

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## FIRST REGULAR SESSION - 1989

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Legislative Document

No. 750

S.P. 286

In Senate, March 14, 1989

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

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

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator THERIAULT of Aroostook.

Cosponsored by Representative WEBSTER of Cape Elizabeth, Senator COLLINS of Aroostook and Representative ALLEN of Washington.

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STATE OF MAINE

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

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**An Act to Amend the Laws Relating to the Maine Insurance Guaranty Association and the Maine Self-insurance Guarantee Association.**

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(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, the Maine Insurance Guaranty Association and the  
6 Maine Health and Life Insurance Association are organizations  
7 which provide guaranty funds which ensure payment of claims to  
8 covered individuals and organizations when insurers become  
9 insolvent; and

11           Whereas, the funding mechanism for these organizations needs  
12 to be modified to ensure that the guaranty funds will be  
13 sufficient to cover claims on an ongoing basis; and

15           Whereas, the funding mechanism needs to be modified  
16 immediately in order that the funds will have sufficient assets  
17 to cover claims of individuals insured by companies which have  
18 recently become insolvent; and

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

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

26           **Sec. 1.** 24-A MRSA §4433, sub-§2, as amended by PL 1987, c.  
27 707, §§4-6, is further amended to read:

29           2. ~~Exceptions.~~ ~~Except that this~~ This subchapter shall not  
30 apply as to:

- 31           A. Contracts of reinsurance;
- 32           B. Mortgage guaranty insurance;
- 33           C. Credit insurance;
- 34           D. Insurance contracts procured as surplus lines coverage  
35 pursuant to chapter 19;
- 36           E. Title insurance; and
- 37           F. Financial guaranty insurance; and

38           G. Contracts of workers' compensation excess insurance  
39 issued to workers' compensation self-insurers approved under  
40 Title 39, section 23 by any insurer which becomes insolvent  
41 after the effective date of this paragraph and which are  
42 covered by the Maine Self-insurance Guarantee Association.

1           **Sec. 2. 24-A MRSA §4435, sub-§6,** as amended by PL 1987, c.  
3           769, Pt. B, §5, is further amended to read:

5           6. **Member insurer.** "Member insurer" means any authorized  
7           insurer which writes any kind of insurance to which this  
9           subchapter applies. If an insurer is authorized at the time of  
11           an insolvency and subsequently is approved to withdraw its  
13           license authority for the kinds of insurance covered by any  
          account to which claims relating to the insolvency are allocated,  
          the withdrawn insurer shall continue to be a member of each  
          account solely for purposes of assessments relating to claims  
          resulting from the insolvency until these claims are paid or  
          otherwise extinguished.

15           **Sec. 3. 24-A MRSA §4438, sub-§1, ¶C,** as enacted by PL 1969,  
17           c. 561, is amended to read:

19           C. Allocate claims paid and expenses incurred among the 3  
21           accounts separately; and assess member insurers separately  
          for each account in amounts necessary to pay:

23           (1) The obligations of the association under paragraph  
25           A, subsequent to an insolvency, the obligations of the  
27           association under section 4440, subsection 3 for  
          shortfalls and for establishment of preinsolvency funds  
          in each account;

29           (2) The expenses of handling covered claims subsequent  
          to an insolvency;

31           (3) The cost of examinations under section 4445; and

33           (4) Other expenses authorized by this subchapter;

35           **Sec. 4. 24-A MRSA §4440, sub-§1,** as amended by PL 1985, c.  
37           279, §6, is further amended to read:

39           1. **Proportion.** The assessments of each member insurer  
41           provided for under section 4438, shall be in the proportion that  
43           the net direct written premiums of the member insurer for the  
45           calendar year preceding the assessment on the kinds of insurance  
47           in the account bears to the net direct written premiums of all  
49           member insurers for the same calendar year on the kinds of  
51           insurance in the account, except that assessments to cover a  
          shortfall in any account shall be determined in accordance with  
          subsection 3. In the case of a withdrawn insurer, the average of  
          its net direct written premium for the 5 calendar years prior to  
          withdrawal shall be used as its assessment base for any year  
          following withdrawal in which the insurer has no net direct  
          written premium.

