

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# ONE HUNDRED AND SIXTH LEGISLATURE

---

---

**Legislative Document**

**No. 1772**

H. P. 1405

House of Representatives, April 4, 1973

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Smith of Dover-Foxcroft.

---

---

## STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

---

### **AN ACT Relating to Automobile Liability Insurance.**

---

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

**Sec. 1. R. S., T. 24-A, § 2325, sub-§ 6, additional.** Section 2325 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended by adding a new subsection 6 to read as follows:

**6. This section shall not apply to motor vehicle bodily injury and property damage insurance.**

**Sec. 2. R. S., T. 29, c. 5, sub-c. 1, Article 1-A, additional.** Subchapter 1 of chapter 5 of Title 29 of the Revised Statutes is amended by adding a new Article 1-A to read as follows:

#### **ARTICLE 1-A. INSURANCE**

##### **§ 131. Creation and organization**

**1. Creation.** There is created the **Maine Automobile Insurance Fund**, hereinafter in this Article referred to as the "fund." The fund shall consist of the revenues, premiums and other receipts provided for in this subchapter.

**2. Executive director.** The executive director of the fund shall be the administrative head of the fund and shall be responsible for the exercise of all powers and duties conferred upon the fund by this Article, except for and subject to those powers and duties conferred upon the board of trustees. The executive director shall be the Insurance Commissioner.

**3. Board of trustees.** The board of trustees of the fund shall consist of 3 persons, one of whom shall be ex officio the Secretary of State and who shall

be chairman of the board. The other 2 trustees shall be appointed by the Governor and confirmed by the Council for 4-year terms. The board of trustees shall advise the executive director with respect to his exercise of the powers and duties conferred on him by this Article. Each trustee who is not otherwise an officer or employee of the State shall receive reimbursement for all necessary and proper expenses.

4. Staff. The executive director shall employ the staff of the fund.

#### § 132. Revenues and operating expenses

1. Registrant. For the first registration license year only, commencing after the effective date of this Act, every person registering a motor vehicle in this State shall pay at the time of registration, in addition to any other fee prescribed by any other law, a fee of \$1.50, which fees shall be deposited with the Treasurer of State for the account of the fund.

2. Insurer. On or before March 31st in each year, each insurer authorized to write automobile liability insurance in this State, other than the fund, shall pay to the Treasurer of State for the account of the fund 1% of its net direct written automobile liability premiums for the previous calendar year, as shown on its annual statement filed with the Insurance Commissioner. At any time during the year, the executive director may calculate the probable amount which, in his estimation, will be needed to carry out the functions of the fund and to meet its obligations for the balance of the registration year. If, in his judgment, the estimated balance of the fund will be insufficient to meet the needs of the fund, he shall assess against the said insurers an amount which shall not exceed the lesser of the estimated deficiency or an additional 1% of the aggregate net automobile liability premiums of all such insurers, other than the fund, during the preceding year, as shown by the records of the Insurance Commissioner; provided that if the assessment is less than 1% of the said aggregate net automobile liability premiums, it shall be apportioned among the insurers in the proportion that the net direct written automobile liability premiums of each bears to the aggregate net direct written automobile liability premiums of all such insurers during the preceding year. Neither payment by the insurers provided for shall be deducted from any other assessments or tax required by law, except a retaliatory tax.

3. Fund. All moneys collected pursuant to this section, and all other funds collected by or on behalf of the fund, whether through premiums, earnings from investments, or otherwise, shall be turned over to the Treasurer of State and credited to the account of the fund; and all operating expenses of the fund shall be paid from such revenues. The account of the fund shall be a special fund account and shall not be deemed part of the Treasury of the State. The State shall not provide General Fund appropriations to the fund; and the debts and obligations of the fund shall not be deemed in any manner to be a debt of the State or a pledge of its credit.

4. Use. The funds collected subsequent to January 1, 1975, pursuant to subsections 1 and 2 and income accruing therefrom shall be accounted for separately from funds collected from premiums on policies issued by the fund and income accruing therefrom. Funds so collected pursuant to subsections

1 and 2, and income accruing therefrom, shall be available solely for payment of claims arising under this Article and administrative costs fairly apportioned thereto; and funds collected from premiums and income accruing therefrom shall be available solely for payment of claims arising under policies issued by the fund and for administrative expenses fairly apportioned to the issuance of such policies and the processing and payment of claims thereunder. Upon recommendation of the executive director, the board of trustees may permit the temporary use of funds collected pursuant to subsection 1 and not needed for the payment of claims arising under this Article or administrative costs fairly apportioned thereto, for other purposes; provided that any such funds so transferred shall be repaid within one year and the board shall promptly seek an adjustment in premium schedules or make such other financial adjustments as will enable it to repay the funds within one year.

