

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 666

S. P. 231

In Senate, February 7, 1973

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Tanous of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Providing for the Maine Property Insurance Cancellation Control Act.

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

R. S., T. 24-A, c. 41, sub-c. V, additional. Chapter 41 of Title 24-A, of the Revised Statutes is amended by adding a new subchapter V, to read as follows:

SUBCHAPTER V

MAINE PROPERTY INSURANCE CANCELLATION CONTROL ACT

§ 3048. Scope of subchapter

This subchapter shall apply to policies of insurance, other than automobile insurance and workmen's compensation insurance, on risks located or resident in this State which are issued and take effect or which are renewed after the effective date of this subchapter and insuring against any of the following:

1. Loss of or damage to real property which is used solely for residential purposes and which consists of not more than 4 apartments and which is owner-occupied;
2. Loss of or damage to personal property in which natural persons resident in specifically described real property of the kind described in subsection 1 have an insurable interest, except personal property used in the conduct of a commercial or industrial enterprise;
3. Legal liability of a natural person or persons for loss of, damage to or injury to persons or property, but not including policies primarily insuring risks arising from the conduct of a commercial or industrial enterprise.

§ 3049. Notice of cancellation; reasons

No policy may be cancelled except by notice to the insured as provided in this subchapter. No notice of cancellation of a policy shall be effective unless it is based on one or more of the following reasons:

1. Nonpayment of premium, including nonpayment of any additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property or a change in its occupancy or use;

2. Conviction of the named insured of a crime having as one of its necessary elements an act increasing any hazard insured against;

3. Discovery of fraud or material misrepresentation by either of the following:

A. The insured or his representative in obtaining the insurance;

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

4. Discovery of grossly negligent acts or omissions by the insured substantially increasing any of the hazards insured against;

5. Physical changes in the insured property which result in the property becoming uninsurable.

This section shall not apply to any policy or coverage which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy. This section shall not apply to the nonrenewal of a policy.

§ 3050. Delivery of notice

No notice of cancellation of a policy shall be effective unless mailed or delivered by the insurer to the named insured at least 20 days prior to the effective date of cancellation, or, where the cancellation is for nonpayment of premium, at least 10 days prior to the date of cancellation. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than 15 days prior to the date of cancellation, the insurer will state the reason for cancellation, together with notification of the right to a hearing before the commissioner within 15 days as provided herein.

When the reason does not accompany the notice of cancellation, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation. A statement of reason shall be mailed or delivered to the named insured within 5 days after receipt of a request.

§ 3051. Notice of intent

No insurer shall fail to renew a policy except by notice to the insured as provided in this subchapter. A notice of intention not to renew shall not

be effective unless mailed or delivered by the insurer to the named insured at least 30 days prior to the expiration date of the policy. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of intent not to renew, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than 20 days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

When the reason does not accompany the notice of intent not to renew, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for nonrenewal, together with notification of the right to a hearing before the commissioner within 15 days as provided. A statement of reason shall be mailed or delivered to the named insured within 10 days after receipt of a request.

This section shall not apply:

1. If the insurer has manifested its willingness to renew;
2. If the insured fails to pay any premium due or any advance premium required by the insurer for renewal.

§ 3052. Duplicate coverage

If an insured obtains a replacement policy which provides equal or more extensive coverage for any property designated in both policies, the first insurer's coverage of such property may be terminated by failure to renew as of the effective time and date of the replacement policy, whether or not the first insurer complies with all provisions of section 3051.

§ 3053. Renewal not a waiver or estoppel

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of renewal.

§ 3054. Hearing before commissioner

Any named insured who has received a statement of reason for cancellation, or of reason for an insurer's intent not to renew a policy, may, within 15 days of the receipt or delivery of a statement of reason, request a hearing before the Insurance Commissioner. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence used by the insurer in its reason for cancellation or intent not to renew. The burden of proof of the reason for cancellation or intent not to renew shall be upon the insurer. The Insurance Commissioner shall adopt rules and regulations for carrying out this section.

§ 3055. Immunity of liability

There shall be no liability on the part of, and no cause of action of any nature shall arise against, the Insurance Commissioner or any employee of the Insurance Department of Maine or against any insurer, its authorized

representatives, its agents, its employees, or against any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or intent not to renew, for any statement made by any of them in any written notice of cancellation or notice of intent not to renew or in any other communication, oral or written, specifying the reasons for cancellation or intent not to renew, or for any information provided or evidence submitted at any hearings conducted in connection with reasons for cancellation or intent not to renew.

STATEMENT OF FACT

The purpose of this bill is to limit a company's right to cancel certain policies covering real property which is used solely for residential purposes and to contractually obligate a company to give proper notice of nonrenewal and to furnish reasons for any termination of the contract.