

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 380

H.P. 294 House of Representatives, February 18, 1987  
Reference to the Committee on Banking and Insurance  
suggested and ordered printed.

EDWIN H. PERT, Clerk  
Presented by Representative STEVENS of Bangor.  
Cosponsored by Representative RYDELL of Brunswick and  
Senator BUSTIN of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT Pertaining to the Establishment of  
2 Mandatory Risk-sharing Plans.  
3

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

6 24-A MRSA §2325-A is enacted to read:

7 §2325-A. Mandatory risk-sharing plans

8 1. Establishment of plans. If the superintend-  
9 ent finds, after notice and hearing, that in this  
10 State any of the following types of insurance are not  
11 readily available in the voluntary market and that  
12 the public interest requires that availability, he  
13 may, by rule, promulgate plans to provide insurance  
14 coverage for any risks in this State which are equi-  
15 tably entitled to, but otherwise unable to obtain,

1 that coverage or he may call upon industry to prepare  
2 plans for his approval:

3 A. Foster care liability; or

4 B. Respite care liability.

5 2. Purposes and contents of risk-sharing plans.  
6 Any plan promulgated or prepared as provided for by  
7 this chapter shall:

8 A. Give consideration to the following factors:

9 (1) The need for adequate and readily ac-  
10 cessible coverage;

11 (2) Alternative methods of improving the  
12 market affected;

13 (3) The inherent limitation of the insur-  
14 ance mechanism;

15 (4) The need for reasonable underwriting  
16 standards; and

17 (5) The requirement of reasonable loss pre-  
18 vention measures;

19 B. Establish procedures that will create minimum  
20 interference with the voluntary market;

21 C. Spread the burden imposed by the plan equita-  
22 bly and efficiently within the industry; and

23 D. Establish procedures for applicants and par-  
24 ticipants to have grievances reviewed by an im-  
25 partial body.

26 3. Persons required to participate. Each plan  
27 shall require participation by all insurers autho-  
28 rized in this State to write the kinds of insurance  
29 covered by the specific plans and all agents licensed  
30 to represent those insurers for the kinds of business  
31 covered by the specific plans; except that the super-  
32 intendent may exclude classes of insurers or agents  
33 for administrative convenience or because it is not  
34 equitable or practicable to require them to partici-  
35 pate in the plan.

1           4. Voluntary participation. The plan may provide for optional participation by insurers not required to participate as provided in subsection 3.

4           5. Classification and rates. Each plan shall provide for the method of classifying risks and making and filing rates applicable to the risks.

7           6. Basics of participation. The plan shall specify the basis of participation of insurers and agents and the conditions under which risks must be accepted.

11           7. Duty to provide service. Every participating insurer and agent shall provide to any person seeking coverages of kinds available in the plans; the services prescribed in the plans, including full information on the requirements; and procedures for obtaining coverage under the plans, whenever the business is not placed in the voluntary market.

18           8. Reasonableness of commissions. The superintendent shall determine reasonable and adequate commission rates to be paid to agents or brokers for coverage written under this chapter. In determining the reasonableness and adequacy of the commission rates, the superintendent shall consider the commission rates paid on similar coverage in the normal market.

26           9. Provisions of marketing facilities. If the superintendent finds that the lack of cooperating insurers or agents in an area makes the functioning of the plan difficult, he may order that the plan provide for appointing agents in such a manner and on such terms as he designates or take other appropriate steps to insure that service is available.

33           10. Transition. Procedures established under the existing assigned risk plan as provided in section 2325, subsection 2, shall continue in effect until changed as provided in this section.

37           11. Renewal. Any mandatory risk-sharing plan created as required by this section shall not issue any policies with an inception date one year after the initial policy issue date or anniversary of the

1 issue date, unless the superintendent has found, af-  
2 ter notice and hearing, that the type of insurance is  
3 not readily available in the voluntary market and  
4 that public interest requires renewal of the plan.

5 STATEMENT OF FACT

6 The purpose of this bill is to allow the Superin-  
7 tendent of Insurance to ensure that liability insur-  
8 ance for foster and respite care is available.

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