### § 133. Writing of automobile liability insurance

1. Authorization. Subject to Title 24-A and this Article, the fund is authorized and shall sell, issue and deliver, upon payment of the premium set by the fund, a policy of automobile liability insurance to any Maine resident who owns an automobile validly registered with the Motor Vehicle Division, or has a valid license to operate an automobile issued by the Motor Vehicle Division, and who either has in good faith attempted to obtain a policy of automobile liability insurance from at least 2 private insurers authorized to write such a policy in this State and has been rejected or refused such a policy by 2 such private insurers for any reason other than nonpayment of premiums, or who has had a policy of automobile liability insurance cancelled or nonrenewed for any reason other than nonpayment of premiums, by a private insurer authorized to write such a policy in this State.

2. Contents. The policy issued by the fund shall contain the minimum coverages required by the Financial Responsibility and Uninsured Motorists Laws and may contain such other provisions as may be determined by the executive director and approved by the board of trustees of the fund and the Insurance Commissioner.

3. Commission. The fund shall pay a commission, not to exceed 10% of the premiums, to the agent or broker of a policyholder to whom a policy of insurance is issued or renewed by the fund.

4. Binding authority. Any agent or broker licensed in Maine may, subject to this section, bind the minimum required coverage for an applicant in the fund upon application to the agent or broker and payment of the appropriate premium.

The board shall adopt and make available to each such agent or broker reasonable rules and regulations relating to the binding authority of such agents and brokers, including, but not limited to, the amount of premium to be collected, the evidence necessary to establish the applicant's qualification to be insured by the fund and procedures for notifying the fund of the binding of coverage.

The fund shall become liable under the coverage bound from the date of binding by the agent or broker; provided, that the fund, upon review of the application, may, not later than 60 days after the coverage is effective, cancel the coverage and refuse to issue a policy upon a finding that the applicant is not qualified for insurance by the fund, the appropriate premium has not been paid, or the fund is authorized to reject the application under section 135; provided that if the cancellation is due to nonpayment of the appropriate premium, the fund shall afford the applicant a reasonable opportunity to pay the proper premium. The fund shall promptly notify the applicant, the agent and the Motor Vehicle Division of a cancellation and the applicant shall thereafter have the right of appeal provided for in section 135.

5. **Penalty.** If the board finds that any broker or agent has consistently engaged in the practice of binding coverage through the fund in violation of the rules and regulations adopted by the board and that he knew or should have known that such binding was in violation of such rules and regulations, the board may refuse to accept further applications from such agent or broker and may terminate the right of such agent to bind coverage.

6. **Notice.** Any private insurer desiring to assume insurance coverage of any policyholder insured by the fund may do so, provided notice of the proposal is given to the fund at least 60 days prior to the termination of the policy, with the approval of the insured, upon receipt of such notice, the fund shall notify the insured that he will no longer be eligible for insurance from the fund. The names and records of all policyholders insured by the fund shall be open for review by all private insurers.

7. **Application.** At least 90 days prior to the expiration of the policy of automobile liability insurance issued by the fund, the executive director shall notify the policyholder, who will have completed a 2-year period as an insured of the fund and who during that period has had no moving traffic violation, nor more than one point, nor traffic accidents for which he or any operator authorized to operate the insured automobile was held responsible, that he must obtain comparable insurance coverage from a private insurer. Such a person shall not be eligible for insurance again from the fund unless he has in good faith attempted to obtain a policy of automobile liability insurance from at least 2 private insurers authorized to write such a policy in this State and has been rejected or refused such a policy by 2 such private insurers for any reason other than nonpayment of premiums.

#### § 134. Premiums

The executive director shall determine the premiums to be charged on policies issued by the fund, subject to approval by the Insurance Commissioner. Title 24-A shall apply to the determination of premiums by the executive director, but nothing in this Article shall preclude the executive director from basing premiums on the number of points accumulated by an insured or applicant for insurance under the point system provided by the Secretary of State pursuant to Title 29 or upon the prior claims experience of an insured or applicant for insurance, or both.

The Motor Vehicle Division and the executive director are authorized to enter into an arrangement whereby the premiums on policies issued by the

fund can be collected by the division on behalf of the fund, at the time of issuance of operator's licenses or certificates of registration. Any premiums so collected under such an arrangement shall be paid over to the Treasurer of State for the account of the fund.

