

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

23 MRSA §1401, sub-§4 is enacted to read:

4. Provision waived. The commissioner may, if it is determined that necessity requires the construction of a building in the exact location of an existing building, waive the provision of subsection 2.

Effective September 23, 1983.

CHAPTER 394

H.P. 838 - L.D. 1088

AN ACT to Amend Provisions of the Maine Insurance Code Relating to Tender Offers and to Unfair Trade Practices.

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

Sec. 1. 24-A MRSA §222, sub-§7, ¶A, as amended by PL 1977, c. 694, §388, is further amended to read:

A. In the absence of approval by the superintendent, the purchase, exchange, merger of a controlling person of an insurer or other acquisition of control referred to in subsection 4, may be made unless the superintendent, acting in accordance after a hearing is held in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, and within 30 days after the statement required by subsection 4 has been filed with him; disapproves the purchases, exchanges, merger of a controlling person of an insurer, or other acquisitions of control. Any such hearing shall be held within 30 days after the statement required by subsection 4 has been filed with the superintendent. The superintendent shall make a determination within 30 days after the conclusion of that hearing. The superintendent may disapprove any such transaction within 30 days after such filing if he finds that:

(1) After the change of control, the domestic insurer could not satisfy the requirements for the issuance of a certificate of authority according to requirements in force at the time of the issuance, or last renewal or continuation of its certificate of authority to do the insurance business which it intends to transact in this State;

(2) The effect of the purchases, exchanges, merger of a controlling person of the insurer, or other acquisitions of control may be substantially to lessen competition in insurance in this State or tend to create a monopoly therein; or would violate the laws of this State or of the United States relating to monopolies or restraints of trade;

(3) The financial condition of an acquiring person is such as would jeopardize the financial stability of the insurer or prejudice the interest of its policyholders or, in the case of an acquisition of control, the interest of any remaining stockholders who are unaffiliated with the acquiring person;

(4) The plans or proposals which the acquiring person has to liquidate the insurer, to sell its assets or to merge it with any person, or to make any other major change in its business or corporate structure or management, are unfair or prejudicial to policyholders;

(5) The competence, experience and integrity of those persons who would control the operation of the insurer indicate that it would not be in the interest of policyholders, stockholders or the public to permit them to do so; or

(6) Any party to an agreement to merge with a domestic insurer is not itself an insurer;

Sec. 2. 24-A MRSA §222, sub-§7, ¶D, as enacted by PL 1975, c. 356, §1, is amended to read:

D. Violation

(1) Failure to file the statement required under subsection 4 shall constitute a violation of this chapter.

(2) Effectuation of or any attempt to effectuate an acquisition of, control of or merger with a domestic insurer within the 30-day period referred to in this subsection 30 days of the filing of the statement required by subsection 4, prior to the superintendent's decision if a hearing is held or after disapproval of such acquisition of control or merger by the superintendent shall constitute a violation of this chapter.

Sec. 3. 24-A MRSA §2165, sub-§2, as amended by PL 1973, c. 585, §12, is repealed and the following enacted in its place:

2. A desist order shall be effective upon expiration of the time allowed for appeals from the superintendent's orders, regardless of whether an appeal is taken, unless stayed by the court. The filing of an appeal shall not operate as a stay of the desist order pending judicial review. Application for a stay may be made as provided in section 236, and in Title 5, section 11004. An appeal from a desist order shall be taken in accordance with section 236, and any intervenor in a hearing held under this chapter shall have the right to appeal as so provided.

Sec. 4. 24-A MRSA §2168, sub-§1, as enacted by PL 1969, c. 132, §1, is amended to read:

1. No person engaged in the business of financing the purchase of real or personal property or of lending money on the security of real or personal property ~~shall~~ may require, as a condition to ~~such~~ the financing or lending, or as a condition to the renewal or extension of any such loan or to the performance of any other act in connection with ~~such the~~ the financing or lending, that the purchaser or borrower, or his successors, shall negotiate through a particular insurer or insurers, insurance agent or agents, broker or brokers, type of insurer or types of insurers, any policy of insurance or renewal thereof insuring ~~such~~ that property. For purposes of this section, the term "policy" includes, but is not limited to, any temporary contract or binder, by whatever name known, under the terms of which insurance coverage commences at a specified time, and continues until a finished policy is issued or the risk is declined and coverage is terminated.

Sec. 5. 24-A MRSA §2169, as amended by PL 1973, c. 585, §12, is further amended to read:

§2169. Notice of free choice of agent or insurer

Every debtor, borrower or purchaser of property with respect to which insurance of any kind on the property is required in connection with a debt or loan secured by ~~such~~ that property or in connection with the sale of ~~such~~ that property shall be informed by the creditor or lender of his right of free choice in the selection of the agent and insurer through or by which ~~such~~ the insurance is to be placed. There shall be no interference either directly or indirectly with ~~such~~ the borrower's, debtor's or purchaser's free choice of an agent and of an insurer which complies with the requirements set out in

section 2168, and the creditor or lender shall not refuse an adequate policy so tendered by the borrower, debtor or purchaser. For purposes of this section, the term "policy" includes, but is not limited to, any temporary contract or binder, by whatever name known, under the terms of which insurance coverage commences at a specified time, and continues until a finished policy is issued or the risk is declined and coverage is terminated. Upon notice of any refusal of such this tendered policy, the superintendent shall order the creditor or lender to accept the tendered policy, if he determines that such the refusal is not in accordance with the requirements set out in section 2168. Failure to comply with such an order of the superintendent shall be deemed a violation of this section.

Effective September 23, 1983.

CHAPTER 395

H.P. 479 - L.D. 576

AN ACT to Make Allocations from
the Maine Hazardous Waste Fund for the
Fiscal Years Ending June 30, 1984, and
June 30, 1985.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period will not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of the department will become due and payable on or immediately after July 1, 1983; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §1303-A, sub-§3, ¶A, as repealed and replaced by PL 1981, c. 430, §6, is amended to read: