

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1586

H. P. 1305

In Senate, April 18, 1979

Taken from Table by President and referred to the Committee on Business Legislation and 1,100 ordered printed in concurrence.

Presented by Mr. Wyman of Pittsfield.

Cosponsors: Mr. Lizotte of Biddeford, Mr. Diamond of Windham.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Establish the Insurance Regulatory Commission.

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

Sec. 1. 2 MRSA § 6-A, sub-§ 1, as enacted by PL 1977, c. 697, § 2, is amended by adding at the end the following new paragraph:

Chairman, Insurance Commission.

Sec. 2. 2 MRSA § 6-A, sub-§ 2, as enacted by PL 1977, c. 697, § 2, is amended by adding at the end the following new paragraph:

Members, Insurance Commission.

Sec. 3. 24-A MRSA § 5, as repealed and replaced by PL 1973, c. 585, § 6, is repealed and the following enacted in its place:

§ 5. Commission defined

1. Commission. "Commission" means the Insurance Commission.

2. Commissioner. "Commissioner" means one of the members of the commission.

Sec. 4. 24-A MRSA § 8, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Authorized insurer. An "authorized" insurer is one duly authorized to transact insurance in this State by a subsisting certificate of authority issued by the ~~superintendent commission~~.

Sec. 5. 24-A MRSA c. 3, 2nd line, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

THE INSURANCE COMMISSION

Sec. 6. 24-A MRSA § 200, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 200. Department continued

There is continued a department of State Government known as the Insurance ~~Bureau Commission~~.

Sec. 7. 24-A MRSA § 201, as amended by PL 1975, c. 771, § 259, is repealed and the following enacted in its place:

§ 201. Insurance Commission; appointment; term

The Insurance Commission consists of 3 members appointed by the Governor subject to review by the Joint Standing Committee on Business Regulation and confirmation by the Legislature. Each member shall be appointed for terms of 7 years or until his successor has been appointed and qualified and all 3 members of the commission shall devote full time to their duties. The Governor shall appoint or reappoint a member to a 7-year term upon the expiration of a member's term. Upon any vacancy occurring before the expiration of a member's term, the Governor shall fill that vacancy by appointment for the unexpired portion of the term in which that vacancy occurs.

1. Chairman. The Governor shall designate one member of the commission as chairman. The commission by majority vote shall designate a commissioner to act as chairman in the chairman's absence.

Sec. 8. 24-A MRSA § 201-A is enacted to read:

§ 201-A. Removal of commissioner

Any willful violation of this Title by any commissioner shall constitute sufficient cause for his removal by the Governor, on the address of both branches of the Legislature, or by impeachment, pursuant to the Constitution, Article IX, section 5.

Sec. 9. 24-A MRSA § 202, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 202. Seal

The commission shall have a seal of office of a suitable design, bearing the words "Insurance Commission of the State of Maine." The chairman of the commission shall file an impression of the seal, duly certified by him under oath, with the Secretary of State.

Sec. 10. 24-A MRSA § 203, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 203. Compensation

The State shall pay each commissioner an annual salary in an amount as provided by law as full compensation for all duties required of him as commissioner.

Sec. 11. 24-A MRSA § 204, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 204. Principal office

The commission's principal office shall be at Augusta.

Sec. 12. 24-A MRSA § 205, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 205. Commission organization

Within the commission there shall be such bureaus, not expressly provided for or prohibited by law, as the commission deems advisable for the discharge of its duties.

Sec. 13. 24-A MRSA § 206, as repealed and replaced by PL 1973, c. 585, § 8, is repealed and the following enacted in its place:

§ 206. Directors

1. The commission with the approval of the Commissioner of Business Regulation may employ, subject to the Personnel Law, an executive director and may employ one or more directors.

2. The executive director shall perform such duties and exercise such powers of the commission as the commission may from time to time authorize.

Sec. 14. 24-A MRSA § 207, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

Subject to the Personnel Law, the ~~superintendent~~ **commission** may appoint and dismiss for cause such personnel as conduct of ~~his~~ **its** office may require.

Sec. 15. 24-A MRSA § 208, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 208. Independent technical, professional services

The ~~superintendent~~ **commission** may from time to time contract for such additional actuarial examination, rating and other technical and professional services as ~~he~~ **it** may require for discharge of ~~his~~ **its** duties.

Sec. 16. 24-A MRSA § 209, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. ~~The superintendent, or his deputy~~ **No commissioner, executive director, director** or any examiner or employee of the bureau shall ~~not~~ be connected with the management or be holder of a material number of shares of any insurer, insurance holding company, insurance agency or broker, or be pecuniarily interested in any insurance transaction except as a policyholder or claimant under a policy; except that as to matters wherein a conflict of interests does not exist on the part of any such individual, the ~~superintendent~~ **commission** may employ and retain from time to time insurance actuaries, examiners, accountants and other technicians who are independently practicing their professions even though from time to time similarly employed or retained by insurers or others.

Sec. 17. 24-A MRSA § 209, sub-§ 1, ¶ A, as amended by PL 1973, c. 585, § 12, is further amended to read:

A. Receipt by any such individual of fully vested commissions or fully vested retirement benefits to which he is entitled by reason of services performed prior to becoming ~~superintendent commissioner~~ or prior to employment in the ~~bureau commission~~;

Sec. 18. 24-A MRSA § 209, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. No commissioner, executive director, director, nor any employee or technician employed or retained by the commission, shall be given or receive, directly or indirectly, any fee, compensation, loan, gift or other thing of value in addition to the compensation and expense allowance provided by or pursuant to the law of this State, or by contract with the commission, for any service rendered or to be rendered as such commission, executive director, director, employee or technician, or in connection therewith.

Sec. 19. 24-A MRSA § 210, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 210. Delegation of powers

1. The commission may delegate to any commissioner, executive director, director, examiner or an employee of the commission the exercise or discharge in the commission's name of any power, duty or function, whether ministerial, discretionary or of whatever character, vested in or imposed upon the commission, other than as excepted by subsection 3.

2. The official act, other than an act subject to subsection 3, of any such person acting in the commission's name and by its authority shall be deemed an official act of the commission.

3. The commission shall not delegate any final decision required under this Title which approves or disapproves a premium, a rate of premium or a table, factor or other method for determining a premium or rate of premium.

Sec. 20. 24-A MRSA § 211, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 211. General powers, duties

1. The ~~superintendent~~ **commission** shall enforce the provisions of, and execute the duties imposed upon ~~him~~ **it** by, this Title.

2. The ~~superintendent~~ **commission** shall have the powers and authority expressly vested in ~~him~~ **it** by or reasonably implied from this Title.

3. The ~~superintendent~~ **commission** shall have such additional rights, powers and duties as may be provided by other laws.

Sec. 21. 24-A MRSA § 211-A is enacted to read:

§ 211-A. Burden of proof

In any proceeding under this Title the burden of proof shall always be on that party which seeks a decision from the commission, or which seeks a modification or revocation of any previous decision of the commission.

Sec. 22. 24-A MRSA § 212, **first sentence**, as last amended by PL 1977, c. 694, § 386, is further amended to read:

Subject to the applicable requirements and procedures of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, the ~~superintendent~~ **commission** may make, promulgate, amend and rescind reasonable rules and regulations to aid the administration or effectuation of any provisions of this Title.

Sec. 23. 24-A MRSA § 213, **sub-§ 1**, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Orders and notices of the ~~superintendent~~ **commission** shall be effective only when in writing signed by ~~him~~ **it** or by ~~his~~ **its** authority.

Sec. 24. 24-A MRSA § 213, **sub-§ 2, first ¶**, as amended by PL 1973, c. 585, § 12, is further amended to read:

Every order of the ~~superintendent~~ **commission** shall state its effective date and shall concisely state:

Sec. 25. 24-A MRSA § 213, **sub-§ 2, ¶ C**, as amended by PL 1973, c. 585, § 12, is further amended to read:

C. The provisions of this Title pursuant to which action is taken or proposed to be taken; but failure to so designate a particular provision shall not deprive the ~~superintendent~~ **commission** of the right to rely thereon.

Sec. 26. 24-A MRSA § 213, **sub-§ 3, first sentence**, as amended by PL 1973, c. 585, § 12, is further amended to read:

An order or notice may be given by delivery to the person to be ordered or notified, or by mailing it, postage prepaid, addressed to such person at his principal place of business or residence as last of record in the ~~bureau~~ **commission**.

Sec. 27. 24-A MRSA § 214, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 214. Enforcement

1. The **superintendent commission** may, through the Attorney General of this State, invoke the aid of the Superior Court through proceedings instituted in any county of this State to enforce any lawful order made or action taken by ~~him~~ it. In such proceedings the Superior Court may make such orders, either preliminary or final, as it deems proper under the facts established before it.

2. If the **superintendent commission** has reason to believe that any person has violated any provision of this Title, or of other law as applicable to insurance operations, for which criminal prosecution is provided and would be in order, ~~he~~ it shall give the information relative thereto to the Attorney General. The Attorney General shall promptly institute such action or proceedings against such person as in his opinion the information may require or justify.

3. The Attorney General upon request of the **superintendent commission** is authorized to proceed in the courts of any other state or in any federal court or agency to enforce an order or decision of any court proceeding or in any administrative proceeding before the **superintendent commission**.

Sec. 28. 24-A MRSA § 215, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 215. Violation of rules, regulations, orders; penalty

Any person who knowingly violates any rule, regulation or order of the **superintendent commission** shall be subject to such suspension or revocation of certificate of authority or license as may be applicable under this Title for violation of the provision to which such rule, regulation or order relates.

Sec. 29. 24-A MRSA § 216, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. **The commission shall carefully preserve at its office and in permanent form, a correct account of all its transactions and of all fees and moneys received by it by virtue of its office, together with all financial statements, examination reports, correspondence, filings and documents duly received by the commission.**

Sec. 30. 24-A MRSA § 216, sub-§§ 2, 3, & 4, as amended by PL 1973, c. 585, § 12, are further amended to read:

2. All records of the ~~bureau~~ **commission** shall be subject to public inspection, except as otherwise expressly provided by law as to particular matters; and except that records, correspondence and reports of investigation in connection with actual or claimed violations of this Title or prosecution or disciplinary action therefor shall be confidential. The confidential nature of any such record, correspondence or report shall not limit or affect use of the same by the **superintendent commission** in any such prosecution or action.

3. All records and documents of the **bureau commission** are subject to subpoena by a court of competent jurisdiction.

4. The **superintendent commission** may destroy unneeded or obsolete records and filings in the **bureau commission's office** in accordance with provisions and procedures applicable to administrative agencies of the State in general.

Sec. 31. 24-A MRSA § 217, sub-§ 1, first ¶, as amended by PL 1975, c. 771, § 260, is further amended to read:

As soon as practical after the annual financial statements have been received from the authorized insurers, the **superintendent commission** may make a written report to the Governor showing with respect to the preceding calendar year:

Sec. 32. 24-A MRSA § 217, sub-§ 1, ¶ A, as amended by PL 1973, c. 585, § 12, is further amended to read:

A. The receipts and expenses of the **bureau commission** for the year;

Sec. 33. 24-A MRSA § 217, sub-§ 1, ¶ C, as amended by PL 1973, c. 585, § 12, is further amended to read:

C. A summary of the financial condition of each authorized insurer, as shown by its most recent financial statement on file with the **superintendent commission**;

Sec. 34. 24-A MRSA § 217, sub-§ 1, ¶¶ D & E, as enacted by PL 1969, c. 132, § 1, are amended to read:

D. Such recommendations as **he it** deems advisable relative to amendment or supplementation of the insurance laws; and

E. Such other information and matters as **he it** deems to be in the public interest relative to the insurance business in this State.

Sec. 35. 24-A MRSA § 217, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. If the report is printed, the **superintendent commission** shall furnish a copy upon request thereby to the insurance supervisory official of other states and to authorized insurers; and, if copies are available for the purpose, to other persons who so request and upon payment by such persons of such reasonable charge therefor as may be fixed by the **superintendent commission**.

Sec. 36. 24-A MRSA § 218, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The **superintendent commission** may have the directory of authorized insurers, of licensed insurance representatives, license examination material, insurance laws and related laws and regulations under **his its** administration published in pamphlet form from time to time, and may fix a price for each copy to cover cost of printing and mailing.

Sec. 37. 24-A MRSA § 219, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The **superintendent commission** may communicate on request of the insurance supervisory official of any state, province or country any information which it is ~~his~~ **its** duty by law to ascertain respecting authorized insurers.

Sec. 38. 24-A MRSA § 220, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

In addition to examinations and investigations expressly authorized, the **superintendent commission** may conduct such investigations of insurance matters as ~~he~~ **it** may deem proper upon reasonable cause to determine whether any person has violated any provision of this Title or to secure information useful in the lawful administration of any such provision.

Sec. 39. 24-A MRSA § 221, sub-§§ 1, 2 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. For the purpose of determining its financial condition, fulfillment of its contractual obligations and compliance with the law, the **superintendent commission** shall examine the affairs, transactions, accounts, record and assets of each authorized insurer, and of any person as to any matter relevant to the financial affairs of the insurer or to the examination, as often as ~~he~~ **it** deems advisable. Except as otherwise expressly provided, ~~he~~ **it** shall so examine each domestic insurer not less frequently than every 5 years. Examination of an alien insurer shall be limited to its insurance transactions, assets, trust deposits and affairs in the United States, except as otherwise required by the **superintendent commission**.

2. The **superintendent commission** shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this State.

3. In lieu of making ~~his~~ **its** own examination, the **superintendent commission** may, in ~~his~~ **its** discretion, accept a full report of the last recent examination of a foreign or alien insurer, certified to by the insurance supervisory official of another state.

Sec. 40. 24-A MRSA § 222, sub-§ 1, first ¶, as repealed and replaced by PL 1975, c. 356, § 1, is amended to read:

For purposes of ascertaining compliance with law, or relationships and transactions between any person as defined hereafter and any insurer or proposed insurer, the **superintendent commission** may as often as ~~he~~ **it** deems advisable examine the accounts, records, documents and transactions pertaining to or affecting the insurance affairs or proposed insurance affairs, or transactions of the insurer or proposed insurer as may be in the possession of any holding company, its subsidiaries or affiliates as is necessary to ascertain the financial condition or legality of conduct of the insurer or proposed insurer. Such investigatory and examination authority shall also extend to the examination of:

Sec. 41. 24-A MRSA § 222, sub-§ 2, ¶ B, sub-¶ (2), as repealed and replaced by PL 1975, c. 365, § 1, is amended to read:

(2) Notwithstanding the presumption of control contained in subparagraph (1), the **superintendent commission**, upon application of the insurance company, may determine that the insurer is not controlled by the person presumed to control it. In addition, the **superintendent commission**, after notice and an opportunity to be heard, may determine, notwithstanding the presumption in subparagraph (1), that a person does control an insurance company or companies;

Sec. 42. 24-A MRSA § 222, sub-§ 3, ¶ B, as repealed and replaced by PL 1975, c. 356, § 1, is amended to read:

B. Cessation of control. If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within 3 years from the time of the cessation of control or within such further time as the **superintendent commission** may prescribe, unless at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other section of this Title and the insurer has notified the **superintendent commission** thereof.

Sec. 43. 24-A MRSA § 222, sub-§ 4, ¶ A, first ¶, as repealed and replaced by PL 1975, c. 356, § 1, is amended to read:

Such person has filed with the **superintendent commission** a statement containing such of the following information as may be applicable and such additional information as the **superintendent commission** may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders;

Sec. 44. 24-A MRSA § 222, sub-§ 4, ¶ B, as repealed and replaced by PL 1975, c. 356, § 1, is amended to read:

B. Approval has been given by the **superintendent commission** or the time for disapproval, as provided in subsection 7, including any agreed extensions, has elapsed.

Sec. 45. 24-A MRSA § 222, sub-§§ 5 and 6, as enacted by PL 1975, c. 356, § 1, are amended to read:

5. Tender offer material. All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such voting securities for control of a domestic insurer made by or on behalf of any such person shall contain such of the information specified in subsection 4 as the **superintendent commission** may prescribe, and shall be filed with the **superintendent commission** at least 10 days prior to the time such material is first published or sent or given to security holders. Copies of any additional material soliciting or requesting such tender offers subsequent to the initial solicitation or request shall contain such information as the **superintendent commission** may

prescribe as necessary or appropriate in the public interest or for the protection of policyholders and stockholders, and shall be filed with the **superintendent commission** at least 10 days prior to the time copies of such material are first published or sent or given to security holders.

6. Information as to tender offeror. If the person required to file the statement referred to in subsection 4 is a partnership, limited partnership, syndicate or other group, the **superintendent commission** may require that the information called for by subsection 4 shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group and each person who controls such partner or member. If the person required to file the statement referred to in subsection 4 is a corporation, the **superintendent commission** may require that the information called for thereby shall be given with respect to such corporation and each officer and director thereof and each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding securities of such corporation.

Sec. 46. 24-A MRSA § 222, sub-§ 7, ¶ A, first ¶, as amended by PL 1977, c. 694, § 388, is further amended to read:

In the absence of approval by the **superintendent commission**, the purchase, exchange, merger of a controlling person of an insurer or other acquisition of control referred to in subsection 4, may be made unless the **superintendent commission**, acting in accord with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, sub-chapter IV, and within 30 days after the statement required by subsection 4 has been filed with ~~him~~ **it**, disapproves the purchases, exchanges, merger of a controlling person of an insurer, or other acquisitions of control. The **superintendent commission** may disapprove any such transaction within 30 days after such filing if ~~he~~ **it** finds that:

Sec. 47. 24-A MRSA § 222, sub-§ 7, ¶ B, as enacted by PL 1975, c. 356, § 1, is amended to read:

B. Subparagraphs (3) to (6) do not apply to any change of control if and to the extent that the **superintendent commission**, by rule or regulation or by order, shall exempt the same from the provisions of such subparagraphs as not comprehended within the purpose of this subsection;

Sec. 48. 24-A MRSA § 222, sub-§ 8, ¶ A, as enacted by PL 1975, c. 356, § 1, is amended to read:

A. Every insurer which is authorized to do business in this State and which is a member of an insurance holding company system shall register with the **superintendent commission**, except that such requirements shall not apply to a foreign insurer domiciled in a jurisdiction which in the opinion of the **superintendent commission** has adopted by statute or regulation disclosure statements and standards substantially similar to those contained in this chapter. Any insurer domiciled in a jurisdiction that has not adopted by statute or regulation disclosure requirements and standards substantially similar to

those contained in this section may be treated as a domestic insurer for purposes of this section. Each insurer which is subject to registration under this subsection shall register within 60 days after the effective date of this section or 15 days after it becomes subject to registration, whichever is later, unless the ~~superintendent~~ **commission**, for good cause shown, extends the time for registration and then within such extended time. Nothing in this section shall be construed to prohibit the ~~superintendent~~ **commission** from requesting any authorized insurer which is a member of a holding company system and not subject to registration under this section for a copy of the registration statement or other information filed by such insurer with the insurance regulatory authority of its state of domicile. Upon request of the insurer or of the insurance regulatory authority of another jurisdiction in which the insurer is authorized to transact insurance, the ~~superintendent~~ **commission** at the insurer's expense shall furnish a copy of the registration statement or other information filed by a domestic insurer with the ~~superintendent~~ **commission** pursuant to this chapter;

Sec. 49. 24-A MRSA § 222, sub-§ 8, ¶ B, first ¶, as enacted by PL 1975, c. 356, § 1, is amended to read:

Every insurer subject to registration shall file a registration statement on a form provided by the ~~superintendent~~ **commission**, which shall contain current information that:

Sec. 50. 24-A MRSA § 222, sub-§ 8, ¶ B, sub-¶ (3), as enacted by PL 1975, c. 356, § 1, is amended to read:

(3) Other matters concerning transactions between the insurer and any affiliate as may be required by the ~~superintendent~~ **commission**;

Sec. 51. 24-A MRSA § 222, sub-§ 8, ¶¶ C to E, as enacted by PL 1975, c. 356, § 1, are amended to read:

C. No information need be disclosed on the registration statement filed pursuant to this subsection if such information is not material to the purposes of this chapter. Unless the ~~superintendent~~ **commission** by rule, regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit or investments, involving 1/2 of 1% or less of an insurer's admitted assets as of December 31st immediately preceding shall not be deemed material for purposes of this section;

D. Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting on forms provided by the ~~superintendent~~ **commission** all material changes or additions on or before the 15th day of the month following that in which it learns of each such change or addition;

E. The ~~superintendent~~ **commission** shall terminate the registration of any insurer which demonstrates that it is no longer a member of an insurance holding company system;

Sec. 52. 24-A MRSA § 222, sub-§ 8, ¶¶ G, H and I, as enacted by PL 1975, c. 356, § 1, are amended to read:

G. The ~~superintendent~~ **commission** may allow or require any insurer, which is authorized to do business in this State and which is part of an insurance holding company system, to register on behalf of any affiliated insurer which is required to register under paragraph A and to file all information and material required to be filed under this section;

H. This section shall not apply to any insurer, information or transaction if and to the extent that the ~~superintendent~~ **commission** by rule, regulation or order shall exempt the same from the provisions of this section as not comprehended within the purposes thereof;

I. Any person may file with the ~~superintendent~~ **commission** of affiliation with any authorized insurer or such a disclaimer a disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and the insurer as well as the bases for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the ~~superintendent~~ **commission** disallows the disclaimer. The ~~superintendent~~ **commission** shall disallow a disclaimer only after a hearing thereon with notice to all parties in interest, and after making specific findings of fact to support such disallowance.

Sec. 53. 24-A MRSA § 222, sub-§ 9, ¶ C, last ¶, as enacted by PL 1975, c. 356, § 1, is amended to read:

Any material transaction which is not in conformity with this subsection shall constitute a violation of this Title and chapter and in addition to the penalties contained in subsection 14, shall render the transactions voidable at the initiative of the ~~superintendent~~ **commission** or otherwise under applicable law.

Sec. 54. 24-A MRSA § 222, sub-§ 11, first sentence, as enacted by PL 1975, c. 356, § 1, is amended to read:

No insurer subject to registration under this section shall pay any extraordinary dividend or make any other extraordinary distribution to its stockholders until 60 days after the ~~superintendent~~ **commission** has received notice of the declaration thereof, and has not within such period disapproved such payment, or the ~~superintendent~~ **commission** shall have approved such payment within such 60-day period.

Sec. 55. 24-A MRSA § 222, sub-§ 11, 3rd sentence, as enacted by PL 1975, c. 356, § 1, is amended to read:

Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the ~~superintendent's~~ **commission's** approval thereof, and such a declaration shall

confer no rights upon stockholders until the **superintendent commission** has approved the payment of the dividend or distribution or the **superintendent commission** has not disapproved such payment within the period referred to above.

Sec. 56. 24-A MRSA § 222, sub-§ 12, ¶ A, first and 2nd sentences, as enacted by PL 1975, c. 356, § 1, are amended to read:

Subject to the limitations contained in this subsection and in addition to the powers which the **superintendent commission** has under chapter 3 relating to the examination of insurers, the **superintendent commission** shall also have the power to order any insurer registered under this chapter to produce such records, books or papers in the possession of the insurer or affiliates as shall be necessary to verify the information required to be contained in the insurer's registration statement and any additional information pertinent to transactions between the insurer and affiliates. Such books, records, papers and information shall be examined in the manner prescribed in chapter 3 relating to the time, place and expense of examination, except that expenses incurred by the **superintendent commission** in examining affiliated companies not defined as "insurer," shall be borne by the person examined subject to the limitations of section 228, subsection 1.

Sec. 57. 24-A MRSA § 222, sub-§ 13, first sentence, as enacted by PL 1975, c. 356, § 1, is amended to read:

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 commission** without prior written consent of the insurer, unless the **superintendent commission** determines that the interests of policyholders, stockholders or the public will be served by the publication thereof, in which event ~~he it~~ may make a public record or publish all or any part thereof in such manner as ~~he it~~ may deem appropriate.

Sec. 58. 24-A MRSA § 222, sub-§ 14 ¶¶ A and B, as enacted by PL 1975, c. 356, § 1, are amended to read:

A. Any person who willfully violates any of the provisions of this section, or the rules and regulations promulgated by the **superintendent commission** under authority thereof, or any person who willfully, in filing pursuant to subsection 4 or a registration pursuant to subsection 8, paragraph B, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than \$1,000 or imprisoned not more than 3 years, or both;

B. Any person who is found, after notice and opportunity to be heard, to have willfully violated any of the provisions of this section or any rule or regulations promulgated by the ~~superintendent~~ **commission** under the authority thereof, shall, in addition to any other penalty provided by law, forfeit to this State the sum of \$50 for a first violation and an additional sum of \$25 for each day such violation shall continue;

Sec. 59. 24-A MRSA § 222, sub-§ 14, ¶ C, first ¶, as enacted by PL 1975, c. 356, § 1, is amended to read:

In addition to other remedies and penalties provided in this section or otherwise available under the laws of this State, any violation of this section is hereby declared to be an unfair method of competition or an unfair or deceptive act and practice in the business of insurance subject to the provisions of chapter 23 and in addition, the ~~superintendent~~ **commission** may, after notice and hearing:

Sec. 60. 24-A MRSA § 222, sub-§ 18, as enacted by PL 1975, c. 356, § 1, is amended to read:

18. Rules and regulations. The ~~superintendent~~ **commission** may, upon notice and opportunity for all interested parties to be heard, issue such reasonable rules, regulations and orders as shall be necessary to carry out and effectuate provisions of this section.

Sec. 61. 24-A MRSA § 223, sub-§§ 1 to 6, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Whenever the ~~superintendent~~ **commission** determines to examine the affairs of any person, ~~he~~ **it** shall designate one or more examiners and instruct them as to the scope of the examination. The examiner shall, upon demand, exhibit his official credentials to the person under examination.

