

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 667

S.P. 231

In Senate, February 11, 2003

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### An Act To Amend the Maine Insurance Code

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York.  
Cosponsored by Senator: MAYO of Sagadahoc, Representatives: GLYNN of South Portland,  
PERRY of Bangor, YOUNG of Limestone.

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

4 **Sec. 1. 24-A MRSA §2304-A, sub-§1,** as repealed and replaced by  
PL 1991, c. 377, §10, is amended to read:

6 1. Every insurer shall file with the superintendent, except  
7 as to inland marine risks, which by general custom of the  
8 business are not written according to manual rates or rating  
9 plans, every manual rate, minimum premium, class rate, rating  
10 schedule or rating plan and every other rating rule, and every  
11 modification of any of the foregoing ~~which~~ that it proposes to  
12 use. Every such filing must state the effective date of the  
13 filing, and indicate the character and extent of the coverage  
14 contemplated. Every such filing must be made not less than 30  
15 days in advance of the stated effective date unless that 30-day  
16 requirement is waived by the superintendent in unusual  
17 circumstances based upon the complexity of the rate filing. The  
18 superintendent shall expedite the review and approval of such  
19 rate filings whenever possible. The effective date may be  
20 suspended by the superintendent for a period of time not to  
21 exceed 60 days.

22 **Sec. 2. 24-A MRSA §2412, sub-§2,** as amended by PL 1973, c.  
24 585, §12, is further amended to read:

26 2. Every ~~such~~ filing shall must be made not less than 30  
27 days in advance of any ~~such~~ delivery. At the expiration of ~~such~~  
28 the 30 days, the form so filed ~~shall-be is~~ deemed approved unless  
29 prior thereto it has been affirmatively approved or disapproved  
30 by order of the superintendent. The superintendent shall  
31 expedite the review and approval of such filings whenever  
32 possible. Approval of ~~any-such the~~ form by the superintendent  
33 shall-constitute constitutes a waiver of any unexpired portion of  
34 ~~such the~~ waiting period. The superintendent may, in unusual  
35 circumstances based upon the complexity of the filing, extend by  
36 not more than an additional 30 days the period within which he  
37 the superintendent may ~~so~~ affirmatively approve or disapprove any  
38 ~~such~~ form, by giving notice to the insurer of ~~such the~~ extension  
39 before expiration of the initial ~~30-days~~ 30-day period. At the  
40 expiration of ~~any--such the~~ period as so extended, and in the  
41 absence of ~~such~~ prior affirmative approval or disapproval, any  
42 ~~such~~ form ~~shall-be is~~ deemed approved. The superintendent may at  
43 any time, after hearing and for cause shown, withdraw any ~~such~~  
44 approval.

46 **Sec. 3. 24-A MRSA §3007, sub-§2,** as enacted by PL 1985, c.  
48 671, §2, is amended to read:

50 2. Except as provided by subsection 8, no contract of  
property insurance may be cancelled by an insurer prior to the

2 expiration of the policy, except for one or more of the following  
grounds:

4 A. Nonpayment of premium;

6 B. Fraud or material misrepresentation made by or with the  
8 knowledge of the named insured in obtaining the policy, in  
continuing the policy or in presenting a claim under the  
10 policy, or the discovery of the commission of a fraudulent  
insurance act as defined in section 2186;

12 C. Substantial change in the risk ~~which~~ that increases the  
14 risk of loss after insurance coverage has been issued or  
renewed, including, but not limited to, an increase in  
16 exposure due to regulation, legislation or court decision;

18 D. Failure to comply with reasonable loss control  
recommendations within a reasonable period of time, not to  
exceed 120 days;

20 E. Substantial breach of contractual duties, conditions or  
22 warranties; ~~or~~

24 F. Determination by the superintendent that the  
26 continuation of a class or block of business to which the  
policy belongs will jeopardize a company's solvency or will  
28 place the insurer in violation of the insurance laws of this  
State or any other state;

30 G. Failure by the applicant or the insured to disclose a  
32 negligent act or acts, or a failure to disclose material  
facts that would, if coverage is effectuated without  
34 knowledge by the insurer, substantially alter the terms of  
the policy to be issued or renewed;

36 H. Discovery that the insured property is unoccupied and  
that custodial care is not maintained on the property;

38 I. The presence of a trampoline on the premises if the  
40 insured is notified that the policy will be cancelled if the  
trampoline is not removed and the trampoline, after notice,  
42 remains on the property 30 or more days after the date of  
notice;

44 J. The presence of a swimming pool upon the insured  
46 property that is not fenced in, in accordance with the  
standards established in Title 22, section 1631, if the pool  
48 fence remains in noncompliance with those standards for 30  
days after notice by the insurer of the defective condition  
50 and intent to cancel the policy;

2           K. A claims history that entails 4 losses within 5 years,  
4           except that those losses may not include those sustained in  
6           a catastrophic loss event as defined by an advisory  
              insurance organization acceptable to the superintendent;

8           L. A loss occasioned by a dog bite, unless, after notice of  
10           cancellation or nonrenewal is received, the insured removes  
12           the dog; or

M. Failure to correct, within 90 days, conditions that pose  
              imminent fire hazards.

14           The grounds listed in paragraphs A to E shall must be contained  
16           in all policies issued, issued for delivery or renewed on or  
18           after the effective date of this section. The grounds listed in  
20           paragraphs F to M must be contained in all policies issued,  
22           issued for delivery or renewed on or after October 1, 2003.  
              Insurers shall have 30 days from the those effective ~~date-of-this~~  
              ~~section~~ dates to notify insureds of these grounds for  
              cancellation on policies issued or issued for delivery before the  
              those effective ~~date-of-this-section~~ dates.

24           **Sec. 4. 24-A MRSA §3007, sub-§8.** as amended by PL 1991, c. 25,  
26           §2, is further amended to read:

28           8. This notice does not apply to any insurance policy that  
30           has not been previously renewed if the policy has been in effect  
32           less than 60 120 days at the time notice of cancellation is  
34           mailed or otherwise delivered, except as provided in subsection  
36           1, paragraph A and subsection 5, paragraphs A and C. This  
38           section does not apply to any policy subject to the Maine  
              Property Insurance Cancellation Control Act, subchapter V 5.  
              This section does not apply to any policy issued pursuant to any  
              assigned risk plan. The superintendent may suspend, in whole or  
              in part, the applicability of this section to any insurer if, in  
              the superintendent's discretion, its application will endanger  
              the ability of the insurer to fulfill its contractual obligation.

40           **Sec. 5. 24-A MRSA §3049, sub-§§3 to 5,** as enacted by PL 1973,  
42           c. 239, are amended to read:

44           3. Discovery of fraud or material misrepresentation by  
              ~~either~~ any one of the following:

46           A. The insured or ~~his~~ the insured's representative in  
              obtaining the insurance;

48           B. The named insured in pursuing a claim under the policy;  
50           or

2           C. The discovery of the commission of a fraudulent  
4           insurance act as defined in section 2186;

6           4. Discovery of grossly negligent acts or omissions by the  
8           insured substantially--increasing--any--of--the--hazards--insured  
10           against or failure to disclose material facts that would, if  
12           coverage is effectuated without knowledge by the insurer,  
14           substantially alter the terms of the policy to be issued or  
16           renewed;

18           5. Physical changes in the insured property which result in  
20           the property becoming uninsurable, not timely disclosed to the  
22           insurer for hazard coverages under the policy to be issued or  
24           renewed;

26           **Sec. 6. 24-A MRSA §3049, sub-§§6 to 12 are enacted to read:**

28           6. Discovery that the insured property is unoccupied and  
30           that custodial care is not maintained on the property;

32           7. The presence of a trampoline on the premises if the  
34           insured is notified that the policy will be cancelled if the  
36           trampoline is not removed and the trampoline, after notice,  
38           remains on the property 30 or more days after the date of notice;

40           8. The presence of a swimming pool upon the insured  
42           property that is not fenced in, in accordance with the standards  
44           established in Title 22, section 1631, if the pool fence remains  
46           in noncompliance with those standards for 30 days after notice by  
48           the insurer of the defective condition and intent to cancel the  
50           policy;

