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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

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

Millicent M. Mac Jailand

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:

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

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization 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.

19This paragraph applies to only those meetings pertaining to interscholastic sports and20does not apply to any meeting or any portion of any meeting the subject of which is21limited to personnel issues, allegations of interscholastic athletic rule violations by22member schools, administrators, coaches or student athletes or the eligibility of an23individual student athlete or coach=: and

- 24 Sec. 3. 1 MRSA §402, sub-§2, ¶H is enacted to read:
- H. The meetings of the Board of Directors of the Maine Guaranteed Access
 Reinsurance Association established in Title 24-A, chapter 54-A.

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

29 Guaranteed access reinsurance mechanism established. 1. 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. Beginning January 1, 2014 and until December 31, 2016, operations of the association are 36 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 2	resuming operations on or after January 1, 2016, the association shall submit a revised plan of operation to the superintendent for approval.
3 4	Sec. 5. 24-A MRSA §3953, sub-§2, ¶A, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:
5	A. The board consists of 11 members appointed as described in this paragraph:
6 7 8 9 10 11 12	(1) Six Eight 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; 2 members who represent medical providers; <u>2 members</u> who represent individual health insurance consumers; one member who represents a statewide organization that represents small businesses; and one member who represents producers. A board member appointed by the superintendent may not be removed without cause; and
13 14	(2) Five <u>Three</u> members appointed by the member insurers, at least one of whom 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 17 18 19 20	E. The board shall establish regular places and times for meetings and may also meet at other times at the call of the chair. All meetings of the board are public proceedings as defined in Title 1, section 402, subsection 2, and meetings must be conducted in accordance with Title 1, chapter 13, subchapter 1, including, but not 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 24 25 26 27 28	Notwithstanding any other provision of this chapter, the association may not reimburse a member insurer for any claims otherwise eligible for reimbursement under this chapter if that member insurer has not complied with the minimum medical loss ratio for individual health insurance determined under section 4319, subsection 3, and any waiver of the minimum medical loss ratio under section 4319, subsection 3 granted under federal law does not apply for purposes of this section.
29	§3963. Activities authorized during suspension period
30 31 32	This section governs the suspension of operations of the association from January 1, 2014 to December 31, 2016 pursuant to section 3953, subsection 1 and the authority of the association to conduct certain activities.
33 34	<u>1. Payment of claims.</u> The association shall pay claims eligible under sections 3958 and 3961 that were incurred prior to January 1, 2014.
35 36 37	2. Additional assessment for net losses. The association may impose any additional assessment necessary to fund net losses of the association pursuant to section 3957, subsection 5.

- 13. Surplus funds. Any funds held by the association as of its suspension of2operations must be applied and distributed in the following order of priority:
- A. To the payment of the expenses, debts and liabilities of the association, including
 reimbursement of all claims; and
- 5 <u>B.</u> To the setting up of any reserves that the association may determine necessary or 6 <u>desirable for any contingent or unforeseen liabilities or obligations, including</u> 7 <u>establishing a reasonable reserve to fund the reactivation of the association.</u>

8 After satisfaction of all liabilities and obligations for which reserves have been 9 established, any remaining funds must be transferred to a trust, nonprofit corporation or 10 other fund established pursuant to a termination plan adopted by the board and approved 11 by the superintendent, to be used and applied for the general purposes of reducing health 12 insurance costs or health care costs in the individual market.

4. Exception. This section does not apply if federal law or regulation exempts the
 State from participation in the transitional reinsurance program pursuant to the federal
 Affordable Care Act.

16 Sec. 8. Evaluation of Maine Guaranteed Access Reinsurance Association. 17 During the First Regular Session of the 127th Legislature, the joint standing committee of 18 the Legislature having jurisdiction over insurance and financial services matters shall conduct a review and evaluation of the transitional reinsurance program operating in the 19 State between January 1, 2014 and December 31, 2016 pursuant to the federal Patient 20 21 Protection and Affordable Care Act and federal regulations adopted pursuant to that Act and the differences between the transitional reinsurance program and the Maine 22 23 Guaranteed Access Reinsurance Association as established by the Maine Revised Statutes, Title 24-A, chapter 54-A. Before January 1, 2016, the joint standing committee 24 of the Legislature having jurisdiction over insurance and financial services matters shall 25 make a recommendation to the Superintendent of Insurance whether the Maine 26 Guaranteed Access Reinsurance Association should resume operations pursuant to a 27 revised plan of operation and whether any changes should be made to the statutes 28 29 governing the association. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters may report out a bill based on 30 the evaluation to the Second Regular Session of the 127th Legislature. 31

Sec. 9. Maine Guaranteed Access Reinsurance Association staggered terms. Notwithstanding the Maine Revised Statutes, Title 24-A, section 3953, subsection 2, of the 2 members representing individual health insurance consumers initially appointed by the Superintendent of Insurance to the Maine Guaranteed Access Reinsurance Association, one member serves for a term of 2 years and one member serves for a term of 3 years. The Superintendent of Insurance shall designate the period of service of each appointee at the time of appointment.

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- SUMMARY
- 40 This bill makes the following changes to the laws governing the Maine Guaranteed41 Access Reinsurance Association:

- It makes meetings of the Board of Directors of the Maine Guaranteed Access
 Reinsurance Association public under the State's freedom of access laws unless the board
 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;
- 4. It provides that the association may not provide reinsurance or reimbursement to a
 member insurer unless the insurer meets the 80% minimum medical loss ratio for
 individual health insurance established under federal and state law; and
- 13 5. It directs the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters to evaluate the transitional reinsurance program 14 15 operating in the State from January 1, 2014 until December 31, 2016 under federal law. Before January 1, 2016, the committee is required to make a recommendation to the 16 Legislature whether the Maine Guaranteed Access Reinsurance Association should 17 resume operations and whether statutory changes should be made. The Joint Standing 18 Committee on Insurance and Financial Services may report out a bill based on its 19 recommendations to the Second Regular Session of the 127th Legislature. 20