2. The ~~superintendent~~ **commission** shall conduct each examination in an expeditious, fair and impartial manner.

3. Upon any such examination the ~~superintendent~~ **commission**, or the examiner if specifically so authorized in writing by the ~~superintendent~~ **commission**, shall have power to administer oaths, and to examine under oath any individual as to any matter relevant to the affairs under examination or relevant to the examination.

4. Every person being examined, its officers, attorneys, employees, agents and representatives shall make freely available to the ~~superintendent~~ **commission** or his examiners the accounts, records, documents, files, information, assets and matters of such person in his possession or control relating to the subject of the examination and shall facilitate the examination.

5. If the ~~superintendent~~ **commission** or examiner finds any accounts or records to be inadequate, or inadequately kept or posted, the ~~superintendent~~ **commission** may employ experts to reconstruct, rewrite, post or balance them at the expense

of the person being examined, if such person has failed to maintain, complete or correct such records or accounting after the ~~superintendent~~ **commission** or examiner has given him written notice and a reasonable opportunity to do so.

6. Neither the ~~superintendent~~ **commission** nor any examiner shall remove any record, account, document, file or other property of the person being examined from the offices or place of such person, except with the written consent of such person in advance of such removal or pursuant to an order of court duly obtained. This provision shall not be deemed to affect the making and removal of copies or abstracts of any such record, account, document or file.

Sec. 62. 24-A MRSA § 224, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. If the ~~superintendent~~ **commission** deems it necessary to value any asset involved in such an examination, ~~he it~~ may make a written request of the person being examined to appoint one or more appraisers who by reason of education, experience or special training, and disinterest, are competent to appraise the asset. Selection of any such appraiser shall be subject to the written approval of the ~~superintendent~~ **commission**. If no such appointment is made within 20 days after the request therefor was delivered to such person, the ~~superintendent~~ **commission** may appoint the appraiser or appraisers.

2. Any such appraisal shall be expeditiously made, and a copy thereof furnished to the ~~superintendent~~ **commission** and to the person being examined.

Sec. 63. 24-A MRSA § 225, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. Such a report of examination of an insurer so verified shall be prima facie evidence in any delinquency proceeding against the insurer, its officers, employees or agents upon the facts stated therein, and whether or not the report has then been filed in the ~~bureau~~ **commission** as provided in section 226.

Sec. 64. 24-A MRSA § 226, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. The ~~superintendent~~ **commission** shall deliver a copy of the examination report to the person examined, together with a notice affording such person 20 days or such additional reasonable period as the ~~superintendent~~ **commission** for good cause may allow, within which to review the report and recommend changes therein.

Sec. 65. 24-A MRSA § 226, sub-§ 2, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted to read:

2. **If so requested by the person examined, within the period allowed under subsection 1, or if deemed advisable by the commission without such request, the commission shall hold a hearing relative to the report and shall not file the report with the commission until after such hearing and its order thereon; except that the commission may furnish a copy of the report to the Governor, Attorney**

General or Treasurer of State pending final decision thereon; and if such copies are so furnished, they shall be deemed confidential information until the other requirements of this section with regard to examination reports have been satisfied.

Sec. 66. 24-A MRSA § 226, sub-§§ 3 and 4, as amended by PL 1973, c. 585, § 12, are further amended to read:

3. If no such hearing has been requested or held, the examination report, with such modifications, if any, thereof as the ~~superintendent~~ **commission** deems proper, shall be accepted by the ~~superintendent~~ **commission** and filed ~~in the bureau with the commission~~ upon expiration of the review period provided for in subsection 1. The report shall in any event be so accepted and filed within 6 months after final hearing thereon.

4. The ~~superintendent~~ **commission** shall forward to the person examined a copy of the examination report as filed, together with any recommendations or statements relating thereto which ~~he~~ **it** deems proper.

Sec. 67. 24-A MRSA § 226, sub-§ 5, first sentence, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

If the report is as to examination of a domestic insurer, a copy of the report, or a summary thereof approved by the commission, when filed with the commission, together with the recommendations or statements of the commission or its examiner, shall be presented by the insurer's chief executive officer to the insurer's board of directors or similar governing body at a meeting thereof which shall be held within 30 days next following receipt of the report in final form by the insurer.

Sec. 68. 24-A MRSA § 226, sub-§ 6, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

6. The report when so filed with the commission shall be admissible in evidence in any action or proceeding brought by the commission against the person examined, or against its officers, employees or agents. In any such action or proceeding, the commission or its examiners may at any time testify and offer proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished or filed with the commission.

Sec. 69. 24-A MRSA § 227, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 227. Examination report

The report of examination of those persons, partnerships, corporations or other business associations which are subject to examination by the Insurance ~~Superintendent~~ **Commission** as provided for in sections 221 and 222 shall, upon satisfaction of the requirements of section 226, be filed ~~in the bureau with the~~

commission as a public record, except for any information relating to an individual insured or individual applicant for insurance, which shall be deemed confidential.

Sec. 70. 24-A MRSA § 228, sub-§ 1, as last amended by PL 1975, c. 356, § 2, is further amended to read:

1. The expense of examination of an insurer or of any person regulated under section 222, shall be borne by the person examined. Such expense shall include only the reasonable and proper hotel and travel expenses of the **superintendent commission** and ~~his~~ **its** examiners and assistants, including expert assistance, and examiners furnished for the purpose by other states in which the insurer is authorized to transact insurance, reasonable compensation as to such examiners and assistants and incidental expenses as necessarily incurred in the examination. As to expense and compensation involved in any such examination the **superintendent commission** may give due consideration to scales and limitations recommended by the National Association of Insurance Commissioners and outlined in the examination manual sponsored by that association.

Sec. 71. 24-A MRSA § 228, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. Such person examined shall promptly pay to the **superintendent commission** the expenses of the examination upon presentation by ~~him~~ **it** of a reasonably detailed written statement thereof.

Sec. 72. 24-A MRSA § 228, sub-§ 3, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

Except that in lieu of payment of examination expense as above required, a domestic insurer shall have the right, at its option, of making an annual payment to the **superintendent commission** of an examination expense allotment in an amount equal to .001 of its total admitted assets as of the end of the preceding calendar year, and which payment shall be made on March 1st with the filing of the insurer's annual statement with the **superintendent commission**; or, if the insurer's admitted assets exceed \$10,000,000, the insurer shall have the right, at its further option, to pay to the **superintendent commission** with respect to any examination the lesser of:

Sec. 73. 24-A MRSA § 228, sub-§ 3, ¶ B, as last amended by PL 1973, c. 585, § 12, is further amended to read:

B. An amount equal to .001 of the first \$10,000,000 of the insurer's admitted assets plus .0002 of the remainder of such assets, limited, however, to insurers whose admitted assets do not exceed \$25,000,000 as such assets are shown by the insurer's financial statement filed with the **superintendent commission** for the year-end next preceding the commencement of the examination; or

Sec. 74. 24-A MRSA § 228, sub-§ 3, ¶ C, as repealed and replaced by PL 1975, c. 467, is amended to read:

C. If the admitted assets of the insurer exceed \$25,000,000, an annual payment of an examination expense allotment of 1/5 of an amount equal to .001 of the first \$10,000,000 of the insurer's admitted assets, plus .0002 of the next \$15,000,000 of such assets, plus .000175 of the remainder of such assets as are shown by the insurer's financial statement filed with the **superintendent commission** for the preceding calendar year. Such payment shall be made on March 1st with the filing of the insurer's annual statement with the **superintendent commission**.

Sec. 75. 24-A MRSA § 229, as last amended by PL 1977, c. 694, § 389, is further amended to read:

§ 229. Administrative procedures; hearings in general

1. The **superintendent commission** may hold a hearing without request of others for any purpose within the scope of this Title.

2. The **superintendent commission** shall hold a hearing:

A. If required by any provision of this Title, or

B. Upon written application for a hearing by a person aggrieved by any act or impending act, or by any report, rule, regulation or order of the **superintendent commission**, other than an order for the holding of a hearing, or order on a hearing, or pursuant to such order, of which hearing such person had notice.

3. Any such application must be filed with the **superintendent commission** within 90 days after such person knew or reasonably should have known of such act, impending act, failure, report, rule, regulation or order, unless a different period is provided for by other applicable law, and in which case such other law shall govern. The application shall briefly state the respects in which the applicant is so aggrieved, together with the ground to be relied upon for the relief to be demanded at the hearing. The **superintendent commission** may require that the application be signed and sworn to.

4. If the **superintendent commission** finds that the application is timely and made in good faith, that the applicant would be so aggrieved if his grounds are established and that such grounds otherwise justify the hearing, ~~he~~ **it** shall hold the hearing within 30 days after filing of the application, or within 30 days after the application has been sworn to, whichever is the later date, unless in either case the hearing is postponed by mutual consent. The hearing shall be held in conformity with the provisions contained in the Maine Administrative Procedure Act, Title 5, chapter 375.

5. Failure to hold the hearing upon application therefor of a person entitled thereto as provided shall constitute a denial of the relief sought, and shall be the equivalent of a final order of the **superintendent commission** on hearing for the purpose of an appeal under section 236.

6. Pending the hearing and decision thereon, the **superintendent commission** may suspend or postpone the effective date of ~~his~~ **its** previous action.

Sec. 76. 24-A MRSA § 230, sub-§ 1, as last amended by PL 1977, c. 694, § 390, is further amended to read:

1. Except where a different period is expressly provided in this Title, the ~~superintendent~~ **commission** shall give written notice of the hearing not less than 14 days in advance. The notice shall state the date, time and place of the hearing and specify the matters to be considered thereat. If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the ~~superintendent~~ **commission** shall give such notice to all persons whose pecuniary interest, legal rights, duties or privileges, to the ~~superintendent's~~ **commission's** knowledge or belief, are to be directly and substantially affected by the hearing. Notice of hearing may be waived and the hearing held at a time mutually fixed by the ~~superintendent~~ **commission** and the parties.

Sec. 77. 24-A MRSA § 230, sub-§ 2, as repealed and replaced by PL 1977, c. 694, § 391, is amended to read:

2. If any hearing is to be held for consideration of rules and regulations proposed by the ~~superintendent~~ **commission**, the notice of the hearing may be in the form of a notice to show cause, stating the basis of the proposed action and stating that the proposed action will be taken unless those who appear at the hearing show cause why the action should not be taken.

Sec. 78. 24-A MRSA § 230, sub-§ 3, as repealed and replaced by PL 1977, c. 694, § 392, is amended to read:

3. If any hearing is to be held for consideration of rules and regulations proposed by the ~~superintendent~~ **commission**, or of other matters which, under subsection 1, would otherwise require separate notices to more than 30 persons, public notice of the hearing shall be given by publication thereof in a newspaper of general circulation in this State, at least once each week during the 4 weeks immediately preceding the week in which the hearing is to be held. The ~~superintendent~~ **commission** shall mail notice of rule-making hearings to all persons who have filed within the past year a written request for notice. The persons shall pay a sum fixed by the ~~superintendent~~ **commission**, reasonably related to the actual cost of notice.

Sec. 79. 24-A MRSA § 231, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. **The commission may hold a hearing in Augusta or any other place of convenience to parties and witnesses as the commission determines. The commission or its designee shall preside at the hearing and shall expedite the hearing and all procedures involved therein.**

Sec. 80. 24-A MRSA § 231, sub-§ 2, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

Any party to the hearing shall have the right to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to

inspect all documentary and other evidence and to examine and cross examine witnesses, to present evidence in support of his interest and to have subpoenas issued by the ~~superintendent~~ **commission** to compel attendance of witnesses and production of evidence in his behalf.

Sec. 80-A. 24-A MRSA § 231, sub-§ 3, as repealed and replaced by PL 1977, c. 694, § 393, is amended to read:

3. Upon timely application, the ~~superintendent~~ **commission** shall permit any person showing that he is or may be substantially and directly affected by the proceeding to intervene as a party. The ~~superintendent~~ **commission** may, by order, allow any other interested person to intervene and participate as a full or limited party to the proceeding.

Sec. 81. 24-A MRSA § 231, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. The hearing shall be public, unless the ~~superintendent~~ **commission** or hearing officer determines that a private hearing would be in the public interest, in which case and only with the consent of all parties to the hearing, the hearing shall be private.

Sec. 82. 24-A MRSA § 231, sub-§ 6, as repealed and replaced by PL 1977, c. 694, § 395, is amended to read:

6. All hearings shall be recorded in a form susceptible to transcription. The recording shall be transcribed when necessary for the prosecution of an appeal. The ~~Bureau of Insurance~~ **commission** shall make the recordings available for inspection at the ~~bureau's~~ **commission's** offices during normal business hours, and shall make copies of recordings or transcriptions of recordings available to any person at actual cost.

Sec. 83. 24-A MRSA § 232, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. As to the subject of any examination, investigation or hearing being conducted by ~~him~~ ~~it~~, the ~~superintendent~~ **commission** may subpoena witnesses and administer oaths or affirmations and examine any individual under oath, or take depositions; and by subpoena duces tecum may require the production of documentary and other evidence. Any delegation by the ~~superintendent~~ **commission** of power of subpoena shall be in writing.

Sec. 84. 24-A MRSA § 233, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. If any individual without reasonable cause fails to appear when summoned as a witness, or refuses to answer a lawful and pertinent question, or refuses to produce documentary evidence when directed to do so by the ~~superintendent~~ **commission** or departs himself in a disrespectful or disorderly manner at the inquiry, or obstructs the proceedings by any means, whether or not in the

presence of the ~~superintendent commission~~ or his its designee, he is guilty of contempt and may be dealt with as provided in subsection 2.

Sec. 85. 24-A MRSA § 233, sub-§ 2, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

The ~~superintendent commission~~ or his its designee, as the case may be, may file a complaint in the Superior Court, setting forth under oath the facts constituting the contempt and requesting an order returnable in not less than 2 nor more than 5 days, directing the alleged contemner to show cause before the court why he should not be punished for contempt.

Sec. 86. 24-A MRSA § 234, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. If any individual asks to be excused from attending or testifying or from producing any books, papers, records, contracts, correspondence or other documents in connection with any examination, hearing or investigating being conducted by the ~~superintendent commission~~ on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall, by the Attorney General, be directed to give such testimony or produce such evidence, he must nonetheless comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have so testified or produced evidence, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding; except that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him in such testimony, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury; nor shall such action, investigation or proceeding concerning such perjury; nor shall such individual be exempt from the refusal, suspension or revocation of any license, permission or authority conferred, or to be conferred, pursuant to this Title.

2. Any such individual may execute, acknowledge and file in the office of the ~~superintendent commission~~ and of the Attorney General a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement, and thereupon the testimony of such individual or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced, such individual shall not be entitled to any immunity or privileges on account of any testimony he may so give or evidence so produced.

Sec. 87. 24-A MRSA § 235, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. **In the conduct of hearings under this Title and making its order thereon, the commission shall act in a quasi-judicial capacity.**

Sec. 88. 24-A MRSA § 235, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. Within 30 days after termination of a hearing, or of any rehearing thereof or reargument thereon, or within such other period as may be specified in this Title as to particular proceedings, or within such further reasonable period as the ~~superintendent~~ **commission** for good cause may require, the ~~superintendent~~ **commission** shall make ~~his~~ **its** order on hearing covering matters involved in such hearing, and give a copy of the order to each party to the hearing in the same manner as notice of the hearing was given to such party; except that as to hearings held with respect to merger, consolidation, bulk reinsurance, conversion, affiliation or change of control of a domestic insurer as provided in chapter 47 (organization and corporate procedures of domestic stock and mutual insurers), where notice of the hearing was given to all stockholders or policyholders of an insurer involved, or both, the ~~superintendent~~ **commission** is required to give a copy of the order on hearing to the corporation and insurer parties, to intervening parties, to a reasonable number of such stockholders or policyholders as representative of the class, and to other parties only upon written request of such parties.

Sec. 89. 24-A MRSA § 235, sub-§ 3, ¶¶ A and B, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

A. A concise statement of facts found by the commission upon the evidence adduced at the hearing;

B. A concise statement of the commission's conclusions from the facts so found;

Sec. 90. 24-A MRSA § 235, sub-§ 3, ¶ C, as enacted by PL 1969, c. 132, § 1, is repealed and the following enacted in its place:

C. Its order, and the effective date thereof; and

Sec. 91. 24-A MRSA § 235, sub-§ 3, ¶ D, as amended by PL 1973, c. 585, § 12, is further amended to read:

D. Citation of the provisions of this Title upon which the order is based; but failure to so designate a particular provision shall not deprive the ~~superintendent~~ **commission of the right thereafter to rely thereon.**

Sec. 92. 24-A MRSA § 236, sub-§§ 1 to 3, as repealed and replaced by PL 1977, c. 694, § 397, are amended to read:

1. In general, judicial review of actions taken by the ~~superintendent~~ **commission** or ~~his~~ **its** representatives shall occur in conformity with the provisions set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

2. An appeal from the ~~superintendent~~ **commission** shall be taken only from an order on hearing, or as to a matter on which the ~~superintendent~~ **commission** has

failed to hold a hearing after application thereof under section 229, or regarding a matter as to which the ~~superintendent~~ **commission** has failed to issue an order after hearing as required by section 235.

3. Any person who was a party to the hearing may appeal from an order of the ~~superintendent~~ **commission** within 30 days after receipt of notice. Any person not a party to the hearing whose interests are substantially and directly affected and who is aggrieved by an order of the ~~superintendent~~ **commission** may appeal within 40 days from the date the decision was rendered. If the appeal is taken from the ~~superintendent's~~ **commission's** failure or refusal to act, the petition for review shall be filed within 6 months of the expiration of the time within which the action should reasonably have occurred.

Sec. 93. 24-A MRSA § 236, sub-§ 5, as repealed and replaced by PL 1977, c. 694, § 397, is amended to read:

5. The petition or complaint shall specify the grounds for appeal and the nature of the relief sought. The petition shall be served by certified mail, return receipt requested, upon the ~~superintendent~~ **commission**, all parties to the proceeding at issue, and the Attorney General.

Sec. 94. 24-A MRSA § 236, sub-§ 6, 2nd sentence, as repealed and replaced by PL 1977, c. 694, § 397, is amended to read:

Within 30 days after the petition for review is filed, or within such time as the court may allow on motion, the ~~superintendent~~ **commission** shall file in the court the original or a certified copy of the complete record of the proceedings under review.

Sec. 95. 24-A MRSA § 236, sub-§ 7, first, 2nd and 3rd sentences, as repealed and replaced by PL 1977, c. 694, § 397, are amended to read:

The filing of a petition shall not operate as a stay of the ~~superintendent's~~ **commission's** order pending judicial review. Application for a stay shall ordinarily be made first to the ~~superintendent~~ **commission**, who may issue a stay upon a showing of irreparable injury to the petitioner, a strong likelihood of success on the merits, and no substantial harm to adverse parties or the general public. A motion for a stay may be made to the Superior Court, but the motion shall show that application to the ~~superintendent~~ **commission** for the relief sought is not practicable, or that application has been made to the ~~bureau~~ **commission** and denied, or that the action of the ~~superintendent~~ **commission** did not afford the relief the petitioner had requested.

Sec. 96. 24-A MRSA § 236, sub-§ 8, as repealed and replaced by PL 1977, c. 694, § 397, is amended to read:

8. Judicial review from an order of the ~~superintendent~~ **commission** shall be confined to the record upon which the administrative decision was based, subject to the exceptions set forth in the Maine Administrative Procedure Act, Title 5, section 11006. The reviewing court may require or permit subsequent corrections of the record.

Sec. 97. 24-A MRSA § 236, sub-§ 9, ¶¶ A and B, as repealed and replaced by PL 1977, c. 694, § 397, are amended to read:

A. Affirm the decision of the **superintendent commission**;

B. Remand the case to the **superintendent commission** for further proceedings, findings of fact or conclusions of law as the court deems necessary; or

Sec. 98. 24-A MRSA § 236, sub-§ 9, ¶ C, first ¶, as repealed and replaced by PL 1977, c. 694, § 397, is amended to read:

Reverse or modify the **superintendent's commission's** order if that decision is:

Sec. 99. 24-A MRSA § 236, sub-§ 9, ¶ C, sub-¶ (2), as repealed and replaced by PL 1977, c. 694, § 397, is amended to read:

(2) In excess of the statutory authority invested in the **superintendent commission**;

Sec. 100. 24-A MRSA § 236, sub-§ 9, last ¶, as repealed and replaced by PL 1977, c. 694, § 397, is amended to read:

The reviewing court shall not substitute its judgment for that of the **superintendent commission** on questions of fact.

Sec. 101. 24-A MRSA § 236, sub-§ 10, as repealed and replaced by PL 1977, c. 694, § 397, is amended to read:

10. The **superintendent commission** and all other parties to the review proceeding in Superior Court may obtain review of the court's judgment by appeal to the Supreme Judicial Court sitting as the law court. The appeal shall be taken as in other civil cases.

Sec. 102. 24-A MRSA § 404, sub-§§ 1, 2 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. No person shall act as an insurer and no insurer shall transact insurance in this State by mail or otherwise, unless as authorized by a certificate of authority issued by the **superintendent commission** pursuant to this Title and then in full force and effect, except as to such transactions as are expressly otherwise provided in this Title.

2. No insurer formed under the laws of this State, and no foreign insurer from offices or by personnel or facilities located in this State, shall solicit insurance applications or otherwise transact insurance in another state or country, unless it holds a subsisting certificate of authority granted to it by the **superintendent commission** authorizing it to transact the same kind or kinds of insurance in this State.

3. The **superintendent commission** shall enforce this section through any and all available and lawful means, including, but not limited to, the enjoining of any violation or threatened violation.

Sec. 103. 24-A MRSA § 407, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. The ~~superintendent~~ **commission** shall not grant or continue authority to transact insurance in this State as to any insurer or proposed insurer, any director, officer or other individual materially part of the management of which is found by ~~him~~ **it** after investigation or upon reliable information to be incompetent, or dishonest, or untrustworthy, or of unfavorable business repute, or the managers of which are so lacking in insurance company managerial experience in operations of the kind proposed in this State as to make such operation, currently or prospectively, hazardous to, or contrary to the best interest of, the insurance-buying or investing public of this State; or which ~~he~~ **it** has good reason to believe is affiliated directly or indirectly through ownership, control, management, reinsurance transactions or other business relations, with any person or persons of unfavorable business repute, or whose business operations in this State or elsewhere are or have been marked, to the injury of insurers, stockholders, policyholders, creditors or the public, by illegality, or by manipulation of assets, or of accounts, or of reinsurance or by bad faith.

Sec. 104. 24-A MRSA § 408, sub-§§ 3 and 5, as amended by PL 1973, c. 585, § 12, are further amended to read:

3. No insurer shall be formed or authorized to transact insurance which has or uses a name the same as or deceptively similar to that of any foreign insurer not so authorized, if such foreign insurer has within the next preceding 12 months signified its intention to secure an incorporation in this State under such name, or to do business as a foreign insurer in this State under such name, by filing notice of such intention with the ~~superintendent~~ **commission**, unless the written consent to the use of such name or deceptively similar name has been given by such foreign insurer.

5. In case of conflict of names between 2 insurers, or a conflict otherwise prohibited under this section, the ~~superintendent~~ **commission** may permit, or shall require as a condition to the issuance of an original certificate of authority to an applicant insurer, the insurer to use in this State such supplementation or modification of its name or such business name as may reasonably be necessary to avoid the conflict.

Sec. 105. 24-A MRSA § 410, sub-§ 1, ¶ A, as last amended by PL 1973, c. 625, § 134, is further amended to read:

A. An insurer holding a valid certificate of authority to transact insurance in this State on January 1, 1970 may, if otherwise qualified therefor, continue to be so authorized, while possessing paid-in capital stock, if a stock insurer, or surplus, if a mutual or reciprocal insurer, as required for such authority immediately prior to such effective date. The ~~superintendent~~ **commission** shall not authorize such an insurer to transact any other kinds of insurance unless it then complies with the requirements as to capital stock, if a stock insurer, or basic surplus, if a mutual or reciprocal insurer, as applied to all kinds of

insurance it then proposes to transact, as provided by this Title as to foreign insurers applying for original certificates of authority under this Title. Except that a domestic mutual insurer formed prior to January 1, 1968, and while possessing surplus of not less than \$200,000, may be authorized to transact additional kinds of insurance authorized by its charter; subject to the minimum required basic surplus amount as is applicable as to foreign mutual insurers under the table in this subsection, if the insurer is to transact life insurance together with any one or more of property, casualty, surety, or marine and transportation insurances.

Sec. 106. 24-A MRSA § 410, sub-§ 1, ¶ B, as amended by PL 1973, c. 585, § 12, is further amended to read:

B. An insurer which otherwise possesses funds as required under this subsection shall at all times maintain policyholders' surplus, combined paid-in capital stock, if any, and surplus, reasonable in amount, as determined by the ~~superintendent~~ **commission**, in relation to the kinds and amount of insurance it has in force, or being written and retained by it, net of applicable reinsurance. In making any such determination the ~~superintendent~~ **commission** shall give due consideration to any applicable standards approved or adopted by the National Association of Insurance Commissioners and to the desirability of substantial uniformity as to such requirements among the respective states.

