

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1488

7 S.P. 559

In Senate, May 9, 1985

8 Reference to the Committee on Business and Commerce suggested and
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Danton of York.

11 Cosponsored by Representative Aliberti of Lewiston and Representative
Telow of Lewiston.

12 STATE OF MAINE
13

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

17 AN ACT to Amend the Maine Insurance Guaranty
18 Association Act.
19

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

22 Sec. 1. 24-A MRSA §4433, sub-§2, as amended by
23 PL 1969, c. 561, is further amended to read:

24 2. Exceptions. Except, that this subchapter
25 shall not apply as to:

26 A. Contracts of reinsurance;

27 B. Mortgage guaranty insurance; and

28 C. Credit insurance, as defined in section 707,
29 subsection 1, paragraph 1-; and

30 D. Insurance contracts procured as surplus lines
31 coverage pursuant to chapter 19.

1 Sec. 2. 24-A MRSA §4435, sub-§7, as enacted by
2 PL 1969, c. 561, is amended to read:

3 7. Net direct written premiums. "Net direct
4 written premiums" means direct gross premiums written
5 on insurance policies to which this subchapter ap-
6 plies, less return premiums thereon and dividends
7 paid or credited to policyholders on such direct
8 business. "Net direct written premiums" does not in-
9 clude premiums on contracts between insurers or
10 reinsurers or premiums written through the United
11 States Government Flood Insurance Program.

12 Sec. 3. 24-A MRSA §4437, first ¶, as amended by
13 PL 1973, c. 625, §160, is further amended to read:

14 The board of directors of the association shall
15 consist of not less than 7 persons serving terms as
16 established in the plan of operation. The members of
17 the board shall be selected by member insurers sub-
18 ject to the approval of the ~~commissioner~~
19 superintendent. Vacancies on the board shall be
20 filled for the remaining period of the term ~~in the~~
21 same manner as initial appointments by a majority
22 vote of the remaining board members, subject to the
23 approval of the superintendent. If no members are
24 selected within 60 days after May 9, 1970, the super-
25 intendent may appoint the initial members of the
26 board of directors.

27 Sec. 4. 24-A MRSA §4438, sub-§1, ¶A, as amended
28 by PL 1981, c. 17, is further amended to read:

29 A. Be obligated to the extent of covered claims
30 existing prior to the determination of the
31 insurer's insolvency, or arising after such de-
32 termination but prior to the first to occur of
33 the following events:

34 (1) Expiration of 30 days after the date of
35 such determination of insolvency;

36 (2) Expiration of the policy; or

37 (3) Replacement or cancellation of the pol-
38 icy at the instance of the insured;

1 Except as to covered claims arising under
2 ~~workmen's~~ workers' compensation policies, the ob-
3 ligation of the association shall not extend to
4 any portion of a covered claim which exceeds the
5 lesser of the obligation of the insurer, now in-
6 solvent, under the policy from which the claim
7 arises, or ~~\$150,000~~ \$300,000. The association
8 shall pay in full covered claims arising under
9 ~~workmen's~~ workers' compensation policies;

10 Sec. 5. 24-A MRSA §4438, sub-§1, ¶D, as enacted
11 by PL 1969, c.561, is amended to read:

12 D. Investigate claims brought against the asso-
13 ciation and adjust, compromise, settle and pay
14 covered claims to the extent of the association's
15 obligation and deny all other claims. The associ-
16 ation shall pay covered claims in any reasonable
17 order, including the payment of claims as such
18 are received from the claimants or in groups or
19 categories of claims. The association may review
20 settlements, releases and judgments to which the
21 insolvent insurer or its insureds were parties to
22 determine the extent to which such settlements,
23 releases and judgments may be properly contested;

24 Sec. 6. 24-A MRSA §4440, sub-§§1 and 4, as en-
25 acted by PL 1969, c. 561, are amended to read:

26 1. Proportion. The assessments of each member
27 insurer provided for under section 4438, shall be in
28 the proportion that the net direct written premiums
29 of the member insurer for the ~~preceeding~~ calendar year
30 preceding the assessment on the kinds of insurance in
31 the account bears to the net direct written premiums
32 of all member insurers for the ~~preceeding same~~ preceding calen-
33 dar year on the kinds of insurance in the account.

34 4. Exemptions. The association may exempt or de-
35 fer, in whole or in part, the assessment of any mem-
36 ber insurer, if the assessment would cause the member
37 insurer's financial statement to reflect amounts of
38 capital or surplus less than the minimum amounts re-
39 quired for a certificate of authority by any juris-
40 diction in which the member insurer is authorized to
41 transact insurance. It is a condition of any defer-
42 ral that during the period of deferment no dividends

1 may be paid by the member insurer to its shareholders
2 or policyholders. A deferred assessment is paid when
3 payment will not reduce capital or surplus below re-
4 quired levels, and the association shall then refund
5 to its other member insurers an amount equal to the
6 deferred assessment in the proportions corresponding
7 to the increases in their assessments by virtue of
8 that deferment.

9 Sec. 7. 24-A MRSA §4444, sub-§6, as amended by
10 PL 1973, c. 585, §12, is further amended to read:

11 6. Causes. The At the request of the superin-
12 tendent the board of directors shall, at the conclu-
13 sion of any insurer insolvency in which the associa-
14 tion was obligated to pay covered claims, prepare a
15 report on the history and causes of such insolvency,
16 based on the information available to the associa-
17 tion, and submit such report to the superintendent.

18 Sec. 8. 24-A MRSA §4449, as enacted by PL 1969,
19 c. 561, is amended to read:

20 §4449. Stay of proceedings; reopening of default
21 judgments

22 All proceedings in which the insolvent insurer is
23 a party or is obligated to defend a party in any
24 court in this State shall be stayed for 60 days from
25 the date the insolvency is determined, and may be
26 stayed by the Superior Court for additional time
27 solely as is deemed necessary to permit proper de-
28 fense by the association of all pending causes of ac-
29 tion. The association shall provide to the superin-
30 tendent a copy of any such request for stay and sup-
31 porting documents filed with the court. As to any
32 covered claims arising from a judgment under any de-
33 cision, verdict or finding based on the default of
34 the insolvent insurer or its failure to defend an in-
35 sured, the association either on its own behalf or on
36 behalf of such insured may apply to have such judg-
37 ment, order, decision, verdict or finding set aside
38 by the same court or administrator that made such
39 judgment, order, decision, verdict or finding and
40 shall be permitted to defend against such claim on
41 the merits.

