

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST SPECIAL SESSION**

August 21, 1989 to August 22, 1989

and

**SECOND REGULAR SESSION**

January 3, 1990 to April 14, 1990

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TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1990

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**January 3, 1990 to April 14, 1990**

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## CHAPTER 751

S.P. 844 - L.D. 2163

**An Act to Amend the Laws Relating to the  
Maine Insurance Guaranty Association and the  
Maine Life and Health Insurance  
Guaranty Association**

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

**Sec. 1. 24-A MRSA §4433, sub-§1, ¶D**, as amended by PL 1987, c. 707, §3, is further amended to read:

D. Marine and transportation insurance, as defined in section 708, ~~except for~~ excluding wet marine insurance, as defined in section 708, subsection 2, but not excluding marine protection and indemnity insurance.

**Sec. 2. 24-A MRSA §4435, sub-§1-A** is enacted to read:

**1-A. Affiliate.** "Affiliate" means a person who directly, or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with an insolvent insurer on December 31st of the year immediately before the year in which the insurer becomes an insolvent insurer.

**Sec. 3. 24-A MRSA §4435, sub-§4**, as amended by PL 1973, c. 625, §159, is further amended to read:

**4. Covered claim.** "Covered claim" means an unpaid claim, including one for unearned premiums but excluding one for punitive damages, arising under and within the coverage and applicable limits of a policy of a kind of insurance referred to in section 4433 to which this subchapter applies issued by an insurer which becomes an insolvent insurer after May 9, 1970, and where:

A. The claimant or insured is a resident of this State at the time of the insured event; or

B. The property from which the claim arises is permanently located in this State.

"Covered claim" shall not include any amount due any insurer, reinsurer, affiliate, insurance pool or underwriting association, as subrogation recoveries or otherwise.

**Sec. 4. 24-A MRSA §4438, sub-§1, ¶A**, as repealed and replaced by PL 1987, c. 707, §8, is amended to read:

A. Be obligated to pay covered claims existing prior to the determination of the insolvency or arising within 30 days after the determination of insolvency, or before the policy expiration date if less than 30 days after the determination of insolvency,

or before the insured replaces the policy or causes its cancellation, if within 30 days of the determination. The obligation shall be satisfied by paying to the claimant an amount as follows:

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

(2) An amount not exceeding \$100,000 per policy for a covered claim for the return of an unearned premium; or

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

In no event is the association obligated to pay a claimant an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises. The association shall pay only that amount of unearned premium in excess of \$50. Notwithstanding any other provisions of this subchapter, a covered claim shall not include any claim filed with the association after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer;

**Sec. 5. 24-A MRSA §4440-A, sub-§3**, as enacted by PL 1989, c. 67, §8, is repealed.

**Sec. 6. 24-A MRSA §4440-A, sub-§4** is enacted to read:

**4. Notification to Legislature.** Within 7 days after the board of directors votes to levy an assessment under this section, the chair of the board of directors shall notify the chairs of the legislative committee having jurisdiction over insurance matters that the association has voted to make such an assessment. The notification must:

A. Be in writing; and

B. Include the total amount to be assessed against each account and the name of the account to which the assessed funds will be credited.

**Sec. 7. 24-A MRSA §4452** is enacted to read:

**§4452. Report to Legislature**

At the end of each calendar year, the association shall submit a report of its activities to the joint standing committee of the Legislature having jurisdiction over banking and insurance matters. The report must include the amount of assessments made against each account, the name of the insolvent insurer to which the assessments are attributable and the amount of funds borrowed, if any, by the association and the repayment date of any loan.

**Sec. 8. 24-A MRSA §4603, sub-§1-A** is enacted to read:

**1-A. Persons covered.** This chapter shall provide coverage for the policies and contracts specified in subsection 1:

A. To any person, except for a nonresident certificate holder under a group policy or contract, who is the beneficiary, assignee or payee of a person covered under paragraph B; and

B. To any person who owns, or is a certificate holder under, a policy or contract specified in subsection 1 or, in the case of an unallocated annuity contract, to a person who is the contract holder and who:

(1) Is a resident; or

(2) Is not a resident, if all the following conditions are met:

(i) The insurer that issued the policy or contract is domiciled in this State;

(ii) The insurer never held a license or certificate of authority in the state in which the person resides;

(iii) The state has an association similar to the Maine Life and Health Insurance Guaranty Association; and

(iv) The person is not eligible for coverage by the association in that state.

**Sec. 9. 24-A MRSA §4603, sub-§2, ¶¶C and D,** as enacted by PL 1983, c. 846, are amended to read:

C. Any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued; ~~and~~

D. Any such policy or contract issued by assessment mutuals and nonprofit hospital and medical service plans; and

**Sec. 10. 24-A MRSA §4603, sub-§2, ¶E** is enacted to read:

E. Any portion of a policy or contract to the extent that the rate of interest on which it is based:

(1) Averaged over a period of 4 years before the date on which the association becomes obligated with respect to the policy or contract, exceeds a rate of interest determined by subtracting 2 percentage points from Moody's Corporate Bond Yield Average

averaged over the same 4-year period or for a lesser period if the policy or contract was issued less than 4 years before the association became obligated; and

(2) After the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting 3 percentage points from Moody's Corporate Bond Yield Average as most recently available.