Sec. 107. 24-A MRSA § 412, sub-§§ 1, 2 and 3, as repealed and replaced by PL 1975, c. 77, are amended to read:

1. No insurance company other than a domestic real estate title insurance company or a domestic mutual fire insurance company which is transacting only the business of fire, marine or glass on the assessment plan shall do so in this State unless it makes and maintains a deposit with the ~~Superintendent of Insurance~~ **commission** as security for all its policyholders' securities which are deemed eligible for deposit under section 1253. Such deposit shall be maintained in a minimum actual market value which, exclusive of interest, shall never be less than \$100,000. Such deposit shall be retained by the ~~superintendent~~ **commission** and disposed of as directed by section 1263.

2. Any admitted foreign insurance company may file with the ~~superintendent~~ **commission** a certificate of the insurance supervisory official of such other jurisdiction that he holds in trust and on deposit for benefit of all the policyholders of the company a deposit of not less than \$100,000 in such securities as are required or permitted to be deposited with him by the laws of that jurisdiction. These securities are to be of a character consistent with investment authority in such jurisdiction. Such certificate shall contain a statement by said supervisory official that he is satisfied that the actual market value of these securities is of minimum value of \$100,000. No deposit shall be required to be maintained in this State while such a deposit, if so certified, is retained by said supervisory official.

3. The ~~superintendent~~ **commission** shall receive and hold in trust deposits made under this section by any domestic insurance company in compliance with

the laws of this or any other state, to enable it to do business in this or any other state, and in like manner shall hold deposits made by a foreign company under the laws of this State. The company making such deposit shall be entitled to any investment income thereon and with the ~~superintendent's~~ **commission's** consent, if not inconsistent with the laws under which such deposit was made, may exchange in whole or in part such securities comprising the deposit for other approved securities of equal value.

Sec. 108. 24-A MRSA § 412, sub-§ 4, as enacted by PL 1975, c. 77, is amended to read:

4. The ~~superintendent~~ **commission** shall not authorize an alien insurer to transact insurance in this State unless it makes in this State through the ~~superintendent~~ **commission** and thereafter continuously maintains a deposit, representing funds in excess of all the insurer's liabilities under insurance contracts in force in the United States of America, of a fair market value in amount not less than the minimum paid-in capital stock required under this Title of a foreign stock insurer authorized to transact like kinds of insurance in this State. The deposit shall be held in trust for the exclusive benefit of the insurer's policyholders and creditors in the United States of America.

A. In lieu of such a deposit made or maintained in this State, the ~~superintendent~~ **commission** shall accept the certificate in proper form of the insurance supervisory official having general supervision of insurers in any other state to the effect that a deposit of like quality and amount, or part thereof, by such insurer is being maintained for like purposes in public custody or control pursuant to the laws of such state.

Sec. 109. 24-A MRSA § 413, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

To apply for an original certificate of authority an insurer shall file with the ~~superintendent~~ **commission** its written application therefor on forms as prescribed and furnished by the ~~superintendent~~ **commission**, accompanied by the applicable fees specified in section 601 (fee schedule), stating under the oath of the president or vice-president or other chief officer and the secretary of the insurer, or of the attorney-in-fact, if a reciprocal insurer, the insurer's name, location of its home office or principal office in the United State, if an alien insurer, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and such additional information as the ~~superintendent~~ **commission** may reasonably require, together with the following documents, as applicable:

Sec. 110. 24-A MRSA § 413, sub-§ 6, as amended by PL 1973, c. 585, § 12, is further amended to read:

6. Appointment of the ~~superintendent~~ **commission** pursuant to section 421 as its attorney to receive service of legal process;

Sec. 111. 24-A MRSA § 414, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 414. Issuance, refusal of authority, ownership of certificate

1. If upon completion of its application, the commission finds that the insurer has met the requirements therefor under this Title, and that the insurer has furnished evidence satisfactory to it that its methods of operation are not such as would render its proposed operation hazardous to the public or its policyholders in this State, the commission shall issue to the insurer a proper certificate of authority; otherwise, the commission shall issue its order refusing such certificate.

2. The certificate of authority, if issued, shall state the insurer's name, home office address, state or country of organization, and the kinds of insurance the insurer is authorized to transact throughout this State. At the insurer's request, the commission may issue a certificate of authority limited to particular types of insurance or coverages within a kind of insurance as defined in chapter 9.

3. Although issued and delivered to the insurer, the certificate of authority at all times shall be the property of the State of Maine. Upon any expiration, suspension or termination thereof, the insurer shall promptly deliver the certificate to the commission.

Sec. 112. 24-A MRSA § 415, sub-§ 2, as repealed and replaced by PL 1977, c. 222, § 1, is amended to read:

2. If not so continued by the insurer, its certificate of authority shall expire as of midnight on the June 30th next following the failure of the insurer to continue it in force, unless earlier revoked for failure to pay taxes as provided in section 416. The ~~superintendent~~ **commission** shall promptly notify the insurer of the occurrence of any failure resulting in impending expiration of its certificate of authority.

Sec. 113. 24-A MRSA § 415, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. The ~~superintendent~~ **commission** may, in ~~his~~ **its** discretion, upon the insurer's request made within 3 months after expiration, reinstate a certificate of authority which the insurer has inadvertently permitted to expire, after the insurer has fully cured all its failures which resulted in the expiration, and upon payment by the insurer of the fee for reinstatement specified in section 601 (fee schedule). Otherwise the insurer shall be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this State.

Sec. 114. 24-A MRSA § 415, sub-§§ 4 and 5, as enacted by PL 1975, c. 767, § 11, are amended to read:

4. When an insurer is issued a first-time certificate of authority and its biennial continuation date is more than one year away, the ~~superintendent~~ **commission** may require the insurer to pay an additional fee not to exceed 1/2 the biennial continuation and annual statement filing fees in effect at that time according to the fee schedule.

5. The **superintendent commission** is authorized to issue continuation certificates for less than a 2-year term in order to implement the biennial continuation of insurers on biennial continuation dates established by the **superintendent commission**. If a continuation certificate is issued to an insurer for one year or less, the fees assessed for such certificate and annual statement filing shall be not more than 1/2 the applicable biennial fees according to the fee schedule.

Sec. 115. 24-A MRSA § 416, sub-§ 1, first ¶, as amended by PL 1977, c. 694, § 399, is further amended to read:

The **superintendent commission** shall file a complaint with the Administrative Court, which may be pursuant to Title 4, section 1153, seeking suspension or revocation of an insurer's certificate of authority on any of the following grounds:

Sec. 116. 24-A MRSA § 416, sub-§ 1, ¶ C, as amended by PL 1973, c. 585, § 12, is further amended to read:

C. If a domestic insurer and it has failed to cure an impairment of capital or surplus within the time allowed therefor by the **superintendent commission** under this Title or is otherwise no longer qualified for the certificate of authority; or

Sec. 117. 24-A MRSA § 416, sub-§ 2, as repealed and replaced by PL 1977, c. 694, § 400, is amended to read:

2. In all cases in which the **superintendent commission** files a complaint seeking suspension or revocation of an insurer's certificate of authority, the Administrative Court proceeding will be held pursuant to Title 4, chapter 25.

Sec. 118. 24-A MRSA § 417, sub-§ 1, as repealed and replaced by PL 1977, c. 694, § 401, is repealed and the following enacted in its place:

1. **The commission may, in its discretion, file a complaint with the Administrative Court seeking suspension or revocation of an insurer's certificate of authority if the insurer has violated or failed to comply with any lawful order of the commission, or has willfully violated or willfully failed to comply with any lawful regulation of the commission, or has violated any provision of this Title other than those for violation of which a petition for suspension or revocation is mandatory.**

Sec. 119. 24-A MRSA § 417, sub-§ 2, first ¶, as repealed and replaced by PL 1977, c. 694, § 402, is amended to read:

The **superintendent commission** shall, pursuant to Title 4, section 1153 or otherwise, file a complaint with the Administrative Court seeking to suspend or revoke an insurer's certificate of authority on any of the following grounds, if a finding is made that the insurer:

Sec. 120. 24-A MRSA § 417, sub-§ 2, ¶ C, as amended by PL 1973, c. 585, § 12, is further amended to read:

C. Refuses to be examined, or if its directors, officers, employees or representatives refuse to submit to examinations relative to its affairs, or to produce its accounts, records and files for examination by the **superintendent commission** when required, or refuse to perform any legal obligation relative to the examination; or

Sec. 121. 24-A MRSA § 417, sub-§ 3, as repealed and replaced by PL 1977, c. 694, § 403, is amended to read:

3. The **superintendent commission** may, in ~~his~~ **its** discretion, file with the Administrative Court a complaint seeking immediate revocation or suspension of an insurer's certificate of authority pursuant to Title 4, section 1153, if proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced against the insurer in any state by the public official charged with supervising the insurance industry in that state.

Sec. 122. 24-A MRSA § 418, as repealed and replaced by PL 1977, c. 694, § 404, is amended to read:

§ 418. Power to amend, modify or refuse to renew certificates of authority

Notwithstanding the authority of the Administrative Court to order suspension or revocation, the **superintendent commission** has the authority to amend, modify or refuse to renew any insurer's certificate of authority for cause pursuant to procedures in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 123. 24-A MRSA § 419, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. Upon reinstatement of the insurer's certificate of authority, the authority of its agents in this State to represent the insurer shall likewise reinstate. The **superintendent commission** shall promptly notify the insurer and its agents in this State, of record in the ~~bureau~~ **commission**, of such reinstatement.

Sec. 124. 24-A MRSA § 421, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. **Before the commission shall authorize it to transact insurance in this State, each insurer shall appoint the commission, and its successors in office, as its agent to receive service of legal process issued against the insurer in this State. The appointment shall be made on a form as designated and furnished by the commission, and shall be accompanied by a copy of a resolution of the board of directors or like governing body of the insurer, if an incorporated insurer, showing that those officers who executed the appointment were duly authorized to do so on behalf of the insurer.**

Sec. 125. 24-A MRSA § 421, sub-§§ 3, 5 and 6, as amended by PL 1973, c. 585, § 12, are further amended to read:

3. Service of such process against a foreign or alien insurer shall be made only by service thereof upon the **superintendent commission**.

5. At the time of application for a certificate of authority the insurer shall file the appointment with the ~~superintendent~~ **commission**, together with designation of the person to whom process against it served upon the ~~superintendent~~ **commission** is to be forwarded. The insurer may change such designation by a new filing.

6. A copy of such appointment, certified by the ~~superintendent~~ **commission**, shall be received in evidence in all courts of this State.

Sec. 126. 24-A MRSA § 422, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. **Service of process against an insurer for whom the commission is agent to receive service shall be made by delivering to and leaving with the secretary of the commission, 2 copies of the process, together with fee therefor as specified in section 601 (fee schedule), taxable as costs in the action.**

Sec. 127. 24-A MRSA § 422, sub-§§ 2 and 4, as amended by PL 1973, c. 585, § 12, are further amended to read:

2. Upon such service, the ~~superintendent~~ **commission** shall forthwith mail by certified mail one of the copies of such process with the date and time of service of same on the ~~superintendent~~ **commission** noted thereon to the person currently designated by the insurer to receive the same as provided in section 421.

4. The ~~superintendent~~ **commission** shall keep a record of the day of service upon ~~him~~ **it** of all legal process.

Sec. 128. 24-A MRSA § 423, sub-§§ 1, 2 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Each authorized insurer shall annually on or before March 1st, or within any reasonable extension of time therefor which the ~~superintendent~~ **commission** for good cause may have granted on or before such March 1st, file with the ~~superintendent~~ **commission** a full and true statement of its financial condition, transactions and affairs as of December 31st preceding. The statement shall be in the general form and context of, and require information as called for by, the form of annual statement as currently in general and customary use in the United States for the type of insurer and kinds of insurance to be reported upon, with any useful or necessary modification or adaptation thereof and as supplemented by additional information required by the ~~superintendent~~ **commission**. The statement shall be verified by the oath of the insurer's president or vice-president, and secretary or actuary as applicable, or in the absence of the foregoing, by 2 other principal officers; or if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation.

2. The statement of an alien insurer shall be verified by its United States manager or other officer duly authorized, and shall relate only to the insurer's transactions and affairs in the United States unless the ~~superintendent~~ **commission** requires otherwise. If the ~~superintendent~~ **commission** requires a

statement as to such an insurer's affairs throughout the world, the insurer shall file such statement with the **superintendent commission** as soon as reasonably possible.

3. The **superintendent commission** may refuse to continue, or may suspend or revoke, the certificate of authority of any insurer failing to file its annual statement when due.

Sec. 129. 24-A MRSA § 428, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. When by or pursuant to the laws of any other state or foreign country or province any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material requirements, obligations, prohibitions or restrictions are or would be imposed upon Maine insurers doing business or that might seek to do business in such state, country or province, or upon the agents or representatives of such insurers or upon brokers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or obligations, prohibitions or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, or upon brokers, of such other state, country or province under the statutes of this State, so long as such laws of such other state, country or province continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material requirements, obligations, prohibitions or restrictions of whatever kind shall be imposed by the **superintendent commission** upon the insurer, or upon the agents or representatives of such insurers, or upon brokers, of such other state, country or province doing business or seeking to do business in Maine. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state, country or province on Maine insurers or their agents or representatives or upon Maine brokers shall be deemed to be imposed by such state, country or province within the meaning of this section.

2. This section shall not apply as to personal income taxes, or as to ad valorem taxes on real or personal property, or as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the **superintendent commission** in determining the propriety and extent of retaliatory action under this section.

Sec. 130. 24-A MRSA § 428, sub-§ 3, first ¶, as last amended by PL 1973, c. 625, § 135, is further amended to read:

For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada or a province thereof, shall be that state designated by the insurer in writing filed with the **superintendent commission** at time of admission to this State or within 6 months after January 1, 1970, whichever date is the later, and may be any one of the following states:

Sec. 131. 24-A MRSA §§ 471 and 472, as amended by PL 1973, c. 585, § 12, are further amended to read:

§ 471. Proclamation by Governor

Whenever it appears to the Governor that the welfare of the State or any section thereof, or the welfare and security of insurers under the supervision of the ~~superintendent~~ **commission** or their insureds or beneficiaries require, the Governor may proclaim that an insurance emergency exists and this subchapter shall thereupon become effective.

§ 472. Rules and regulations

During the period of any insurance emergency described in section 471, the ~~superintendent~~ **commission** shall have power to make, amend or rescind such rules and regulations governing the business of any insurers as ~~he~~ **it** deems expedient in order to adopt and maintain sound methods of protecting the interests of insurer, insureds, beneficiaries or the public.

Sec. 132. 24-A MRSA §§ 473 and 474, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in its place:

§ 473. Insurers regulated; suspended

During any insurance emergency period as described in sections 471 and 472, the commission is empowered to suspend for such time or times as it may determine the transaction of insurance functions of any authorized insurer, whether domestic or foreign, solvent or otherwise, and to limit its insurance business in volume or character to such particular amounts or classifications and for such time or times as the commission may deem advisable.

§ 474. Payments deferred

During any insurance emergency period as described in sections 471 and 472, the commission shall have authority to postpone or defer, by rules or orders made and issued by it, for such time or times as it may determine, the payment of any amount payable under the terms of any policy of insurance, annuity or pure endowment contract, and the payment of judgments, notes, drafts, checks, bills or exchange or other forms of payment of claims due from insurers to any person, firm or corporation, whether such claim is liquidated or unliquidated, due or to become due at a day certain, and defer the payment of premiums on policies affected by such postponements or suspensions and may direct payment in full or in part whenever in its discretion such payment may be safely consummated.

Sec. 133. 24-A MRSA §§ 476, 477, 478 and 479, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

§ 476. Personal responsibility of the commission limited

The commission shall not be held legally responsible for any act or failure to act in the premises when such act or failure to act shall have been shown to be the result of good faith.

§ 477. Duration at will of Governor

The authority and power given the commission under this subchapter shall terminate and be of no effect when the Governor proclaims that any insurance emergency has ceased to exist.

§ 478. Jurisdiction of courts

During any emergency insurance period as described in sections 471 and 472, the commission is authorized to issue such directions, rules or orders as in its discretion the circumstances may warrant, and any Justice of the Supreme Judicial or Superior Courts shall have full jurisdiction to enforce this chapter by appropriate decrees.

§ 479. Penalties

Any violation of any order issued by virtue of this subchapter or any rule or regulatory provision made by the commission pursuant thereto shall be a Class E crime.

Sec. 134. 24-A MRSA § 601, fist ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission shall collect in advance, and persons so served shall pay to the commission, fees, licenses and miscellaneous charges as follows:

Sec. 135. 24-A MRSA § 601, sub-§ 14, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

14. Copies of other documents on file in the commission: Reasonable charge as fixed by the commission; and for certifying and fixing official seal \$1

Sec. 136. 24-A MRSA § 603, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 603. Record, remittance of fees

The commission shall keep a correct account of all fees and moneys received by it by virtue of its office, and shall pay the same over to the Treasurer of State forthwith.

Sec. 137. 24-A MRSA § 604, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. There is created in the State Treasury a dedicated account to be designated the "Insurance Regulatory Fund," the funds of which are hereby appropriated for the partial support and maintenance of the ~~Insurance Bureau~~ **commission**.

Sec. 138. 24-A MRSA § 604, sub-§ 2, ¶A, as last amended by PL 1973, c. 625, § 136, is repealed.

Sec. 139. 24-A MRSA § 604, sub-§ 2, ¶B, as amended by PL 1973, c. 585, § 12, is further amended to read:

B. Fees, licenses and other charges collected and remitted by the ~~superintendent~~ **commission** under section 601 (fee schedule), or as increased pursuant to section 428 (retaliatory provision); and

Sec. 140. 24-A MRSA § 604, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. Expenditures by the commission from the Insurance Regulatory Fund shall be subject to budget control in the same manner as applies to departments of State in general.

Sec. 141. 24-A MRSA § 707, sub-§ 1, ¶ O, as amended by PL 1973, c. 585, § 12, is further amended to read:

O. Micellaneous. Insurance against any other kind of loss, damage or liability properly a subject of insurance and not within any other kind of insurance as defined in this subchapter, if such insurance is not disapproved by the ~~superintendent~~ **commission** as being contrary to law or public policy.

Sec. 142. 24-A MRSA § 721, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. "Surplus to policyholders" for the purposes of this section, in addition to the insurer's capital and surplus, shall be deemed to include any voluntary reserves which are not required pursuant to law, and shall be determined from the last sworn statement of the insurer on file with the ~~superintendent~~ **commission**, or by the last report of examination of the insurer, whichever is the more recent at time of assumption of risk.

Sec. 143. 24-A MRSA § 731, sub-§ 4, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

4. Upon request of the commission, an insurer shall promptly inform the commission in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

Sec. 144. 24-A MRSA § 901, sub-§ 2, ¶ D, as amended by PL 1973, c. 585, § 12, is further amended to read:

D. Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the ~~superintendent~~ **commission** a collectible asset;

Sec. 145. 24-A MRSA § 901, sub-§§ 10 and 11, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

10. Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the commission available for the payment of losses and claims and at values to be determined by it;

11. All assets, whether or not consistent with this section, as may be allowed pursuant to the annual statement form approved by the commission for the kinds of insurance to be reported upon therein;

Sec. 146. 24-A MRSA § 901, sub-§ 14, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

14. Other assets, not inconsistent with this section, deemed by the commission to be available for the payment of losses and claims, at values to be determined by it.

Sec. 147. 24-A MRSA § 921, sub-§ 3, ¶ D, as amended by PL 1973, c. 585, § 12, is further amended to read:

D. Any additional reserves which may be required by the **superintendent commission** consistent with applicable customary and general practice in insurance accounting;

Sec. 148. 24-A MRSA § 921, sub-§ 6, as enacted by PL 1977, c. 432, § 1, is amended to read:

6. If the **superintendent commission** finds, in view of the character of investments held by domestic insurers, it would be prudent for such insurers to establish a special reserve for possible losses or fluctuations in the value of its investments, including realty holdings acquired by mortgage loan default, **he** it may permit or require such insurer to establish such reserve, reasonable in amount, and may require that such reserve be maintained and reported in any statement or report of financial condition of the insurer.

Sec. 149. 24-A MRSA § 922, sub-§ 1, first sentence, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission shall disallow as an asset or as a credit against liabilities any reinsurance found by it after a hearing thereon to have been arranged for the purpose principally of deception as to the ceding insurer's financial condition as at the date of any financial statement of the insurer.

Sec. 150. 24-A MRSA § 922, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission shall disallow as an asset any deposit, funds or other assets of the insurer found by it after a hearing thereon:

Sec. 151. 24-A MRSA § 922, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. The commission may suspend or revoke the certificate of authority of any insurer which has knowingly been a party to any such deception or attempt thereat.

Sec. 152. 24-A MRSA § 924, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 924. Unearned premium reserve for marine and transportation insurance

As to marine and transportation insurance, the entire amount of premiums on trip risks not terminated shall be deemed unearned; and the commission may require the insurer to carry a reserve equal to 100% of premiums on trip risks written during the month ended as of the date of statement.

Sec. 153. 24-A MRSA § 925, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 925. Health insurance policy reserves

For all health insurance policies, the insurer shall establish and maintain thereon a reserve which shall place a sound value on its liabilities under such policies and be not less than the reserve according to appropriate standards set forth in regulations issued by the commission and, in no event, less in the aggregate than the pro rata gross unearned premiums for such policies.

Sec. 154. 24-A MRSA § 927, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. Subject to the ~~superintendent's~~ **commission's** approval, the contingency reserve shall be available for payment of losses only when the insurer's incurred losses in any one calendar year exceed the rate formula expected losses by 10% of the related earned premiums.

Sec. 155. 24-A MRSA § 952, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 952. Calculation of reserve liabilities

1. The ~~superintendent~~ **commission** shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer transacting business in this State, except that in the case of an alien insurer, such valuation shall be limited to its United States business; and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods, not level premium method or other, used in the calculation of such reserves. In calculating such reserves, ~~he~~ **it** may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required of any foreign or alien insurer, ~~he~~ **it** may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the ~~superintendent~~ **commission** when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by law of that state or jurisdiction.

2. Any such insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the **superintendent commission**, adopt any lower standard of valuation, but not lower than the minimum herein provided.

Sec. 156. 24-A MRSA § 953, sub-§ 2, ¶¶ C, D and G, as amended by PL 1973, c. 585, § 12, are further amended to read:

C. Standard Annuity Mortality Table or Annuity Mortality Table. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies — the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the **superintendent commission**.

D. Group Annuity Mortality Table. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies — the Group Annuity Mortality Table for 1951, any modification of such table approved by the **superintendent commission**, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

G. Group Life Insurance Tables. For group life insurance, life insurance issued on the substandard basis and other special benefits — such table as may be approved by the **superintendent commission**.

Sec. 157. 24-A MRSA § 953, sub-§ 3, ¶¶ A and B, as enacted by PL 1975, c. 342, § 3, are amended to read:

A. 1971 Individual Annuity Mortality Table. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts — the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the **superintendent commission**, and 6% interest for single premium immediate annuity contracts, and 4% interest for all other individual annuity and pure endowment contracts.

B. 1971 Group Annuity Mortality Table. For all annuities and pure endowments purchased under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts — the 1971 Group Annuity Mortality Table, or any modification of this table approved by the **superintendent commission**, and 6% interest.

Sec. 158. 24-A MRSA § 953, sub-§ 3, last ¶, as enacted by PL 1975, c. 342, § 3, is amended to read:

This subsection shall not apply to any insurer before January 1, 1979, unless such insurer shall have filed with the **superintendent commission** an election to comply with the provisions of this subsection after a specified date before January 1, 1979, provided that an insurer may elect different dates on which this subsection shall

apply to individual and pure endowment contracts and to group annuity and pure endowment contracts. If an insurer makes no such election, this subsection shall apply to such insurer on January 1, 1979.

Sec. 159. 24-A MRSA § 956, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 956. Calculation of reserves

Reserves for any category of policies, contracts or benefits as established by the commission, which are subject to section 953, subsection 2, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. Reserves for participating life insurance policies, which are subject to section 953, subsection 2, may, with the consent of the commission, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than 1/2%, the insurer issuing such policies shall file with the commission a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commission shall approve.

Sec. 160. 24-A MRSA § 981, sub-§ 1, ¶¶ B and D as amended by PL 1973, c. 585, § 12, are further amended to read:

B. If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the **superintendent commission**;

D. Unless otherwise provided by valuation established or approved by the **superintendent commission**, no such security shall be carried at above the call price for the entire issue during any period within which the security may be so called.

Sec. 161. 24-A MRSA § 981, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. The **superintendent commission** shall have full discretion in determining the method of calculating values according to the rules set forth in this section.

Sec. 162. 24-A MRSA § 982, as last amended by PL 1977, c. 432, § 2, is repealed and the following enacted in its place:

§ 982. Valuation of other securities

1. Securities, other than those referred to in section 981, held by an insurer shall be valued, in the discretion of the commission, at their market value, or at their appraised value, or at prices determined by it as representing their fair market value.

2. Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commission and in accordance with such method of computation as it may approve.

3. The stock of a subsidiary of an insurer shall be valued on the basis of the greater of the value of only such of the assets of such subsidiary as would constitute lawful investments for the insurer if acquired or held directly by the insurer or such other value determined pursuant to standards and cumulative limitations contained in a regulation promulgated by the commission or if the commission so permits or requires, it may permit or require any class or classes of insurers domiciled or authorized to do business in this State to value their investments or any class or classes thereof in any subsidiary, as of any date heretofore or hereafter in accordance with any applicable valuation or method approved by the National Association of Insurance Commissioners and adopted in a regulation promulgated by the commission.

Sec. 163. 24-A MRSA § 983, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 983. Valuation of property

1. Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the ~~superintendent~~ **commission** to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

2. Other real property held by an insurer shall not be valued at an amount in excess of fair value as determined by recent appraisal. If valuation is based on an appraisal more than 3 years old, the ~~superintendent~~ **commission** may at ~~his~~ **its** discretion call for and require a new appraisal in order to determine fair value.

Sec. 164. 24-A MRSA § 1110, sub-§ 2, as amended by PL 1973 c. 585, § 12, is further amended to read:

2. If net earnings are determined in reliance upon consolidated earnings statements of parent and subsidiary institutions, such net earnings shall be determined after provisions for income taxes of only those subsidiaries in which the parent institution owns directly or indirectly less than 90% of all classes of voting stock, and after proper allowance for minority stock interest, if any; and

the required coverage of fixed charges shall be computed on a basis including fixed charges and preferred dividends of subsidiaries other than those payable by such subsidiaries to the parent corporation or to any other of such subsidiaries, except that if the minority common stock interest in the subsidiary corporation is substantial, the fixed charges and preferred dividends may be apportioned in accordance with regulations prescribed by the ~~superintendent~~ **commission**.

Sec. 165. 24-A MRSA § 1114, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. **With the commission's advance written consent, an insurer may acquire and hold the controlling interest in the outstanding voting stock of a stock insurer formed under the laws of this or another state. The commission shall not give its consent if it finds that such acquisition would not be in the best interests of the insurers involved, or of their respective policyholders or stockholders, or that it would materially tend to lessen competition or to result in any monopoly in the insurance business.**

Sec. 166. 24-A MRSA § 1126, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1126. Housing developments

To the extent and upon such conditions as may be authorized by the ~~superintendent~~ **commission**, an insurer may invest in stock and evidences of indebtedness of any housing company or redevelopment company organized under the private housing finance law of this or any other state, or of any corporation organized for the purpose of owning and operating any housing project under laws expressly designed to promote the provision of housing for persons of low and moderate income, or in the securities of any corporation organized under the laws of this or any other state for the purpose of owning, acquiring or holding real property or any interest therein as an investment for the production of income or to be developed or improved for such investment purpose, if all of the stock other than directors' qualifying shares of such housing company, redevelopment company or corporation has been or is to be originally issued to one or more insurers, whether domestic or foreign.

Sec. 167. 24-A MRSA § 1128, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

Except with the approval of the commission and under such conditions as to investments and other matters as it may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves shall not be maintained in a separate account for:

Sec. 168. 24-A MRSA § 1133, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. Upon proof satisfactory to ~~him~~ it that the interests of the insurer will suffer materially by the forced sale thereof, the ~~superintendent~~ **commission** may by

order grant a reasonable extension of the period, as specified in such order, within which the insurer shall dispose of any particular parcel of such real estate.

Sec. 169. 24-A MRSA § 1134, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 1134. Time limit for disposal of other ineligible property and securities

Any personal property or securities lawfully acquired by an insurer, which it could not otherwise have invested in or loaned its funds upon at the time of such acquisition, shall be disposed of within 3 years from date of acquisition unless within such period the security has attained the standard of eligibility; except that any security or personal property acquired under any agreement of bulk reinsurance, merger or consolidation may be retained for a longer period if so provided in the plan for such reinsurance, merger or consolidation as approved by the commission under chapter 47. Upon application by the insurer and proof that forced sale of any such property or security would materially injure the interests of the insurer, the commission may extend the disposal period for an additional reasonable time.

Sec. 170. 24-A MRSA § 1135, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1135. Failure to dispose of real estate or securities; effect, penalty

1. Any real estate, personal property or securities lawfully acquired, and held by an insurer after expiration of the period for disposal thereof or any extension of such period granted by the ~~superintendent~~ **commission** as provided in sections 1133 and 1134 shall not be allowed as an asset of the insurer.

2. The insurer shall forthwith dispose of any ineligible investment unlawfully acquired by it, and the ~~superintendent~~ **commission** shall suspend or revoke the insurer's certificate of authority if the insurer fails to dispose of the investment within such reasonable time as the ~~superintendent~~ **commission** may, by ~~his~~ **its** order, specify.

Sec. 171. 24-A MRSA § 1136, sub-§ 1, ¶ A, sub-¶ (3), as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

(3) Pursuant to a plan for such investment or loan submitted in writing by the insurer to the commission in advance, and which the commission has not, within 20 days after such submission or within such additional reasonable period as the commission may request, disapproved as being unfair or inequitable to the insurer's policyholders or stockholders.

Sec. 172. 24-A MRSA § 1251, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The following deposits of insurers when made through the ~~superintendent~~ **commission** shall be accepted and held in trust, subject to the provisions of this chapter:

Sec. 173. 24-A MRSA § 1252, sub-§ 3, as last amended by PL 1973, c. 585, § 12, is further amended to read:

3. Deposits required under the retaliatory provision, section 428, shall be held for such purposes as is required by such provision, and as specified by the ~~superintendent's~~ **commission's** order requiring such deposit to be made.

Sec. 174. 24-A MRSA § 1253, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. All such deposits required under section 412 for authority to transact insurance in this State and hereafter made shall consist of securities in negotiable form of kinds eligible for investment of funds of domestic insurers under chapter 13, other than real estate mortgages, and approved by the ~~superintendent~~ **commission** for deposit. Deposits heretofore made shall consist of such assets as were then eligible for deposit.

Sec. 175. 24-A MRSA § 1253, sub-§ 3, as last amended by PL 1973, c. 585, § 12, is further amended to read:

3. Deposits of foreign insurers made in this State under the retaliatory provision, section 428, shall consist of such assets as are required by the ~~superintendent~~ **commission** pursuant to such provision.

Sec. 176. 24-A MRSA § 1254, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1254. Depositary; records

1. Deposits made in this State under this Title shall be made through the ~~superintendent~~ **commission** with the Treasurer of State.

2. The Treasurer of State shall furnish the ~~superintendent~~ **commission**, for delivery to the depositing insurer, his official certificate identifying the securities deposited, the amount and par value of each, and his opinion of their value.

3. The ~~superintendent~~ **commission** shall keep a record of the securities comprising the deposit of each insurer, showing as far as practical the amount and market value of each item, and all ~~his~~ **its** transactions relative thereto.

Sec. 177. 24-A MRSA § 1255, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1255. Responsibility for safekeeping

The State shall be responsible for the safekeeping of all securities and receipts delivered to the ~~superintendent~~ **commission** under authority of this chapter.

Sec. 178. 24-A MRSA § 1256, sub-§§ 1, 2, 3 and 4, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. In lieu of deposit with the Treasurer of State as provided in section 1254, upon the insurer's written request and for its greater convenience, the

~~superintendent~~ **commission** may in ~~his~~ **its** discretion permit the insurer to make and maintain the deposit under custodial arrangements with the trust department of an established bank located in Maine.

2. Where of convenience to the insurer in buying, selling and exchange of securities comprising its deposits, and in the collection of accruals thereon, the insurer may, with the ~~superintendent's~~ **commission's** advance written approval, deposit certain of its securities under custodial arrangements with an established bank or trust company located outside this State.

3. The insurer shall deposit with the Treasurer of State through the ~~superintendent~~ **commission** the original receipts issued by the custodian institution for all securities held under such custodial arrangements.

4. The form and terms of all such custodial arrangements shall be as prescribed or approved by the ~~superintendent~~ **commission** consistent with the applicable provisions of this Title.

Sec. 179. 24-A MRSA § 1257, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 1257. Assignment, transfer of securities or assets

All assets deposited by an insurer and not negotiable by delivery shall be duly assigned or transferred to the commission and its successors in office. Upon release of any such security to the insurer, the commission shall reassign or transfer the same to the insurer.

Sec. 180. 24-A MRSA § 1258, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1258. Appraisal

The ~~superintendent~~ **commission** may, in ~~his~~ **its** discretion, prior to acceptance for deposit of any particular security, or at any time thereafter while so deposited, have the same appraised or valued by competent appraisers. The reasonable cost of any such appraisal or valuation shall be borne by the insurer.

Sec. 181. 24-A MRSA § 1259, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. If securities deposited by an insurer under this chapter are subject to material fluctuations in market value, the ~~superintendent~~ **commission** may, in ~~his~~ **its** discretion, require the insurer to deposit and maintain on deposit additional securities in amount reasonably necessary to assure that the deposit at all times has a market value of not less than the amount specified under the law by which the deposit is required.

Sec. 182. 24-A MRSA § 1261, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1261. Levy upon deposit

No judgment creditor or other claimant of an insurer shall have the right to levy upon any of the assets held in this State as a deposit for the protection of the insurer's policyholders or policyholders and creditors. As to deposits made pursuant to the retaliatory provision, section 428, levy thereupon shall be permitted if so provided in the ~~superintendent's~~ **commission's** order under which the deposit is required.

Sec. 183. 24-A MRSA § 1262, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1262. Deficiency of deposit

If for any reason the market value of securities of an insurer held on deposit in this State as required under this Title falls below the required amount, the insurer shall promptly deposit other or additional assets eligible for deposit sufficient to cure the deficiency. If the insurer has failed to cure the deficiency within 20 days after receipt of notice thereof by registered mail from the ~~superintendent~~ **commission**, the ~~superintendent~~ **commission** shall forthwith revoke the insurer's certificate of authority.

Sec. 184. 24-A MRSA § 1263, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

Upon the request of a domestic insurer, the commission shall return to the insurer the whole or any portion of the assets and securities of the insurer held on deposit when the commission is satisfied that the securities so to be returned are subject to no liability and are not required to be longer held by any provision of law or the purposes of the original deposit. If the insurer has reinsured all its outstanding risks in another insurer or insurers authorized to transact insurance in this State, and if so provided in the reinsurance agreement, the commission shall deliver such securities to such insurer or insurers so assuming such risks, upon proof to its satisfaction:

Sec. 185. 24-A MRSA § 1263, sub-§§ 3, 4 and 5, as amended by PL 1973, c. 585, § 12, are further amended to read:

3. The ~~superintendent~~ **commission** shall return to a foreign insurer any deposit made in this State by the insurer, when the insurer has ceased transacting insurance in this State, or in the United States, and the insurer is not subject to any liability in this State on account of which the deposit was held.

4. If the insurer is subject to delinquency proceedings as defined in section 4353 upon the order of a court of competent jurisdiction, the ~~superintendent~~ **commission** shall yield the insurer's assets held on deposit to the receiver, conservator, rehabilitator or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

5. No release of deposited assets shall be made except upon application to and the written order of the ~~superintendent~~ **commission**. The ~~superintendent~~

commission shall have no personal liability for any release of any such deposit or part thereof so made by ~~him~~ it in good faith.

Sec. 186. 24-A MRSA § 1509, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. The salaried employee of the insurer, or of the managing general agent representing the insurer, as to whom the employer has filed with the ~~superintendent~~ **commission** in advance written notice of the employee's name and address and authority to adjust.

Sec. 187. 24-A MRSA § 1514, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The ~~superintendent~~ **commission** shall not grant, renew, continue or permit to exist any license as agent or broker as to any applicant therefor or licensee thereunder if ~~he~~ it finds that the license is being or will probably be used by the applicant or licensee materially for the purpose of writing "controlled business," that is:

Sec. 188. 24-A MRSA § 1514, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. Such a license shall be deemed to have been, or intended to be, used materially for the purpose of writing controlled business if the ~~superintendent~~ **commission** finds that during any 12 months' period the aggregate commissions earned from such controlled business have exceeded or probably will exceed 40% of the aggregate commissions earned or to be earned on all business written or probably to be written by such applicant or licensee during the same period.

Sec. 189. 24-A MRSA § 1515, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1515. Licensing forms

The ~~superintendent~~ **commission** shall prescribe, consistent with the applicable requirements of this chapter, and furnish all printed forms required under this chapter in connection with application for and issuance of licenses, examinations for licenses, and for appointment and termination of appointments of agents.

Sec. 190. 24-A MRSA § 1516, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 1516. License to be issued only on compliance

1. For the protection of the people of this State, the commission shall not issue or continue or renew or permit to exist any license as agent, broker, consultant or adjuster, except in compliance with the applicable provisions of this chapter.

2. The commission shall not issue, or continue, or renew, or permit to exist any such license as to any individual who has not established to the commission's satisfaction that he is qualified therefor in accordance with the applicable provisions of this chapter.

Sec. 191. 24-A MRSA § 1517, sub-§ 1, as last amended by PL 1973, c. 585, § 12, is further amended to read:

1. A firm or corporation shall be licensed only as an agent, broker, adjuster or consultant. Each general partner of a firm, and each other individual to act for the firm or corporation under the license, shall be named in or registered with the **superintendent commission** as to the license, and shall qualify as though an individual licensee. Such an individual shall exercise the license powers only for and in the name of the organization, but this shall not prevent such individual from at the same time being separately licensed and acting his own behalf and name. A full additional license fee shall be paid as to each respective individual in excess of one named in or registered as to the organization license.

Sec. 192. 24-A MRSA § 1517, sub-§§ 2 and 5, as amended by PL 1973, c. 585, § 12, are further amended to read:

2. The **superintendent commission** shall not license a firm or corporation unless the license is within purposes stated in the partnership agreement or certificate of organization.

5. The license shall promptly notify the **superintendent commission** of every change among its members, directors and officers, and of other individuals designated in or registered as to the license.

Sec. 193. 24-A MRSA § 1518, sub-§§ 1, 2, 7 and 9, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Written application for an agent, broker, consultant or adjuster license shall be made to the **superintendent commission** by the applicant, accompanied by the applicable license application and examination application fees shown in section 601 (fee schedule), and the investigation cost, if applicable, referred to in section 1519. The application shall be signed and duly sworn to by the applicant.

2. The application form shall require full answers to questions reasonably necessary to determine the applicant's identity, age, residence, present occupation and occupations and business record over not less than the 5 years next preceding the date of the application, financial responsibility, insurance experience, special education or instruction in insurance and insurance laws of this State he has had or expects to receive, purpose for which the license is to be used, whether he will devote all or part of his efforts to transactions under the license and, if part only, how much time he will devote to such transactions and in what other business or businesses he is or will be engaged or employed, and such other facts as the **superintendent commission** may require relative to the applicant's qualifications for the license as such qualifications are stated in this chapter. The application shall be accompanied by an imprint of the applicant's fingerprints and applicant's recent photograph.

7. If the application is for license as an agent, it shall be accompanied by the insurer's certificate, on form furnished by the **superintendent commission** and signed by the insurer's duly authorized representative, that the insurer has

investigated the applicant's character and background and is satisfied that he is trustworthy and qualified to act as its agent and will hold himself out in good faith to the general public as an agent.

9. The ~~superintendent~~ **commission** shall withhold from public inspection information of a personal nature concerning applicants for license.

Sec. 194. 24-A MRSA § 1519, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Upon completion of any application for license under this chapter, the ~~superintendent~~ **commission** shall make such investigation as ~~he~~ it deems advisable of the applicant's character, financial responsibility, experience, background and fitness for the license applied for.

Sec. 195. 24-A MRSA § 1519, sub-§ 2, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. As to applicants not theretofore licensed under this Title or licensed as insurance agent, broker or adjuster in this State under laws heretofore in force, the ~~commission~~ shall secure, as soon as is reasonably possible after filing of the application, a credit and investigation report relative to the applicant from a recognized and established independent investigation and reporting agency; except that in lieu of obtaining a special such report, the ~~commission~~ may, in its discretion, accept with the application a similar report furnished by or on behalf of an insurer which proposes to appoint the applicant as its agent. The cost, if any, of such report, in a reasonable uniform flat amount as from time to time fixed by the ~~commission~~, shall be paid by or on behalf of the applicant, and shall be deposited with the ~~commission~~ at the time of filing the application. The ~~commission~~ shall promptly deposit the payment with the Treasurer of State to the credit of the Insurance Regulatory Fund. The ~~commission~~ shall keep confidential the contents of any such report.

Sec. 196. 24-A MRSA § 1520, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. After completion and filing of application with the ~~superintendent~~ **commission** as required by section 1518, the ~~superintendent~~ **commission** shall subject each applicant for license as agent, broker, consultant or adjuster, unless exempted therefrom under section 1521, to a written examination as to his competence to act as such agent, broker, consultant or adjuster.

Sec. 197. 24-A MRSA § 1520, sub-§ 3, as last amended by PL 1973, c. 585, § 12, is further amended to read:

3. As to life insurers authorized to issue variable contracts under section 2537, applicants appointed by such insurers to solicit such variable contracts in this State, in addition to completing examinations required for a life agent's license, shall take and pass successfully a separate examination covering the subject of variable contracts, in accordance with such reasonable rules and regulations as

may be adopted by the ~~superintendent~~ **commission**, and pay a separate examination application fee therefor. Said rules and regulations may provide for several sections of the examination and several classifications of said variable contract license corresponding to the different types of variable contracts to be offered in this State, including, without limitation, variable annuity contracts and variable life insurance contracts.

Sec. 198. 24-A MRSA § 1520, sub-§ 6, as amended by PL 1973, c. 585, § 12, is further amended to read:

6. Written application for the examination shall be filed with the ~~superintendent~~ **commission** by or on behalf of the applicant not less than 10 days prior to the date fixed for the examination, as provided in section 1523, and shall be accompanied by the fee for such application as specified in section 601 (fee schedule). This application fee is earned when paid, and is not subject to refund.

Sec. 199. 24-A MRSA § 1521, sub-§ 1, as last amended by PL 1973, c. 625, § 138, is further amended to read:

1. An applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed under a similar license in this State, other than a temporary license or initial license as a life agent, within 2 years next preceding date of application for the license, unless such previous license was revoked or continuation thereof refused by the ~~superintendent~~ **commission**, and if the ~~superintendent~~ **commission** deems the applicant to be fully qualified for the license. For the purposes of this subsection, an agent's license covering fire insurance and existing on January 1, 1970 shall be deemed to be the equivalent of a license covering "property" insurance as defined in this Title;

Sec. 200. 24-A MRSA § 1521, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. An applicant for an agent's license who is currently licensed as a broker or as a consultant as to the same kind or kinds of insurance, or has been so licensed within 12 months next preceding date of application for the license, unless such previous license was revoked or suspended or continuation thereof refused by the ~~superintendent~~ **commission**;

Sec. 201. 24-A MRSA § 1522sub-§3 as amended by PL 1973, c. 585, § 12, is further amended to read:

3. The ~~superintendent~~ **commission** shall prepare and make available to applicants printed information as to the general scope of, and particular subjects to be covered by, the examination for a particular license, together with information as to published books and other reference sources which may be studied by the applicant in preparation for the examination.

Sec. 202. 24-A MRSA § 1523, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. All examinations of license applicants shall be conducted by the commission, or its designee using examinations prepared by it.

Sec. 203. 24-A MRSA § 1523, sub-§ 2, as repealed and replaced by PL 1977, c. 260, is repealed and the following enacted in its place:

2. The commission shall make examinations available to applicants at least once a month in Augusta.

Sec. 204. 24-A MRSA, § 1523, sub-§§ 4, 6 and 7, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

4. The commission shall give, conduct and grade all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined.

6. Within 30 days after the examination, the commission shall inform the applicant and the appointing insurer as to whether or not he has passed.

7. The commission shall keep each examination paper on file for at least 6 months.

Sec. 205. 24-A MRSA § 1524, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. An applicant who has failed to pass the first 2 examinations for the license applied for shall not be permitted by the ~~superintendent~~ **commission** to take a 3rd or subsequent examination until expiration of 6 months after the last previous examination. Except as provided in subsection 2, the applicant shall pay a new examination application fee with respect to each examination after the first examination for the license applied for.

Sec. 206. 24-A MRSA § 1525, sub-§ 1, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

1. The commission shall continue to appoint 2 advisory boards to make recommendations to it with respect to the scope, type and conduct of written examinations for license, the times and places within the State where examinations shall be held, and with respect to the other matters referred to in this section. It shall appoint one such board with respect to general lines agent licensing, to be referred to as the "General Lines Agent Examination Advisory Board;" it shall appoint the other such board with respect to life agent licensing, to be referred to as the "Life Agent Examination Advisory Board."

Sec. 207. 24-A MRSA § 1525, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. Each such board shall consist of 5 members, to be appointed by the ~~superintendent~~ **commission** for terms of 3 years each, on a staggered term system so as to prevent the terms of more than 2 members from expiring in any one year. No person shall be eligible for appointment to such board unless he or she is active on a full-time basis in the general lines insurance business, as to the general lines

advisory board, or in the life insurance business, as to the life advisory board, and is a resident of this State. No person may be reappointed to a board for more than one 3-year term.

Sec. 208. 24-A MRSA § 1525, sub-§§ 3 and 4, as amended by PL 1973, c. 585, § 12, are further amended to read:

3. In appointing members to the general lines advisory board, the ~~superintendent~~ **commission** so far as practicable shall appoint persons with prior experience in the education and training of fire, casualty or surety insurance agents or prospective agents; and so far as practicable, the ~~superintendent~~ **commission** shall so constitute such board that it shall at all times include members who are experienced in the fire, casualty or surety insurance business, 2 of whom shall be representatives of general lines agents, one of whom shall be a representative of the domestic mutual insurers, other than life insurers, one of whom shall be the representative of other insurers authorized to do a property, casualty or surety insurance business in this State, and one of whom shall represent the public.

4. In appointing members to the life advisory board, the ~~superintendent~~ **commission** so far as practicable shall appoint persons with prior experience in the education and training of life insurance agents or prospective agents; and so far as practicable, the ~~superintendent~~ **commission** shall so constitute the board that it shall at all times include one general agent or manager of a life insurance agency within this State, and one salaried home office officer or employee of a domestic life insurer.

Sec. 209. 24-A MRSA § 1526, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Each respective such advisory board shall meet with the ~~superintendent~~ **commission** twice during each calendar year at times and places to be designated by the ~~superintendent~~ **commission**, and on such other occasions as its members deem appropriate. The ~~superintendent~~ **commission** shall furnish to the board such information, not otherwise designated by law as confidential, as its members may reasonably require with respect to the conduct, scope and results of examinations of general lines agents, as to the general lines advisory board, or of life agents, as to the life advisory board.

2. Each such board shall make at least one written annual report to the ~~superintendent~~ **commission** with respect to the matters within its province. In the report, or in addition thereto, the board shall provide the ~~superintendent~~ **commission** with its specific recommendations from time to time as to changes in the scope, format and nature of examinations with which it is concerned, as appear to its members desirable and in the best interest of the people of this State, and of the property, casualty or surety insurance business, as to the general lines advisory board, or the life insurance business, as to the life advisory board, as conducted in this State.

Sec. 210. 24-A MRSA § 1526, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. The commission shall avail itself and its bureau of all such recommendations and material so furnished by the respective such boards, and shall adopt or implement such portions thereof as appear to it appropriate and advisable.

Sec. 211. 24-A MRSA § 1526, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. Each board may, in addition, consult with the ~~superintendent~~ commission with respect to possible legislation or regulatory measures designed or intended to improve the quality and nature of the solicitation and servicing of property, casualty or surety insurance by licensed general lines agents, as to the general lines advisory board, or of life insurance by licensed life agents, as to the life advisory board, within this State; but nothing in this section shall be deemed to vest any authority in such a board other than on an advisory basis as stated.

Sec. 212. 24-A MRSA § 1526, sub-§§ 5 and 6, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

5. The written reports of a board shall be matters of public record, and available from the commission upon request.

6. The members of such a board shall serve without compensation, but with the commission's approval may be reimbursed for their reasonable travel expenses in attending any meeting called or approved by the commission.

Sec. 213. 24-A MRSA § 1527, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1527. Issuance, refusal of license; refundability of fees

1. If the ~~superintendent~~ commission finds that the application is complete, that the applicant has passed any required examination and is otherwise qualified for the license applied for, ~~he~~ it shall promptly issue the license; otherwise, the ~~superintendent~~ commission shall refuse to issue the license and promptly notify the applicant and the appointing insurer, if application is for an agent's license, of such refusal, stating the grounds thereof.

2. If the license is refused, the ~~superintendent~~ commission shall promptly refund to the appointing insurer, in the case of applications for agent's license, the appointment fee tendered with the license application. All other fees for application for agent, broker, consultant or adjuster license shall be deemed earned when paid and shall not be refundable.

Sec. 214. 24-A MRSA § 1528, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission shall issue under this chapter the following categories of license only:

Sec. 215. 24-A MRSA § 1529, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. The license shall state the name and address of the licensee, date of issue, general conditions relative to expiration or termination, the kind or kinds of insurance covered by the license, if applicable, and such other conditions as the ~~superintendent~~ **commission** deems proper for inclusion in the license certificate. No license shall be issued in a trade name unless the name has been duly registered or filed as required by law.

Sec. 216. 24-A MRSA § 1530, as last amended by PL 1973, c. 585, § 12, repealed and the following enacted in its place:

§ 1530. Multiple licensing, life or health insurance agents

A life or health insurance agent may concurrently be licensed as to as many life or health insurers as duly file appointments of the licensee with the commission and pay the appointment fee.

Sec. 217. 24-A MRSA § 1531, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission may issue to an applicant qualified therefor under this chapter a limited agent's license as follows:

Sec. 218. 24-A MRSA § 1532, sub-§ 1, as last amended by PL 1977, c. 222, § 3, is further amended to read:

1. Each broker (resident or nonresident) license issued under this Title shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the ~~superintendent~~ **commission** at ~~his~~ **its** office in Augusta biennially on or before December 31st of the applicable biennial continuation fee as stated in section 601, fee schedule, accompanied by written request of the licensee for such continuation. Any such license not so continued on or before December 31st shall be deemed to have expired as of midnight on such date.

Sec. 219. 24-A MRSA § 1532, sub-§ 3, as last amended by PL 1977, c. 682, § 4, is further amended to read:

3. An agent license, other than initial license as life agent or general lines' agent, shall continue in force on a biennial basis subject to the biennial expiration date while there is in effect as to the licensee, as shown by the ~~superintendent's~~ **commission's** records, an appointment or appointments as agent of authorized insurers covering collectively all the kinds of insurance included in the agent's license. Upon termination of all the licensee's agency appointments as to a particular kind of insurance and failure to replace such appointment within 60 days thereafter, the license shall thereupon expire and terminate as to such kind of insurance, and the licensee shall promptly deliver his license to the ~~superintendent~~ **commission** for reissuance, without fee or charge, as to such kinds of insurance, if any, covered by the licensee's remaining agency appointments. Upon termination of all the licensee's agency appointments, the license shall forthwith terminate.

Sec. 220. 24-A MRSA § 1532, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. As a condition to or in connection with the continuation of any agent or broker license, the **superintendent commission** may require the licensee to file with ~~him~~ **it** information as for application for the license, or as to the use made of the license during the current or next preceding calendar year.

Sec. 221. 24-A MRSA § 1532, sub-§ 6, as enacted by PL 1975, c. 767, § 17, is amended to read:

6. Each consultant license issued under this Title shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the **superintendent commission** at ~~his~~ **its** office in Augusta biennially on or before February 28th of the applicable biennial continuation fee as stated in section 601, fee schedule, accompanied by written request of the licensee for such continuation. Any such license not so continued on or before February 28th shall be deemed to have expired as of midnight on such date.

Sec. 222. 24-A MRSA § 1532, sub-§ 7, as amended by PL 1977, c. 222, § 4, is further amended to read:

7. Each adjuster license issued under this Title shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the **superintendent commission** at ~~his~~ **its** office in Augusta biennially on or before December 31st of the applicable biennial continuation fee as stated in section 601, fee schedule, accompanied by written request of the licensee for such continuation. Any such license not so continued on or before December 31st shall be deemed to have expired as of midnight on such date.

Sec. 223. 24-A MRSA § 1532, sub-§ 8, as enacted by PL 1975, c. 767, § 17, is amended to read:

8. The **superintendent commission** shall notify each broker, resident or nonresident, consultant and adjuster licensee under this Title of the expiration date of his license and the fee that is required for continuation for a 2-year period. The notice shall be mailed to such persons at least 30 days in advance of the expiration date of such license.

Sec. 224. 24-A MRSA § 1533, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Each insurer appointing an agent in this State shall file with the **superintendent commission** the appointment in writing, specifying the kinds of insurance or annuity business to be transacted by the agent for the insurer, and pay the appointment fee, at the rate specified in section 601 (fee schedule). An agent required to take a variable annuity examination pursuant to section 1520 shall be separately appointed as to variable annuities and the insurer shall pay a separate appointment fee therefor.

Sec. 225. 24-A MRSA § 1533, last ¶, as last enacted by PL 1975, c. 767, § 18, is amended to read:

When an agent's appointment precedes or will precede the sponsoring insurer's biennial continuation date by a period of more than one year, the **superintendent commission** may require the sponsoring insurer to pay an additional fee not to exceed 1/2 the applicable biennial continuation of appointment fee for the agent's license according to the fee schedule.

Sec. 226. 24-A MRSA § 1534, sub-§§ 1 and 2, as last repealed and replaced by PL 1975, c. 767, § 19, are amended to read:

1. Agent appointments by an insurer shall be subject to biennial continuation by the insurer on its biennial continuation date as established by the **superintendent commission** pursuant to section 415, and shall expire at midnight on such date unless continued by the sponsoring insurer for a 2-year period.

2. The **superintendent commission** shall notify every insurer of the expiration date of its agents' appointments and the fees that are required for continuation of an agent's appointment for a 2-year period. The notice shall be mailed to the insurer at least 30 days in advance of the expiration date of its agents' appointments. At least 15 days before such expiration date, the insurer shall file with the **superintendent commission** an alphabetical list of the names and addresses of all its agents in this State whose appointments are to remain in effect as to the kinds of insurance or annuity business for which the respective agents are so appointed, accompanied by payment of the biennial continuation of appointment fee, as specified in section 601, fee schedule. At the same time, the insurer shall also file with the **superintendent commission** an alphabetical list of the names and addresses of all its agents whose appointments in this State are not to remain in effect. An appointment not so continued and not otherwise expressly terminated shall be deemed to have expired at midnight on the insurer's biennial continuation date.

Sec. 227. 24-A MRSA § 1534, sub-§ 3, as enacted by PL 1975, c. 767, § 19, is amended to read:

3. The **superintendent commission** is authorized to issue appointment continuations for less than a 2-year term in order to implement the biennial continuation of appointments on the biennial continuation dates of sponsoring insurers. If an appointment continuation is issued for an agent of a sponsoring insurer for one year or less, the fee assessed for such appointment continuation shall be no more than 1/2 the applicable biennial fee according to the fee schedule.

Sec. 228. 24-A MRSA § 1535, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 1535. Termination of agent appointment

1. **Subject to the agent's contract obligations and rights, if any, an insurer or agent may terminate an agency appointment at any time. If termination is by the insurer, the insurer shall promptly give written notice of termination and the**

effective date thereof to the commission, and to the agent where reasonably possible. The list of appointments not being continued referred to in section 1534 shall constitute such notice to the commission as to the terminations so listed. The commission may require of the insurer reasonable proof that the insurer has given such notice to the agent where reasonably possible.

2. Accompanying the notice of termination given the commission, the insurer shall file with it a statement of the cause, if any, for termination. Any information, document, record or statement so disclosed or furnished to the commission shall be deemed an absolutely privileged communication and shall not be admissible as evidence in any action or proceeding.

Sec. 229. 24-A MRSA § 1536, sub-§ 1, first ¶, and ¶ A, as amended by PL 1973, c. 585, § 12, are further amended to read:

The ~~superintendent~~ **commission**, in ~~his~~ **its** discretion, may issue a temporary license as agent or broker, as the case may be, to or with respect to an individual otherwise qualified therefor but without requiring such individual to take an examination, in the following cases:

A. To the surviving spouse or next of kin, or to the administrator or executor or employee thereof, of a licensed agent or broker becoming deceased, or to the spouse, next of kin, employee or legal guardian or employee thereof, of a licensed agent or broker disabled because of sickness, insanity or injury, if in either case the ~~superintendent~~ **commission** deems that such temporary license is necessary for the winding up or continuation of the agent's or broker's business;

Sec. 230. 24-A MRSA § 1538, sub-§ 1, first ¶, as amended by 1973, c. 585, § 12, is repealed and the following enacted in its place:

A licensed resident agent may solicit and issue personal travel accident insurance policies by means of mechanical vending machines supervised by the agent and placed at airports and similar places of convenience to the traveling public, if the commission finds:

Sec. 231. 24-A MRSA § 1538, sub-§ 2, as last amended by PL 1973, c. 726, § 10, is repealed and the following enacted in its place:

2. **As to each such machine to be used, the commission shall issue to the agent a special vending machine license. The license shall specify the name and address of the insurer and agent, the name of the policy to be sold, the serial number of the machine, and the place where the machine is to be in operation. The license shall be subject to biennial continuation, to expiration, suspension or revocation coincidentally with that of the agent. The commission shall also revoke the license as to any machine as to which it finds that the license qualifications no longer exist. The license fee shall be as stated in section 601 (fee schedule) for each license year or part thereof for each respective vending machine. Proof of the existence of a subsisting license shall be displayed on or about each such machine in use in such manner as the commission reasonably requires.**

Sec. 232. 24-A MRSA § 1539, sub-§ 1, first ¶, as repealed and replaced by PL 1977, c. 694, § 407, is repealed and the following enacted in its place:

The commission may file a complaint with the Administrative Court seeking suspension or revocation of any license issued under this chapter or any surplus lines broker license if the commission has reason to believe that as to the licensee any of the following causes exist:

Sec. 233. 24-A MRSA § 1539, sub-§ 1, ¶¶ A and B, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

A. For any cause for which issuance of the license would have been refused had it then existed and been known to the commission;

B. For violation of or noncompliance with any applicable provision of this Title, or for willful violation of any lawful rule, regulation or order of the commission;

Sec. 234. 24-A MRSA § 1539, sub-§ 2, as repealed and replaced by PL 1977, c. 694, § 408, is repealed and the following enacted in its place:

2. The commission may file a complaint with the Administrative Court seeking the suspension or revocation of licenses held by a firm or corporation for any of such causes as relate to any individual designated or registered in the license to exercise its powers.

Sec. 235. 24-A MRSA § 1540, as repealed and replaced by PL 1977, c. 694, § 409, is amended to read:

§ 1540. Procedures upon suspension or revocation; powers of commission

1. The effective date of suspension or revocation of an agent or broker license shall be determined by the Administrative Court, consistent with Title 4, chapter 25. Similarly, the duration of a suspension and the notice requirements pursuant to a ruling of suspension or revocation shall be determined by the Administrative Court.

2. Notwithstanding the provisions of subsection 1, the ~~superintendent~~ **commission** has the authority to amend, modify or refuse to renew any agent or broker license for cause pursuant to procedures in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 236. 24-A MRSA § 1541, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1541. Return of license to commission

1. All licenses issued under this Title, although issued and delivered to the licensee, shall at all times be the property of the State of Maine. Upon any expiration, termination, suspension or revocation of the license, the licensee or other person having possession or custody of the license shall forthwith deliver it to the ~~superintendent~~ **commission** by personal delivery or by mail.

2. As to any license lost, stolen or destroyed while in the possession of any such licensee or person, the ~~superintendent~~ **commission** may accept in lieu of return of the license the affidavit of the licensee or other person responsible for or involved in the safekeeping of such license, concerning the facts of such loss, theft or destruction.

Sec. 237. 24-A MRSA § 1542, sub-§ 1, as repealed and replaced by PL 1977, c. 694, § 410, is amended to read:

1. The ~~superintendent~~ **commission** shall not issue a license under this Title as to any person whose license has been revoked by the Administrative Court until at least one year has expired from the date of that revocation. If the licensee pursues an appeal from the Administrative Court decision, the ~~superintendent~~ **commission** shall not consider issuance of a new license until at least one year from the date of a final court order affirming that revocation. The license applicant shall establish that he again qualifies for the license in accordance with the applicable provisions of this Title. The ~~superintendent~~ **commission** may refuse any such new license applied for unless the applicant shows good cause why the prior revocation should not be deemed a bar to the issuance of a new license.

Sec. 238. 24-A MRSA § 1542, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. If the license of a firm or corporation is so suspended or revoked or continuance refused, no member of such firm, or officer or director of such corporation, shall be licensed or be designated in or as to any license to exercise the powers thereof during the period of such suspension, revocation or refusal, unless the ~~superintendent~~ **commission** determines upon substantial evidence that such member, officer or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended, revoked, or continuance refused.

Sec. 239. 24-A MRSA § 1603, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

For the protection of the people of this State, the ~~superintendent~~ **commission** shall not issue, continue or permit to exist any agent or broker license except in compliance with this chapter, or as to any individual unless qualified therefor as follows:

Sec. 240. 24-A MRSA § 1603, sub-§ 8, as amended by PL 1973, c. 585, § 12, is further amended to read:

8. **Experience.** If for broker's license, must have had experience either as an agent, consultant, service representative, adjuster, managing general agent or broker, or other special experience, education or training, all of sufficient content and duration as deemed by the ~~superintendent~~ **commission** to be reasonably necessary for competence in fulfilling the responsibilities of a broker.

Sec. 241. 24-A MRSA § 1604, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

An applicant for license as agent or broker who is required, under sections 1520 and 1521, to take a written examination must have completed the educational requirement prescribed by either paragraph A or B within the 2 years next prior to the date his application for license is filed with the commission:

Sec. 242. 24-A MRSA § 1604, sub-§ 1, ¶ A, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

A. He must have completed successfully such courses of instruction in insurance as the commission may reasonably require and approve. Such courses may be either in attendance at or under the supervision and direction of or by correspondence with an educational institution or insurer, as approved by the commission; or

Sec. 243. 24-A MRSA § 1604, sub-§ 2, as last amended by PL 1973, c. 625, § 139, is further amended to read:

2. If qualification is based upon fulfillment of the requirements of subsection 1, paragraph B, the applicant shall file with the ~~superintendent~~ **commission an affidavit by his employer stating the period of employment, that it was substantially fulltime, and the nature of the duties performed by the applicant.**

Sec. 244. 24-A MRSA § 1606, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Every applicant for a broker's license shall file with the ~~superintendent~~ **commission with the application and shall thereafter maintain in force while so licensed a bond in favor of the State of Maine executed by an authorized surety insurer. The bond shall be conditioned upon full accounting and due payment to the person entitled thereto of funds coming into the broker's possession through insurance transactions under the license. The bond may be continuous in form and aggregate liability on the bond shall be limited to payment of not less than \$2,500.**

Sec. 245. 24-A MRSA § 1606, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The bond shall remain in force until released by the commission or until cancelled by the surety. Without prejudice to liability previously incurred thereunder, the surety may cancel the bond upon 30 days' advance written notice to both the broker and the commission.

Sec. 246. 24-A MRSA § 1609, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 1609. Place of business

Every resident agent and broker shall have and maintain in this State a place of business accessible to the public, and wherein the licensee principally conducts transactions under his license. The licensee shall promptly notify the

~~superintendent commission~~ in writing of any change of address. Nothing in this section shall prohibit maintenance of such a place in the licensee's residence in this State.

Sec. 247. 24-A MRSA § 1610, sub-§ 1, ¶ E, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

E. Such other information as the commission may reasonably require.

Sec. 248. 24-A MRSA § 1610, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The record shall be kept available for inspection by the commission for a period of at least 3 years after completion of the respective transactions.

Sec. 249. 24-A MRSA § 1611, sub-§ 2, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The agent may grant a power of attorney to an adult as defined by statute to sign and countersign policies and endorsements in his name and behalf after first obtaining the commission's written consent and that of the proper official of the insurer involved.

Sec. 250. 24-A MRSA § 1616, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. The ~~superintendent commission~~ may license as agent or broker a resident of another state or province of Canada otherwise qualified therefor, if a similar privilege is extended by such other state or province to residents of Maine.

2. The ~~superintendent commission~~ may waive the taking of a written examination by the nonresident applicant for such a license, if a similar privilege is extended by the other state or province to Maine residents and if ~~he~~ it finds that the applicant has already met qualification requirements and standards in the applicant's domiciliary state or province substantially as high as those applicable under this chapter to Maine residents applying for a similar license.

Sec. 251. 24-A MRSA § 1617, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Every nonresident licensed in this State as an agent or broker under section 1616 shall appoint the ~~superintendent commission~~ in writing as his attorney upon whom may be served all legal process issued in connection with any action or proceeding brought or pending in this State against or involving the licensee and relating to transactions under his Maine license. The appointment shall be irrevocable and shall continue in force for so long as any such action or proceeding could arise or exist. The ~~superintendent commission~~ shall prescribe and furnish the form for such appointment.

Sec. 252. 24-A MRSA § 1617, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. Duplicate copies of process shall be served upon the commission or other person in apparent charge of its office during its absence, accompanied by payment of the process fee specified in section 601 (fee schedule). Upon receiving such service, the commission shall promptly mail a copy thereof by registered or certified mail with return receipt requested addressed to the nonresident licensee at his business address last of record with the commission.

Sec. 253. 24-A MRSA § 1673, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

For the protection of the people of this State, the ~~superintendent~~ **commission** shall not issue, continue or permit to exist any agent or broker license except in compliance with this chapter, or as to any individual unless qualified therefor as follows:

Sec. 254. 24-A MRSA § 1673, sub-§ 7, as amended by PL 1973, c. 585, § 12, is further amended to read:

7. **Experience.** If for broker's license, must have had experience as a life agent or broker, or managing general agent, or other special experience, education or training in the life insurance business, all of sufficient content and duration as deemed by the ~~superintendent~~ **commission** reasonably necessary for competence in fulfilling the responsibilities of a broker.

Sec. 255. 24-A MRSA § 1680, sub-§ 2, first paragraph, as amended by PL 1973, c. 585, § 12, is further amended to read:

The ~~superintendent~~ **commission** is authorized to enter into reciprocal agreements with the appropriate official of any other state or Canadian province waiving the written examination of an applicant resident in such other state or province, if:

Sec. 256. 24-A MRSA § 1681, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 1681. Change of address, notice to commission

Every agent and broker shall promptly notify the commission in writing of every change of his principal business or residence address.

Sec. 257. 24-A MRSA § 1803, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

For the protection of the people of this State, the ~~superintendent~~ **commission** shall not issue, continue or permit to exist any license as consultant except in compliance with this chapter, or as to any person not qualified therefor as follows:

Sec. 258. 24-A MRSA § 1804, sub-§§ 1 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Every applicant for license as a consultant shall file with the ~~superintendent~~ **commission** with his application for license, and shall maintain in effect while so

licensed, a bond issued by an authorized surety insurer in favor of the State of Maine, continuous in form and providing for aggregate liability of \$5,000.

3. The bond shall remain in force until released by the ~~superintendent~~ **commission** or until cancelled by the surety. Without prejudice to any liability previously incurred thereunder, the surety may cancel the bond upon 30 days' advance written notice to the licensee and the ~~superintendent~~ **commission**.

Sec. 259. 24-A MRSA § 1805, sub-§§ 1 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Every consultant shall have and maintain in this State a place of business accessible to the public. The address of such place shall appear upon the license, and the licensee shall promptly notify the ~~superintendent~~ **commission** in writing of any change thereof. Nothing in this section shall prohibit maintenance of such a place in the licensee's residence in this State.

3. The licensee shall keep at his place of business a complete record of transactions under his license. The record shall be kept available for inspection by the ~~superintendent~~ **commission** for a period of at least 3 years after completion of the respective transactions.

Sec. 260. 24-A MRSA § 1807-A, as enacted by PL 1977, c. 351, § 4, is amended to read:

§ 1807-A. Consulting fee

A life consultant may charge a consulting fee and receive commissions for the sale of insurance as an agent or broker if both the consulting fee and the insurance commissions are provided for in a written agreement, in a form approved by the ~~Superintendent of Insurance~~ **commission**, signed by the client and the life consultant. A life consultant shall offset his fees against first-year commissions received as agent or broker on the sale of insurance. Such offset shall apply only to those commissions received as a result of services performed under the agreement.

Sec. 261. 24-A MRSA § 1853, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

For the protection of the people of this State, the ~~superintendent~~ **commission** shall not issue, continue or permit to exist any license as an adjuster, except in compliance with this chapter, or as to any individual not qualified therefor as follows:

Sec. 262. 24-A MRSA § 1854, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Before issuance of an adjuster license, the applicant shall file with the ~~superintendent~~ **commission** and thereafter maintain in force while so licensed a surety bond in favor of the State of Maine executed by an authorized surety insurer, and conditioned on the due accounting and payment by the licensee of funds of others received by him in connection with transactions under the license.

Sec. 263. 24-A MRSA § 1854, sub-§§ 3 and 4, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

3. The bond shall remain in force until the surety is released from liability by the commission or until cancelled by the surety. Without prejudice to any prior liability accrued, the surety may cancel the bond upon 30 days' advance written notice to the licensee and the commission.

4. The commission may waive the requirement of a separate bond as to a licensee employed or to be employed by a licensed firm or corporation adjuster which has posted with the commission a general bond covering all such licensees in such aggregate liability amount in excess of \$10,000 as the commission deems reasonable.

Sec. 264. 24-A MRSA § 1855, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. The adjuster shall make such records available for examination by the ~~superintendent~~ **commission** at all times, and shall retain the records for at least 3 years.

Sec. 265. 24-A MRSA § 1857, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. The ~~superintendent~~ **commission**, in ~~his~~ **its** discretion, may issue a temporary license as adjuster to or with respect to an individual otherwise qualified therefor but without requiring such individual to take an examination under the following circumstances:

A. If the ~~superintendent~~ **commission**, after careful investigation, determines that a critical problem exists due to unforeseen circumstances which hampers claims services to the general public.

Sec. 266. 24-A MRSA § 2005, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 2005. Report of coverage

Within 30 days after the effective date of any such surplus lines insurance, the broker shall file with, or as directed by, the commission a written memorandum or report of such coverage in such form and contents as may be prescribed by the commission.

Sec. 267. 24-A MRSA § 2006, sub-§ 1, as further amended by PL 1973, c. 585, § 12, is further amended to read:

1. The ~~superintendent~~ **commission** may by order declare eligible for export generally and without compliance with section 2004, subsections 2, 3 and 4, and section 2005, any class or classes of insurance coverage or risk for which ~~he~~ **it** finds, after a hearing of which notice was given to each insurer authorized to transact such class or classes in this State, that there is not a reasonable or

adequate market among authorized insurers either as to acceptance of the risk, contract terms, or premium or premium rate. Any such order shall continue in effect during the existence of the conditions upon which predicated, but subject to earlier termination by the ~~superintendent~~ **commission**.

Sec. 268. 24-A MRSA § 2006, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The broker shall file with or as directed by the commission a memorandum as to each such coverage placed by it in an unauthorized insurer, in such form and context as the commission may reasonably require for the identification of the coverage and determination of the tax payable to the State relative thereto.

Sec. 269. 24-A MRSA § 2007, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The commission shall from time to time publish a list of all surplus lines insurers deemed by it to be eligible currently, and shall mail a copy of such list to each broker at his office last of record with the commission. This subsection shall not be deemed to cast upon the commission the duty of determining the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the commission, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the commission has no credible evidence to the contrary. While any such list is in effect, the broker shall restrict to the insurers so listed all surplus lines business placed by him.

Sec. 270. 24-A MRSA § 2009, 2nd ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

“This insurance contract is issued pursuant to the Maine Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Maine Insurance Commission.”

Sec. 271. 24-A MRSA § 2012, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

1. Any person while licensed in this State as a resident general lines agent or as a general lines broker, who is deemed by the commission to be competent and trustworthy with respect to the handling of surplus lines, and while maintaining an office at a designated location in this State, may be licensed as a surplus lines broker.

2. Application for the license shall be made to the commission on forms as designated and furnished by the commission.

Sec. 272. 24-A MRSA § 2013, sub-§ 1, first ¶, as repealed and replaced by PL 1977, c. 694, § 411, is amended to read:

The ~~superintendent~~ **commission** may file a complaint with the Administrative Court seeking suspension or revocation of any surplus lines broker's license:

Sec. 273. 24-A MRSA § 2013, sub-§ 1, ¶ B, as amended by PL 1973, c. 585, § 12, is further amended to read:

B. If the broker fails to maintain an office in this State, or to keep the records, or to allow the **superintendent commission** to examine his records as required by this law, or if he removes his records from the State; or

Sec. 274. 24-A MRSA § 2013, sub-§ 3, as repealed and replaced by PL 1977, c. 694, § 412, is amended to read:

3. Upon a ruling by the Administrative Court suspending or revoking a broker's surplus lines license the **superintendent commission** may file a complaint with the Administrative Court seeking the suspension or revocation of all other licenses held by the same individual under this Title.

Sec. 275. 24-A MRSA § 2015, sub-§ 1, ¶ I, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

I. Other information as may be required by the commission.

Sec. 276. 24-A MRSA § 2015, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. The record shall not be removed from this State and shall be open to examination by the **superintendent commission** at all times within 5 years after issuance of the coverage to which it relates.

Sec. 277. 24-A MRSA § 2016, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2016. Monthly report of broker

Each broker shall file a monthly report with the **superintendent commission** showing the amount of insurance placed for any person or organization, the location of each risk, the gross premium charged, the names of each insurer in which the insurance was placed, the date and term of each insurance contract issued and any other pertinent information required by the **superintendent commission**. The report shall show in the same detail each contract cancelled during the month covered by the report and the return premium on it.

Sec. 278. 24-A MRSA § 2017, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Each broker shall file an annual report in January with the **superintendent commission** and the Treasurer of State containing a sworn statement of the gross premium charged for insurance placed, and the gross return premiums on the insurance cancelled, during the year ending on the 31st of the preceding December. At the time of filing the report, he shall pay to the Treasurer of State 3% of the difference between the gross premiums and the return premiums reported for the business transacted during the year.

Sec. 279. 24-A MRSA § 2018, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 2018. Failure to file statement or remit tax — penalty

If any broker fails to file his annual statement, or fails to remit the tax provided by section 2017, prior to the first day of March after the tax is due, and if in the commission's opinion such failure is without just cause, he shall be liable for a fine of \$25 for each day of delinquency commencing with the first day of March. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commission in any court of competent jurisdiction. Any fine collected by the commission shall be paid to the Treasurer of State and credited to the Insurance Regulatory Fund.

Sec. 280. 24-A MRSA § 2019, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. Service of legal process against the insurer may be made in any such action by service of 2 copies thereof upon the commission, and payment of the service of process fee specified in section 601 (fee schedule). The commission shall forthwith mail a copy of the process served to the person designated by the insurer in the policy for the purpose, by prepaid registered or certified mail with return receipt requested. If no such person is so designated in the policy, the commission shall in like manner mail a copy of the process to the broker through whom such insurance was procured, or to the insurer at its principal place of business, addressed to the address of the broker or insurer, as the case may be, last of record with the commission. Upon service of process upon the commission in accordance with this provision, the court shall be deemed to have jurisdiction in personam of the insurer.

Sec. 281. 24-A MRSA § 2019, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. An unauthorized insurer issuing such policy shall be deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy shall contain a provision stating the substance of this section, and designating the person to whom the ~~superintendent~~ **commission** shall mail process as provided in subsection 2.

