

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 554

H.P. 411

House of Representatives, March 6, 1989

Reference to the Committee on Banking and Insurance suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative RYDELL of Brunswick.

Cosponsored by Representative KETOVER of Portland, Representative CURRAN of Westbrook and Senator HOBBS of York.

STATE OF MAINE

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

An Act to Clarify Use of Corporate-owned Life Insurance Policies.

(EMERGENCY)



1 **Emergency preamble.** Whereas, Acts of the Legislature do not
2 become effective until 90 days after adjournment unless enacted
3 as emergencies; and

5 Whereas, corporate employers are increasingly concerned
6 about their ability to finance the substantial cost of
7 preemployment and postemployment economic security benefits for
8 their employees; and

9 Whereas, proposed standards of the Financial Accounting
11 Standard Board may affect the future availability of
12 postemployment benefits to Maine workers; and

13 Whereas, many corporate employers desire to recover these
15 costs by investing in a program of corporate-owned life insurance
16 policies purchased on the lives of their employees; and

17 Whereas, the process of installing and maintaining a
19 corporate-owned life insurance policies program takes several
20 months to complete; and

21 Whereas, to ensure that corporate employers have the
23 continued flexibility to offer and finance postemployment
24 benefits to employees, it is necessary to clarify immediately the
25 availability of corporate-owned life insurance policies to Maine
26 corporate employers; and

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

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

35 **Sec. 1. 24-A MRSA §2404, sub-§3, ¶¶B and C, as enacted by PL**
37 **1969, c. 132, §1, are amended to read:**

39 B. In the case of other persons, a lawful and substantial
41 economic interest in having the life, health, or bodily
42 safety of the individual insured continue, as distinguished
43 from an interest which would arise only by, or would be
44 enhanced in value by, the death, disablement or injury of
45 the individual insured; and

46 C. An individual heretofore--or--hereafter party to a
47 contract or option for the purchase or sale of an interest
48 in a business proprietorship, partnership or firm, or of
49 shares of stock of a closed corporation or of an interest in
50 such these shares, has an insurable interest in the life,
51 body and health of each individual party to such that
contract and for the purposes of such that contract only, in

1 addition to any insurable interest which may otherwise exist
as to such that individual- ; and

3
5 **Sec. 2. 24-A MRS §2404, sub-§3, ¶D** is enacted to read:

7 D. A corporation has an insurable interest in the lives of
8 its employees for the purpose of funding, in the aggregate,
9 all or part of the corporation's cost for preretirement and
10 postretirement medical, death, disability and pension
11 benefits to its employees, former employees or their
12 beneficiaries, provided that an insurance program used to
13 finance these employee benefits includes a broad class of
14 employees selected by objective standards related to age,
15 service, sex or category of employment.

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

19
21 **STATEMENT OF FACT**

23 Recently, changes have occurred in the approaches available
24 to corporations for quantifying and financing preretirement and
25 postretirement benefit liabilities. Many employers, because they
26 lack the ability to prefund these obligations, are now
27 considering eliminating or sharply curtailing this benefit for
28 either active employees or new hires.

29
30 Small corporate-owned life insurance or COLI policies,
31 issued on a broad population of employees, have gained favor as a
32 financing vehicle for preretirement and postretirement benefits.
33 Federal tax laws make COLI policies an attractive way of
34 financing employee benefits. Not only do certain tax advantages
35 occur, but also COLI programs can be developed to ensure a
36 favorable cash flow match between death benefits from the COLI
37 policies and the costs of medical care and other benefits
38 received by retirees and their families. From an employee's
39 perspective, prefunding of future benefits lends greater
40 credibility to the employer's promise to pay.

41
42 Companies in Maine seeking to establish COLI programs have
43 hesitated from doing so because of the ambiguities inherent in
44 the Maine Insurance Code. Specifically, "insurable interest" as
45 presently defined could be interpreted to prohibit corporations
46 from purchasing COLI policies. This amendment clearly provides
47 that a corporation has an insurable interest in the lives of its
48 employees for the purpose of purchasing COLI policies.