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INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 896, L.D. 1318, Bill, “An Act To Promote Individual Private Savings Accounts through a Public-private Partnership”

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

'Sec. 1. 5 MRSA c. 7-A is enacted to read:

CHAPTER 7-A

MAINE SMALL BUSINESS RETIREMENT MARKETPLACE

§171. Short title

This Act may be known and cited as "the Maine Small Business Retirement Marketplace Act."

§172. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Approved plan. "Approved plan" means a retirement plan offered by a private sector financial services firm that meets the requirements of this chapter to participate in the marketplace.

2. Balanced fund. "Balanced fund" means a mutual fund that has an investment mandate to balance its portfolio holdings. The fund may include a mix of stocks and bonds in varying proportions according to the fund's investment outlook.

3. Eligible employer. "Eligible employer" means a self-employed individual, a sole proprietor or an employer with fewer than 100 qualified employees at the time of enrollment.

4. Enrollee. "Enrollee" means an employee who is voluntarily enrolled in an approved plan offered by an eligible employer through the marketplace.

COMMITTEE AMENDMENT

1 **5. Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue
2 Code of 1986, or any successor law, in effect for the calendar year.

3 **6. Marketplace.** "Marketplace" means the Maine Small Business Retirement
4 Marketplace established under section 173.

5 **7. myRA.** "myRA" means the myRA retirement program administered by the
6 United States Department of the Treasury. "myRA" is a Roth individual retirement
7 account under Section 408A of the Internal Revenue Code.

8 **8. Participating employer.** "Participating employer" means an eligible employer
9 with employees enrolled in an approved plan offered through the marketplace who
10 chooses to participate in the marketplace and offers approved plans to employees for
11 voluntary enrollment.

12 **9. Payroll deduction retirement savings arrangement.** "Payroll deduction
13 retirement savings arrangement" means an arrangement by which a participating
14 employer allows enrollees to remit payroll deduction contributions to an approved plan.

15 **10. Private sector financial services firm.** "Private sector financial services firm"
16 or "financial services firm" means a person or entity that:

17 A. Is licensed, chartered or holds a certificate of authority by the appropriate
18 regulatory agency within the Department of Professional and Financial Regulation or
19 by an appropriate federal regulatory agency; and

20 B. Meets all federal laws and regulations to offer retirement plans.

21 **11. Qualified employee.** "Qualified employee" means an employee who is defined
22 by the federal Internal Revenue Service as eligible to participate in a qualified plan
23 pursuant to the Internal Revenue Code.

24 **12. Target date fund or other similar fund.** "Target date fund or other similar
25 fund" means a hybrid mutual fund that automatically resets the asset mix of stocks, bonds
26 and cash equivalents in its portfolio according to a selected time frame that is appropriate
27 for a particular investor so as to address a projected retirement date.

28 **13. Treasurer.** "Treasurer" means the Treasurer of State.

29 **§173. Maine Small Business Retirement Marketplace established**

30 The Maine Small Business Retirement Marketplace is established to connect eligible
31 employers and their employees with approved retirement plans for the purpose of
32 promoting greater retirement savings for private-sector employees in a convenient, low-
33 cost and portable manner. The marketplace must offer approved plans beginning January
34 1, 2019 in accordance with the requirements of this chapter.

35 **1. Plan for operation.** The treasurer shall design a plan for the operation of the
36 marketplace. The treasurer shall consult with relevant state, quasi-government, public,
37 private and nonprofit agencies and organizations in designing and managing the
38 marketplace.

39 **2. Contracted services.** As necessary for the implementation and oversight of the
40 marketplace, the treasurer shall contract with a 3rd-party consultant to do the following:

- 1 A. Establish a protocol for reviewing and approving the qualifications of all
2 private-sector financial services firms that meet the qualifications to participate in the
3 marketplace. The protocol must include objective criteria and may not provide for
4 any unfair advantage to the 3rd-party consultant that establishes the protocol;
- 5 B. Design and operate a publicly accessible website that includes information about
6 how eligible employers can voluntarily participate in the marketplace;
- 7 C. Develop marketing materials about the marketplace that can be distributed
8 electronically, posted on publicly accessible websites of any state agency that
9 interacts with eligible employers or inserted into mail distributed by relevant firms or
10 state agencies;
- 11 D. Ensure that financial services firms that participate in the marketplace allow a
12 licensed professional who assists an eligible employer or an employee to enroll in a
13 plan offered through the marketplace to receive routine, market-based commissions
14 or other compensation for services;
- 15 E. Identify and promote existing federal and state tax credits and benefits for
16 employers and employees that encourage retirement savings or participation in
17 retirement plans; and
- 18 F. Promote the benefits of retirement savings and distribute information that
19 promotes financial literacy.
- 20 **3. Participation of financial services firms.** The treasurer shall encourage the
21 participation of private sector financial services firms in the marketplace and approve for
22 participation in the marketplace all private sector financial services firms that meet the
23 requirements of this subsection and other requirements of this chapter.
- 24 A. The treasurer shall confirm that the private sector financial services firm and any
25 retirement plan offered by that financial services firm in the marketplace meets the
26 requirements of this chapter and any relevant federal laws and regulations.
- 27 B. In order for the marketplace to operate, there must be at least 2 financial services
28 firms offering approved plans. This paragraph may not be construed to limit the
29 number of private sector financial services firms with approved plans from
30 participating in the marketplace.
- 31 C. A financial services firm participating in the marketplace shall offer a minimum
32 of 2 investment options for an approved plan:
- 33 (1) A target date fund or other similar fund, with asset allocations and maturities
34 designed to coincide with an enrollee's expected date of retirement; and
- 35 (2) A balanced fund.
- 36 D. A financial services firm participating in the marketplace may not charge the
37 participating employer an administrative fee and may not charge enrollees more than
38 100 basis points in total annual administrative fees. A financial services firm shall
39 provide information about the historical investment performance of the financial
40 services firm's product.

