

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

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Legislative Document

No. 300

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H. P. 210

House of Representatives, January 25, 1967

Referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Harriman of Hollis.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-SEVEN

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**AN ACT** Relating to Optional Provisions in Individual Accident and Health Insurance Policies.

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

**Sec. 1. R. S., T. 24, § 803, sub-§ 2, ¶ B, sub-¶ (3), repealed and replaced.** Subparagraph (3) of paragraph B of subsection 2 of section 803 of Title 24 of the Revised Statutes is repealed and the following enacted in place thereof:

(3) A provision as follows:

**OVERINSURANCE.** If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for ..... (insert type of coverage or coverages) in excess of \$. ..... (insert maximum limit of indemnity or indemnities) the excess shall be void and all premiums paid for such excess shall be returned to the insured or to his estate. (or, in lieu thereof:)

Insurance effective at any one time on the insured under this policy and a like policy or policies in this insurer is limited to the one policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

**Sec. 2. R. S., T. 24, § 803, sub-§ 2, ¶ B, sub-¶ (4), repealed and replaced.** Subparagraph (4) of paragraph B of subsection 2 of section 803 of Title 24 of the Revised Statutes is repealed and the following enacted in place thereof:

(4) A provision as follows:

**OVERINSURANCE.** If, with respect to a person covered under this policy, benefits for allowable expense incurred during a claim determination period

under this policy together with benefits for allowable expense during such period under all other valid coverage (without giving effect to this provision or to any "overinsurance provision" applying to such other valid coverage), exceed the total of such person's allowable expense during such period, this insurer shall be liable only for such proportionate amount of the benefits for allowable expense under this policy during such period as

- (a) The total allowable expense during such period bears to
- (b) the total amount of benefits payable during such period for such expense under this policy and all other valid coverage (without giving effect to this provision or to any "overinsurance provision" applying to such other valid coverage)

less in both (a) and (b) any amount of benefits for allowable expense payable under other valid coverage which does not contain an "overinsurance provision". In no event shall this provision operate to increase the amount of benefits for allowable expense payable under this policy with respect to a person covered under this policy above the amount which would have been paid in the absence of this provision. This insurer may pay benefits to any insurer providing other valid coverage in the event of overpayment by such insurer. Any such payment shall discharge the liability of this insurer as fully as if the payment had been made directly to the insured, his assignee or his beneficiary. In the event that this insurer pays benefits to the insured, his assignee or his beneficiary, in excess of the amount which would have been payable if the existence of other valid coverage had been disclosed, this insurer shall have a right of action against the insured, his assignee or his beneficiary, to recover the amount which would not have been paid had there been a disclosure of the existence of other valid coverage. The amount of other valid coverage which is on a provision of service basis shall be computed as the amount the services rendered would have cost in the absence of such coverage.

For purposes of this provision:

- (a) "allowable expense" means 110% of any necessary, reasonable and customary item of expense which is covered, in whole or in part, as a hospital, surgical, medical or major medical expense under this policy or under any other valid coverage.
- (b) "claim determination period" with respect to any covered person means the initial period of ..... (insert period of not less than thirty days) and each successive period of a like number of days, during which allowable expense covered under this policy is incurred on account of such person. The first such period begins on the date when the first such expense is incurred, and successive periods shall begin when such expense is incurred after expiration of a prior period.

(or, in lieu thereof:)

"claim determination period" with respect to any covered person means each ..... (insert calendar or policy period of not less than

a month) during which allowable expense covered under this policy is incurred on account of such person.

(c) "overinsurance provision" means this provision and any other provision which may reduce an insurer's liability because of the existence of benefits under other valid coverage.

**INSTRUCTIONS.** The foregoing policy provision may be inserted in all policies providing hospital, surgical, medical or major medical benefits. The insurer may make this provision applicable to either or both other valid coverage with other insurers and other valid coverage with the same insurer. The insurer shall include in this provision a definition of "other valid coverage" approved as to form by the commissioner. Such term may include hospital, surgical, medical or major medical benefits provided by group, blanket or franchise coverage, individual and family-type coverage, Blue Cross-Blue Shield coverage and other prepayment plans, group practice and individual practice plans, uninsured benefits provided by labor-management trusteeed plans, or union welfare plans, or by employer or employee benefit organizations, benefits provided under governmental programs, workmen's compensation insurance or any coverage required or provided by any other statute, and medical payments under automobile liability and personal liability policies. Other valid coverage shall not include payments made under third party liability coverage as a result of a determination of negligence, but an insurer may at its option include a subrogation clause in its policy. The insurer may require, as part of the proof of claim, the information necessary to administer this provision.

**Sec. 3. R. S., T. 24, § 803, sub-§ 2, ¶ B, sub-¶ (5), repealed.** Subparagraph (5) of paragraph B of subsection 2 of section 803 of Title 24 of the Revised Statutes is repealed.

**Sec. 4. Effective date.** This Act shall take effect on January 1, 1968. A policy, rider or endorsement which could have been lawfully used or delivered or issued for delivery to any person in this State immediately before the effective date of this Act may be used or delivered or issued for delivery to any such person during 5 years after the effective date of this Act.