

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 636**

H. P. 487

House of Representatives, February 16, 1979

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

EDWIN H. PERT, Clerk

Presented by Mr. Brenerman of Portland.

Cosponsors: Mr. Lizotte of Biddeford, Miss Aloupis of Bangor and Mr. Boudreau of Waterville.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Require Insurance Policy Language Simplification.**

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

24-A MRSA §§ 2438—2445 are enacted to read:

§ 2438. Short title

This section and sections 2439 to 2445 shall be known as the “Insurance Policy Language Simplification Act.”

§ 2439. Definitions

As used in sections 2438 to 2445, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Insurer. “Insurer” means any life, health, casualty or property insurance company, fraternal benefit society, nonprofit health service corporation, nonprofit hospital service corporation, nonprofit medical service corporation, prepaid health plan, dental care plan, vision care plan, pharmaceutical plan, health maintenance organization and all similar type organizations.

2. Policy or policy form. “Policy” or “policy form” means any policy,

contract, plan or agreement of life, health, casualty or property insurance, including credit insurance, delivered or issued for delivery in this State by any company subject to sections 2438 to 2445; any certificate, contract or policy issued by a fraternal benefit society; and any certificate issued pursuant to a group insurance policy delivered or issued for delivery in this State.

3. Superintendent. "Superintendent" means the Superintendent of Insurance.

#### § 2440. Applicability

1. Application. This Act shall apply to all policies delivered or issued for delivery in this State by an insurer on or after the date the forms must be approved under this Act, but nothing in this Act shall apply to:

- A. Any policy which is a security subject to federal jurisdiction;
- B. Any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit insurance policy; this shall not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this State;
- C. Any group annuity contract which serves as a funding vehicle for pension, profit-sharing or deferred compensation plans;
- D. Any form used in connection with, as a conversion from, as an addition to, or in exchange pursuant to a contractual provision for, a policy delivered or issued for delivery on a form approved or permitted to be issued prior to the dates the forms must be approved under this section;
- E. The renewal of a policy delivered or issued for delivery prior to the dates the forms must be approved under this Act.

2. Exception. No other statute of this State setting language simplification standards shall apply to any policy forms.

#### § 2441. Minimum policy language simplification standards

1. Delivery. In addition to any other requirements of law, no policy forms, except as stated in section 2440, shall be delivered or issued for delivery in this State on or after the dates the forms must be approved under this Act unless:

- A. The text achieves a minimum score of 40 on the Flesch reading ease test or an equivalent score on any other comparable test as provided in subsection 3;
- B. It is printed, except for specification pages, schedules and tables, in not less than 10-point type, one-point leaded;
- C. The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text of the policy or to any endorsements or riders; and
- D. It contains a table of contents or an index of the principal sections of the policy, if the policy has more than 3,000 words printed on 3 or fewer pages of text, or if the policy has more than 3 pages regardless of the number of words.

**2. Test score measured.** For the purposes of this section, a Flesch reading ease test score shall be measured by the following method:

**A.** For policy forms containing 10,000 words or less of text, the entire form shall be analyzed. For policy forms containing more than 10,000 words, the readability of two 200-word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines;

**B.** The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015;

**C.** The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6;

**D.** The sum of the figures computed under paragraphs B and C subtracted from 206.835 equals the Flesch reading ease score for the policy form;

**E.** For purposes of this subsection, paragraphs B, C and D, the following procedures shall be used:

(1) A contraction, hyphenated word or numbers and letters, when separated by space, shall be counted as one word;

(2) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and

(3) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows 2 or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used; and

**F.** The term "text" as used in this subsection shall include all printed matter except the following:

(1) The name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and

(2) Any policy language which is drafted to conform to the requirements of any federal law, regulation or agency interpretation; any policy language required by any collectively bargained agreement; any medical terminology; any words which are defined in the policy; and any policy language required by law or regulation; provided, the insurer identifies the language or terminology excepted by this paragraph and certifies, in writing, that the language or terminology is entitled to be excepted by this subparagraph.

**3. Test approval.** Any other reading test may be approved by the superintendent for use as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.

**4. Filings.** Filings subject to this Act shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required but should be approved in accordance with section 2443. To confirm the accuracy of any certification, the superintendent may require the submission of further information to verify the certification in question.

**5. Scoring.** At the option of the insurer, riders, endorsements, applications and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.

**§ 2442. Construction**

Nothing in this Act shall be construed to negate any law of this State permitting the issuance of any policy form after it has been on file for the time period specified.

**§ 2443. Powers of the superintendent**

The superintendent may authorize a lower score than the Flesch reading ease score required in section 2441, subsection 1, paragraph A, whenever, in his sole discretion, he finds that a lower score will provide a more accurate reflection of the readability of a policy form, or is warranted by the nature of a particular policy form or type or class of policy forms, or is caused by certain policy language which is drafted to conform to the requirements of any state law, regulation or agency interpretation.

**§ 2444. Approval of forms**

A policy from meeting the requirements of section 2441, subsection 1 shall be approved notwithstanding the provisions of any other laws which specify the content of policies, if the policy form provides the policyholders and claimants protection not less favorable than they would be entitled to under such laws.

**§ 2445. Effective dates.**

**1. Policy form filed.** Except as provided in section 2440, this Act applies to all policy forms filed on or after January 1, 1980. No policy form shall be delivered or issued for delivery in this State on or after February 1, 1980 unless approved by the superintendent or permitted to be issued under this Act. Any policy form which has been approved or permitted to be issued prior to January 1, 1980 and which meets the standards set by this Act need not be refiled for approval, but may continue to be lawfully delivered or issued for delivery in this State upon the filing with the superintendent of a list of forms identified by form number and accompanied by a certificate as to each such form in the manner provided in section 2441, subsection 4.

**2. Dates extended.** The superintendent may, in his sole discretion, extend the dates in subsection 1.

## STATEMENT OF FACT

Among the many kinds of documents that affect consumers, insurance policies are perhaps the most difficult to understand. They are usually long and complex and are often written in language practically incomprehensible to anyone but the company or lawyers and accountants. As experience in several other states shows, insurance policies can be written so that ordinary people can understand them. This bill, based on the model proposed by the National Association of Insurance Commissioners, will greatly simplify policies by requiring them to comply with the well-known Flesch reading ease test, to be printed in readable type, to be arranged clearly and to contain a table of context. Basically, the Insurance Policy Language Simplification Act covers any policy of life, health, casualty or property insurance, including credit insurance, which is delivered or issued for delivery in this State. The superintendent must review every policy form for compliance with the law and approve it before a company may use it, although the superintendent has limited discretion to vary the Act's requirements to fit peculiar needs or circumstances. The effective date of the Act has been deferred beyond the normal date to give companies enough time to rewrite their policy forms.