

§4435. Definitions

As used in this subchapter, unless context otherwise requires: [PL 1969, c. 561 (NEW).]

1. Account. "Account" means any one of the 3 accounts created by section 4436. [PL 1969, c. 561 (NEW).]

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.

[PL 1989, c. 751, §2 (NEW).]

2. Association. "Association" means the Maine Insurance Guaranty Association created under section 4436.

[PL 1969, c. 561 (NEW).]

3. Board of directors. "Board of directors" means the board of directors of the association. [PL 1969, c. 561 (NEW).]

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 that 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 [PL 1969, c. 561 (NEW).]

B. The property from which the claim arises is permanently located in this State. [PL 1969, c. 561 (NEW).]

"Covered claim" includes claim obligations that arose through the issuance of an insurance policy by a member insurer, which are later allocated, transferred, merged into, novated, assumed by or otherwise made the sole responsibility of a member or nonmember insurer if: the original member insurer has no remaining obligations on the policy after the transfer; a final order of liquidation with a finding of insolvency has been entered against the insurer that assumed the member's coverage obligations by a court of competent jurisdiction in the insurer's state of domicile; the claim would have been a covered claim if the claim had remained the responsibility of the original member insurer and the order of liquidation had been entered against the original member insurer, with the same claim submission date and liquidation date; and, in cases for which the member's coverage obligations were assumed by a nonmember insurer, the transaction received prior regulatory or judicial approval.

"Covered claim" does not include any amount due any insurer, reinsurer, affiliate, insurance pool or underwriting association, as subrogation recoveries or otherwise, except that any payment made to the workers' compensation residual market pool pursuant to section 4438, subsection 1, paragraph A-1 must be included as a covered claim. "Covered claim" does not include any first-party claims by an insured whose net worth exceeds \$25,000,000 on December 31st of the year prior to the year in which the member insurer becomes an insolvent insurer. An insured's net worth on that date is deemed to include the aggregate net worth of the insured and all its subsidiaries as calculated on a consolidated basis.

[PL 2025, c. 348, §38 (AMD).]

4-A. Cybersecurity insurance. "Cybersecurity insurance" means first-party or 3rd-party coverage, in a policy or endorsement, written on a direct, admitted basis for losses and loss mitigation arising out of or relating to data privacy breaches, unauthorized information network security intrusions, computer viruses, ransomware, extortion through electronic means, identity theft and similar exposures.

[PL 2025, c. 348, §39 (NEW).]

5. Insolvent insurer. "Insolvent insurer" means a member insurer:

A. Authorized to transact insurance in this State either at the time the policy was issued or when the insured event occurred; and [PL 1995, c. 289, §13 (AMD).]

B. Against whom a final order of liquidation has been entered with a finding of insolvency by a court of competent jurisdiction. [PL 2001, c. 478, §6 (AMD); PL 2001, c. 478, §11 (AFF).]

Effective July 1, 1995, the workers' compensation residual market pool, as created by the Bureau of Insurance Rules, Chapter 440, is deemed an insolvent insurer.

[PL 2001, c. 478, §6 (AMD); PL 2001, c. 478, §11 (AFF).]

6. Member insurer. "Member insurer" means any authorized insurer that writes any kind of insurance to which this subchapter applies and that is not a risk retention group as defined in section 6093, subsection 13. If an insurer is authorized at the time of an insolvency and subsequently is approved to withdraw its license authority for the kinds of insurance covered by any account to which claims relating to the insolvency are allocated, the withdrawn insurer shall continue to be a member of each account solely for purposes of assessments relating to claims resulting from the insolvency until these claims are paid or otherwise extinguished.

[PL 2013, c. 238, Pt. E, §2 (AMD).]

7. Net direct written premiums. "Net direct written premiums" means direct gross premiums written on insurance policies to which this subchapter applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers or premiums written through the United States Government Flood Insurance Program.

[PL 1999, c. 790, Pt. A, §29 (AMD).]

8. Insurer. "Insurer" means any insurer as defined in section 4.

[PL 1981, c. 484, §1 (AMD).]

9. Line of credit. "Line of credit" means an irrevocable stand-by commitment whereby the association or member insurer and a qualified financial institution or group of qualified financial institutions enter into a formal and binding contract in which the qualified financial institution or group of qualified financial institutions agree to lend a certain amount of money within a stated period of time. The terms and conditions of any line of credit shall be established by rules adopted jointly by the Bureau of Financial Institutions and the Bureau of Insurance.

[PL 1989, c. 67, §4 (NEW); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

9-A. Person. "Person" means an individual or legal entity, including a governmental entity.

[PL 2001, c. 478, §7 (NEW); PL 2001, c. 478, §11 (AFF).]

10. Qualified financial institution. "Qualified financial institution" means one which is insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation or a successor federal deposit insurance agency or agencies, and has an equity capital to assets ratio of 6.5% or greater, as determined in accordance with generally accepted accounting principles.

[PL 1989, c. 67, §4 (NEW).]

SECTION HISTORY

PL 1969, c. 561 (NEW). PL 1973, c. 625, §159 (AMD). PL 1979, c. 658, §§3,4 (AMD). PL 1981, c. 484, §1 (AMD). PL 1985, c. 279, §2 (AMD). PL 1987, c. 769, §B5 (AMD). PL 1989, c. 67, §§2-4 (AMD). PL 1989, c. 751, §§2,3 (AMD). PL 1991, c. 885, §E33 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1995, c. 289, §§12,13 (AMD). PL 1999, c. 790, §A29 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2001, c. 478, §§5-7 (AMD). PL 2001, c. 478, §11 (AFF). PL 2013, c. 238, Pt. E, §2 (AMD). PL 2025, c. 348, §§38, 39 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Special Session of the 132nd Maine Legislature and is current through October 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.
--