursuant to this subsection. Each An account
established pursuant to this subsection is--an-independent-entity
and may be established as either an independent private entity or
24 an instrumentality of the State, but the debts and liabilities of
an account established as an instrumentality of the State are not
debts and liabilities of the State. An account established as an
instrumentality of the State within 24 months of its formation,
with the approval of the superintendent, may transfer all of its
assets and liabilities into an account established as an
26 independent private entity.

28 **Sec. A-12. 39-A MRSA §403, sub-§4-A, ¶¶I and K,** as enacted by
PL 2003, c. 315, §2, are amended to read:

30 I. Assets of an account's fund may be used exclusively for
32 payment of expenses of the account and payment of claims
34 against the account and for no other purpose, except that an
account established as an independent private entity
pursuant to this subsection may issue such dividends to its
members as are approved by the superintendent.

36 K. In the event of dissolution of an account established as
38 an instrumentality of the State pursuant to this subsection,
40 all assets remaining after the satisfaction of all
42 outstanding claims must be distributed to the Treasurer of
State to be included in the Maine Self-Insurance Guarantee
Association.

PART B

46 **Sec. B-1. 24-A MRSA §2322-A, sub-§1,** as enacted by PL 1989, c.
48 797, §25 and affected by §§37 and 38, is amended to read:

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1. Notwithstanding section 2321-B, subsection 2 and consistent with sections 2325, 2325-A, ~~2325-B~~ and 2366, insurers, rating organizations and advisory organizations participating in joint underwriting, joint reinsurance pools or residual market mechanisms may, in connection with such activity, act in cooperation with each other in the making of rates, rating systems, policy forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss and expense statistics or other information, or conducting research. Joint underwriting, joint reinsurance pools and residual market mechanisms are not considered to be advisory organizations.

Sec. B-2. 24-A MRSA §2325-B is enacted to read:

§2325-B. Mandatory property and casualty insurance market assistance program

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Basic property and casualty insurance" means policies that insure against loss or damage to real property that is used for residential purposes, is owner-occupied and consists of not more than 4 apartments, and that may also insure against loss or damage to tangible personal property and the legal liability of a natural person or persons for loss of, damage to or injury to persons or property. "Basic property and casualty insurance" may include standard homeowners package property and liability insurance, functional replacement homeowners package insurance, dwelling fire policies and extended coverage policies. "Basic property and casualty insurance" does not include automobile insurance, workers' compensation insurance or insurance primarily covering risks arising from the conduct of a commercial or industrial enterprise.

B. "Governing committee" means the committee established to operate the program pursuant to subsection 5.

C. "Member insurer" means an authorized insurer who is required to be a member of the program in accordance with subsection 3.

D. "Modified policy form" means any new or amended policy form developed by member insurers for risks written through the program.

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E. "Modified rate" means any new or amended rate or rating rule developed by member insurers for risks written through the program.

F. "Modified policy form and rate filing" and "modified filing" mean any modified policy form and modified rate filed with the superintendent under subsection 9.

G. "Net direct premiums" means gross direct written premiums on basic property and casualty insurance in this State less return premiums upon cancelled contracts, irrespective of reinsurance assumed or ceded.

H. "Program" means the mandatory property and casualty insurance market assistance program described in this section.

I. "Underserved areas or risk types," "underserved areas" and "underserved risk types" mean specific geographic areas or property risk types in this State that the superintendent designates by rule as not having reasonable access to basic property and casualty insurance.

2. Authority to establish program. If the superintendent establishes a voluntary market assistance plan in accordance with section 2325-A to increase the availability of basic property and casualty insurance in this State and the superintendent determines after a public hearing that the number of insurers participating in the voluntary market assistance plan is insufficient or that a sufficient number of risks has not been written through the plan, then the superintendent may establish a mandatory property and casualty insurance market assistance program in accordance with this section. The superintendent shall adopt rules regarding the level of insufficient participation in the voluntary market assistance plan that is necessary for the establishment of a program under this section. The provisions in the rules governing a determination of insufficient participation in the voluntary market assistance plan must take into account the length of time the voluntary market assistance plan is operational.

3. Mandatory insurer participation. All insurers, except eligible surplus lines insurers, authorized to write and engaged in writing in this State, on a direct basis, basic property and casualty insurance shall cooperate in organizing a program as required by subsection 4. Every such insurer must be a member of the program and remain a member as long as the insurer has net direct premiums on basic property and casualty insurance in this State.