          9. A claims history that entails 4 losses within 5 years,  
except that those losses may not include those sustained in a  
catastrophic loss event as defined by an advisory insurance  
organization acceptable to the superintendent;

          10. A loss occasioned by a dog bite, unless, after notice  
of cancellation or nonrenewal is received, the insured removes  
the dog;

          11. Failure to correct, within 90 days, conditions that  
pose imminent fire hazards; or

          12. Determination by the superintendent that the  
continuation of a class or block of business to which the policy  
belongs will jeopardize a company's solvency or will place the  
insurer in violation of the insurance laws of this State or any  
other state.

2           **Sec. 7. 24-A MRSA §3049, 2nd ¶**, as amended by PL 1979, c. 663,  
3           §§150 and 151, is further amended to read:

4  
5           This section shall does not apply to any policy or coverage  
6           which that has been in effect less than 60 120 days at the time  
7           notice of cancellation is received by the named insured, or 90  
8           150 days in the case of residential property which that is  
9           expected to be continuously unoccupied for 3 months in any  
10          12-month period and which that is other than the insured's  
11          primary residence, unless it is a renewal policy. An insured  
12          shall does not have the right to a hearing before the  
13          Superintendent of Insurance for the purpose of contesting  
14          cancellation of a new policy that has been in force less than 60  
15          120 days or 90 150 days in the case of residential property other  
16          than the insured's primary residence which that is expected to be  
17          continuously unoccupied for 3 months in any 12-month period.

18           **Sec. 8. 24-A MRSA §3051**, as amended by PL 1979, c. 347, §12,  
19          is further amended to read:

20  
21          **§3051. Notice of intent**

22  
23          No An insurer shall may not fail to renew a policy except by  
24          notice to the insured as provided in this subchapter. A notice  
25          of intention not to renew shall is not be effective unless  
26          received by the named insured at least 30 days prior to the  
27          expiration date of the policy. A post-office department  
28          certificate of mailing to the named insured at his the insured's  
29          last known address shall be is conclusive proof of receipt on the  
30          3rd calendar day after mailing. The reason shall must accompany  
31          the notice of intent not to renew, together with notification of  
32          the right to apply for a hearing before the Superintendent of  
33          Insurance within 30 days as provided.

34  
35          The reason or reasons for the intended nonrenewal action  
36          shall must accompany the notice of intent not to renew and the  
37          reason or reasons shall must be explicit. Explanations such as  
38          "underwriting reasons," "underwriting experience," "loss record,"  
39          "location of risk," "credit report" and similar insurance terms  
40          are not by themselves acceptable explanations of an insurer's  
41          intended nonrenewal of a policy insuring property of the kind  
42          defined in section 3048. The reason for nonrenewal shall must be  
43          a good faith reason rationally related to the insurability of the  
44          property, or that constitutes a ground for cancellation pursuant  
45          to section 3049.

46  
47          This section shall does not apply:

2           1. If the insurer has manifested its willingness to renew;  
3           or

4           2. If the insured fails to pay any premium due or any  
5           advance premium required by the insurer for renewal.

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### SUMMARY

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11           The bill requires the Superintendent of Insurance to  
12           expedite the review and approval of rate filings. It also amends  
13           the property cancellation and nonrenewal laws. It expands the  
14           grounds for which a contract of property insurance may be  
15           cancelled prior to the expiration of the policy to include the  
16           following:

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1. The commission of a fraudulent insurance act;

2. The failure by the applicant or the insured to disclose a negligent act or material facts that would alter the terms of the policy;

3. The discovery that the insured's property is unoccupied and custodial care is not being maintained;

4. The presence of a trampoline on the premises if the insured is notified that the policy will be cancelled if the trampoline is not removed;

5. The presence of a swimming pool on the insured property that is not fenced in if, after notification, the noncompliance continues;

6. A claims history that includes 4 losses within 5 years, unless those losses include a catastrophic loss event;

7. A loss occasioned by a dog bite, unless, after notice of cancellation, the insured removes the dog; or

8. Failure to correct in 90 days conditions that pose imminent hazards.