

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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**Legislative Document**

**No. 487**

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H.P. 376

House of Representatives, February 4, 2003

### **An Act To Amend the Maine Insurance Guaranty Association Act**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative O'NEIL of Saco.

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

4 **Sec. 1. 24-A MRSA §4438, sub-§1, ¶A,** as amended by PL 2001, c.  
5 478, §8 and affected by §11, is further amended to read:

6 A. ~~Be-obligated-to-pay~~ Pay covered claims existing prior to  
7 the determination of the insolvency or arising within 30  
8 days after the determination of insolvency, or before the  
9 policy expiration date if less than 30 days after the  
10 determination of insolvency, or before the insured replaces  
11 the policy or causes its cancellation, if within 30 days of  
12 the determination. Covered claims for medical malpractice  
13 must be paid if brought within the time frame specified in  
14 Title 24, section 2902. The obligation must be satisfied by  
15 paying to the claimant:

16 (1) Except as provided in this paragraph, the full  
17 amount of a covered claim for benefits or unearned  
18 premium under workers' compensation insurance coverage;

19 (2) An amount not exceeding \$25,000 per policy for a  
20 covered claim for the return of an unearned premium; or

21 (3) An amount not exceeding \$300,000 per claim for all  
22 other covered claims.

23 In no event is the association obligated to pay a claimant  
24 an amount in excess of the obligation of the insolvent  
25 insurer under the policy or coverage from which the claim  
26 arises. The association shall pay only that amount of  
27 unearned premium in excess of \$50. Notwithstanding any  
28 other provisions of this subchapter, a covered claim does  
29 not include any claim filed with the association after the  
30 earlier of 24 months after the date of the order of  
31 liquidation or the final date set by the court for the  
32 filing of claims against the liquidator or receiver of an  
33 insolvent insurer. The association, in its discretion, may  
34 accept a late filed claim as a covered claim when the  
35 claimant demonstrates good cause. The demonstration of good  
36 cause by a claimant includes showing that the existence of  
37 the claim was not known to the claimant prior to the bar  
38 date and that the claimant filed the claim within 60 days of  
39 learning of the claim;

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45 **SUMMARY**

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48 The bill clarifies that the Maine Insurance Guaranty  
49 Association must pay covered claims for medical malpractice if  
50 those claims are brought within the statute of limitations for  
medical malpractice.