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2 4. Required action by superintendent. If the
3 superintendent determines that a program under this section
4 should be established in accordance with the requirements of
5 subsection 2, the superintendent shall:

6 A. Order member insurers to cooperate in the organization
7 of the program;

8 B. Appoint the members of the governing committee in
9 accordance with subsection 5;

10 C. Order the governing committee to develop a proposed plan
11 of operation for the program in accordance with subsection
12 6, including a deadline for the submission of the plan; and

13 D. Initiate rulemaking in accordance with subsection 8.

14 5. Governing committee. The governing committee of the
15 program consists of 8 members as follows:

16 A. Five members appointed by the superintendent who are
17 full-time employees of member insurers;

18 B. Two members appointed by the superintendent who are
19 licensed producers with property and casualty authority; and

20 C. The superintendent or the superintendent's designee, who
21 serves as an ex-officio, nonvoting member.

22 The terms of members of the governing committee and process for
23 filling vacancies must be established in the plan of operation
24 pursuant to subsection 6.

25 6. Plan of operation. The program must be operated by the
26 governing committee established under subsection 5 pursuant to a
27 plan of operation approved by the superintendent. The governing
28 committee shall develop a plan of operation and submit the plan
29 to the superintendent for approval. If the superintendent
30 disapproves the proposed plan of operation, the governing
31 committee must, within 30 days, submit for review an
32 appropriately revised plan of operation and, if the governing
33 committee fails to submit such a plan or if the revised plan is
34 also disapproved by the superintendent, the superintendent must
35 develop a plan of operation consistent with this section. The
36 governing committee may, on its own initiative or at the request
37 of the superintendent, amend the plan of operation with the
38 approval of the superintendent.

39 The plan of operation must:

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2 A. Adopt a mechanism for the equitable apportionment of
3 risks under the program, including the equitable
4 distribution among member insurers of applications for basic
5 property and casualty insurance to cover underserved areas
6 or risk types from eligible applicants who are in good faith
7 entitled to but who are unable to procure basic property and
8 casualty insurance through ordinary methods in the voluntary
9 admitted market;

10 B. Establish a methodology for the calculation and the
11 payment of fees or commissions to producers with respect to
12 eligible risks written through the program;

13 C. Require that member insurers write basic property and
14 casualty insurance for eligible applicants to cover
15 underserved areas or risk types in accordance with each
16 member insurer's underwriting guidelines and rating rules
17 applicable to risks written through the program to the
18 extent not inconsistent with reasonable underwriting and
19 rating rule limitations contained in rules adopted by the
20 superintendent under subsection 8;

21 D. Permit the use of rate filings and policy forms by
22 member insurers, including:

23 (1) The ability for member insurers to use existing
24 forms and rates to write basic property and casualty
25 insurance in the program;

26 (2) The authority for member insurers to file modified
27 policy forms and modified rates in accordance with
28 subsection 9, including permissible surcharges on those
29 policies in accordance with limits established by the
30 superintendent by rule; and

31 (3) The authority for the program to develop uniform
32 policy forms and rates for use by member insurers
33 subject to approval of the superintendent and the
34 requirements of subsection 9;

35 E. Establish a procedure for the possible future creation
36 of a risk pooling arrangement or reinsurance program for the
37 distribution of the losses and expenses of basic property
38 and casualty insurance written through the program;

39 F. Provide that a member insurer is entitled to receive
40 credit for voluntarily writing basic property and casualty
41 insurance in underserved areas or on underserved risk types
42 and that the participation in the program of an insurer who
43 does so must be reduced in accordance with the mechanism of
44 the program;

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apportionment and distribution established under paragraph A;

G. Establish a grievance process for applicants for insurance, insureds and member insurers with the program and a right to appeal those grievances to the superintendent after an initial decision by the governing committee;

H. Establish procedures for the inspection of properties by or on behalf of member insurers;

I. Establish a uniform process to inform owners of property in underserved areas or of underserved risk types of the specific circumstances and property characteristics that affect the insurability of the property including recommendations for improving the insurability of the property;

J. Require that in order for an applicant to purchase basic property and casualty insurance through the program, the applicant must produce proof of 2 declinations from authorized insurers other than eligible surplus lines insurers, to write insurance on the property. The plan of operation must allow one of the declinations to be in the form of a cancellation or nonrenewal notice unless coverage has been ordered to stay in effect pending the outcome of a hearing before the superintendent, in which case the cancellation or nonrenewal notice may only be used as a declination in the person's application to the program if the decision in the hearing is in favor of the insurer;

K. Establish a finite list of reasons a policy issued through the program may be cancelled, which may include nonpayment of premium, fraud or material misrepresentation;

