

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

COMMITTEE AMENDMENT "A " to H.P. 462, L.D. 578, Bill,
"AN ACT to Provide for Regulation of Insurance Holding Company
Systems."

Amend said Bill by inserting at the beginning of the
first line after the enacting clause the underlined phrase
'Sec. 1.'

Further amend said Bill in that part designated "§222."
by striking out the last sentence of subparagraph (1) of paragraph
B of subsection 2 and inserting in place thereof the following:

'Control shall be presumed to exist if any person, directly or
indirectly, owns, controls, holds with the power to vote or
holds proxies representing 10% or more of the voting securities,
or voting insurance policies in the case of mutual or reciprocal
insurers, or guaranty capital shares if a mutual insurer has
established a guaranty fund, of any other person. Two or more
domestic mutual insurance companies who have restricted their
licensed territories to the State of Maine shall not be deemed to
be subject of this section merely because such insurance companies
commonly share facilities, incurred expenses, personnel services,
or otherwise utilize cost allocations based on generally accepted
accounting principles including pro rata sharing of assumed risks.'

Further amend said Bill in that part designated "§222."
by inserting in the first line of paragraph E of subsection 2
after the underlined word and punctuation "corporation," the
underlined words and punctuation 'a corporation which, pursuant
to Title 24, chapter 19, maintains and operates nonprofit hospital

service plans, nonprofit medical service plans or nonprofit health care plans or any combination thereof,'

Further amend said Bill in that part designated "§222." by striking out in the next to the last line of paragraph B of subsection 3 the underlined word "chapter" and inserting in place thereof the underlined word 'Title' (6th line of L.D.)

Further amend said Bill in that part designated "§222." by inserting after paragraph B of subsection 7 the following:

'C. Merger, consolidation or bulk reinsurance as to a domestic insurer shall be effectuated only pursuant to the applicable provisions of chapter 47, subchapter IV, sections 3875, 4108 and 4109, as related to organization and powers of insurers.'

Further amend said Bill in that part designated "§222." by renumbering paragraph C of subsection 7 to be paragraph D.

Further amend said Bill in that part designated "§222." by striking out in the 2nd line of paragraph B of subsection 8 the underlined word "commissioner" and inserting in place thereof the underlined word 'superintendent'

Further amend said Bill in that part designated "§222." by inserting in the 2nd line of the 2nd paragraph of paragraph C of subsection 9 after the underlined word "this" and before the underlined word "chapter" the underlined words 'Title and'

Further amend said Bill in that part designated "§222." by striking out all of the 2nd sentence of subsection 11 and inserting in place thereof the following:

'For purposes of this section, an extraordinary dividend or

distribution is any dividend or distribution which, together with other dividends or distributions,
made within the preceding 12 months,
exceeds the greater of 10% of the insurer's surplus to policyholders as of December 31st of the immediate preceding 12 months or the net gain from operations of the insurer if the insurer is a life insurer or the net investment income if the insurer is not a life insurer, for the 12-month period ending December 31st of the year immediately preceding, but shall not include pro rata distributions of any class of the insurer's own securities.'

Further amend said Bill in that part designated "§222." by inserting in the last line of paragraph A of subsection 12 after the underlined figures "228" the underlined words and punctuation ',subsection 1. No credit shall be taken for any equity value of an affiliated company which inures to a parent insurer and comprises a portion of that insurer's admitted assets'

Further amend said Bill in that part designated "§222." by striking out all of subsection 13 and inserting in place thereof the following:

'13. Confidential communications. Any registration statement, tender offer, or request or invitation for tenders, advertisement making a tender offer or requesting or inviting tenders of voting securities, option to purchase, agreement to merge or consolidate, or contract to manage filed pursuant to this section including any duly authenticated copy thereof in the possession of any person subject to this section shall be a

confidential communication, shall not be subject to a subpoena and shall not be made public by the superintendent without prior written consent of the insurer, unless the superintendent determines that the interests of policyholders, stockholders or the public will be served by the publication thereof, in which event he may make a public record or publish all or any part thereof in such manner as he may deem appropriate. The distribution of reports on examination referred to in section 227 shall not be regarded as confidential communications and shall be excepted from the confidential requirements of this subsection.'

Further amend said Bill in that part designated "§222." by striking out in the 3rd line of subparagraph (1) of paragraph C of subsection 14 the underlined words "by it"

Further amend said Bill in that part designated "§222." by striking out in the 4th line of subparagraph (3) of paragraph C of subsection 14 before the underlined word "liquidation" the underlined word "of" and inserting in place thereof the underlined word 'or' (3rd line of L.D.)

Further amend said Bill by inserting at the end before the Statement of Fact the following:

'Sec. 2. 24-A MRSA §228, sub-§1, first sentence, as enacted by PL 1969, c. 132, §1, is amended to read:
The expense of examination of an insurer or of any person ~~referred-to-in-subsection-1-(holding-companies-and-persons-holding-voting-stock-or-policyholder-proxies), or-3-(management-or-control-of-the-insurer-under-contract), or-4-(promoters,-etc-)-of~~ regulated under section 222, shall be borne by the person examined.'

Statement of Fact

The purpose of this amendment is to make it clear that domestic mutual insurance companies presently fully controlled by the Bureau of Insurance but which share services, expenses, personnel or otherwise utilize common generally accepted accounting principles including pro rata sharing of assumed risks are not subject to regulation as a holding company system merely because of such factors.

The amendment also clarifies the intent of the bill to cover nonprofit hospital and medical service organizations.

The amendment also clarifies the ^{wording} / of the bill in several sections.

Reported by the Committee on Business Legislation.

Reproduced and distributed under the direction of the Clerk
of the House.
5/16/75

(Filing No. H-367)