1           **Sec. 5. 24-A MRSA §4440, sub-§3**, as enacted by PL 1969, c.  
2 561, is repealed and the following enacted in its place:

3           3. Limitation; types of assessments. Assessments shall be  
4 made as follows.

5           A. Each member insurer may be assessed in any calendar year  
6 on any account an amount up to 2% of that member insurer's  
7 net direct written premiums for the next preceding calendar  
8 year on the kinds of insurance in the account for purposes  
9 of paying claims and expenses of that account.

10           B. To the extent that the maximum 2% has not been assessed,  
11 an additional assessment of up to 1/2 of 1% of each member's  
12 net direct written premium shall be assessed in order to  
13 create a preinsolvency assessment fund in each account.

14           C. If the maximum assessment, together with the other  
15 assets of the association in any account, does not provide  
16 in any one year in any account an amount sufficient to make  
17 all necessary payments from that account, the shortfall  
18 shall be assessed as an obligation of all 3 accounts of the  
19 association, with each member insurer's assessment to be in  
20 the proportion that its net direct written premiums for the  
21 calendar year preceding the assessment on the kinds of  
22 insurance in all accounts bears to the total net direct  
23 written premiums of all member insurers for the same  
24 calendar year on the kinds of insurance in all accounts.  
25 The total of assessments against a member insurer for  
26 shortfalls under this paragraph in any one calendar year  
27 shall not exceed 2% of that member's net direct written  
28 premium on the kinds of insurance in all accounts for the  
29 next preceding calendar year. Any assessment for shortfalls  
30 paid under this paragraph shall be separate from and in  
31 addition to any other assessment made pursuant to this Act  
32 and shall not reduce the amount of any other such assessment  
33 which may be made nor shall it be considered in the  
34 application of the limitation provided for assessments  
35 against members of a single account.

36           **Sec. 6. 24-A MRSA §4605, sub-§6**, as enacted by PL 1983, c.  
37 846, is amended to read:

38           6. Member insurer. "Member insurer" means any person  
39 authorized to transact in this State any kind of insurance to  
40 which this chapter applies under section 4603. If an insurer is  
41 authorized at the time of an insolvency and subsequently is  
42 approved to withdraw its license authority for the kinds of  
43 insurance covered by any account to which claims relating to the  
44 insolvency are allocated, the withdrawn insurer shall continue to  
45 be a member of each such account for purposes of claims relating  
46 to the insolvency until these claims are paid or otherwise  
47 resolved.

1 extinguished and shall be subject to Class B, Class C and Class E  
3 assessments attributable to these claims. In calculating  
5 assessments for any year after withdrawal in which the withdrawn  
7 insurer has no premium for any kind of insurance which is to be  
9 used as a basis for assessments under the terms of this chapter,  
11 the average of the withdrawn insurer's premium for the prior 5  
13 calendar years shall be used as its basis for assessment.

9 **Sec. 7. 24-A MRSA §4609, sub-§2,** as enacted by PL 1983, c.  
11 846, is amended to read:

13 2. **Classes of assessments.** There shall be 3 5 classes of  
15 assessments, as follows.

17 A. Class A assessments shall be made for the purpose of  
19 meeting administrative costs and other general expenses not  
21 related to a particular impaired insurer.

23 B. Class B assessments shall be made to the extent  
25 necessary to carry out the powers and duties of the  
27 association under section 4608 with regard to an impaired  
29 domestic insurer.

31 C. Class C assessments shall be made to the extent  
33 necessary to carry out the powers and duties of the  
35 association under section 4608 with regard to an impaired  
37 foreign or alien insurer.

39 D. Class D assessments shall be made up to a maximum of 1/2  
41 of 1% of a member's premium in a given account per calendar  
43 year to the extent that the maximum allowed under subsection  
45 4 has not been assessed, in order to create a preinsolvency  
47 assessment fund in each account for purposes of the payment  
49 of future claims and expenses attributable to insolvency.  
51 This preinsolvency assessment fund shall in no event exceed  
a total of 2% of the total premium of all member insurers  
for the kinds of insurance in the account for the next  
preceding calendar year.

E. Class E assessments shall be made to the extent  
necessary to carry out the powers and duties of the  
association under subsection 8.