**Sec. 11. 24-A MRSA §4605, sub-§6-A** is enacted to read:

**6-A. Moody's Corporate Bond Yield Average.** "Moody's Corporate Bond Yield Average" means the monthly average corporates as published by Moody's Investors Service, Inc., or any successor to that index.

**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 shortfall shall be assessed as an obligation of the other accounts of the association. Each member insurer's assessment shall be 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 for shortfalls under this section and section 4440 in any one calendar year shall 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 Legislature.~~ Within 7 days after the board of directors votes to levy an assessment under this 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.

**Sec. 13. 24-A MRSA §4619** is enacted to read:

**§4619. Report to Legislature**

At the end of each calendar year, the association shall submit a report of its activities to the joint standing committee of the Legislature having jurisdiction over banking and insurance matters. The report must include the amount of assessments made against each account, the name of the insolvent insurer to which the assess-

ments are attributable and the amount of funds borrowed, if any, by the association and the repayment date of any loan.

**Sec. 14. Study.** During the First Regular Session of the 116th Legislature, the Joint Standing Committee on Banking and Insurance shall review this Act and Public Law 1989, chapter 67. To assist the committee, the Maine Insurance Guaranty Association and the Maine Life and Health Insurance Guaranty Association shall provide the committee with a report of the total assessments made between 1989 and the date of the report, the assessments made under the spillover assessment provisions of the Maine Revised Statutes, Title 24-A, sections 4440-A and 4609, any borrowing or other actions by the associations necessary to fulfill their statutory obligations, and other information as the committee may specifically request.

See title page for effective date.

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## CHAPTER 752

S.P. 838 - L.D. 2151

### An Act to Amend the Laws for the Licensing of Counseling Professionals

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

**32 MRSA §13862, 2nd ¶**, as enacted by PL 1989, c. 465, §§3 and 5, is amended to read:

Nothing in this section may prohibit disclosure by a person licensed under this chapter of information concerning a client when that disclosure is required by law and nothing in this section may modify or affect Title 22, sections 3477 to 3479-A and 4011 to 4015.

See title page for effective date.

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## CHAPTER 753

S.P. 827 - L.D. 2135

### An Act to Implement Changes to the Homestead Property Tax Exemption Law

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

**Whereas**, delay in implementing changes to the homestead property tax exemption law may result in unnecessary burdens on taxpayers and local property tax administrators; 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 legisla-

tion as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 36 MRSA §672, sub-§§8 and 9**, as enacted by PL 1989, c. 534, Pt. B, §1, are repealed and the following enacted in their place:

**8. State of Maine income tax returns.** The residence claimed on the State of Maine income tax return filed by the applicant;

**9. Maine motor vehicle excise tax.** The place of payment of the motor vehicle excise tax of the applicant; or

**Sec. 2. 36 MRSA §672, sub-§10** is enacted to read:

**10. Maine hunting or fishing licenses.** The residence listed on the applicant's Maine hunting or fishing license.

**Sec. 3. 36 MRSA §673, sub-§2**, as enacted by PL 1989, c. 534, Pt. B, §1, is repealed.

**Sec. 4. 36 MRSA §673, sub-§2-A**, as enacted by PL 1989, c. 534, Pt. B, §1, is amended to read:

**2-A. Amount of exemption.** Every person who has the legal title or beneficial title in equity to real property in this State and who resides on that real property, and in good faith makes the same that person's permanent residence or the permanent residence of another or others legally or naturally dependent ~~upon~~ on that person, is entitled to an exemption from all taxation, except for assessments for special benefits of 5% of just valuation up to the just valuation of \$50,000 on the residence and ~~up to 10 acres of~~ contiguous real property. The title may be held jointly or in common with others, and the exemption may be apportioned among the owners ~~that~~ who reside on the property, to the extent of their respective interests; but no exemption of more than 5% of the first \$50,000 of just value may be allowed to any one person or on any one dwelling house, except that an exemption up to 5% of the first \$50,000 of just value may be allowed on each apartment occupied by a tenant-stockholder or member of a cooperative apartment corporation and on each condominium parcel occupied by ~~its~~ the owner; ~~nor shall~~ and the amount of the exemption allowed any person is not to exceed the proportionate just valuation based on the interest owned by that person. This subsection ~~shall take~~ takes effect on April 1, 1991.

**Sec. 5. 36 MRSA §675, sub-§1**, as enacted by PL 1989, c. 534, Pt. B, §1, is repealed.

**Sec. 6. 36 MRSA §676**, as enacted by PL 1989, c. 534, Pt. B, §1, is amended to read: