

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1609

H. P. 1234

House of Representatives, March 26, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Deshaies of Westbrook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Regulating Mass Marketing of Casualty and Property Insurance.

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

R. S., T. 24-A, c. 40, additional. Title 24-A of the Revised Statutes is amended by adding a new chapter 40 to read as follows:

CHAPTER 40

**MASS MARKETING OF CASUALTY AND PROPERTY
INSURANCE**

§ 2911. Purpose

The purpose of this chapter is to prevent abuses in connection with sale of casualty and property insurance in this State pursuant to mass marketing plans, while preserving for consumers the potential benefits of this form of marketing.

§ 2912. Definitions

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

1. Casualty insurance. "Casualty insurance" means all contracts of insurance covered by section 707.

2. Mass marketing plan. "Mass marketing plan" means a method of selling property and casualty insurance wherein such insurance is offered to employees of particular employers or to members of particular associations or organizations or to persons grouped in other ways and the employer,

association or organization has agreed to or otherwise affiliated itself with, or facilitated, the sale of such insurance to its employees or members and employees and includes without limitation such plans whether described as "mass merchandising," "group merchandising," "franchise merchandising" or "collective merchandising."

3. Property insurance. "Property insurance" means all contracts of insurance covered by section 705.

§ 2913. Eligibility

The group intending to qualify for mass marketing shall have been in existence for more than 3 years prior to the purchase of the insurance or prove that such group was not organized for the sole purpose of purchasing insurance on such a plan. Eligible members shall include all members in good standing in the group and employees of the group who are engaged in 24 hours or more employment per week. Officers and directors of an eligible group shall be considered members of the group. Members of the group shall include all persons who are within the definition of 'insured' stated in the insurance contract, including without limitation the spouse and unmarried children under 25 years of age resident in the household.

§ 2914. Premium rates

Premium rates under a mass marketing plan shall comply with all standards set forth in the Maine Insurance Code, including without limitation the requirement that rates shall not be excessive, inadequate or unfairly discriminatory. These rates and classification plans shall be approved by the commissioner prior to their use if he determines that they meet such standards. Rates shall not be deemed to be unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the difference with reasonable accuracy. Rates shall not be deemed to be unfairly discriminatory if they are averaged broadly among persons insured under a mass marketing plan. All such losses and expense attributable to all of the group plans in Maine for that particular line of business written by that particular insurer are to be charged to that line of business and to be reflected in the rate structure for that line of business annually.

No experience rating shall be applied to an individual group until after 3 years of operation and at that time shall be based on the experience of the preceding 3 calendar years. Thereafter, any experience rating may be made annually using the last 3 calendar years. In case of merger of 2 or more companies, the 3-year minimum will apply to the oldest company in the newly formed entity, not the new entity formed by the merger itself.

§ 2915. Statistics

An insurer, providing insurance pursuant to mass marketing plans, shall maintain separate loss and expense statistics for each line of insurance within such plan, to include, but not be limited to, complete records of premium

income, losses and expenses. Such statistics shall be shown as specific components used in promulgation and filing of premium rates and rating plans. The rate filings for such plans shall state the criteria for acceptance of groups which are relied upon to establish the likelihood of the projected cost savings.

§ 2916. Producers

No person shall act as an insurance agent, broker or consultant in connection with a mass marketing plan for any kind of insurance unless such person is duly licensed in accordance with law, as an agent, broker or consultant for such kinds of insurance.

§ 2917. Compulsory participation prohibited

No insurer shall sell insurance pursuant to a mass marketing plan, if it is a condition of employment or of membership in an association, organization or other group that any employee or member purchase insurance pursuant to such plan, or if any employee or member shall be subject to any penalty by reason of his nonparticipation.

§ 2918. Tie-in sales prohibited

1. No insurer shall sell insurance pursuant to a mass marketing plan if:

A. Purchase of insurance available under such plan is contingent upon the purchase of any other insurance, product or service, or

B. The purchase of any other insurance, product or service is contingent upon the purchase of insurance available under such plan.

2. This provision shall not be deemed to prohibit the reasonable requirement of safety devices, such as heat detectors, lightning rods, theft prevention equipment and the like.

§ 2919. Disclosure required

Every insurer, agent or broker selling insurance pursuant to a mass marketing plan shall, prior to sale, make full and fair disclosure to prospective insureds of all features of such plan, whether favorable or unfavorable, including, but not limited to, the stability of the premium rates, benefits, duration of coverage, policyholder services, conversion privileges available, and the financial and interlocking interests in the plan, if any, of the sponsoring employer, association, organization or group.

§ 2920. Availability

The insurer and the group insured must accept all eligible members who wish to participate in the plan except, in the case of motor vehicle insurance, those who within 5 years of the application have had their license to operate suspended or cancelled. With respect to motor vehicle insurance, every member of the group must be issued the same form of policy, varying only as to the amounts of insurance and limits of liability, except that all policies shall provide at least the financial responsibility limits of coverage stated in Title 29, section 781, subsection 1, paragraph D. With respect to other insurance covered hereunder, every member of the group must be of-

ferred the same policy form alternatives, varying only as to the amounts of insurance and limits of liability.

§ 2921. Cancellation and nonrenewal

1. An insurer may not cancel the insurance of an individual unless it is based on one or more of the following reasons:

A. 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;

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

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

(1) The insured or his representative in obtaining the insurance;

(2) The named insured in pursuing a claim under the policy;

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

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

In such cases, notice of cancellation as provided in like nongroup policies shall be given to the members.

2. The failure of an employer, association, organization or other group to remit premiums when due for any reason, including, but not limited to, interruption or termination of employment or membership, shall not be regarded as nonpayment of premium by any insured under any such plan providing for remittance of premium by such employer, association, organization or other group, unless such insured shall have been given written notice of such failure to remit and shall not himself have paid such premium by the later of 20 days after such notice, or the due date of such premium remittance under the mass marketing plan or pursuant to regulations set forth by the commissioner.

3. Upon the termination of employment or membership or upon the discontinuance of the mass marketing plan, such insured member or employee may maintain his policy in force for 60 days, in the same amount, upon payment of the premium applicable to the class of risk to which he belongs on an individual basis. The option to maintain the insurance in force shall be exercised by the insured within 30 days following the date of termination of employment. Any notice of cancellation or nonrenewal of any policy of any employee or member insured under a mass marketing plan shall be accompanied by a notice to the employee or member that, at his request, the insurer will afford the employer, association, organization or other group a

reasonable opportunity to consult with the insured and to present facts in opposition to cancellation or nonrenewal.

4. The commissioner may promulgate regulations concerning the continuation of policies during temporary interruption of employment, including, but not limited to, strikes, layoffs and other such absences.

§ 2922. Compulsory facilities

An insurer, agent or broker selling insurance pursuant to a mass marketing plan shall, with respect to any employees or members who apply for but are denied insurance under such plan as provided for in section 2920, assist such persons in obtaining insurance through any other appropriate voluntary or mandatory insurance plan.

§ 2923. Applicability

This chapter shall be applicable only to insurance policies issued or renewed in this State after October 1, 1973 and is in addition to, and not in substitution for, other applicable requirements of the Maine Insurance Code and department regulations. This chapter shall not be construed to permit any activity which is prohibited by section 2172.

STATEMENT OF FACT

The purpose of this bill is to prevent abuses in connection with sale of casualty and property insurance in this State pursuant to mass marketing plans, while preserving for consumers the potential benefits of this form of marketing.