45 **Sec. 8. 24-A MRSA §4609, sub-§3, ¶A,** as enacted by PL 1983, c.  
47 846, is amended to read:

49 A. The amount of any Class A, Class D or Class E assessment  
51 for each account shall be determined by the board. The  
amount of any Class B or Class C assessment shall be divided  
among the accounts in the proportion that the present value  
of the liabilities for each account of the impaired insurer  
bears to the total liabilities of the impaired insurer.

1 This paragraph shall not be a factor in the determination as  
2 to whether the protection provided by statutes laws for  
3 residents of this State by the domiciliary jurisdiction of a  
4 foreign or alien insurer, is or is not substantially similar  
5 to the protection provided by this chapter for residents of  
6 other states.

7  
8 **Sec. 9. 24-A MRSA §4609, sub-§§4, 5 and 6,** as enacted by PL  
9 1983, c. 846, are amended to read:

11 4. Abatement or deferral of assessments. The association  
12 may abate or defer, in whole or in part, the assessment of a  
13 member insurer if, in the opinion of the board, payment of the  
14 assessment would endanger the ability of the member insurer to  
15 fulfill its contractual obligations. ~~The total of all assessments~~  
16 ~~upon a member insurer for each account shall not in any one~~  
17 ~~calendar year exceed 2% of the insurer's premiums in this State~~  
18 ~~on the policies covered by the account. Except as provided in~~  
19 subsection 8, each member insurer may be assessed in any calendar  
20 year on any account up to 2% of that member insurer's premiums in  
21 this State on the policies covered by the account.

23 5. Additional assessment for abatements or deferrals. In  
24 the event an assessment against a member insurer is abated or  
25 deferred, in whole or in part, because of the limitations set  
26 forth in subsection 4, the amount by which the assessment is  
27 abated or deferred, shall be assessed against the other member  
28 insurers in a manner consistent with the basis for assessments  
29 set forth in this section. ~~If the maximum assessment, together~~  
30 ~~with the other assets of the association in any account, does not~~  
31 ~~provide in any one year in that account an amount sufficient to~~  
32 ~~carry out the responsibilities of the association, the necessary~~  
33 ~~additional funds shall be assessed as soon thereafter as~~  
34 ~~permitted by this chapter.~~

35 6. Refunds. The board may, subject to the preinsolvency  
36 funding requirement of section 4609, subsection 2, paragraph D,  
37 by an equitable method as established in the plan of operation,  
38 refund to member insurers, in proportion to the contribution of  
39 each insurer to that account, the amount by which the assets of  
40 the account exceed the amount the board finds is necessary to  
41 carry out during the coming year the obligations of the  
42 association with regard to that account, including assets  
43 accruing from net realized gains and income from investments. A  
44 reasonable amount may be retained in any account to provide funds  
45 for the continuing expenses of the association and for future  
46 losses if refunds are impractical.

49 **Sec. 10. 24-A MRSA §4609, sub-§8** is enacted to read:

51 8. Assessment shortfalls. If the maximum assessment,  
together with the other assets of the association in any account,

1 does not provide in any one year in any one account an amount  
3 sufficient to make all necessary payments from that account, the  
5 shortfall shall be assessed as an obligation of all 3 accounts of  
7 the association. Each member insurer's assessment shall be in  
9 the proportion that its premium for the calendar year preceding  
11 the assessment on the kinds of insurance in all accounts bears to  
13 the total premium of all member insurers for the same calendar  
15 year on the kinds of insurance in all accounts. The total of  
17 assessments against a member insurer for shortfalls under this  
19 subsection in any one calendar year shall not exceed 2% of that  
21 member insurer's premiums in this State or for policies covered  
23 by the account. Any assessment paid under this subsection shall  
25 be separate from and in addition to any other assessment made  
27 pursuant to this Act and shall not reduce the amount of any other  
29 assessment which may be made, nor shall it be considered in the  
31 application of the limitation provided in subsection 4 for  
33 assessments against members of a single account.

