

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 97

S.P. 39

In Senate, January 11, 2005

**An Act To Terminate Payments to the Maine Workers'
Compensation Residual Market Pool from the Maine Insurance
Guaranty Association**

(EMERGENCY)

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MAYO of Sagadahoc.
Cosponsored by Representative PERRY of Calais and
Senators: MILLS of Somerset, SULLIVAN of York.

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

4
6 **Whereas,** part of the Maine Workers' Compensation Residual
Market Pool funding crisis resolution in 1995 required the Maine
Insurance Guaranty Authority to make quarterly payments to the
8 pool to make it solvent; and

10 **Whereas,** the Maine Workers' Compensation Residual Market
Pool is financially solvent and no longer needs the Maine
12 Insurance Guaranty Authority payments to meet its obligations; and

14 **Whereas,** the Maine Insurance Guaranty Authority payments
create the need to assess other lines of insurance, including
16 homeowner's and auto insurance, thereby burdening those lines
with an additional \$8,000,000 a year in unnecessary costs to
18 consumers; and

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

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

28 **Sec. 1. 24-A MRSA §2393, sub-§3,** as enacted by PL 1995, c.
289, §11, is amended to read:

30 **3. Payments by Maine Insurance Guaranty Association.** The
32 association shall pay to the pool \$1,538,039 on or before
February 15th, May 15th, August 15th, and November 15th of each
34 year for 40 34 consecutive calendar quarters beginning August 15,
1996.

36 A. Each payment made by the association to the pool under
38 this subsection is treated as a covered claim pursuant to
section 4435, subsection 4, except that any provision or
40 authority for the association to seek reimbursement or
recoupment from any source other than by assessments to
42 association member insurers does not apply. This section
does not limit or impair a member insurer's right to
44 recoupment under section 4447.

46 B. The quarterly payments by the association to the pool as
required by this subsection must be made regardless of the
48 financial condition or actual or projected cash requirements
of the pool.

50

2 **Sec. 2. 24-A MRSA §4435, sub-§5**, as amended by PL 2001, c.
478, §6 and affected by §11, is further amended to read:

4 **5. Insolvent insurer.** "Insolvent insurer" means a member
6 insurer:

8 A. Authorized to transact insurance in this State either at
the time the policy was issued or when the insured event
10 occurred; and

12 B. Against whom a final order of liquidation has been
14 entered with a finding of insolvency by a court of competent
jurisdiction.

16 Effective July 1, 1995, the workers' compensation residual market
pool, as created by the Bureau of Insurance Rules, Chapter 440,
18 is deemed an insolvent insurer.

20 Effective January 1, 2005, the workers' compensation residual
market pool, as created by the Bureau of Insurance Rules, Chapter
440, is no longer deemed an insolvent insurer.

22 **Sec. 3. 24-A MRSA §4438, sub-§1, ¶A-1**, as enacted by PL 1995,
24 c. 289, §14, is amended to read:

26 A-1. Pay to the workers' compensation residual market pool
the sum of \$1,538,039 on or before February 15th, May 15th,
28 August 15th and November 15th of each year beginning August
15, 1996 and continuing for 40 34 consecutive calendar
30 quarters. Each payment made under this paragraph must be
treated as the payment of a covered claim, except that the
32 association may not seek reimbursement or recoupment from
any source other than by assessments to member insurers.
34 Member insurers are allowed to recognize assessments made
pursuant to this paragraph in rates and premiums as provided
36 in section 4447;

38 **Sec. 4. Retroactivity clause.** This Act applies retroactively to
40 January 1, 2005.

42 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

44
SUMMARY

46 This bill terminates the obligation of the Maine Insurance
48 Guaranty Association to pay the Maine Workers' Compensation
Residual Market Pool quarterly payments, since the last payment
50 was November 15, 2004. These payments were adding \$8,000,000 in

2 costs to lines of insurance other than workers' compensation
through the "spillover" insolvency assessment mechanism at a time
when the residual market pool was solvent.