Sec. 282. 24-A MRSA § 2101, sub-§ 2, ¶ A, as last amended by PL 1973, c. 625, § 141, is repealed and the following enacted in its place:

A. Matters authorized to be done by the commission under the Unauthorized Insurers Process Act, sections 2102 to 2108;

Sec. 283. 24-A MRSA § 2102, first sentence, as last amended by PL 1973, c. 625, § 142, is further amended to read:

The purpose of sections 2102 to 2108 (Unauthorized Insurers Process Act) and sections 2109 to 2111 (Unauthorized Insurers False Advertising Process Act) is to subject certain insurers to the jurisdiction of the ~~superintendent~~ **commission** and the courts of this State in suits and disciplinary proceedings as provided therein, by or on behalf of insureds or beneficiaries under insurance contracts or the ~~superintendent~~ **commission**.

Sec. 284. 24-A MRSA § 2104, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2104. Commission process agent

Solicitation, effectuation or delivery of any insurance contract, by mail or otherwise, within this State by an unauthorized insurer, or the performance within this State of any other service or transaction connected with such insurance by or on behalf of such insurer, shall be deemed to constitute an appointment by such insurer of the **superintendent commission** and his successors in office as its attorney, upon whom may be served all lawful process issued within this State in any action or proceeding against such insurer arising out of any such contract or transaction; and shall be deemed to signify the insurer's agreement that any such service of process shall have the same legal effect and validity as personal service of process upon it in this State.

Sec. 285. 24-A MRSA § 2105, sub-§ 1, first and 2nd sentences, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

Service of process upon any such insurer pursuant to section 2104 shall be made by delivering to and leaving with the commission or some person in apparent charge of its office 2 copies thereof and the payment to him of the fees as prescribed by section 601. The commission shall forthwith mail by registered or certified mail one of the copies of such process to the defendant at its principal place of business last known to the commission, and shall keep a record of all process so served upon him.

Sec. 286. 24-A MRSA § 2106, first ¶, as amended by PL 1973, § 585, § 12, is further amended to read:

Sections 2104 and 2105 shall not apply to surplus lines insurance lawfully effectuated under chapter 19, or to reinsurance, or to any action or proceeding against an unauthorized insurer arising out of any of the following where the policy or contract contains a provision designating the **superintendent commission** as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such policy, or where the insurer enters a general appearance in any such action:

Sec. 287. 24-A MRSA § 2110, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2110. Notice to domiciliary supervisory official

No unauthorized insurer through any estimate, illustration, circular, pamphlet, letter, announcement, statement, or any other means or medium, shall misrepresent to any person in this State as to its financial condition or the terms of any contract issued or to be issued by it or the advantages thereof, or the dividends or share to be received thereon. Whenever the **superintendent commission** has reason to believe that any such insurer is so misrepresenting, **he** **it** shall so notify the insurer and the insurance supervisory official of the insurer's domiciliary state or province by registered or certified mail.

Sec. 288. 24-A MRSA § 2111, as last amended by PL 1977, c. 694, § 413, is repealed and the following enacted in its place:

§ 2111. Action by commission

1. If within 30 days following the giving of the notice provided for in section 2110, the insurer has not ceased such dissemination, and if the commission has reason to believe that such insurer is soliciting, issuing or delivering contracts of insurance to residents of this State or collecting premiums on such contracts or performing any other transaction in connection with such insurance, and that a proceeding by it in respect to such matters would be to the interest of the public, it shall take action against such insurer under section 2167 (Trade Practices Act, service of process on unauthorized insurers).

2. If upon such hearing, held in accordance with the provisions set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, the commission finds that the insurer has misrepresented as referred to in section 2110, it shall by order on such hearing require the insurer to cease and desist from such violation, and shall mail a copy of the order by registered or certified mail to the insurer at its principal place of business last of record with the commission and to the insurance supervisory official of the insurer's domiciliary state or province. Each violation thereafter of such desist order shall subject the insurer to a penalty of \$2,000, to be recovered by a civil action brought against the insurer by the commission. Service of process upon the insurer in such action may be made upon the commission pursuant to sections 2105 or 2167 or in any other lawful manner.

Sec. 289. 24-A MRSA § 2112, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The Attorney General upon request of the ~~superintendent~~ **commission** may proceed in the courts of this State or any reciprocal state or in any federal court or agency to enforce an order or decision in any court proceeding or in any administrative proceeding before the ~~superintendent~~ **commission**.

Sec. 290. 24-A MRSA § 2112, sub-§§ 2 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

2. **List of reciprocal states.** The ~~superintendent~~ **commission** shall determine which states qualify as reciprocal states and shall maintain at all times an up-to-date list of such states.

3. **Filing and status of foreign decrees.** A copy of any foreign decree authenticated in accordance with the Act of Congress or the statutes of this State may be filed in the office of the clerk of any Superior Court of this State. The clerk, upon verifying with the ~~superintendent~~ **commission** that the decree or order qualifies as a foreign decree, shall treat the foreign decree in the same manner as a decree of a Superior Court of this State. A foreign decree so filed has the same effect and shall be deemed as a decree of a Superior Court of this State, and is

subject to the same procedures, defenses and proceedings for reopening, vacating or staying as a decree of a Superior Court of this State and may be enforced or satisfied in like manner.

Sec. 291. 24-A MRSA § 2112, sub-§ 4, ¶ B, as amended by PL 1973, c. 585, § 12, is further amended to read:

B. Promptly upon the filing of the foreign decree and the affidavit, the clerk shall mail notice of the filing of the foreign decree to the defendant at the address given, and to the **superintendent commission**, and shall make a note of the mailing in the docket. In addition, the Attorney General may mail a notice of the filing of the foreign decree to the defendant and to the **superintendent commission** and may file proof of mailing with the clerk. Lack of mailing notice or filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the Attorney General has been filed.

Sec. 292. 24-A MRSA § 2113, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Every insured who in this State procures or causes to be procured or continues or renews insurance in an unauthorized foreign insurer, or any self-insurer who in this State so procures or continues excess loss, catastrophe or other insurance, upon a subject of insurance resident, located or to be performed within this State, other than insurance procured through a surplus line broker pursuant to the Surplus Line Law of this State or exempted from tax pursuant to section 2002, shall within 30 days after the date such insurance was so procured, continued or renewed file a written report of the same with the **superintendent commission** on forms designated by the **superintendent commission** and furnished to the insured upon request. The report shall show the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor, and such additional pertinent information as the **superintendent commission** reasonably requests. If the insurance covers also a subject of insurance resident, located or to be performed outside this State, a proper pro rata portion of the entire premium payable for all such insurance shall be allocated to this State for the purposes of this section.

Sec. 293. 24-A MRSA § 2113, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. For the general support of the government of this State, there is levied upon the insured with respect to the obligation, chose in action or right represented by such insurance, a tax at the rate of 3% of the gross amount of the premium charged for the insurance. Within 30 days after the insurance was so procured, continued or renewed, and coincidentally with the filing with the **superintendent commission** of the report provided for in subsection 1, the insured shall pay the amount of the tax to the **superintendent commission**.

Sec. 294. 24-A MRSA § 2113, sub-§§ 5 and 6, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

5. The tax shall be collectible from the insured by civil action brought by the commission, or by the distraint.

6. The commission shall promptly deposit all taxes and interest collected under this section with the Treasurer of State to the credit of the General Fund.

Sec. 295. 24-A MRSA § 2162, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. No property, casualty or surety insurer or any employee or representative thereof, and no broker, agent or solicitor as to such insurance shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified or provided for in the policy, except to the extent provided for in an applicable filing with the superintendent commission as provided by law.

Sec. 296. 24-A MRSA § 2165, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. If, after a hearing thereon of which notice of such hearing and of the charges against him were given such person, the superintendent commission finds that any person in this State has engaged or is engaging in any act or practice defined in or prohibited under this chapter, or that a resident of this State has so engaged or is so engaging in another state, the superintendent commission shall order such person to desist from such acts or practices.

2. Such desist order shall become final upon expiration of the time allowed for appeals from the superintendent's commission's orders, if no such appeal is taken, or, in the event of such an appeal, upon final decision of the court, if the court affirms the superintendent's commission's order or dismisses the appeal. An intervenor in such hearing shall have the right to appeal as provided in section 236.

Sec. 297. 24-A MRSA § 2165, sub-§§ 3 and 4, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

3. In event of such an appeal, to the extent that the commission's order is affirmed, the court shall issue its own order commanding obedience to the terms of the commission's order.

4. No order of the commission pursuant to this section or order of court to enforce it shall in any way relieve or absolve any person affected by such order from any other liability, penalty or forfeiture under law.

Sec. 298. 24-A MRSA § 2166, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. If the ~~superintendent~~ **commission** believes that any person engaged in the insurance business is engaging in this State, or that any resident of this State engaged in the insurance business is engaging in another state, in any method of competition or in any act or practice not defined in this chapter, in the conduct of such business, which is unfair or deceptive and that a proceeding by ~~him~~ **it** in respect thereto would be in the public interest, ~~he~~ **it** shall, after a hearing of which notice of the hearing and of the charges against him are given such person, make a written report of ~~his~~ **its** findings of fact relative to such charges and serve a copy thereof upon such person and any intervenor at the hearing.

2. If such report charges a violation of this chapter and if such method of competition, act or practice has not been discontinued, the ~~superintendent~~ **commission** may at any time after 20 days after the service of such report cause an action to be instituted in the Superior Court of the county wherein the person resides or has his principal place of business to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs or orders as are ancillary to its jurisdiction or necessary in its judgment to prevent injury to the public pendente lite; but the people of this State shall not be required to give security before the issuance of any order or injunction under this section. If a stenographic record of the proceedings in the hearing before the ~~superintendent~~ **commission** was made, a certified transcript thereof including all evidence taken and the report and findings shall be received in evidence in such action.

Sec. 299. 24-A MRSA § 2166, sub-§ 3, ¶¶ **B and C**, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

B. The proceedings by the commission with respect thereto is to the interest of the public; and

C. The findings of the commission are supported by the weight of the evidence,

Sec. 300. 24-A MRSA § 2166, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. If the ~~superintendent's~~ **commission's** report made under subsection 1 or order on hearing made under section 235 does not charge a violation of this chapter, then any intervenor in the proceedings may appeal therefrom within the time and the manner provided in this Title for appeals from the ~~superintendent~~ **commission** generally.

Sec. 301. 24-A MRSA § 2167, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Service of all process, statements of charges and notices under this chapter upon unauthorized insurers shall be made by any ~~deputy or~~ employee of the ~~bureau~~ **commission** delivering to and leaving with the ~~superintendent~~ **commission** or some person in apparent charge of ~~his~~ **its** office 2 copies thereof, or in the manner provided for by section 2105 (service of process, Unauthorized Insurers Process Act).

Sec. 302. 24-A MRSA § 2167, sub-§§ 2 and 3, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

2. The commission shall forward all such process, statements of charges and notices to the insurer in the manner provided in section 2105.

3. No default shall be taken against any such unauthorized insurer until expiration of 30 days after date of forwarding by the commission under subsection 1 or date of service of process, if under section 2105.

Sec. 303. 24-A MRSA § 2168, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. Any person violating this section shall be punished by a fine of not more than \$100 or by imprisonment of not more than 60 days, or by both; and if he holds a license from the ~~superintendent commission~~, he shall forfeit the same. The Superior Court, on complaint by any person that this section is being violated, may issue an injunction against such violation and may hold in contempt and punish therefor in case of disregard of such injunction.

Sec. 304. 24-A MRSA § 2169, last 2 sentences, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

Upon notice of any refusal of such tendered policy, the commission shall order the creditor or lender to accept the tendered policy if it determines that such refusal is not in accordance with the requirements set out in section 2168. Failure to comply with such an order of the commission shall be deemed a violation of this section.

Sec. 305. 24-A MRSA § 2170, sub-§ 3, as last amended by PL 1973, c. 585, § 12, is further amended to read:

3. Nothing in this section prevents the payment of the interest which may be charged on premium loans or premium advances in accordance with the security agreement, or the payment of dividends to group policyholders, provided that the payment of dividends to group credit life and group credit health policyholders shall be subject to such rules and regulations as shall be promulgated by the ~~superintendent commission~~.

Sec. 306. 24-A MRSA § 2174, sub-§ 2, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

No person shall willfully collect as premium or charge for insurance any sum in excess of the premium or charge application to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the ~~superintendent commission~~; or, in cases where classifications, premiums or rates are not required by this Title to be so filed and approved, such premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer.

Sec. 307. 24-A MRSA § 2179, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2179. Inquests into insurance frauds

On application in writing to the ~~superintendent~~ **commission** by an officer of any insurer doing business in the State, stating that he has reason to believe and does believe that any person has, by false representations, procured from the insurer an insurance, or that the insurer has sustained a loss by the fraudulent act of the insured or with his knowledge or consent, and requesting an investigation thereof, the ~~superintendent~~ **commission** shall summon and examine, under oath, at a time and place designated by ~~him~~ **it** any persons and require the production of all books and papers necessary for a full investigation of the facts and make report thereof, with the testimony by ~~him~~ **it** taken, to the insurer making such application.

Sec. 308. 24-A MRSA § 2302, sub-§ 1, ¶ C, as amended by PL 1973, c. 585, § 12, is further amended to read:

C. Property, marine and inland marine insurance on risks located in this State. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the ~~superintendent~~ **commission**, or as established by general custom of the business, as inland marine insurance.

Sec. 309. 24-A MRSA § 2302, sub-§ 3, as enacted by PL 1969, c. 132, § 1, is repealed and the following enacted in its place:

3. Worker's compensation shall first be subject to Title 39, but any parts of this chapter not inconsistent with such Title shall also apply. The filings required by Title 39, section 22 may be made on behalf of any worker's compensation insurer by a rating organization licensed in accordance with section 2310.

Sec. 310. 24-A MRSA § 2304, sub-§ 1, as last amended by PL 1973, c. 585, § 12, is further amended to read:

1. Every insurer shall file with the ~~superintendent~~ **commission**, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the effective date thereof, and shall indicate the character and extent of the coverage contemplated. Every such filing shall be made not less than 30 days in advance of the stated effective date unless such 30-day requirement is waived by the ~~superintendent~~ **commission**, and said effective date may be suspended by the ~~superintendent~~ **commission** for a period of time not to exceed 60 days.

Sec. 311. 24-A MRSA § 2304, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. When a filing is not accompanied by the information upon which the insurer supports such filing, and the ~~superintendent~~ **commission** does not have sufficient information to determine whether such filing meets the requirements of this chapter, ~~he~~ **it** shall require the insurer to furnish the information upon which it

supports the filing. Any filing may be supported by the experience, or judgment if experience is not available, of the insurer or rating organization making the filing, the experience of other insurers or rating organizations or any other factors which the insurer or rating organization deems relevant. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

Sec. 312. 24-A MRSA § 2304, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed the the following enacted in its place:

3. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commission, and shall become effective when filed and shall be deemed approved and in compliance with the requirements of this chapter until such time as the commission rejects the filing.

Sec. 313. 24-A MRSA § 2305, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 2305. Exemption from filing

Under such rules and regulations as it adopts, the commission may, by written order suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commission may make such examination as it deems advisable to ascertain whether any rates affected by such order meet the standards set forth in section 2303, subsection 1, paragraph B.

Sec. 314. 24-A MRSA § 2306, sub-§ 1, as last amended by PL 1973, c. 585, § 12, is further amended to read:

1. If at any time the ~~superintendent~~ **commission** has reason to believe that a filing does not meet the requirements of this chapter, or violates any of the provisions of chapter 23, ~~he it~~ shall, after a hearing held upon not less than 10 days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects ~~he it~~ finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

Sec. 315. 24-A MRSA § 2306, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. No such order shall be issued by the ~~superintendent~~ **commission** with respect to the rate of an insurer if such rate is one used by any other insurer, unless such order applies equally to all insurers using such rate. Such order may be issued to an insurer without being applicable to all other insurers using the same rate, if the basis for such order is that the insurer affected thereby could not otherwise, with safety to the public and to its policyholders, be permitted to continue to transact business.

Sec. 316. 24-A MRSA § 2308, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 2308. Excess rates

Upon the written application of the insured, stating his reasons therefor, filed with and approved by the commission, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

Sec. 317. 24-A MRSA § 2309, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 2309. Rating organizations — filings for members and subscribers authorized

An insurer may satisfy its obligation to make filings required by section 2304 by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commission to accept such filings on its behalf. Nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

Sec. 318. 24-A MRSA § 2310, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this State, may make application to the ~~superintendent~~ **commission** for license as a rating organization for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application, and shall file therewith as applicable:

Sec. 319. 24-A MRSA § 2310, sub-§ 2, ¶¶ C and E, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

C. The name and address of a resident of this State upon whom notices or orders of the commission or process affecting such rating organization may be served;

E. A power of attorney appointing the commission to be the true and lawful attorney of such organization in and for this State, upon whom all lawful process in any action or proceeding against the organization, other than an action or proceeding instituted by the commission, may be served in the same manner as service of process on insurers under section 422.

Sec. 320. 24-A MRSA § 2310, sub-§ 3, as last amended by PL 1975, c. 767, § 20, is repealed and the following enacted in its place:

3. If the commission finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, it shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof for which the applicant

is authorized to act as a rating organization. At the time of issuance of such license, the commission shall establish a biennial continuation date for the purpose of biennial continuation of the license in force. Every such application shall be granted or denied in whole or in part by the commission within 60 days after the same has been filed with it.

Sec. 321. 24-A MRSA § 2310, sub-§ 4, as last amended by PL 1977, c. 694, § 416, is repealed and the following enacted in its place:

4. Licenses issued pursuant to this section shall remain in effect until midnight of the biennial continuation date and thereafter may be continued biennially unless the Administrative Court suspends or revokes the licenses following a complaint filed by the commission. The fee for the license and for each biennial continuation thereof shall be as specified in section 601, fee schedule.

Sec. 322. 24-A MRSA § 2310, sub-§ 5, as repealed and replaced by PL 1977, c. 694, § 417, is amended to read:

5. The ~~superintendent~~ **commission** may file a complaint with the Administrative Court seeking the suspension or revocation of licenses issued pursuant to this section in the event any rating organization ceases to meet the requirements of this section.

Sec. 323. 24-A MRSA § 2311, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Subject to rules and regulations which have been approved by the ~~superintendent~~ **commission** as reasonable, each rating organization shall permit any insurer to be a subscriber to its rating service for any kind of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its subscribers.

Sec. 324. 24-A MRSA § 2311, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commission at a hearing held upon at least 10 days' written notice to such rating organization and to such subscriber or insurer. If the commission finds that such rule or regulation is unreasonable in its application to subscribers, it shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within 30 days after it was made, the insurer may request a review by the commission as if the application had been rejected. If the commission finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, it shall order the rating organization to admit the insurer as a subscriber. If it finds that the action of the rating organization was justified, it shall make an order affirming the organization's action.

Sec. 325. 24-A MRSA § 2312, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2312. Notice of changes

Every rating organization shall notify the **superintendent commission** promptly of every change in its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business, its list of members and subscribers, and the name and address of the resident of this State designated by it upon whom notices or orders of the **superintendent commission** or process affecting such rating organization may be served.

Sec. 326. 24-A MRSA § 2315, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2315. Stamping bureau

Any fire insurance rating organization may provide for the examination of its members' and subscribers' policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within 60 days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, the rating organization shall notify the **superintendent commission** thereof. All information so submitted for examination shall be confidential.

Sec. 327. 24-A MRSA § 2317, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization, except that any such insurer may make written application to the **superintendent commission** for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization.

2. The **superintendent commission** shall set a time and place for a hearing at which the insurer and the rating organization may be heard and shall give them not less than 10 days' written notice thereof. If the **superintendent commission** is advised by the rating organization that it does not desire a hearing, ~~he~~ **the commission** may, upon the consent of the applicant, waive such hearing.

Sec. 328. 24-A MRSA § 2317, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. In considering the application for permission to file such deviation, the commission shall give consideration to the available statistics and the principles

for rate making as provided in section 2303. The commission shall issue an order permitting the deviation for the insurer to be filed if it finds it to be justified and it shall thereupon become effective. It shall issue an order denying the application, if it finds that the resulting premiums would be excessive, inadequate or unfairly discriminatory.

Sec. 329. 24-A MRSA § 2317, sub-§ 4, as repealed and replaced by PL 1975, c. 767, § 21, is amended to read:

4. Each deviation permitted to be filed shall be effective for a period of 2 years from the date of such permission unless terminated sooner with the approval of the **superintendent commission**.

Sec. 300. 24-A MRSA § 2318, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Any member of or subscriber to a rating organization may appeal to the **superintendent commission** from the action or decision of the rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization.

Sec. 331. 24-A MRSA § 2318, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The commission shall, after a hearing held upon not less than 10 days' written notice to the appellant and to the rating organization, issue an order approving the action or decision of the rating organization or directing it to give further consideration to such proposal; or if the appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, the commission may, in the event it finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings on behalf of its members and subscribers, in a manner consistent with the commission's findings, within a reasonable time after the issuance of such order.

Sec. 332. 24-A MRSA § 2319, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2319. Appeal by insurers and others as to filings

1. Any person or organization in interest aggrieved with respect to any filing which is in effect may make written application to the **superintendent commission** for a hearing thereon, except that the insurer or rating organization that made the filing shall not be authorized to proceed under this section. Such application shall specify the grounds to be relied upon by the applicant.

2. If the **superintendent commission** finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, ~~he~~ it shall, within 30 days after receipt of such application, hold a hearing upon not less than 10 days' written notice to the applicant and to every insurer and rating organization which made such filing.

3. If, after such hearing, the ~~superintendent~~ **commission** finds that the filing does not meet the requirements of this chapter, ~~he it~~ shall issue an order specifying in what respects ~~he it~~ finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to the applicant and to every such insurer and rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

Sec. 333. 24-A MRSA § 2320, sub-§ 2, last sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

Any party affected by the action of such rating organization or such insurer on such request may, within 30 days after written notice of such action, appeal to the ~~superintendent~~ **commission**, ~~who which~~, after a hearing held upon not less than 10 days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

Sec. 334. 24-A MRSA § 2321, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

Every advisory organization shall file with the ~~superintendent~~ **commission**:

Sec. 335. 24-A MRSA § 2321, sub-§ 2, ¶ C, as amended by PL 1973, c. 585, § 12, is further amended to read:

C. The name and address of a resident of this State upon whom notice or orders of the ~~superintendent~~ **commission** or process issued at ~~his it's~~ direction may be served; and

Sec. 336. 24-A MRSA § 2321, sub-§ 2, ¶ D, as last amended by PL 1973, c. 585, § 12, is further amended to read:

D. An agreement that the ~~superintendent~~ **commission** may examine such advisory organization in accordance with section 2328 (examinations).

Sec. 337. 24-A MRSA § 2321, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. If, after a hearing, the ~~superintendent~~ **commission** finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with this chapter, ~~he it~~ may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with this chapter, and requiring the discontinuance of such act or practice.

Sec. 338. 24-A MRSA § 2321, sub-§ 4, as last amended by PL 1973, c. 585, § 12, is further amended to read:

4. No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished

to it by an advisory organization which has not complied with this section or with an order of the ~~superintendent~~ **commission** involving such statistics or recommendations issued under subsection 3. If the ~~superintendent~~ **commission** finds such insurer or rating organization to be in violation of this subsection, ~~he~~ **it** may issue an order requiring the discontinuance of such violation.

Sec. 339. 24-A MRSA § 2322, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this chapter and with respect to joint reinsurance, to sections 2328 (examination), 2329 (penalties) and 2330 (appeals from ~~superintendent~~ **commission**).

2. If, after a hearing, the ~~superintendent~~ **commission** finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with this chapter, ~~he~~ **it** may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with this chapter, and requiring the discontinuance of such activity or practice.

Sec. 340. 24-A MRSA § 2323, sub-§ 1, as last amended by PL 1977, c. 694, § 418, is further amended to read:

1. The ~~superintendent~~ **commission**, acting pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, shall promulgate reasonable rules and statistical plans, reasonably adopted to each of the rating systems on file with ~~him~~ **it**, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers be made available at least annually in such form and detail as may be necessary to aid ~~him~~ **the commission** in determining whether rating systems comply with the standards set forth in section 2303. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this State and are not susceptible of determination by a prorating of countrywide expense experience.

Sec. 341. 24-A MRSA § 2323, sub-§§ 2 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

2. In promulgating such rules and plans, the ~~superintendent~~ **commission** shall give due consideration to the rating systems on file with ~~him~~ **it**, and in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it.

3. The ~~superintendent~~ **commission** may designate one or more rating organizations or other agencies to assist ~~him~~ **it** in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the ~~superintendent~~ **commission**, to insurers and rating organizations.

Sec. 342. 24-A MRSA § 2323, sub-§ 4, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

4. **Each insurer shall report its loss or expense experience to the lawful rating organization or agency of which it is a member or subscriber, but shall not be required to report its loss or expense experience to any rating organization or agency of which it is not a member or subscriber. Any insurer not reporting such experience to a rating organization or other agency may be required to report such experience to the commission. Any report of such experience of any insurer filed with the commission shall be deemed confidential and shall not be revealed by the commission to any other insurer or other person, but the commission may make compilations including such experience.**

Sec. 343. 24-A MRSA § 2324, sub-§ 1, as repealed and replaced by PL 1977, c. 694, § 419, is amended to read:

1. Acting in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, the ~~superintendent~~ **commission** may promulgate reasonable rules and plans for the interchange of data necessary for the application of rating plans.

Sec. 344. 24-A MRSA § 2324, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. In order to further uniform administration of rate regulatory laws, the ~~superintendent~~ **commission** and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

Sec. 345. 24-A MRSA § 2324, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter is authorized, but the filings resulting from such cooperation are subject to all provisions of this chapter which are applicable to filings generally. The ~~superintendent~~ **commission** may review such cooperative activities and practices and if, after a hearing, ~~he~~ **it** finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with this chapter, ~~he~~ **it** may issue a written order specifying in what respects such activity or practices is unfair or unreasonable or otherwise inconsistent with this chapter, and requiring the discontinuance of such activity or practice.