19 **Sec. 11. 39 MRSA §23-A, sub-§1,** as amended by PL 1985, c.  
21 371, §2, is further amended to read:

21 1. Created. There is created a Maine Self-Insurane  
23 Self-insurance Guarantee Association to provide mechanisms for  
25 the payment of covered claims under self-insurance and workers'  
27 compensation excess insurance coverage, to avoid excessive delay  
29 in payment, to avoid financial loss to claimants because of the  
31 insolvency of a self-insurer or of an insurer, to the extent of  
33 its workers' compensation excess insurance writings, and to  
35 assist, when called upon to do so by the superintendent, in the  
37 detection of self-insurer insolvencies. It is declared that the  
39 Maine Self-Insurane Self-insurance Guarantee Association is an  
41 instrumentality of the State, provided that the debts and  
43 liabilities of the association shall not constitute debts and  
45 liabilities of the State.

37 **Sec. 12. 39 MRSA §23-A, sub-§2, ¶A,** as amended by PL 1987, c.  
39 95, §3, is further amended to read:

39 A. A self-insurer shall be deemed to be a member of the  
41 association for purposes of another self-insurer's  
43 insolvency, as defined in subsection 6, or for purposes of  
45 an insolvent insurer, as defined in Title 24-A, section  
47 4435, subsection 5, which wrote workers' compensation excess  
49 insurance, when:

47 (1) The self-insurer is a member of the association  
49 when an insolvency occurs; or

49 (2) The self-insurer has been a member of the  
51 association at some point in time during the 12-month  
period immediately preceding the insolvency in question.



1           **Sec. 13. 39 MRSA §23-A, sub-§4, ¶A**, as amended by PL 1987, c.  
272, §2, is further amended to read:

3  
4           A. The association shall:

5                   (1) Obtain from each member and file with the  
6                   superintendent individual reports specifying the  
7                   aggregate benefits each member paid during the previous  
8                   calendar year, and the annual standard premium which  
9                   would have been paid by each self-insurer during the  
10                   previous calendar year. These reports shall be due on  
11                   or before July 15th following the close of that  
12                   calendar year, except that this deadline may be  
13                   extended by the superintendent for up to 3 additional  
14                   months for good cause shown;

15  
16                   (2) Assess each member of the association as follows:

17                           (a) Each individual self-insurer shall be  
18                           annually assessed an amount equal to 1% of the  
19                           annual standard premium which would have been paid  
20                           by that individual self-insurer during the prior  
21                           calendar year; payment to the association shall be  
22                           made no later than September 15th following the  
23                           close of that calendar year. Where any such  
24                           assessment is paid based in whole or in part upon  
25                           estimates of annual standard premium for the prior  
26                           calendar year, there shall be made in the next  
27                           year's assessment an adjustment of the assessment  
28                           of such prior year based on actual audited annual  
29                           standard premium. Regardless of the size of the  
30                           fund referred to in subparagraph (3), during its  
31                           first 12 months of membership, no individual  
32                           self-insurer may discount or reduce this 1%  
33                           assessment;

34                           (b) Each group self-insurer shall be annually  
35                           assessed an amount equal to .1% of the total  
36                           annual standard premium which would have been paid  
37                           by all the members of that group self-insurer  
38                           during the prior calendar year; payment to the  
39                           association shall be no later than September 15th  
40                           following the close of that calendar year. Where  
41                           any such assessment is paid based in whole or in  
42                           part upon estimates of annual standard premium for  
43                           the prior calendar year, there shall be made in  
44                           the next year's assessment an adjustment of the  
45                           assessment of such prior year based on actual  
46                           audited annual standard premium. Regardless of the  
47                           size of the fund referred to in subparagraph (3),  
48                           during its first 12 months of membership, no group  
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1 self-insurer may discount or reduce this .1%  
assessment;

3  
5 (c) Each member self-insurer shall be notified of  
the assessment no later than 30 days before it is  
due;

7  
9 (d) If a self-insurer is a member of the  
association for less than a full calendar year,  
the annual standard premium shall be adjusted by  
11 that portion of the year the self-insurer is not a  
member of the association; and

13  
15 (e) If application of the contribution rates  
referred to in divisions (a) and (b) would produce  
17 an amount in excess of the limits of the fund  
established in subparagraph (3) an equitable  
proration shall be made;

19  
21 (3) Administer a fund, to be known as the Maine  
Self-Insurance Self-insurance Guarantee Fund, which  
23 shall receive the assessments required in subparagraph  
(2). This fund shall not exceed \$1,000,000, except that  
25 once the fund reaches \$1,000,000, the fund shall not  
exceed \$1,000,000 plus all subsequent initial  
27 assessments of new member self-insurers which are  
required to be made in subparagraph (2), divisions (a)  
and (b). The costs of administration by the association  
29 shall be borne by the fund, and the association is  
authorized to secure reinsurance and bonds and to  
31 otherwise invest the assets of the fund to effectuate  
the purpose of the association, subject to the approval  
33 of the Superintendent of Insurance.

