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INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 404, L.D. 1167, Bill, “An Act Regarding the Maine Guaranteed Access Reinsurance Association”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

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

1. Guaranteed access reinsurance mechanism established. The Maine Guaranteed Access Reinsurance Association is established as a nonprofit legal entity. As a condition of doing business in the State, an insurer that has issued or administered medical insurance within the previous 12 months or is actively marketing a medical insurance policy or medical insurance administrative services in this State must participate in the association. The Dirigo Health Program established in chapter 87 and any other state-sponsored health benefit program shall also participate in the association. Except as provided in section 3962, operations of the association are suspended and the association may not collect assessments as provided in section 3957, provide reinsurance for member insurers under section 3958 or provide reimbursement for member insurers under section 3961 as of the date on which a transitional reinsurance program established under the authority of Section 1341 of the federal Affordable Care Act commences operations in this State through the date the federal program ceases operations in this State.

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

A. The board consists of ~~11~~ 12 members appointed as described in this paragraph:

- (1) ~~Six~~ Seven members appointed by the superintendent: 2 members chosen from the general public and who are not associated with the medical profession, a hospital ~~or~~, an insurer or a producer; 2 members who represent medical providers; one member who represents individual health insurance consumers who is not associated or formerly associated with the medical profession, a

COMMITTEE AMENDMENT

1 hospital, an insurer or a producer; one member who represents a statewide
2 organization that represents small businesses; and one member who represents
3 producers. A board member appointed by the superintendent may not be
4 removed without cause; and

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

7 **Sec. 3. 24-A MRSA §3953, sub-§2, ¶¶E to G** are enacted to read:

8 E. The board shall establish regular places and times for meetings and may meet at
9 other times at the call of the chair. The board shall post notice of scheduled meetings,
10 meeting agendas and minutes of meetings on a publicly accessible website
11 maintained by the association.

12 F. The board shall establish a mechanism on its publicly accessible website for the
13 public to submit comments on matters related to the operations of the association.

14 G. The board shall establish a process for taking public comment at selected board
15 meetings to be held at such time and place as the board may determine. The
16 opportunity for public comment must be made available not less often than quarterly.
17 Except as specified in this paragraph, meetings of the board are not open to the
18 public.

19 **Sec. 4. 24-A MRSA §3962** is enacted to read:

20 **§3962. Activities authorized during suspension period**

21 This section governs the suspension of operations of the association during the period
22 in which the transitional reinsurance program pursuant to Section 1341 of the federal
23 Affordable Care Act operates in this State and the authority of the association to conduct
24 certain activities.

25 **1. Payment of claims.** The association shall pay claims eligible under sections 3958
26 and 3961 that were incurred prior to the commencement of the suspension of the
27 association pursuant to section 3953, subsection 1.

28 **2. Additional assessment for net losses.** The association may impose any
29 additional assessment necessary to fund net losses of the association pursuant to section
30 3957, subsection 5.

31 **3. Amended plan of operation.** Within 6 months following the implementation of
32 the federal transitional reinsurance program in this State, the association shall submit an
33 amended plan of operation as provided in section 3953, subsection 3 to the superintendent
34 for approval. In amending the plan of operation, the association shall, at a minimum,
35 include a plan for the application of any funds held by the association as of its
36 suspension, the investment of any funds held by the association during its period of
37 suspension, the reactivation of the association upon termination of the federal transitional
38 reinsurance program and, if necessary, the distribution of any surplus funds not required
39 for such purposes. Prior to approving an amended plan of operation submitted under this
40 subsection, the superintendent shall post the amended plan of operation on the bureau's
41 publicly accessible website and establish a comment period of at least 30 days during

1 which the public may submit for consideration written and electronic comments on the
2 amended plan of operation. At the time of approval of any amended plan of operation, the
3 superintendent shall adopt a written statement addressing specific comments and
4 concerns expressed about the amended plan of operation and state the superintendent's
5 rationale for adopting or not adopting any changes to the amended plan of operation or
6 making findings and recommendations that differ from those expressed about the
7 amended plan of operation.

8 **4. Exception.** This section does not apply if federal law or regulation exempts the
9 State from participation in the transitional reinsurance program pursuant to Section 1341
10 of the federal Affordable Care Act.

11 **Sec. 5. Evaluation of Maine Guaranteed Access Reinsurance Association.**
12 During the First Regular Session of the 127th Legislature, the joint standing committee of
13 the Legislature having jurisdiction over insurance and financial services matters shall
14 conduct a review and evaluation of the transitional reinsurance program operating in the
15 State between January 1, 2014 and December 31, 2016 pursuant to the federal Patient
16 Protection and Affordable Care Act and federal regulations adopted pursuant to that Act
17 and the differences between the transitional reinsurance program and the Maine
18 Guaranteed Access Reinsurance Association as established by the Maine Revised
19 Statutes, Title 24-A, chapter 54-A. Before January 1, 2016, the joint standing committee
20 of the Legislature having jurisdiction over insurance and financial services matters shall
21 make a recommendation to the Superintendent of Insurance as to whether the Maine
22 Guaranteed Access Reinsurance Association should resume operations pursuant to a
23 revised plan of operation and whether any changes should be made to the statutes
24 governing the association. The joint standing committee of the Legislature having
25 jurisdiction over insurance and financial services matters may submit a bill based on its
26 evaluation to the Second Regular Session of the 127th Legislature.'

27 **SUMMARY**

28 This amendment replaces the bill and makes the following changes to the laws
29 governing the Maine Guaranteed Access Reinsurance Association.

30 1. It requires the Board of Directors of the Maine Guaranteed Access Reinsurance
31 Association to post its meeting schedule, meeting agenda and meeting minutes on its
32 publicly accessible website. It requires the board to provide a mechanism on its website
33 for the public to comment on matters related to the operations of the association and to
34 establish a process for taking public comments at selected board meetings.

35 2. It adds one consumer member to the board and clarifies that that member may not
36 be associated with or formerly associated with the medical profession, a hospital, an
37 insurer or an insurance producer.

38 3. It suspends the authority of the association to collect assessments or provide
39 reinsurance and reimbursement during the period in which the federal transitional
40 reinsurance program is operating in this State and also requires that the association
41 submit an amended plan of operation to the Superintendent of Insurance to address the
42 operations of the association, the treatment of funds held by the association during the
43 suspension period, the reactivation of the association and any necessary plan for

1 distribution of any surplus funds not required for such purposes. It also requires the
2 Superintendent of Insurance to allow a period of public comment on the amended plan of
3 operation before it is approved by the superintendent.

4 4. It directs the joint standing committee of the Legislature having jurisdiction over
5 insurance and financial services matters to evaluate the transitional reinsurance program
6 operating in the State from January 1, 2014 until December 31, 2016 under federal law.
7 Before January 1, 2016, the committee is required to make a recommendation to the
8 Legislature as to whether the Maine Guaranteed Access Reinsurance Association should
9 resume operations and whether statutory changes should be made. The committee may
10 submit a bill based on its recommendations to the Second Regular Session of the 127th
11 Legislature.