

MAINE STATE LEGISLATURE

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R.O.S.

L.D. 1843

(Filing No. S-689)

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**STATE OF MAINE
SENATE
114TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE OF CONFERENCE AMENDMENT "A " to S.P. 705, L.D. 1843, Bill, "An Act to Exempt Medical Malpractice Captive Insurance Companies from the Requirement to Obtain Certificates of Authority to Transact Insurance in the State of Maine"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act to Require the Superintendent of Insurance to Review the Requirements for a Certificate of Authority for Certain Captive Medical Malpractice Insurers'

Further amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, this Act requires the Superintendent of Insurance to review the requirements for captive medical malpractice insurers and report to the Legislature by September 1, 1990; and

Whereas, that review must begin before the expiration of the 90-day period in order to be completed on time; and

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

Further amend the bill by striking out everything after the enacting clause and before the statement of fact the following:

2 **Sec. 1. Captive medical malpractice risk transfer corporations.** For
 4 purposes of this Act, a captive medical malpractice risk transfer
 6 corporation is a domestic corporation that is directly or
 8 indirectly controlled by a domestic nonprofit hospital or
 10 hospital holding company with a net worth of at least \$50,000,000
 12 that is solely assigned the medical malpractice risk of its
 parent or any of its parent's subsidiaries or affiliates and
 their employees for the sole purpose of facilitating the transfer
 of all the medical malpractice risk to a domestic or foreign
 reinsurer, and which independently bears none of the medical
 malpractice risks of its parent or the parent's affiliates or
 subsidiaries.

14 **Sec. 2. Report by the superintendent.** The Superintendent of
 16 Insurance shall review the minimum requirements, including
 18 minimum capital requirements, that must be met for a captive
 20 medical malpractice risk transfer corporation to obtain a
 22 certificate of authority to transact the business of insurance in
 24 this State. The superintendent shall determine whether less
 26 burdensome minimum requirements would be appropriate for the
 28 limited purpose of those corporations, revise those requirements
 over which the Bureau of Insurance has authority and propose
 legislation as necessary to revise the minimum requirements that
 are in statute. The superintendent shall complete the review,
 and submit recommendations, including a draft of any proposed
 legislation, to the Joint Standing Committee on Banking and
 Insurance of the 114th Maine Legislature and to the Office of the
 Executive Director of the Legislative Council by September 1,
 1990.

30 **Emergency clause.** In view of the emergency cited in the
 32 preamble, this Act takes effect when approved.

34 **FISCAL NOTE**

36 The Bureau of Insurance will incur some minor additional
 38 costs which can be absorbed within existing budgeted resources.'

40 **STATEMENT OF FACT**

42 The amendment strikes the language of the bill exempting
 44 certain captive medical malpractice insurers from the requirement
 46 to obtain a certificate of authority, and replaces it with a
 section requiring the Superintendent of Insurance to review the
 current minimum requirements for obtaining a certificate of
 authority, and to revise them as appropriate for certain captive
 48 insurers.

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COMMITTEE OF CONFERENCE AMENDMENT "A " to S.P. 705, L.D. 1843

2 Captive insurers are limited-purpose insurers that are
controlled by or under common control with the entities they
insure. The minimum requirements currently in law are designed
4 to protect the solvency of insurers with more insureds and higher
risk exposure than some captives, and may be overly burdensome
6 for a captive insurer whose sole purpose is to facilitate the
transfer of medical malpractice risk to a reinsurer. The purpose
8 of the review by the superintendent is to determine whether
protection of the solvency of captive insurers can be
10 accomplished with less burdensome minimum requirements. The bill
requires the superintendent to report proposed revisions to the
12 Legislature by September 1, 1990, to make regulatory changes
where appropriate and to recommend legislation making statutory
14 changes where necessary.

Reported by the Committee of Conference on S.P. 705, L.D. 1843.
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