35 (a) The association may purchase primary excess  
insurance from an insurer licensed in this State  
37 for the appropriate lines of authority to defray  
its exposure to loss occasioned by the default of  
39 one or more of its members. Any excess insurance  
so purchased shall be limited to coverage of  
41 post-assessment liability of the association's  
members and the association shall fund any such  
43 purchase by levying a special assessment on its  
members for this purpose or by application of any  
45 unencumbered funds available but which have not  
been raised by imposition of any preassessment or  
47 post-assessment. The association may obtain from  
each member any information it may reasonably  
49 require in order to facilitate the securing of  
this primary excess insurance. The association  
51 shall establish reasonable safeguards designed to

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ensure that information so received is used only for this purpose and is not otherwise disclosed;

(4) Be obligated to the extent of covered claims occurring prior to the determination of the self-insurer's insolvency, or occurring after such determination but prior to the obtaining of workers' compensation insurance as otherwise required under this Title by the self-insurer. Nothing in this section shall obligate the association to pay claims against a self-insurer which are not or have not been paid as a result of a determination of insolvency or the institution of bankruptcy or receivership proceedings which occurred prior to the effective date of this section. In the case of claims arising under workers' compensation excess insurance contracts, the association shall be obligated to the extent of covered claims existing prior to the determination of the insurer's insolvency, or arising after the determination but prior to the first to occur of the following events: expiration of 30 days after the date of the determination of insolvency; expiration of the policy; or replacement or cancellation of the policy by the insured.

(a) "Covered claim" means an unpaid claim against an insolvent self-insurer which relates to an injury which occurs while the self-insurer is a member of the association and which is compensable under this Act. For purposes of excess workers' compensation contracts, "covered claim" means an unpaid claim, including one for unpaid premiums, arising under and within the coverage and applicable limits of a policy of workers' compensation excess insurance issued to a workers' compensation self-insurer approved under section 23 by an insurer which becomes insolvent after the effective date of this provision when the claimant or insured is a resident of this State at the time of the insured event;

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

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- (6) Assess the fund in an amount necessary to pay:
  - (a) The obligations for the association under this section subsequent to an insolvency;
  - (b) The expenses of handling covered claims subsequent to an insolvency;
  - (c) The costs of examinations under subsection 8; and
  - (d) Other expenses authorized by this subchapter;
- (7) Investigate claims brought against the association and adjust, compromise, settle and pay covered claims to the extent of the association's obligation and deny all other claims. The association may review settlements to which the insolvent self-insurer or excess insurer was a party to determine the extent to which such settlements may be properly contested;
- (8) Notify such persons as the superintendent directs under subsection 7;
- (9) Handle claims through its employees or through one or more self-insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the superintendent, but designation of a member self-insurer as a servicing facility may be declined by such self-insurer;
- (10) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association; and
- (11) Pay the other expenses of the association authorized by this section.
  - (a) Establish in the plan of operation a mechanism to calculate the assessments required by subparagraphs (1), (2) and (3) by a simple and equitable means to convert from policy or fund years which are different from a calendar year.

**Sec. 14. 39 MRSA §23-A, sub-§7**, as enacted by PL 1981, c. 484, §8, is amended to read:

1           7. Powers and duties of superintendent. The powers and  
duties of the superintendent are as follows.

3  
5           A. The superintendent shall:

7           (1) Notify the association of the existence of an  
insolvent member self-insurer or insolvent excess  
9           insurer not later than 30 days after he the  
11           superintendent receives notice of an insolvency  
pursuant to the standards set forth in subsection 6 or,  
in the case of an excess insurer, in Title 24-A,  
13           section 4435, subsection 5; and

15           (2) Petition a court of competent jurisdiction for  
purposes of obtaining any order which may be necessary  
17           to assure cooperation by an insolvent excess insurer in  
order to permit the association to fulfill its  
19           responsibilities with respect to claims under excess  
contracts.

