

MAINE STATE LEGISLATURE

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L.D. 2163

(Filing No. S- 591)

STATE OF MAINE
SENATE
114TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A " to S.P. 844, L.D. 2163, Bill, "An Act to Amend the Laws Relating to the Maine Insurance Guaranty Association and the Maine Life and Health Insurance Guaranty Association"

Amend the bill by striking out all of section 5 and inserting in its place the following:

'Sec. 5. 24-A MRSA §4440-A, as enacted by PL 1989, c. 67, §8, and as amended by PL 1989, c. 641, §§1 and 2 is further amended to read:

§4440-A. Special assessment

1. **Special assessment.** If the maximum assessment permitted under section 4440, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the 2% limitation set forth in section 4440 is increased to 5% for that account for that year. If that 5% assessment is not sufficient to make all necessary payments from that account, the shortfall shall must be assessed as an obligation of the other accounts of the association, with each member insurer's assessment to be in the proportion that its net direct written premiums for the calendar year preceding the assessment on the kinds of insurance in the accounts to be assessed bears to the total net direct written premiums of all member insurers for the same calendar year on the kinds of insurance in those accounts. The total of assessments against a member insurer under this section and section 4440 for any account other than the account for which the maximum assessment has been increased from 2% in any one calendar year shall may not exceed 2% of that member's net direct written premium on the kinds of insurance written in that account for the next preceding calendar year.

2. **Limit on assessment.** Subject to the 2%--limitation percentage limitations set forth in this section and section 4440, an assessment made under this section may not exceed 5% of

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the average of a member insurer's net income of the 3 years prior to the year in which the assessment is made for any member insurer:

A. That has surplus of less than \$12,000,000 and either a ratio of total net direct written premium to total surplus greater than 2 or net income of less than \$250,000 for the year preceding the assessment. For purposes of this subsection, "net income" means the sum of underwriting income and investment income, net of dividends to policyholders and federal and foreign income taxes incurred, as reported on the insurer's annual statement filed with the superintendent. "Total surplus" means surplus as regards policyholders, as reported on the insurer's annual statement filed with the superintendent; or

B. That has a surplus of less than \$12,000,000 and has fewer than 3,000 policyholders.

3. Repealer. This section is repealed 91 days after adjournment of the Second Regular Session of the 114th 116th Legislature.'

Further amend the bill by striking out all of section 12 and inserting in its place the following:

'Sec. 12. 24-A MRSA §4609, sub-§8, as enacted by PL 1989, c. 67, §15, is amended to read:

8. Assessment shortfalls. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any one account an amount sufficient to make all necessary payments from that account, the 2% limitation set forth in subsection 2 is increased to 5% for that account for that year. If the 5% assessment is not sufficient to make all necessary payments from that account, the shortfall ~~shall~~ must be assessed as an obligation of the other accounts of the association. Each member insurer's assessment ~~shall-be~~ is in the proportion that its premium for the calendar year preceding the assessment on the kinds of insurance in the accounts to be assessed bears to the total premium of all member insurers for the same calendar year on the kinds of insurance in those accounts. The total of assessments against a member insurer of an account other than the account for which the percentage limitation has been increased from 2% for shortfalls under this section and section 4440 in any one calendar year shall may not exceed 2% of that member insurer's premiums in this State or for policies covered by the account. This section is repealed 91 days after the adjournment of the Second Regular Session of the 114th 116th Legislature. Within 7 days after the board of directors votes to levy an assessment under this

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subsection, the chair of the board of directors shall notify the chairs of the joint standing committee of the Legislature having jurisdiction over banking and insurance matters that the association has voted to make that assessment. The notification must be in writing and must include the total amount to be assessed against each account and the name of the account to which the assessed funds will be credited.'

STATEMENT OF FACT

This amendment changes the authority of the Maine Insurance Guaranty Association, MIGA, and the Maine Life and Health Insurance Guaranty Association, MLHGA, to make special assessments when an assessment level of 2% of premium in any account is not sufficient to pay claims from that account. Under current law, after that account is assessed 2%, the other accounts of the association are assessed up to 2% to help cover claims. Under the amendment, the 2% limitation on assessments would be increased to 5% for the account in which the insolvency has occurred and that account would be assessed 5% of premium before the other accounts would be assessed.

The amendment also continues the repeal provisions for the special assessments, but moves the repeal date to 91 days after adjournment of the 116th Legislature. Current law provides for repeal 91 days after adjournment of the 114th Legislature; the bill would delete the repealer entirely.

(Senator BUSTIN)
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