L. Stipulate that cancellation of policies issued through the program may not be effective less than 20 days after receipt by the insured of the notice of cancellation or, if the cancellation is for nonpayment of premium, may not be effective less than 10 days after receipt by the insured of the notice of cancellation and that a postal certificate of mailing to the named insured at the insured's last known address is conclusive proof of receipt on the 5th calendar day after mailing;

M. Establish eligibility criteria for policies issued through the program, except that any eligibility criteria may not be inconsistent with the purposes for establishing the program;

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2 N. Establish the limits of liability a member insurer is
3 required to assume, except that for any policy issued
4 through the program, the maximum amount of coverage for a
5 dwelling on a residence premises does not exceed \$300,000,
6 the maximum limit for any liability coverage does not exceed
7 \$300,000 and any limits of liability for additional
8 coverages, including coverage for loss or damage to other
9 structures or tangible personal property or for loss of use,
10 may not count toward the maximum coverage limits applicable
11 to the dwelling or any liability coverage;

12 O. Establish procedures for the efficient, economical, fair
13 and nondiscriminatory administration of the program;

14 P. Authorize the governing committee to assess member
15 insurers for reasonable expenses incurred in administering
16 the program;

17 Q. Establish procedures to govern a member insurer's
18 withdrawal from the program; and

19 R. Include any other procedures or operational matters
20 considered necessary by the governing committee with the
21 approval of the superintendent.

22 7. Operation of program contingent upon approval. The
23 program may not become operational until rules have been adopted
24 as required by this section and the superintendent has approved
25 the plan of operation in accordance with subsection 6.

26 8. Rulemaking. In accordance with subsection 4, the
27 superintendent may adopt rules to implement this section.
28 Rules adopted pursuant to this subsection are routine technical
29 rules under Title 5, chapter 375, subchapter 2-A. Rules adopted
30 under this section may include:

31 A. The designation of underserved areas or risk types;

32 B. Reasonable limitations on underwriting guidelines
33 applicable to all member insurers for the issuance of basic
34 property and casualty insurance through the program;

35 C. A writing level based on net direct premiums under which
36 an insurer may seek to limit its participation or seek
37 exemption from participation in the program;

38 D. Maximum allowable caps on rating surcharges and
39 limitations on rating rules for risks written through the
40 program;

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2 E. The process by which the superintendent may suspend or terminate the program; and

4 F. Any other provisions necessary to implement the requirements of this section.

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8 9. Modified policy form and rate filings. A modified policy form and modified rate developed by a member insurer must be filed with the superintendent. A modified rate to be used in connection with an existing policy form that consists solely of a permissible surcharge not in excess of the maximum allowable cap contained in rules adopted under subsection 8 may be used by a member insurer immediately upon filing that modified rate with the superintendent. For any other modified filings, a modified policy form and modified rate must be filed with the superintendent not less than 30 days in advance of the stated effective date. A modified rate filing subject to the 30-day advance filing requirement must include any supplementary rating information to be used in conjunction with a rate and, to the extent available, sufficient supporting information to support a rate. A modified rate may not be excessive, inadequate or unfairly discriminatory with respect to risks written through the program. A modified policy form may only be disapproved for the grounds specified in section 2413. All modified policy form and rate filings are confidential until effective or approved in accordance with applicable law.

28 10. Immunity from liability for inspections. There is no liability on the part of, and a cause of action does not arise against, member insurers, the program or the governing committee or agents or employees of any of them or the superintendent or the superintendent's authorized representatives with respect to any inspections to be undertaken by this section or for any acts or omissions in connection with those inspections or for any statements made in a report or communication concerning the insurability of the property.

38 11. Superintendent's authority to suspend. In the event of impairment or serious financial difficulty of a member insurer, the superintendent may suspend the application of the provisions of this section from applying to the financially distressed member insurer.

44 12. Expiration of program. A program established by the superintendent pursuant to this section expires 2 years from the date the program becomes operational unless terminated earlier by the superintendent or unless, after a public hearing, the superintendent determines, based on clear and convincing evidence, that continued operation of the program is necessary to address the unavailability of basic property and casualty

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2 insurance for underserved areas or risk types. For purposes of
3 this subsection, the program becomes operational on the effective
4 date of the first policy issued through the program. If the
5 superintendent finds that continued operation of the program is
6 necessary, then any person insured under the program must reapply
7 for coverage as new business under the program at the next
8 renewal date occurring after the date of the superintendent's
9 order to continue the program. Any policy written through the
10 program that is in force when the program is terminated continues
11 in force until its stated expiration date in accordance with the
12 terms and conditions of the policy and the provisions in the plan
13 of operation.

