

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 FIRST REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 471

7  
8 H.P. 350

House of Representatives, February 8, 1985

9 On Motion of Representative Brannigan of Portland, referred to the  
10 Committee on Business and Commerce. Sent up for concurrence and ordered  
printed. Ordered sent forthwith.

11 EDWIN H. PERT, Clerk

Presented by Representative Brannigan of Portland.  
12

13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-FIVE  
17

18 AN ACT to Allow Equitable Adjustments of  
19 Assessments for Members of the Maine  
20 Self-insurance Guarantee Association.  
21

22 Emergency preamble. Whereas, Acts of the Legis-  
23 lature do not become effective until 90 days after  
24 adjournment unless enacted as emergencies; and

25 Whereas, a need exists to authorize the board of  
26 directors to make equitable adjustments to the con-  
27 tributions made by members of the association; and

28 Whereas, such adjustments may be necessary prior  
29 to 90 days after the Legislature adjourns; and

30 Whereas, in the judgment of the Legislature,  
31 these facts create an emergency within the meaning of  
32 the Constitution of Maine and require the following  
33 legislation as immediately necessary for the preser-  
34 vation of the public peace, health and safety; now,  
35 therefore,

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

3 39 MRSA §23-A, sub-§4, ¶A, as amended by PL 1981,  
4 c. 637, §§5 & 6, is further amended to read:

5 A. The association shall:

6 (1) Obtain from each member and file with  
7 the superintendent individual reports speci-  
8 fying the aggregate benefits each member  
9 paid during the previous calendar year, and  
10 the annual standard premium which would have  
11 been paid by each self-insurer during the  
12 previous calendar year pursuant to manual  
13 rates established by the principal rating  
14 organization in the State and using the ex-  
15 perience rating procedure approved by the  
16 Superintendent of Insurance for that self-  
17 insurer. These reports shall be due on or  
18 before July 15th following the close of that  
19 calendar year, except that this deadline may  
20 be extended by the superintendent for up to  
21 3 additional months for good cause shown;

22 (2) Assess each member of the association  
23 as follows:

24 (a) Each individual self-insurer shall  
25 be annually assessed an amount equal to  
26 1% of the annual standard premium which  
27 would have been paid by that individual  
28 self-insurer during the prior calendar  
29 year; payment to the association shall  
30 be made no later than September 15th  
31 following the close of that calendar  
32 year. Where any such assessment is paid  
33 based in whole or in part upon esti-  
34 mates of annual standard premium for  
35 the prior calendar year, there shall be  
36 made in the next year's assessment an  
37 adjustment of the assessment of such  
38 prior year based on actual audited an-  
39 nual standard premium. Regardless of  
40 the size of the fund referred to in  
41 subparagraph (3), during its first 12  
42 months of membership, no individual

1 self-insurer may discount or reduce  
2 this 1% assessment;

3 (b) Each group self-insurer shall be  
4 annually assessed an amount equal to  
5 .1% of the total annual standard premi-  
6 um which would have been paid by all  
7 the members of that group self-insurer  
8 during the prior calendar year; payment  
9 to the association shall be no later  
10 than September 15th following the close  
11 of that calendar year. Where any such  
12 assessment is paid based in whole or in  
13 part upon estimates of annual standard  
14 premium for the prior calendar year,  
15 there shall be made in the next year's  
16 assessment an adjustment of the assess-  
17 ment of such prior year based on actual  
18 audited annual standard premium. Re-  
19 gardless of the size of the fund re-  
20 ferred to in subparagraph (3), during  
21 its first 12 months of membership, no  
22 group self-insurer may discount or re-  
23 duce this .1% assessment.

24 (c) Each member self-insurer shall be  
25 notified of the assessment no later  
26 than 30 days before it is due;

27 (d) If a self-insurer is a member of  
28 the association for less than a full  
29 calendar year, the annual standard pre-  
30 mium shall be adjusted by that portion  
31 of the year the self-insurer is not a  
32 member of the association; and

33 (e) If application of the contribution  
34 rates referred to in divisions (a) and  
35 (b) would produce an amount in excess  
36 of the limits of the fund established  
37 in subparagraph (3) an equitable prora-  
38 tion shall be made;

39 (3) ~~Administer a fund, to be known as the~~  
40 ~~Maine Self-Insurance Guarantee Fund, which~~  
41 ~~shall receive the assessments required in~~  
42 ~~subparagraph (2). This fund shall not exceed~~