Sec. 346. 24-A MRSA § 2325, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Agreements may be made among casualty insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the **superintendent commission**.

Sec. 347. 24-A MRSA § 2325, sub-§ 2, ¶ D, as amended by PL 1973, c. 585, § 12, is further amended to read:

D. Hearings; appeal. A method whereby applicants for insurance, insureds and insurers may have a hearing on grievances and the right of appeal to the **superintendent commission**.

Sec. 348. 24-A MRSA § 2325, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. **The plan referred to in subsection 2 shall be filed in writing with the commission. The commission shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in subsection 2, paragraphs A, B, C and D. The plan, unless sooner approved in writing, shall be on file for a waiting period of 30 days before it becomes effective. The plan shall be deemed approved unless disapproved by the commission within the waiting period.**

Subsequent to the waiting period, the commission may disapprove the plan on the grounds that it does not meet the requirements set forth in subsection 2, paragraphs A, B, C and D, but only after a hearing held upon not less than 10 days' written notice to every insurer and rating organization affected, specifying the matters to be considered at such hearing, and only by an order specifying in what respect it finds that the plan fails to meet such requirements, and stating when within a reasonable period thereafter the plan shall be deemed no longer effective. Such order shall not affect any assignment made or policy issued or made prior to the expiration of the period set forth in the order. Amendments to the plan shall be prepared, filed and reviewed in the same manner as herein provided with respect to the original plan.

Sec. 349. 24-A MRSA § 2325, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. **If, after hearing, the superintendent commission finds that any activity or practice of any insurer or rating organization in connection with the operation of the plan referred to in subsection 2 is unfair or unreasonable or otherwise inconsistent with this section, he it may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with this section and requiring the discontinuance of such activity or practice.**

Sec. 350. 24-A MRSA § 2326, sub-§ 1, ¶¶ A and B, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

A. The commission;

B. Any statistical agency designated by the commission; or

Sec. 351. 24-A MRSA § 2328, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2328. Examinations

The ~~superintendent~~ **commission** shall examine the affairs, transactions, accounts and records of each rating organization licensed in this State as provided in section 2310, of each advisory organization in this State as defined in section 2321, and of joint underwriters and joint reinsurers as defined in sections 2322, as often as ~~he~~ **it** deems advisable, but not less frequently than once every 5 years. The examination shall be conducted in the same manner and is subject to the same applicable provisions as apply to examination of insurers in chapter 3. The reasonable costs of any such examination shall be paid by the organization or association so examined. In lieu of any such examination, the ~~superintendent~~ **commission** may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

Sec. 352. 24-A MRSA § 2329, sub-§ 2, as repealed and replaced by PL 1977, c. 694, § 420, is amended to read:

2. The ~~superintendent~~ **commission** may file a complaint with the Administrative Court seeking to suspend the license of any rating organization or insurer which fails to comply with an order of the ~~superintendent~~ **commission** within the time period provided by the order. No ruling of suspension shall become effective until the time prescribed for an appeal has expired, or if an appeal has been taken, until the order of suspension has been affirmed. The duration of the suspension shall be determined by the Administrative Court pursuant to the authority set forth in Title 4, chapter 25.

Sec. 353. 24-A MRSA § 2330, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 2330. Appeals from commission

Any insurer or rating organization aggrieved by any order or decision of the commission may appeal therefrom as provided in section 236. (appeal from the commission).

Sec. 354. 24-A MRSA § 2412, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2412. Filing, approval of forms

1. No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or

contract, or printed rider or endorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this State, unless the form has been filed with and approved by the **superintendent commission**. This provision shall not apply to surety bonds, or to specially rated inland marine risks, or to policies, riders, endorsements or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder or certificate holder. As to group insurance policies effectuated and delivered outside this State but covering persons resident in the State, the group certificates to be delivered or issued for delivery in this State and shall be filed, for the **superintendent's commission's** information only, with the **superintendent commission** at **his its** request. As to forms for use in property, marine other than wet marine and transportation insurance, casualty and surety insurance coverages, the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

2. Every such filing shall be made not less than 30 days in advance of any such delivery. At the expiration of such 30 days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the **superintendent commission**. Approval of any such form by the **superintendent commission** shall constitute a waiver of any unexpired portion of such waiting period. The **superintendent commission** may extend by not more than an additional 30 days the period within which **he it** may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial 30 days period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The **superintendent commission** may at any time, after hearing and for cause shown, withdraw any such approval.

3. Any order of the **superintendent commission** disapproving any such form or withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than 30 days after the giving of the order of withdrawal, as the **superintendent commission** shall in such order prescribe.

4. The **superintendent commission** may, by order, exempt from the requirements of this section for so long as **he it** deems proper any insurance document or form or type thereof as specified in such order, to which, in **his its** opinion, this section may not practicably be applied, or the filing and approval of which are, in **his its** opinion, not desirable or necessary for the protection of the public.

5. Appeals from orders of the ~~superintendent~~ **commission** disapproving any such form or withdrawing a previous approval may be taken as provided in sections 229 to 236.

Sec. 355. 24-A MRSA § 2413, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The ~~superintendent~~ **commission** shall disapprove any form filed under section 2412, or withdraw any previous approval thereof, only on one or more of the following grounds:

Sec. 356. 24-A MRSA § 2414, sub-§§ 1, 2 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Insurance contracts shall contain such standard or uniform provisions as are required by the applicable provisions of this Title pertaining to contracts of particular kinds of insurance. The ~~superintendent~~ **commission** may waive the required use of a particular provision in a particular insurance policy form if:

A. He It finds such provision unnecessary for or unrelated to the protection of the insured and inconsistent with the purposes of the policy, and

B. The policy is otherwise approved by ~~him~~ **it**.

2. No policy shall contain any provision inconsistent with or contradictory to any standard or uniform provision used or required to be used, but the ~~superintendent~~ **commission** may approve any substitute provision which is, in ~~his~~ **its** opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.

3. In lieu of the provisions required by this Title for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the ~~superintendent~~ **commission**.

Sec. 357. 24-A MRSA § 2417, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

Two or more insurers may, with the approval of the ~~superintendent~~ **commission**, issue a combination policy which shall contain provisions substantially as follows:

Sec. 358. 24-A MRSA § 2525, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. Nothing contained in this section shall prohibit any provision which in the opinion of the ~~superintendent~~ **commission** is more favorable to the policyholder than a provision permitted by this section.

Sec. 359. 24-A MRSA § 2529, sub-§ 1, first ¶, as last amended by PL 1973, c. 585, § 12, is further amended to read:

In the case of policies issued on or after January 1, 1970, no policy of life insurance, except as stated in section 2534, shall be issued or delivered in this

State, unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the ~~superintendent~~ **commission** are at least as favorable to the defaulting or surrendering policyholder:

Sec. 360. 24-A MRSA § 2531, sub-§ 4, last sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the ~~superintendent~~ **commission**.

Sec. 361. 24-A MRSA § 2537, sub-§ 4, as last amended by PL 1973, c. 585, § 12, is further amended to read:

4. Unless otherwise approved by the ~~superintendent~~ **commission**, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then in accordance with the terms of the contract or the rules or other written agreement applicable to such separate account; except, that unless otherwise approved by the ~~superintendent~~ **commission**, the portion of the assets of such separate account at least equal to the insurer's reserve liability with regard to the guaranteed benefits and funds referred to in section 1128, if any, shall be valued in accordance with rules otherwise applicable to the insurer's assets.

Sec. 362. 24-A MRSA § 2537, sub-§ 6, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

No insurer shall deliver or issue for delivery within this State any contract or agreement providing benefits in variable amounts under this section, unless it is duly authorized to conduct a life insurance or annuity business within this State and has satisfied the ~~superintendent~~ **commission** that its condition or methods of operation in connection with the issuance of such contracts or agreements will not render its operation hazardous to the public or its policyholders in this State. In determining the qualification of an insurer requesting such authority, the ~~superintendent~~ **commission** shall consider, among other things:

Sec. 363. 24-A MRSA § 2537, sub-§ 6, last ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

An insurer which issues variable contracts and which is a subsidiary of, or affiliated through common management or ownership with, another life insurer authorized to transact business in this State may be deemed by the ~~superintendent~~ **commission** to have met the provisions of this subsection, if either it or the parent or affiliated insurer meets the requirements hereof.

Sec. 364. 24-A MRSA § 2537, sub-§ 8, ¶B, as amended by PL 1973, c. 585, § 12, is further amended to read:

B. By a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the ~~superintendent~~ **commission**. The ~~superintendent~~ **commission** may approve other transfers among such accounts if, in ~~his~~ **its** opinion, such transfers would not be inequitable.

Sec. 365. 24-A MRSA § 2537, sub-§ 11, as last amended by PL 1973, c. 585, § 12, is further amended to read:

11. Notwithstanding any other provision of law, the **superintendent commission** shall have sole authority to regulate the issuance and sale of variable contracts and to promulgate such rules and regulations as may be necessary for the effectuation of this section.

Sec. 366. 24-A MRSA § 2571, as enacted by PL 1977, c. 261, § 2, is amended to read:

§ 2571. Eligibility

The University of Maine may receive transfers of property, conditioned upon its agreement to pay an annuity to the transferer or his nominee, after obtaining from the **superintendent commission** a certificate of authority to do so.

Sec. 367. 24-A MRSA § 2572, first and 2nd ¶¶, as enacted by PL 1977, c. 261, § 2, are amended to read:

The University of Maine, hereafter in this chapter called the "university," shall not transact in this State the business described in this chapter without first procuring a certificate of authority from the **superintendent commission** for that purpose. Application for this certificate shall be made on a form prescribed by the **commissioner commission** accompanied by a filing fee of \$25. This certificate shall not be granted until the university conforms to the requirements of this chapter and the laws of this State prerequisite to its issue. After its issue the university shall continue to comply with the requirements of this chapter and the laws of this State. Where a hearing is held under this section the proceedings shall be conducted in accordance with chapter 3 and the **superintendent commission** shall have all of the powers granted in that chapter.

Subject to the annual fee provision of this section, every certificate of authority issued or held under this chapter shall be for an indefinite term and, unless sooner revoked by the **superintendent commission**, shall terminate upon occurrence of any of the following:

Sec. 368. 24-A MRSA § 2572, sub-§ 3, as enacted by PL 1977, c. 261, § 2, is repealed and the following enacted in its place:

3. Surrender of certificate. In any event upon surrender by the university of its certificate of authority and cancellation of that certificate by the commission.

Sec. 369. 24-A MRSA § 2572, last 2 ¶¶, as enacted by PL 1977, c. 261, § 2, are amended to read:

The **superintendent commission** shall not cancel a surrendered certificate of authority until ~~he~~ it is satisfied by examination, or otherwise, that the university has discharged its annuity liabilities to residents of this State or satisfactorily reinsured those liabilities.

Notwithstanding the preceding provisions for a certificate of authority of indefinite term, if the university holds a certificate of authority under this chapter, it shall owe and pay in advance to the ~~superintendent~~ **commission** an annual fee of \$25 on account of that certificate of authority until its final termination or revocation. This fee shall be for annual periods commencing on July 1st of each year and ending on June 30th of each year, shall be due on each March 1st and, if not paid, shall be delinquent on and after each April 1st.

Sec. 370. 24-A MRSA § 2573, as enacted by PL 1977, c. 261, § 2, is amended to read:

§ 2573. Reserve requirements

Upon granting to the university a certificate of authority to receive transfers of property, the ~~superintendent~~ **commission** shall require it to establish and maintain a reserve fund adequate to meet the future payments under its outstanding contracts including a surplus of 10%, and in any event, not less than an amount computed in accordance with the 1971 Individual Annuity Table or any modification thereof, or such other table of mortality derived from recent annuity experience and with such interest assumption as may be authorized by the ~~Superintendent of Insurance~~ **commission**. Such fund shall be invested in the federally insured savings accounts of banks, United States Government securities or bonds with a rating of AAA or better.

For any failure on the part of the university to establish and maintain this reserve fund, the ~~superintendent~~ **commission** shall revoke its certificate of authority.

Sec. 371. 24-A MRSA § 2574, as enacted by PL 1977, c. 261, § 2, is amended to read:

§ 2574. Filing of agency agreements

The university shall, before making any agreement, file with the ~~Superintendent of Insurance~~ **commission** copies of its forms of agreements with annuitants and a schedule of its maximum annuity rates which shall be computed on the basis of the annuity standard adopted by it for the calculation of its reserves, as to return to the university upon the death of the annuitant a residue at least equal to 1/2 the original gift or other consideration for such annuity.

Sec. 372. 24-A MRSA § 2577, as enacted by PL 1977, c. 261, § 2, is amended to read:

§ 2577. Examinations

The ~~Superintendent of Insurance~~ **commission** shall cause to be examined the reserve fund every 3 years and provide the university with a written report of the financial status of such fund. This shall be done at the expense of the fund.

Sec. 373. 24-A MRSA § 2604, sub-§ 4, as repealed and replaced by PL 1977, c. 672, § 1, is amended to read:

4. The amount of credit life insurance shall at no time exceed the unpaid amount financed plus earned interest and an allowance for delinquencies as determined by the ~~superintendent~~ **commission** or, in the case of open-end credit, the balance upon which a finance charge may be imposed plus earned interest and an allowance for delinquencies as determined by the ~~superintendent~~ **commission**. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of 18 months, except that such insurance may be continued for an additional period not exceeding 6 months in the case of default, extension or recasting of the loan.

Sec. 374. 24-A MRSA § 2613, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

No policy of group life insurance shall be delivered in this State, unless it contains in substance the provisions set forth in sections 2613 to 2624 or provisions which in the opinion of the ~~superintendent~~ **commission** are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder; except that:

Sec. 375. 24-A MRSA § 2613, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. If the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the ~~superintendent~~ **commission** is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies.

Sec. 376. 24-A MRSA § 2703, sub-§ 7, as amended by PL 1973, c. 585, § 12, is further amended to read:

7. The policy shall contain no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the ~~superintendent~~ **commission**.

Sec. 377. 24-A MRSA § 2704, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Except as provided in subsection 2, each such policy delivered or issued for delivery to any person in this State shall contain the provisions specified in sections 2705 to 2716, in the words in which the same appear; except that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the ~~superintendent~~ **commission** which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provisions shall be preceded individually by the applicable caption shown, or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the ~~superintendent~~ **commission** may approve.

2. If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the ~~superintendent~~ **commission**, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

Sec. 378. 24-A MRSA § 2718, as last amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2718. Optional policy provisions

Except as provided in section 2704, subsection 2, no such policy delivered or issued for delivery to any person in this State shall contain provisions respecting the matters set forth in sections 2719 to 2728, unless such provisions are in the words in which the same appear in the applicable section, except that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the ~~superintendent~~ **commission** which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the ~~superintendent~~ **commission** may approve.

Sec. 379. 24-A MRSA § 2722, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. If the foregoing policy provision is included in a policy which also contains the policy provision set out in section 2723 there shall be added to the caption of the foregoing provision the phrase “—expense incurred benefits.” The insurer may, at its option, include in this provision a definition of “other valid coverage,” approved as to form by the ~~superintendent~~ **commission**, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the ~~superintendent~~ **commission**. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organization or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any ~~workmen’s~~ **worker’s** compensation or employer’s liability statute, whether provided by a governmental agency or otherwise shall in all cases be deemed to be “other valid coverage” of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as “other valid coverage.”

Sec. 380. 24-A MRSA § 2723, sub-§ 2, 2nd sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the ~~superintendent~~ **commission**, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the ~~superintendent~~ **commission**.

Sec. 381. 24-A MRSA § 2724, last 2 sentences, as amended by PL 1973, c. 585, § 12, are further amended to read:

The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the ~~superintendent~~ **commission**, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any Province of Canada, or to any other coverage the inclusion of which may be approved by the ~~superintendent~~ **commission** or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute, including any ~~workmen's~~ **worker's** compensation or employer's liability statute, or benefits provided by union welfare plans or by employer or employee benefit organizations.

Sec. 382. 24-A MRSA § 2729-A, 2nd ¶, as enacted by PL 1975, c. 471, § 1, is amended to read:

A policy may contain a provision that allows such payments, if that provision is approved by the ~~superintendent~~ **commission**, and if that provision requires the prior written approval of the insured and allows such payments only on a just and equitable basis and not on the basis of a priority lien. A just and equitable basis shall mean that any factors that diminish the potential value of the insured's claim shall likewise reduce the share in the claim for those claiming payment for services or reimbursement. Such factors shall include, but are not limited to:

Sec. 383. 24-A MRSA § 2733, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 2733. Policies issued for delivery in another state

If any policy is issued by a domestic insurer for delivery to a person residing in another state and if the insurance commission or corresponding public official of such other state has informed the commission that any such policy is not subject to approval or disapproval by such official, the commission may by ruling require that the policy meet the standards set forth in sections 2703 to 2732.

Sec. 384. 24-A MRSA § 2736, sub-§§ 1 and 2, as repealed and replaced by PL 1977, c. 493, § 3, are amended to read:

1. Filing of rate information. Every insurer issuing individual health insurance policies for delivery in this State shall file with the ~~superintendent~~ **commission**, every rate, rating formula and classification of risks pertaining to such policies and every modification of any of the foregoing which it proposes to use. Every such insurer shall file with the ~~superintendent~~ **commission**, except as to group policy rates, every rate and rating formula and every modification of any of the foregoing which it proposes to use. Every such filing shall state the effective date thereof. Every such filing shall be made not less than 30 days in advance of the stated effective date unless such 30-day requirement is waived by the ~~superintendent~~ **commission**, and the effective date may be suspended by the ~~superintendent~~ **commission** for a period of time not to exceed 30 days.

2. Rate filing; public information. When a filing is not accompanied by the information upon which the insurer supports such filing, and the ~~superintendent~~ **commission** does not have sufficient information to determine whether such filing meets the requirements that rates shall not be excessive, inadequate or unfairly discriminatory, the ~~superintendent~~ **commission** shall require the insurer to furnish the information upon which it supports the filing. A filing and any ~~supporting~~ **supporting** information shall be open to public inspection after the filing becomes effective.

Sec. 385. 24-A MRSA § 2736-A, first and 2nd sentences as enacted by PL 1977, c. 493, § 4, are amended to read:

If, at any time, the ~~superintendent~~ **commission** has reason to believe that a filing does not meet the requirements that rates shall not be excessive, ~~inadequate~~ **inadequate** or unfairly discriminatory and violates any of the provisions of chapter 23, ~~he~~ **it** shall, after a hearing held upon not less than 10 days' written notice to the insurer making the filing specifying the matters to be considered at such hearing, issue an order specifying in what respects, if any, ~~he~~ **it** finds that such filing fails to meet the requirements that rates shall not be excessive, inadequate or unfairly discriminatory and stating when, within a reasonable time period thereafter, such filing shall be deemed no longer effective. The ~~superintendent~~ **commission** shall have the burden of proof at any hearing concerning a determination that the rates are excessive, inadequate or unfairly discriminatory.

Sec. 386. 24-A MRSA § 2738, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission shall have the right to make the following requirements:

Sec. 387. 24-A MRSA § 2738, sub-§ 1, 2nd sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

The caption shall be clear and definite and shall be approved by the ~~superintendent~~ **commission**; but anyone of the following captions is acceptable:

Sec. 388. 24-A MRSA § 2808, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2808. Other groups

A group of individuals may be insured under a policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this State under this Title to insure any class or classes of individuals that could be issued under such group life policy. A group health insurance policy may also be issued to cover any other group which in the ~~superintendent~~ **commission's** discretion is substantially similar.

Sec. 389. 24-A MRSA § 2813, sub-§ 9, as amended by PL 1973, c. 585, § 12, is further amended to read:

9. Under a policy or contract issued to cover any other risk or class of risks which, in the discretion of the ~~superintendent~~ **commission**, may be properly eligible for blanket health insurance. The discretion of the ~~superintendent~~ **commission** may be exercised on an individual risk basis or class of risks, or both.

Sec. 390. 24-A MRSA § 2816, as last amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2816. Requirements

No policy of group or blanket health insurance shall, except as provided in section 2829, be delivered or issued for delivery in this State, unless the policy contains in substance each and all of the provisions set forth in sections 2817 to 2828, or provisions which in the opinion of the ~~superintendent~~ **commission** are more favorable to the holders of such certificates or not less favorable to the holders of such certificates and more favorable to policyholders.

Sec. 391. 24-A MRSA § 2830, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2830. Omissions, modifications: commission may approve

The ~~superintendent~~ **commission** may approve any form of group or blanket health insurance policy, or any form of certificate or printed information to be issued under such policy, which omits or modifies any of the provisions hereinbefore required, if ~~he~~ **it** deems such omission or modification suitable for the character of such insurance and not unjust to the persons insured thereunder.

Sec. 392. 24-A MRSA § 2836, 2nd ¶, as enacted by PL 1975, c. 770, § 108, is amended to read:

A policy may contain a provision that allows such payments, if that provision is approved by the ~~superintendent~~ **commission**, and if that provision requires the prior written approval of the insured member and allows such payments only on a just and equitable basis, and not on the basis of a priority lien. A just and equitable basis shall mean that any factors that diminish the potential value of the insured member's claim shall likewise reduce the share in the claim for those claiming payment for services or reimbursement. Such factors shall include, but are not limited to:

Sec. 393. 24-A MRSA § 2855, sub-§ 1, ¶ A, as repealed and replaced by PL 1977, c. 672, § 2, is amended to read:

A. The amount of credit life insurance shall at not time exceed the unpaid amount financed plus earned interest and an allowance for delinquencies as determined by the ~~superintendent~~ **commission** or, in the case of open-end credit, the balance upon which a finance charge may be imposed, plus earned interest and an allowance for delinquencies as determined by the ~~superintendent~~ **commission**.

Sec. 394. 24-A MRSA § 2858, as last amended by PL 1977, c. 694, § 423, is further amended to read:

§ 2858. Filing, approval and withdrawal of forms, rates; appeals

1. Forms filed. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and the schedules of premium rates pertaining thereto shall be filed with the ~~superintendent~~ **commission**.

2. Approval of forms and rates. The ~~superintendent~~ **commission** shall within 30 days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of insurance laws or of any regulation promulgated thereunder. In determining whether to disapprove any such form or premium rates, the ~~superintendent~~ **commission** shall give due consideration to past and prospective loss experience and mortality or morbidity rates, based on an appropriate mortality or morbidity table, and claim adjustment expenses, general administrative expenses, including handling cost for return premiums, commissions to agents, cost and compensation to the creditor, branch and field expenses and other acquisition costs, federal, state and local taxes, profit to the insurer, reasonable underwriting judgment, and any and all other factors and trends demonstrated to be relevant. The insurer may support these factors by statistical information, experience, actuarial computations and estimates certified by an executive officer of the insurer, and the ~~superintendent~~ **commission** shall give due consideration to such supporting data.

3. Notice of disapproval; waiting period. If the ~~superintendent~~ **commission** notifies the insurer that the form or rates are disapproved, it is unlawful thereafter for such insurer to issue or use such form or rates. In such notice, the ~~superintendent~~ **commission** shall specify the reason for ~~his~~ **its** disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, or any application, endorsement or rider or rate shall be issued or used until the expiration of 30 days after it has been so filed, unless the ~~superintendent~~ **commission** shall give ~~his~~ **its** prior written approval thereto.

4. Approval withdrawn. The ~~superintendent~~ **commission** may, at any time after a hearing held not less than 20 days after written notice to the insurer, withdraw ~~his~~ **its** approval of any such form or rate on any ground set forth in subsection 2. The written notice of such hearing shall state the reason for the proposed withdrawal. The insurer shall not use a form or rate after withdrawal. The insurer shall not use a form or rate after withdrawal of approval thereof.

5. Group certificate filing. If a group policy of credit life insurance or credit health insurance has been delivered in this State before September 16, 1961, or has been or is delivered in another state before or after such date, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in section 2857, subsections 2 and 4, and such forms shall be approved by the ~~superintendent~~ **commission** if they conform with the requirements specified in such subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the ~~superintendent~~ **commission**.

All hearings held under this section shall be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 395. 24-A MRSA § 2859, sub-§ 1, as last amended by PL 1977, c. 672, § 3, is further amended to read:

1. Rates filed. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the ~~superintendent~~ **commission**; however, no upward revision in premium rates may be made to insure closed-end credit which would apply to debtors whose credit insurance is already in force. In the case of open-end credit, the debtor must be given a 31-day notice prior to an upward revision unless a waiver of that notice is obtained from the ~~superintendent~~ **commission**, in which case the notice of the upward revision must be given at the next regular billing cycle. No insurer shall issue any credit life insurance policy or credit health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the ~~superintendent~~ **commission**.

Sec. 396. 24-A MRSA § 2859, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. Refund. Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the debtor. The ~~superintendent~~ **commission** shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the ~~superintendent~~ **commission**.

Sec. 397. 24-A MRSA § 2860, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2860. Authorized insurer, agent required

All policies of credit life insurance and credit health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to transact such insurance therein, and shall be issued only through holders of licenses or authorizations issued by the ~~superintendent~~ **commission**.

Sec. 398. 24-A MRSA § 2864, as last amended by PL 1977, c. 694, § 424, is further amended to read:

§ 2864. Enforcement

Whenever the ~~superintendent~~ **commission** finds that there has been a violation of this chapter or any regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the ~~superintendent~~ **commission**, such hearing to conform to the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, ~~he~~ **it** shall set forth the details of ~~his~~ **its** findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the ~~superintendent~~ **commission** on the date specified unless sooner withdrawn by the ~~superintendent~~ **commission**.

