

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 546

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H.P. 365

House of Representatives, February 19, 2013

**An Act To Improve Transparency and Oversight of the Maine  
Guaranteed Access Reinsurance Association and To Make Changes  
Necessary To Comply with Federal Law**

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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 TREAT of Hallowell.  
Cosponsored by Representatives: BECK of Waterville, GOODE of Bangor, MORRISON of South Portland, Senators: GRATWICK of Penobscot, WOODBURY of Cumberland.

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

2 **Sec. 1. 1 MRSA §402, sub-§2, ¶F**, as amended by PL 2009, c. 334, §2, is further  
3 amended to read:

4 F. Any advisory organization, including any authority, board, commission,  
5 committee, council, task force or similar organization of an advisory nature,  
6 established, authorized or organized by law or resolve or by Executive Order issued  
7 by the Governor and not otherwise covered by this subsection, unless the law, resolve  
8 or Executive Order establishing, authorizing or organizing the advisory organization  
9 specifically exempts the organization from the application of this subchapter; ~~and~~

10 **Sec. 2. 1 MRSA §402, sub-§2, ¶G**, as enacted by PL 2009, c. 334, §3, is  
11 amended to read:

12 G. The committee meetings, subcommittee meetings and full membership meetings  
13 of any association that:

14 (1) Promotes, organizes or regulates statewide interscholastic activities in public  
15 schools or in both public and private schools; and

16 (2) Receives its funding from the public and private school members, either  
17 through membership dues or fees collected from those schools based on the  
18 number of participants of those schools in interscholastic activities.

19 This paragraph applies to only those meetings pertaining to interscholastic sports and  
20 does not apply to any meeting or any portion of any meeting the subject of which is  
21 limited to personnel issues, allegations of interscholastic athletic rule violations by  
22 member schools, administrators, coaches or student athletes or the eligibility of an  
23 individual student athlete or coach; ~~and~~

24 **Sec. 3. 1 MRSA §402, sub-§2, ¶H** is enacted to read:

25 H. The meetings of the Board of Directors of the Maine Guaranteed Access  
26 Reinsurance Association established in Title 24-A, chapter 54-A.

27 **Sec. 4. 24-A MRSA §3953, sub-§1**, as enacted by PL 2011, c. 90, Pt. B, §8, is  
28 amended to read:

29 **1. Guaranteed access reinsurance mechanism established.** The Maine  
30 Guaranteed Access Reinsurance Association is established as a nonprofit legal entity. As  
31 a condition of doing business in the State, an insurer that has issued or administered  
32 medical insurance within the previous 12 months or is actively marketing a medical  
33 insurance policy or medical insurance administrative services in this State must  
34 participate in the association. The Dirigo Health Program established in chapter 87 and  
35 any other state-sponsored health benefit program shall also participate in the association.  
36 Beginning January 1, 2014 and until December 31, 2016, operations of the association are  
37 suspended and the association may not collect assessments as provided in section 3957,  
38 provide reinsurance for member insurers under section 3958 or provide reimbursement  
39 for member insurers under section 3961 except as provided by section 3963. Prior to

1 resuming operations on or after January 1, 2016, the association shall submit a revised  
2 plan of operation to the superintendent for approval.

3 **Sec. 5. 24-A MRSA §3953, sub-§2, ¶A**, as enacted by PL 2011, c. 90, Pt. B, §8,  
4 is amended to read:

5 A. The board consists of 11 members appointed as described in this paragraph:

6 (1) ~~Six~~ Eight members appointed by the superintendent: 2 members chosen from  
7 the general public and who are not associated with the medical profession, a  
8 hospital or an insurer; 2 members who represent medical providers; 2 members  
9 who represent individual health insurance consumers; one member who  
10 represents a statewide organization that represents small businesses; and one  
11 member who represents producers. A board member appointed by the  
12 superintendent may not be removed without cause; and

13 (2) ~~Five~~ Three members appointed by the member insurers, at least one of whom  
14 is a domestic insurer and at least one of whom is a 3rd-party administrator.

15 **Sec. 6. 24-A MRSA §3953, sub-§2, ¶E** is enacted to read:

16 E. The board shall establish regular places and times for meetings and may also meet  
17 at other times at the call of the chair. All meetings of the board are public  
18 proceedings as defined in Title 1, section 402, subsection 2, and meetings must be  
19 conducted in accordance with Title 1, chapter 13, subchapter 1, including, but not  
20 limited to, the use of executive sessions pursuant to Title 1, section 405.

21 **Sec. 7. 24-A MRSA §§3962 and 3963** are enacted to read:

22 **§3962. Reimbursement prohibited; minimum medical loss ratio**

23 Notwithstanding any other provision of this chapter, the association may not  
24 reimburse a member insurer for any claims otherwise eligible for reimbursement under  
25 this chapter if that member insurer has not complied with the minimum medical loss ratio  
26 for individual health insurance determined under section 4319, subsection 3, and any  
27 waiver of the minimum medical loss ratio under section 4319, subsection 3 granted under  
28 federal law does not apply for purposes of this section.

29 **§3963. Activities authorized during suspension period**

30 This section governs the suspension of operations of the association from January 1,  
31 2014 to December 31, 2016 pursuant to section 3953, subsection 1 and the authority of  
32 the association to conduct certain activities.

33 **1. Payment of claims.** The association shall pay claims eligible under sections 3958  
34 and 3961 that were incurred prior to January 1, 2014.

35 **2. Additional assessment for net losses.** The association may impose any  
36 additional assessment necessary to fund net losses of the association pursuant to section  
37 3957, subsection 5.



1           1. It makes meetings of the Board of Directors of the Maine Guaranteed Access  
2 Reinsurance Association public under the State's freedom of access laws unless the board  
3 holds executive sessions as permitted under the State's freedom of access laws;

4           2. It adds 2 consumer members to the Board of Directors and reduces the number of  
5 board members who are representatives of insurers from 5 to 3;

6           3. It suspends the authority of the association to collect assessments and premiums or  
7 provide reinsurance and reimbursement for 3 years, from January 1, 2014 until December  
8 31, 2016 and also requires that the association submit a revised plan of operation to the  
9 Superintendent of Insurance before resuming operations;

10          4. It provides that the association may not provide reinsurance or reimbursement to a  
11 member insurer unless the insurer meets the 80% minimum medical loss ratio for  
12 individual health insurance established under federal and state law; and

13          5. It directs the joint standing committee of the Legislature having jurisdiction over  
14 insurance and financial services matters to evaluate the transitional reinsurance program  
15 operating in the State from January 1, 2014 until December 31, 2016 under federal law.  
16 Before January 1, 2016, the committee is required to make a recommendation to the  
17 Legislature whether the Maine Guaranteed Access Reinsurance Association should  
18 resume operations and whether statutory changes should be made. The Joint Standing  
19 Committee on Insurance and Financial Services may report out a bill based on its  
20 recommendations to the Second Regular Session of the 127th Legislature.