14 13. Powers of superintendent. In addition to any powers
15 conferred upon the superintendent by this or any other law, the
16 superintendent has authority to supervise the program and may:

17 A. Examine and investigate the operation of the program and
18 member insurers through free access to all the books,
19 records, files, papers and documents relating to their
20 operation and may summon, qualify and examine as witnesses
21 all persons having knowledge of such operations, including
22 the governing committee and its officers, employees and
23 agents;

24 B. Require reports from the program, the governing
25 committee and member insurers concerning risks insured
26 through the program as the superintendent considers
27 necessary;

28 C. Approve or disapprove modified policy forms, modified
29 endorsements, modified rates and modified rating and rule
30 manuals for use by member insurers; and

31 D. Suspend or terminate the program in accordance with
32 subsection 12 and any process established by rule.

33 14. Penalties for violations. The superintendent may take
34 any action permitted under section 12-A against a member insurer
35 or any other person required to be licensed under this Title who
36 violates this section or any other applicable law or rule.

37 15. Annual report. On or before March 31st of each year,
38 the governing committee shall submit a report detailing the
39 program's operations for the previous calendar year to the
40 superintendent and the joint standing committee of the
41 Legislature having jurisdiction over insurance and financial
42 services matters. The annual report is a public record within
43 the meaning of Title 1, chapter 13, subchapter 1.

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2 5. It amends the hearing section of the Maine Property
3 Insurance Cancellation Control Act to clarify that an insurer
4 must provide proof or evidence that its reason for nonrenewal of
5 a policy is a good faith reason and rationally related to the
6 insurability of the property if the reason for nonrenewal is not
7 based on a statutorily permissible ground for cancellation. The
8 amendment also clarifies that a statement from the insurer that a
9 risk does not meet the insurer's underwriting guidelines alone is
10 not considered sufficient proof or evidence of its reason for
11 nonrenewal in a hearing before the Superintendent of Insurance.

12 6. It prohibits an insurer from cancelling or refusing to
13 issue or renew a property insurance policy solely on the basis of
14 the age of the dwelling.

16 7. It prohibits an insurer from declining to insure a
17 property on the basis that a previous owner of the property
18 submitted claims for losses to the property.

20 8. It prohibits insurers from increasing the stated value
21 of a property insured under a policy governed by the Maine
22 Property Insurance Cancellation Control Act at any time other
23 than at renewal. The amendment also requires insurers to provide
24 notice to the named insured explaining the reason for any
25 increase in premium associated with an increase in stated value
26 and disclosing how an insured may obtain additional information
27 concerning the reasons for the increase in the stated value. The
28 amendment also clarifies that this provision does not apply to
29 routinely scheduled increases in valuation or to increases in
30 stated value agreed to by the insured.

32 9. It makes technical changes to the laws governing
33 workers' compensation group self-insurance reinsurance accounts
34 related to the legal and tax status of the account.

36 **PART B**

38 Part B of the amendment authorizes the Superintendent of
39 Insurance to establish a mandatory property and casualty
40 insurance market assistance program to provide basic property and
41 casualty insurance to underserved areas or risk types in Maine.
42 Prior to establishing the program, the superintendent must
43 establish a voluntary market assistance plan pursuant to the
44 Maine Revised Statutes, Title 24-A, section 2325-A and find that
45 either the number of insurers participating in the voluntary
46 market assistance plan is insufficient or that a sufficient
47 number of risks has not been written through the voluntary market
48 assistance plan. If a mandatory program is established, any
49 insurer authorized to write basic property and casualty insurance
50 and actually writing such insurance in Maine must cooperate in

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COMMITTEE AMENDMENT "A" to S.P. 692, L.D. 1853

2 organizing the program and remain a member of the program as long
as that insurer has net direct premiums on basic property and
4 casualty insurance in Maine. The bill authorizes the
superintendent to appoint a governing committee to oversee the
6 program and to develop a plan of operation subject to the
approval of the superintendent. It also authorizes the
8 superintendent to adopt rules to implement the requirements of
the program, including the designation of underserved areas or
10 risk types, the creation of reasonable limitations on
underwriting guidelines and rates for insurance written through
12 the program and provisions to govern the suspension or
termination of the program.

14
16

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



**121st Maine Legislature
Office of Fiscal and Program Review**

LD 1853

An Act To Amend the Laws Relating to Property Insurance

LR 2725(02)

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Additional cost to the Department of Professional and Financial Regulation can be absorbed utilizing existing budgetary resources.