

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 836

S.P. 272

In Senate, March 9, 1993

**An Act to Clarify and Preserve the Public Advocate's Authority to
Protect the Rights of Employers Subject to Surcharges for Maine's
Workers' Compensation Residual Market Pool.**

(EMERGENCY)

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator McCORMICK of Kennebec.

Cosponsored by Senators: CAREY of Kennebec, CLEVELAND of Androscoggin,

Representatives: JOSEPH of Waterville, MITCHELL of Vassalboro, PINEAU of Jay.

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

4 Whereas, Public Law 1991, chapter 885 limits participation
6 by the Public Advocate in matters affecting the workers'
compensation residual market pool to "fresh-start" proceedings;
8 and

10 Whereas, in order to protect the rights of ratepayers
subject to surcharges in the regulated residual market, it is
12 necessary to amend the law to permit participation by the Public
Advocate in other matters and proceedings affecting the residual
14 market; and

16 Whereas, the Superintendent of Insurance or insurers may
initiate proceedings soon after January 1, 1993, and to represent
18 ratepayers effectively, the Public Advocate needs to participate
in any such proceedings from the start; and

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

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

28 **Sec. 1. 24-A MRSA §2387-A, sub-§§1 and 2,** as enacted by PL
30 1991, c. 885, Pt. B, §12 and affected by §13, are amended to read:

32 **1. Participation and duties.** The Public Advocate shall
represent the interests of insureds and policyholders in matters
34 under this subchapter ~~within the jurisdiction of the~~
superintendent affecting the residual market mechanism,
36 including, but not limited to:

38 A. ~~Rate filings under this chapter;~~

40 B. Rulemaking;

42 C. Petitions by insurers to terminate license authority, or
withdrawal plans submitted pursuant to section 415-A;

44 D. Proceedings ~~by the superintendent~~ concerning the
46 reasonableness and adequacy of the service provided by any
insurer;

48 E. Proceedings ~~by the superintendent~~ concerning the
50 reasonableness and adequacy of the rates charged by any
insurer; and

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F. Proceedings instituted by the superintendent concerning an insurer's license authority;

G. Proceedings concerning the reasonableness and adequacy of the servicing fee; and

H. Proceedings concerning the reasonableness and accuracy of data reporting, data recording or financial management.

The Public Advocate has the same right to request data as any other party before the superintendent and may petition the superintendent, for good cause shown, to be allowed such other information as may be necessary to carry out the purposes of this section.

2. **Petition.** The Public Advocate has the right to request that the superintendent investigate the ~~reasonableness of the service provided by, or the rates charged by, insurers~~ matters related to the residual market mechanism.

Sec. 2. 24-A MRSA §2387-A, sub-§6 is enacted to read:

6. Initiation of proceedings or intervention on behalf of employers subject to residual market. When determined necessary by the Public Advocate, in the interest of insureds or ratepayers subject to the residual market mechanism or surcharges for residual market liabilities, or any particular group of such ratepayers or insureds, the Public Advocate may initiate actions on their behalf, or may intervene and appear on their behalf in any proceedings before the superintendent, appeals from orders or decisions of the superintendent or proceedings before state and federal agencies and courts in which the subject matter of the action affects residual market ratepayers or employers subject to surcharges for the residual market mechanism.

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

STATEMENT OF FACT

This bill authorizes the Public Advocate's participation in matters and proceedings affecting the workers' compensation insurance residual market.