21           B. The superintendent may:

23           (1) Require that the association notify the insureds  
of the insolvent self-insurer or insolvent excess  
25           insurer and any other interested parties of the  
insolvency and of their rights under this section. Such  
27           notifications shall be by mail at their last known  
addresses, where available, but if required information  
29           for notification is not available, notice by  
publication in a newspaper of general circulation in  
31           this State shall be sufficient; and

33           (2) Revoke the designation of any servicing facility  
if he the superintendent finds claims are being handled  
35           unsatisfactorily.

37           **Sec. 15. 39 MRSA §23-A, sub-§12**, as repealed and replaced by  
PL 1985, c. 371, §5, is amended to read:

39  
41           12. Stay of proceedings. All proceedings under this Act to  
which the insolvent insurer or insolvent self-insurer is a party  
43           either before the commission or a court in this State and the  
running of all time periods against either the insolvent  
45           self-insurer, insolvent insurer or the Maine ~~Self-Insurance~~  
Self-insurance Guarantee Association under this Act shall be  
47           stayed for 60 days from the date of notice to the Maine  
~~Self-Insurance~~ Self-insurance Guarantee Association of the  
49           insolvency in order to permit the association to investigate,  
prosecute or defend properly any petition, claim or appeal under  
this Act, provided that the payment of weekly compensation for

1 incapacity under section 54 54-B or 55 55-B is made whenever time  
2 periods or proceedings affecting the payment of weekly  
3 compensation are stayed.

4 **Emergency clause.** In view of the emergency cited in the  
5 preamble, this Act shall take effect when approved.  
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## 9 STATEMENT OF FACT

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11 The Maine Insurance Guaranty Association, or MIGA, is an  
12 organization comprised of licensed insurance companies doing  
13 property and casualty insurance business in the State and formed  
14 for the purpose of responding to member insurance company  
15 insolvencies. The Maine Life and Health Insurance Guaranty  
16 Association, or MLHGA, is similarly organized with respect to the  
17 life and health insurance business. In any one year, the MIGA is  
18 currently limited to raising money not exceeding 1% of premiums  
19 written on lines of insurance covered by the association, which  
20 are separated into 3 accounts: workers' compensation insurance,  
21 auto insurance and all other kinds of covered insurance. In  
22 1988, the total claims payable from the workers' compensation  
23 account were significantly in excess of the 1% of premium cap due  
24 to a number of insolvencies of workers' compensation insurers.  
25 Due to an increase in the number of insurer insolvencies in  
26 recent years, there is a potential for this situation to recur.  
27

28 This bill attempts to provide a funding mechanism which will  
29 accommodate expected claims against both MIGA and MLHGA using a  
30 2-tier process. In the first tier, assessments will be collected  
31 from insurers writing the types of insurance covered by the  
32 account affected, up to a cap of 2% of direct written premiums of  
33 the type covered by that account. To the extent that the full 2%  
34 is not needed, an assessment of up to 1/2 of 1% will be made to  
35 create a preinsolvency fund to defray the cost of future claims.  
36 If the total raised in this fashion is insufficient to meet  
37 claims payable in a given year, the shortfall will be made up  
38 through a 2nd-tier assessment against all insurer members of the  
39 affected association, MIGA or MLHGA, so that the shortfall is  
40 treated an obligation of all 3 accounts of the association.  
41 Further, insurers withdrawing license authority after an  
42 insolvency will continue to have obligations as members of the  
43 association until claims attributable to that insolvency are  
44 extinguished. A major national company based in Massachusetts  
45 has just been declared insolvent and it is anticipated that this  
46 insolvency would result in claims by covered individuals and  
47 entities in excess of current assets of the funds. It is  
48 therefore imperative that the funding mechanism be modified  
49 immediately to ensure that the funds will have sufficient assets  
50 to cover claims against them.  
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Additionally, the bill proposes to transfer responsibility for claims under workers' compensation excess contracts issued to approved self-insurers to the Maine Self-insurance Guarantee Association for workers' compensation insolvencies occurring after the effective date of this bill.