The fund shall not provide directly or indirectly for the financing of premiums or accept premiums on an installment basis; and any premium to be financed shall be financed only by a premium finance company registered and licensed in accordance with law.

§ 135. Rejection of application for insurance; cancellation of policy

The executive director may reject an application of insurance or cancel a policy of insurance if he finds that the driving license of the applicant or policyholder is presently suspended or revoked. The executive director shall promptly notify the applicant or policyholder of his action.

An applicant whose application for insurance has been rejected may, within 10 days after receipt of notice of the rejection, appeal the decision of the executive director to a special board composed of the board of trustees and the Insurance Commissioner. The special board may affirm, reverse or modify the decision of the executive director, upon the record, or may hold a hearing upon not less than 10 days' written notice to the applicant and thereafter affirm, reverse or modify the decision of the executive director.

The fund may, at any time, cancel a policy written by it for nonpayment of premiums or for suspension or revocation of the driving license of the policyholder.

The executive director shall, upon rejection of an application for insurance which has not been reversed or modified by the special board in such a way as to require issuance of a policy, and upon cancellation of a policy or termination of coverage as to any insured, immediately notify the Motor Vehicle Division of such action.

§ 136. Investment of fund

Whenever and as often as there is credited to the fund any sum not likely, in the opinion of the executive director, to be required for immediate use, the Treasurer of State shall, upon request of the executive director, invest the same in investments legal for casualty insurance companies. When and as it may become necessary or expedient to use the moneys so invested, the Treasurer of State shall, upon request of the executive director, collect, sell or otherwise realize upon such investment, and any interest accruing thereon, as well as any interest received upon the deposit of moneys credited to the fund, and credit the same to the fund.

§ 137. Settlement and defense of claims against the fund

The executive director shall settle, compromise or defend claims against the fund, and may, notwithstanding any other provision of law, appoint and employ claims adjusters, attorneys and other personnel necessary therefor, either directly as employees or on a contract basis.

The executive director shall establish and maintain reasonable and adequate reserves for the payment of claims against the fund. The director shall use the same criteria as is required for use by a private insurer in determining the amount of reserves necessary.

§ 138. Unlawful acts; penalties

It is unlawful for any person or any servant of any person to file with the fund any notice or document required under this Article knowing the same to be false or untrue or containing any material misstatement of fact.

Violation of this section is punishable, upon conviction, by a fine not to exceed \$500 or by imprisonment for not more than 30 days, or by both.

§ 139. Definitions

As used in this Article, unless the context otherwise requires, the following words shall have the following meanings.

1. Automobile. "Automobile" shall include trucks, vans and trailers, but shall not include motorcycles or motorbikes.

2. Division. "Division" means the Motor Vehicle Division.

3. Executive director. "Executive director" means the executive director of the Maine Automobile Insurance Fund.

4. Fund. "Fund" means the Maine Automobile Insurance Fund.

5. Insurer. "Insurer" means any insurer authorized in this State to write automobile liability insurance.

6. Net direct written premiums. "Net direct written premiums" means direct gross premiums written on policies insuring against legal liability for bodily injury or death and for damage to property arising out of the ownership, operation or maintenance of motor vehicles which are principally garaged in this State, less return premiums thereon.

7. Person. "Person" includes natural persons, firms, copartnerships, associations, corporations and governmental bodies.

8. Qualified person. "Qualified person" means a resident of this State or the owner of a motor vehicle registered in this State or a resident of another state, territory or federal district of the United States, or province of the Dominion of Canada, or foreign country, in which recourse is afforded to residents of this State, of substantially similar character to that provided for by this Article, but it shall not include any automobile collision insurance carrier or other insurer seeking by way of subrogation any recovery for amounts paid for damages to motor vehicles, other real or personal property or injuries to persons under any insurance coverages that may be valid, including but not limited to collision, fire, theft, medical payments or uninsured motorist coverages; or any holder of a certificate of self-insurance under this Article. A vehicle bearing temporary registration plates shall not be deemed to be, for the purposes of this section, a motor vehicle registered in this State, if the owner of the vehicle is a nonresident of the State of Maine.

9. Registration license year. "Registration license year" for vehicles means the period beginning March 1, 1974 and ending February 28, 1975 and each subsequent 12-month period.

Sec. 3. **Effective date.** This Act shall take effect January 1, 1974.

#### STATEMENT OF FACT

The purpose of this bill is to create the Maine Automobile Insurance Fund.