1 **4. Minimum plan options in marketplace.** The treasurer shall approve a variety of
2 retirement plans to meet the needs of investors with various levels of risk tolerance and
3 various ages in accordance with this subsection.

4 A. At a minimum, the following types of retirement plans must be available to
5 employers on a voluntary basis from the marketplace:

6 (1) A retirement plan that provides for employer contributions to participating
7 enrollee accounts;

8 (2) A payroll deduction individual retirement savings arrangement open to all
9 employees, to which the employer does not contribute;

10 (3) A myRA plan; and

11 (4) A life insurance plan that is designed for retirement purposes.

12 B. In order to be approved, a retirement plan must meet federal law and Internal
13 Revenue Service regulations for qualified retirement plans. The treasurer may remove
14 an approved plan that no longer meets the requirements of this chapter. At least
15 annually, the treasurer shall review plans offered through the marketplace to confirm
16 that the plans comply with the requirements of this chapter, except for those
17 requirements that pertain to federal laws and regulations.

18 **5. Rollover contributions.** An approved plan must include the option for an
19 enrollee to roll any contributions made on a pretax basis into a different individual
20 retirement account or another eligible retirement plan after ceasing participation in a plan
21 approved by the marketplace. The treasurer through rulemaking shall address how
22 rollover contributions are handled for eligible employers that have employees in other
23 states and whether out-of-state employees with existing individual retirement accounts
24 may roll them into any approved plan offered through the marketplace.

25 **6. Voluntary participation; automatic enrollment.** Participation in the
26 marketplace is voluntary for both eligible employers and qualified employees. An
27 employer that chooses to participate in the marketplace may select an approved payroll
28 deduction retirement savings arrangement that provides for automatic enrollment of
29 qualified employees if employees have the right to opt out.

30 **7. Not an entitlement.** A person is not guaranteed enrollment in any approved plan
31 offered through the marketplace.

32 **8. Funds.** In addition to any appropriated funds, the treasurer may use private
33 funding sources, including private foundation grants, to pay for marketplace expenses. On
34 behalf of the marketplace, the treasurer may seek federal and private grants and may
35 accept any funds awarded to the treasurer for use in the marketplace. If funds are
36 available, the treasurer may provide an incentive payment to participating employers that
37 enroll in the marketplace.

38 **9. No liability to State.** The treasurer may not expose the State as an employer or
39 through administration of the marketplace to any potential liability under the federal
40 Employee Retirement Income Security Act of 1974. The treasurer may not offer and
41 operate a state-based retirement plan for an employer or individual who is not employed
42 by the State.

1 **10. Biennial report.** Beginning January 1, 2021 and every 2 years thereafter, the
 2 treasurer shall report on the effectiveness and efficiency of the marketplace, including the
 3 levels of enrollment and the retirement savings levels of participating enrollees that are
 4 obtained in aggregate on a voluntary basis from private sector financial services firms
 5 that participate in the marketplace. The treasurer shall submit the written report to the
 6 joint standing committee of the Legislature having jurisdiction over insurance and
 7 financial services matters.

8 **11. Rules.** The treasurer shall adopt rules to implement this chapter to allow the
 9 marketplace to begin offering approved plans to eligible employers beginning January 1,
 10 2019. Rules adopted pursuant to this subsection are routine technical rules as defined in
 11 chapter 375, subchapter 2-A. Prior to adopting rules, the treasurer shall consult with
 12 organizations representing eligible employers, qualified employees, private and nonprofit
 13 sector retirement plan administrators and providers, organizations representing private
 14 sector financial services firms, private and nonprofit organizations engaged in promoting
 15 financial literacy and engaged in assisting small businesses and any other individuals or
 16 entities to assist in developing an effective and efficient method for operating the
 17 marketplace.

18 **Sec. 2. Appropriations and allocations.** The following appropriations and
 19 allocations are made.

20 **TREASURER OF STATE, OFFICE OF**

21 **Administration - Treasury 0022**

22 Initiative: Provides funding for one Public Service Coordinator I position, consulting
 23 fees, web development costs and associated administration fees to design, implement and
 24 oversee the Maine Small Business Retirement Marketplace.

GENERAL FUND	2015-16	2016-17
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$85,300
All Other	\$0	\$98,600
GENERAL FUND TOTAL	\$0	\$183,900

32 **SUMMARY**

33 This amendment is the minority report of the committee and replaces the bill. As in
 34 the bill, the amendment establishes the Maine Small Business Retirement Marketplace.
 35 The amendment provides employers of fewer than 100 employees an opportunity to offer
 36 retirement plans that are approved by the marketplace to their employees on a voluntary
 37 basis. The amendment also allows sole proprietors and self-employed individuals to
 38 voluntarily participate in the marketplace. The amendment requires that the marketplace
 39 provide at least 2 types of retirement plans to eligible employers, an individual retirement
 40 account plan that allows an employer to make contributions to participating employees'
 41 accounts and a payroll deposit retirement savings arrangement in which an employer does
 42 not contribute to an employee's account, and a minimum of 2 plans available to individual

1 employees, a myRA and a life insurance plan. The amendment requires the Treasurer of
2 State to administer and oversee the marketplace. The amendment adds an appropriations
3 and allocations section.

4 **FISCAL NOTE REQUIRED**

5 **(See attached)**