MAINE STATE LEGISLATURE

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1	(EMERGENCY)
2 3	SECOND REGULAR SESSION
4 5	ONE HUNDRED AND ELEVENTH LEGISLATURE
6 7	Legislative Document No. 1897
8	H.P. 1445 House of Representatives, January 10, 1984
9 10 11	Submitted by the Department of Business, Occupational and Professional Regulation pursuant to Joint Rule 24. Reference to the Committee on Business Legislation is suggested and ordered printed. EDWIN H. PERT, Clerk
12	Presented by Representative Benoit of So. Portland. Cosponsors: Representative Racine of Biddeford and Representative Stevens of Bangor.
13 14	STATE OF MAINE
15 16 17	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-FOUR
18 19 20 21	AN ACT to Clarify Executive and Judicial Authority Regarding the Dissolution of Delinquent Insurers.
22 23 24	Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and
25 26 27 28 29 30	Whereas, the dissolution of the corporate existence of delinquent insurers which have been or are to be liquidated and the prompt turnover to the Treasurer of State of abandoned property held or arising in the course of such liquidations are essential to the public peace, health and safety; and
31 32 33 34 35	Whereas, there are currently pending certain de- linquency and receivership proceedings pursuant to the Maine Insurance Code in which the Superintendent of Insurance, as statutory receiver of a domestic in- surer, has custody of unclaimed funds in excess of

\$100,000, all of which is or is to become "abandoned property" payable to the Treasurer of State pursuant to the Maine Abandoned Property Law, Title 33, chapter 27; and

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Whereas, the most expeditious transfer of this abandoned property will be possible under Title 33, section 1309 of the Abandoned Property Law, which permits the immediate turnover of abandoned property to the Treasurer of State upon the entering of a decree of dissolution and thus eliminates the substantial holding periods otherwise imposed under the law; and

Whereas, the benefits of Title 33, section 1309 of the Abandoned Property Law are not available unless such decree of dissolution is entered; and

Whereas, transfer of such abandoned property to the Treasurer of State and a winding up of such receivership proceedings is currently being delayed by the lack of clarity in the provisions of the Insurance Code relating to delinquent insurers under liquidation; and

Whereas, it is essential that these provisions of the Insurance Code be clarified to make explicit the authority of the Superior Court, upon motion of the superintendent, to enter a decree of dissolution in order to facilitate the immediate transfer of this substantial amount of abandoned property to the State Treasury and to eliminate further delay in the administration and winding up of that receivership; and

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

36 Be it enacted by the People of the State of Maine as 37 follows:

Sec. 1. 24-A MRSA §4362-A is enacted to read:

§4362-A. Dissolution of domestic insurer

The superintendent, upon application for an order of liquidation of a domestic insurer for any of the reasons specified in section 4357 or at any time thereafter, may apply for an order of dissolution of the domestic insurer. Upon the filing of the appli-cation, the court shall issue an order directing the insurer to appear in court on the day fixed in the order and show cause why the application should not be granted. The order to show cause and notice thereof shall conform to the requirements applicable to an order to show cause set forth in section 4360, subsections 2 and 3, and section 4361. Unless suffi-cient cause is shown why the application should not be granted, the court, after hearing, shall order that the corporate existence of such domestic insurer be dissolved.

Sec. 2. Application. The provisions of the Revised Statutes, Title 24-A, section 4362-A, shall be applicable in all delinquency proceedings commenced on or after its effective date and in all such proceedings pending on its effective date regardless of when commenced.

2.3

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to clarify the existing statute, which gives the Superior Court broad authority to make all necessary or proper orders to carry out the purposes of the chapter on delinquent insurers, to make explicit the power of the Superior Court to order the dissolution of a domestic insurer upon request of the Superintendent of Insurance.

The bill is proposed as emergency legislation in order to expedite the turnover of funds, currently held in the course of a pending receivership and liquidation, to the Treasurer of State, as is more fully explained in the preamble.

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