1           \$1,000,000, except that once the fund  
2 reaches \$1,000,000, the fund shall not ex-  
3 ceed \$1,000,000 plus all subsequent initial  
4 assessments of new member self-insurers  
5 which are required to be made in subpara-  
6 graph (2); divisions (a) and (b). The costs  
7 of administration by the association shall  
8 be borne by the fund, and the association is  
9 authorized to secure reinsurance and bonds  
10 and to otherwise invest the assets of the  
11 fund to effectuate the purpose of the asse-  
12 ciation, subject to the approval of the Su-  
13 perintendent of Insurance. Administer a  
14 fund, to be known as the Maine Self-  
15 Insurance Guarantee Fund, which shall re-  
16 ceive the assessments required in subpara-  
17 graph (2). This fund shall not exceed  
18 \$1,000,000 plus all subsequent initial as-  
19 sessments of new member self-insurers which  
20 are required to be made in subparagraph (2),  
21 divisions (a) and (b). The board of direc-  
22 tors may distribute to the membership from  
23 time to time the income derived from the in-  
24 vestment of the assets of the fund and the  
25 distribution shall be made to each member  
26 based upon that member's contribution to the  
27 fund, period of membership and losses to the  
28 fund attributable to that member. The cost  
29 of administration by the association shall  
30 be borne by the fund or, in the discretion  
31 of the board, be paid from investment in-  
32 come. The association may secure reinsur-  
33 ance, excess insurance and bonds and other-  
34 wise invest the assets of the fund to effec-  
35 tuate the purpose of the association, sub-  
36 ject to the approval of the Superintendent  
37 of Insurance.

38           (4) Be obligated to the extent of covered  
39 claims occurring prior to the determination  
40 of the self-insurer's insolvency, or occur-  
41 ring after such determination but prior to  
42 the obtaining of workers' compensation in-  
43 surance as otherwise required under this Ti-  
44 tle by the self-insurer. Nothing in this  
45 section shall obligate the association to  
46 pay claims against a self-insurer which are

1 not or have not been paid as a result of a  
2 determination of insolvency or the institu-  
3 tion of bankruptcy or receivership proceed-  
4 ings which occurred prior to the effective  
5 date of this section.

6 (a) "Covered claim" means an unpaid  
7 claim against an insolvent self-insurer  
8 which relates to an injury which occurs  
9 while the self-insurer is a member of  
10 the association and which is compensa-  
11 ble under this Act;

12 (5) After paying any claim resulting from a  
13 self-insurer's insolvency, the association  
14 shall be subrogated to the rights of the in-  
15 jured employee and dependents and shall be  
16 entitled to enforce liability against the  
17 self-insurer by any appropriate action  
18 brought in its own name or in the name of  
19 the injured employee and dependents;

20 (6) Assess the fund in an amount necessary  
21 to pay:

22 (a) The obligations fo the association  
23 under this section subsequent to an in-  
24 solvency;

25 (b) The expenses of handling covered  
26 claims subsequent to an insolvency;

27 (c) The costs of examinations under  
28 subsection 8; and

29 (d) Other expenses authorized by this  
30 subchapter;

31 (7) Investigate claims brought against the  
32 association and adjust, compromise, settle  
33 and pay covered claims to the extent of the  
34 association's obligation and deny all other  
35 claims. The association may review settle-  
36 ments to which the insolvent self-insurer  
37 was a party to determine the extent to which  
38 such settlements may be properly contested;

1 (8) Notify such persons as the superintend-  
2 ent directs under subsection 7;

3 (9) Handle claims through its employees or  
4 through one or more self-insurers or other  
5 persons designated as servicing facilities.  
6 Designation of a servicing facility is sub-  
7 ject to the approval of the superintendent,  
8 but designation of a member self-insurer as  
9 a servicing facility may be declined by such  
10 self-insurer;

11 (10) Reimburse each servicing facility for  
12 obligations of the association paid by the  
13 facility and for expenses incurred by the  
14 facility while handling claims on behalf of  
15 the association; and

16 (11) Pay the other expenses of the associa-  
17 tion authorized by this section.

18 (a) Establish in the plan of operation  
19 a mechanism to calculate the assess-  
20 ments required by subparagraphs (1),  
21 (2) and (3) by a simple and equitable  
22 means to convert from policy or fund  
23 years which are different from a calen-  
24 dar year.

25 **Emergency clause.** In view of the emergency cited  
26 in the preamble, this Act shall take effect when ap-  
27 proved.

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STATEMENT OF FACT

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The purposes of this bill are:

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1. To allow the board of directors to make an equitable apportionment among all self-insurers contributing to the Maine Self-insurance Guarantee Fund; and

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2. To clarify that the association may obtain excess insurance.

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