Sec. 399. 24-A MRSA § 2915, last ¶, as repealed and replaced by PL 1977, c. 403, § 3, is amended to read:

The reason shall accompany the notice of cancellation and, except for policies in force less than 60 days, a notification of the right to apply for a hearing before the ~~Superintendent of Insurance~~ **commission** within 15 days as provided herein shall accompany the notice of cancellation.

Sec. 400. 24-A MRSA § 2917, 2nd ¶, last sentence, as enacted by PL 1977, c. 597, is amended to read:

A notice of a right to apply for a hearing before the ~~Superintendent of Insurance~~ **commission** within 15 days as provided herein shall accompany the notice of intent not to renew.

Sec. 401. 24-A MRSA § 2920, as last amended by PL 1977, c. 694, § 426, is further amended to read:

§ 2920. Hearing before commission

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 Superintendent~~ **commission**. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence given 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 Superintendent~~ **commission** shall have the authority to order that a policy continue in effect. Acting in conformity with the Maine Administrative

Procedure Act, Title 5, chapter 375, subchapter II, the ~~Insurance Superintendent~~ **commission** shall adopt rules and regulations for carrying out this section.

Sec. 402. 24-A MRSA § 2922, as enacted by PL 1977, c. 403, § 6, is amended to read:

§ 2922. Commission's authority to suspend

In the event of impairment or serious financial difficulty of an insurer, the ~~superintendent~~ **commission** shall have the authority to suspend the provisions of this Act from applying to the policies of the financially distressed insurer.

Sec. 403. 24-A MRSA § 2939, sub-§ 2, as enacted by PL 1973, c. 625, § 146, and 1973, c. 585, § 12, is further amended to read:

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 ~~superintendent~~ **commission**.

Sec. 404. 24-A MRSA § 2940, as enacted by PL 1973, c. 625, § 146, and as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 2940. Applicability

This chapter shall be applicable only to insurance policies issued or renewed in this State after November 1, 1973 and is in addition to, and not in substitution for, other applicable requirements of the Maine Insurance Code and ~~bureau~~ **commission** regulations.

Sec. 405. 24-A MRSA § 3003, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. The ~~superintendent~~ **commission** is satisfied that such policy or contract complies with the provisions hereof.

Sec. 406. 24-A MRSA § 3004, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 3004. Lines numbered consecutively

The lines of the conditions of the standard fire insurance policy shall be numbered consecutively at the option of the ~~superintendent~~ **commission**.

Sec. 407. 24-A MRSA § 3049, next to the last ¶, as amended by PL 1977, c. 414, § 1, is further amended to read:

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. An insured shall not have the right to a hearing before the ~~Superintendent of Insurance~~ **commission** for that purpose of contesting cancellation of a new policy that has been in force less than 60 days.

Sec. 408. 24-A MRSA § 3050, last ¶, as repealed and replaced by PL 1977, c. 414, § 3, is amended to read:

The reason shall accompany the notice of cancellation and, except for policies in force less than 60 days, a notification of the right to apply for a hearing before the ~~Superintendent of Insurance~~ **commission** within 15 days as provided herein shall accompany the notice of cancellation.

Sec. 409. 24-A MRSA § 3051, first ¶, last sentence, as amended by PL 1977, c. 414, § 4, is further amended to read:

The reason shall accompany the notice of intent not to renew, together with notification of the right to apply for a hearing before the ~~Superintendent of Insurance~~ **commission** within 15 days as provided.

Sec. 410. 24-A MRSA § 3054, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 3054. Hearing before commission

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 Superintendent~~ **commission**. 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 Superintendent~~ **commission** shall adopt rules and regulations for carrying out this section. If the insurer does not meet the burden of proof, the ~~Insurance Superintendent~~ **commission** shall have the authority to order the policy to continue in effect.

Sec. 411. 24-A MRSA § 3055, as enacted by PL 1977, c. 414, § 6, is amended to read:

§ 3055. Commission's authority to suspend

In the event of impairment or serious financial difficulty of an insurer or insurers, the ~~superintendent~~ **commission** shall have the authority to suspend the provisions of the Maine Property Insurance Cancellation Control Act from applying to the policies of the financially distressed insurer or insurers.

Sec. 412. 24-A MRSA § 3104, as repealed and replaced by PL 1977, c. 330, is amended to read:

§ 3104. Notice of authorization to registers of probate

Whenever any surety insurer is authorized to transact business in this State, the ~~superintendent~~ **commission** shall maintain the name of such insurer and the names of all agents of such insurer who have been licensed by him, their places of residence and the dates when their licenses will expire, and the names and addresses of all attorneys-in-fact registered with him.

Sec. 413. 24-A MRSA § 3307, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. The incorporators of a proposed insurer shall deliver the quadruplicate originals of the certificate of organization to the ~~superintendent~~ **commission**. The ~~superintendent~~ **commission** shall deliver one set of such originals to the Attorney General of this State, and the Attorney General shall examine the same. If the Attorney General finds that the certificate of organization complies with law, he shall so certify in writing and return the original of the certificate of organization, so certified, to the ~~superintendent~~ **commission**.

2. When the certificate of organization has been so approved and returned by the Attorney General, the ~~superintendent~~ **commission** shall also endorse ~~his~~ **its** approval upon each set thereof and return the quadruplicate originals of the certificate of organization to the incorporators. The incorporators shall then file one of such sets with the Secretary of State of this State, one set with the ~~superintendent~~ **commission** bearing the certification of the Secretary of State, one set for recording in the registry of deeds of the county in this State in which the corporation's principal place of business is to be located, and shall retain the remaining set in the corporate records.

Sec. 414. 24-A MRSA § 3307, sub-§§ 4,5,6 and 7, as amended by PL 1973, c. 585, § 12, are further amended to read:

4. If the Attorney General finds that the proposed certificate of organization does not comply with law, he shall refuse to approve the same and shall return the set thereof to the ~~superintendent~~ **commission**, together with a written statement of the respects in which he finds that the certificate does not so comply. The ~~superintendent~~ **commission** shall thereupon return all sets of the proposed certificate of organization to the proposed incorporators together with the Attorney General's written statement.

5. The Secretary of State shall not permit the filing in that office of any such certificate unless the same bears the ~~superintendent's~~ **commission's** approval endorsed thereon as hereinabove provided.

6. The approval of the Attorney General or ~~superintendent~~ **commission**, as hereinabove provided for, shall be deemed to relate only to the form and contents of the certificate, and shall not constitute approval or commitment as to any other aspect or operation of the proposed insurer or relative to its entitlement, if any, to a certificate of authority.

7. The ~~superintendent~~ **commission** and Attorney General shall perform all duties required of them under this section within a reasonable time after the certificate of organization has been submitted to the ~~superintendent~~ **commission** as provided in subsection 1.

Sec. 415. 24-A MRSA § 3308, sub-§ 1, 2nd ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

“STATE OF MAINE

“Be it known, that whereas” (names of the incorporators) “Have associated themselves with the intention of forming a corporation, under the name of , for the purpose” (here the purpose declared in the certificate of organization shall be inserted,) “with a capital stock of \$. , and have complied with the provisions of the statutes of the State in such case made and provided, as appear from the certificate of organization, duly approved by the Insurance ~~Superintendent~~ **Commission** and recorded in this office: Now, therefore, I, , Secretary of State of Maine, hereby certify that” (incorporators’ names) “their associates and successors, are legally organized and established as, and are hereby made, an existing corporation under the name of the company, with all the powers, rights and privileges, and subject to the duties, liabilities and restrictions which by law appertain thereto. Witness my official signature, hereunto subscribed, and the seal of the State of Maine hereunto affixed, this day of , A.D. 19” (In case of purely mutual companies, so much as relates to capital stock shall be omitted.)

Sec. 416. 24-A MRSA § 3309, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 3309. Completion of incorporation; general powers, duties

The incorporation of an insurer shall be effective as of the date of issuance by the Secretary of State of his certificate as provided for in section 3308; and thereupon the corporation shall be vested with all the powers, rights and privileges, and be subject to all the duties, liabilities and restrictions applicable to insurer corporations; subject to qualification and application for, and issuance to the corporation of, a certificate of authority as an insurer by the ~~superintendent~~ **commission** under this Title.

Sec. 417. 24-A MRSA § 3310, sub-§§ 3 and 4, as amended by PL 1973, c. 585, § 12, are further amended to read:

3. Upon adoption of such an amendment, the insurer shall make in quadruplicate under its corporate seal a certificate, sometimes referred to as a “certificate of amendment,” setting forth such amendment and the date and manner of the adoption thereof. The certificate shall be executed by the insurer’s president or vice-president and secretary or assistant secretary and duly sworn to by one of them. The insurer shall deliver to the ~~superintendent~~ **commission** the quadruplicate originals of the certificate for review, certification and approval or disapproval by the Attorney General and the ~~superintendent~~ **commission**, and

filing and recording, all as provided for original certificates of organization under section 3307. The Secretary of State shall charge and collect for the use of the State a fee of \$20 for filing and recording the certificate of amendment of a mutual insurer. The amendment shall be effective when duly approved and filed with the Secretary of State.

4. An insurer may change its principal place of business without amendment of its certificate of organization, by resolution of its board of directors. A copy of such resolution, duly certified under oath by the corporate secretary, shall be executed in quadruplicate and filed with the ~~superintendent~~ **commission**, the Secretary of State, the registry of deeds of the county in which the insurer's principal place of business was theretofore located, and in the corporate records. If the principal place of business is thereby changed to another county of this State, the insurer shall also file in the registry of deeds of such county a copy, duly certified by the ~~superintendent~~ **commission**, of its certificate of organization and of each amendment thereto, and a certified copy of the resolution by which the principal place of business was so charged.

Sec. 418. 24-A MRSA § 3353, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

Before soliciting any applications for insurance required under section 3352 as qualification for the original certificate of authority, the incorporators of the proposed insurer shall file with the ~~superintendent~~ **commission** a corporate surety bond in the penalty of \$15,000, in favor of the State of Maine and for use and benefit of the State of Maine and of applicant members and creditors of the corporation. The bond shall be conditioned as follows:

Sec. 419. 24-A MRSA § 3353, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. The ~~superintendent~~ **commission** shall release and discharge any such bond filed or deposit or remaining portion thereof held under this section upon settlement and termination of all liabilities against it.

Sec. 420. 24-A MRSA § 3354, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Upon receipt of the ~~superintendent's~~ **commission's** approval of the bond or deposit as provided in section 3353, the directors and officers of the proposed domestic mutual insurer may commence solicitation of such requisite applications for insurance policies as they may accept, and may receive deposits of premiums thereon.

Sec. 421. 24-A MRSA § 3354, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. Solicitation for such qualifying applications for insurance shall be by licensed agents of the corporation, and the ~~superintendent~~ **commission** shall, upon the corporation's application therefor, issue temporary agent's licenses expiring

on the date specified pursuant to subsection 3, paragraph C to individuals qualified as for a resident agent's license except as to the taking or passing of an examination. The ~~superintendent~~ **commission** may suspend or revoke any such license for any of the causes and pursuant to the same procedures as are applicable to suspension or revocation of licenses of agents in general under chapter 17.

Sec. 422. 24-A MRSA § 3355, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. All sums collected by a domestic mutual corporation as premiums or fees on qualifying applications for insurance therein shall be deposited in trust in a bank or trust company in this State under a written trust agreement consistent with this section and with section 3354, subsection 3, paragraph C. The corporation shall file an executed copy of such trust agreement with the ~~superintendent~~ **commission**.

Sec. 423. 24-A MRSA § 3356, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 3356. Failure to complete and qualify

If the proposed domestic mutual insurer fails to complete its organization and to secure its original certificate of authority within one year from and after date of its certificate of organization, its corporate powers shall cease, and the ~~superintendent~~ **commission** shall return or cause to be returned to the persons entitled thereto all advance deposits or payments of premium held in trust under section 3355.

Sec. 424. 24-A MRSA § 3357, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 3357. Authority to transact additional kinds of insurance

After being authorized to transact one kind or combination of kinds of insurance as provided in section 3352, a mutual insurer may be authorized by the ~~superintendent~~ **commission** to transact such additional kinds of insurance as are permitted under section 409 (combinations of insuring powers), while otherwise in compliance with this Title and while maintaining unimpaired surplus and guaranty capital funds in an amount not less than the amount of paid-in capital stock required to be maintained by a like domestic stock insurer transacting the same kinds of insurance.

Sec. 425. 24-A MRSA § 3358, sub-§ 6, as amended by PL 1973, c. 585, § 12, is further amended to read:

6. The insurer shall retire and cancel the guaranty capital shares, in part and in whole as soon as is reasonably possible, out of expendable surplus resulting from net realized earnings from its operations, or out of surplus created through issuance of agreements authorized by section 3415. The insurer shall retire and cancel the guaranty capital shares in their entirety when such retirement would,

in the ~~superintendent's~~ **commission's** opinion, leave the insurer with surplus as to policyholders reasonably adequate to enable it to continue to transact the kinds and volume of insurance business transacted.

Sec. 426. 24-A MRSA § 3359, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. The insurer shall promptly file with the ~~superintendent~~ **commission** a copy, certified by the insurer's secretary, of its bylaws and of every modification thereof or addition thereto. The ~~superintendent~~ **commission** shall disapprove any bylaw provisions deemed by ~~him~~ **it** after a hearing held thereon, to be unlawful, unreasonable, inadequate, unfair or detrimental to the proper interests or protection of the insurer's members or any class thereof. The insurer shall not, after receiving written notice of such disapproval and during the existence thereof, effectuate any bylaw provision so disapproved.

Sec. 427. 24-A MRSA § 3361, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Meetings of members of a domestic mutual insurer shall be held in the city or town of its principal office in this State, except as may otherwise be provided in the insurer's bylaws with the ~~superintendent's~~ **commission's** approval.

Sec. 428. 24-A MRSA § 3361, sub-§ 3, ¶ B, as amended by PL 1973, c. 585, § 12, is further amended to read:

B. Unless the ~~superintendent~~ **commission** otherwise orders, notice of the new date or place need be given only through policies issued after the date of the annual meeting at which such change was made and in premium notices and renewal certificates issued during the 24 months immediately following such meeting.

Sec. 429. 24-A MRSA § 3361, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. If more than 6 months are allowed to elapse after an annual meeting of members is due to be held and without such annual meeting being held, the ~~superintendent~~ **commission** shall, upon written request of any officer, director or member of the insurer, cause written notice of such meeting to be given to the insurer's members, and the meeting shall be held as reasonably possible thereafter.

Sec. 430. 24-A MRSA § 3363, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Each member of a mutual insurer is entitled to one vote upon each matter coming to a vote at a meeting of members, or to such other vote as may be provided for on a reasonable basis in the insurer's bylaws with the ~~superintendent's~~ **commission's** approval.

Sec. 431. 24-A MRSA § 3365, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. If at any time the assets of a domestic mutual insurer are less than its liabilities, exclusive of guaranty capital shares, if any, at par value, and the minimum amount of surplus required to be maintained by it under this Title for authority to transact the kinds of insurance being transacted, and the deficiency is not cured from other sources, its directors may, if the same is approved by the ~~superintendent~~ **commission** as being reasonable and in the best interests of the insurer and its members, levy an assessment only on its members who held the policies providing for contingent liability at any time within the 12 months next preceding the date the levy was authorized by the board of directors, and such members shall be liable to the insurer for the amount so assessed.

Sec. 432. 24-A MRSA § 3365, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. As to life insurance, any part of such an assessment upon a member which remains unpaid following notice of assessment, demand for payment, and lapse of a reasonable waiting period as specified in such notice, may, if approved by the ~~superintendent~~ **commission** as being in the best interests of the insurer and its members, be secured by placing a lien upon the cash surrender values and accumulated dividends held or to be held by the insurer to the credit of the member's policy.

Sec. 433. 24-A MRSA § 3367, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. A domestic mutual insurer may extinguish the contingent liability to assessment of its members as to cash premium plan policies in force and may omit provisions imposing contingent liability in such policies currently issued while it has and maintains surplus, as determined by its financial statement filed with the ~~superintendent~~ **commission** as of the year end next preceding, of not less than \$100,000 as to an insurer formed prior to January 1, 1968, and of not less than \$200,000 as to an insurer formed after January 1, 1968.

Sec. 434. 24-A MRSA § 3408, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. **No person shall remove all or a material part of the records or assets of a domestic insurer from this State, except pursuant to a plan of merger, consolidation or bulk reinsurance approved by the commission under this Title, or for such reasonable purposes and periods of time as may be approved by the commission in writing in advance of such removal, or conceal such records or assets or such material part thereof from the commission. Any person who removes or attempts to remove such records of assets or such material part thereof from the home office or other place of business or of safekeeping of the insurer in this State with the intent to remove the same from this State, or who conceals or attempts to conceal the same from the commission, in violation of this section, shall upon conviction thereof be guilty of a felony, punishable by a fine of not more than \$10,000 or by imprisonment for not more than 5 years, or by both in the discretion of the court. Upon any removal or attempted removal of such**

records of assets, or upon retention of such records or assets or material part thereof outside this State, beyond the period therefor specified in the commission's consent under which the records were so removed thereat, or upon concealment of or attempt to conceal records or assets in violation of this section, the commission may institute delinquency proceedings against the insurer pursuant to chapter 57.

Sec. 435. 24-A MRSA § 3408, sub-§ 4, ¶ A, as amended by PL 1973, c. 585, § 12, is further amended to read:

A. Establishing and maintaining regional home offices or branch offices in other states or countries where necessary or convenient to the transaction of its business, and keeping therein the detailed records and assets customary and necessary for the servicing of its insurance in force and affairs in the territory served by such an office, as long as such records and assets are made readily available at such office for examination by the ~~superintendent~~ **commission** at ~~his~~ **its** request.

Sec. 436. 24-A MRSA § 3410, sub-§ 1, ¶ A, as amended by PL 1973, c. 585, § 12, is further amended to read:

A. Completion of a regular examination of the insurer by the ~~superintendent~~ **commission** and to which the closed file was subject; or

Sec. 437. 24-A MRSA § 3413, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. The ~~superintendent~~ **commission** may, by regulation from time to time, define and permit additional exceptions to the prohibition contained in subsection I solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the insurer, or to a corporation or firm in which a director is interested, for necessary services performed or sales or purchases made to or for the insurer in the ordinary course of the insurer's business and in the usual private professional or business capacity of such director, corporation or firm.

Sec. 438. 24-A MRSA § 3414, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. No domestic insurer shall hereafter make any contract whereby any person is granted or is to enjoy in fact the management of the insurer to the material exclusion of its board of directors or to have the controlling or preemptive right to produce substantially all insurance business for the insurer, or, if an officer, director or otherwise part of the insurer's management is to receive any commission, bonus or compensation based upon the volume of the insurer's business or transactions, unless the contract is filed with and not disapproved by the ~~superintendent~~ **commission**. The contract shall become effective in accordance with its terms unless disapproved by the ~~superintendent~~ **commission** within 20 days after date of filing, subject to such reasonable extension of time as

the **superintendent commission** may require by notice given within such 20 days. Any disapproval shall be delivered to the insurer in writing stating the grounds therefor.

Sec. 439. 24-A MRSA § 3414, sub-§ 3, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission shall disapprove any such contract if it finds that it:

Sec. 440. 24-A MRSA § 3414, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. The **superintendent commission** may, after a hearing held thereon, disapprove any such contract theretofore permitted to become effective, if he it finds that the contract should be disapproved on any of the grounds referred to in subsection 3.

Sec. 441. 24-A MRSA § 3415, sub-§ 1, last sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

No commission or promotion expense shall be paid in connection with any such loan, except that if sale is made of the loan securities through established securities brokers or by public offering the insurer may pay the reasonable costs thereof approved by the **superintendent commission**.

Sec. 442. 24-A MRSA § 3415, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. Any such loan shall be subject to the commission's approval. The insurer shall, in advance of the loan, file with the commission a statement of the purpose of the loan and a copy of the proposed loan agreement. The loan and agreement shall be deemed approved unless within 15 days after the date of such filing the insurer is notified of the commission's disapproval and the reasons therefor. The commission shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties and to other similar lenders, if any, to the insurer, or that the information so filed by the insurer is inadequate.

Sec. 443. 24-A MRSA § 3415, sub-§ 4, as last amended by PL 1973, c. 585, § 12, is further amended to read:

4. Any such loan to an insurer or substantial portion thereof may be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan, whether heretofore or hereafter outstanding shall be made, other than as provided in the loan agreement, unless approved in advance by the **superintendent commission**.

Sec. 444. 24-A MRSA § 3419, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Pursuant to the terms of a pension plan or plans or any modification thereof, heretofore or hereafter adopted by the insurer's board of directors and approved

by the **superintendent commission**, any domestic stock or mutual insurer may pay the whole or any part of the cost of retirement or disability pensions for such of its officers, employees or full-time insurance agents as are specified in such plan or plans or modifications thereof. If so specified in the plan or plans, in lieu of such pensions actuarially equivalent benefits may be paid to such officers, employees or full-time agents or to their designated beneficiaries.

2. The **superintendent commission** shall approve any such plan, unless ~~he~~ it finds the same not to be within the reasonable financial resources of the insurer or not fair and equitable as between the respective classifications of participants therein.

Sec. 445. 24-A MRSA § 3422, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. For retirement or otherwise of the shares under a plan submitted to and approved in writing by the **superintendent commission**. The **superintendent commission** shall not approve a plan unless found by ~~him~~ it to be reasonable, fair and equitable as to remaining stockholders of the insurer, and not materially adverse to the protection of the insurer's policyholders.

Sec. 446. 24-A MRSA § 3423, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. If a domestic stock insurer's paid-in capital stock, as represented by the aggregate par value of its outstanding capital stock, becomes impaired, or the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of basic surplus required to be maintained by it under this Title for authority to transact the kinds of insurance being transacted, the **superintendent commission** shall at once determine the amount of deficiency and serve notice upon the insurer to cure the deficiency and serve notice upon the insurer to cure the deficiency and file proof thereof with ~~him~~ it within the period specified in the notice, which period shall be not less than 30 nor more than 90 days from the date of the notice. Such notice may be so served by delivery to the insurer or by mailing to the insurer addressed to its registered office in this State.

Sec. 447. 24-A MRSA § 3423, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. If the deficiency is not made good and proof thereof filed with the **superintendent commission** within the period required by the notice as specified in subsection 1, the insurer shall be deemed insolvent and the **superintendent commission** shall institute delinquency proceedings against it under chapter 57.

Sec. 448. 24-A MRSA § 3424, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. During the existence of impairment of the capital stock or surplus of an insurer, as referred to in section 3423, the **superintendent commission** shall

require such restriction of, or arrangements as to, operations of the insurer while the impairment exists as he it deems advisable for protection of policyholders, the insurer or the public.

Sec. 449. 24-A MRSA § 3472, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. A stock insurer other than a title insurer may become a mutual insurer, or a combination stock and mutual insurer, under such plan and procedure as may be approved by the **superintendent commission** after a hearing thereon.

Sec. 450. 24-A MRSA § 3472, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The **superintendent commission** shall not approve any such plan, procedure or mutualization unless:

Sec. 451. 24-A MRSA § 3472, sub-§ 2, ¶ B, as amended by PL 1973, c. 585, § 12, is further amended to read:

B. It is subject to approval by the holders of not less than 2/3 of the insurer's outstanding capital stock having voting rights, and by not less than 2/3 of the insurer's policyholders who vote on such plan in person, by proxy or by mail pursuant to such notice and procedure as may be approved by the **superintendent commission**.

Sec. 452. 24-A MRSA § 3472, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. No director, officer, agent or employee of the insurer, or any other person, shall receive any fee, commission or other valuable consideration whatsoever, other than their customary salaries or other regular compensation, for in any manner aiding, promoting or assisting in the mutualization, except as set forth in the plan of mutualization as approved by the **superintendent commission**.

Sec. 453. 24-A MRSA § 3473, sub-§ 1, ¶¶'s A, B and C, as amended by PL 1973, c. 585, § 12, are further amended to read:

A. The insurer must give the **superintendent commission** written notice of its intent to convert to an ordinary business corporation;

B. The insurer must bulk reinsure all of its insurance, if any, in force, with another authorized insurer under a bulk reinsurance agreement approved by the **superintendent commission** as provided in section 3483. The agreement of bulk reinsurance may be made contingent upon approval of stockholders as provided in paragraph D;

C. The insurer must set aside funds in a special reserve in such amount and subject to such administration as may be found by the **superintendent commission** to be reasonable and adequate for the purpose, for payment of all obligations, if any, of the insurer incurred by it and remaining unpaid under its

insurance contracts prior to the effective date of such bulk reinsurance, or make other reasonable disposition satisfactory to the ~~superintendent~~ **commission** for such payment;

Sec. 454. 24-A MRSA § 3473, sub-§ 1, ¶ F, as amended by PL 1973, c. 585, § 12, is further amended to read:

F. Upon compliance with paragraphs A to D, and upon filing of the amendment of the certificate of organization with the ~~superintendent~~ **commission** and otherwise as required by laws applicable to ordinary business corporations, the conversion shall thereupon become effective.

Sec. 455. 24-A MRSA § 3474, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

No such merger or consolidation shall be effectuated, unless in advance thereof the plan and agreement therefor have been filed with the ~~superintendent~~ **commission** and approved in writing by him after a hearing thereon after notice to the stockholders of each insurer involved. The ~~superintendent~~ **commission** shall give such approval within a reasonable time after such filing unless ~~he~~ **it** finds that the plan or agreement:

Sec. 456. 24-A MRSA § 3474, sub-§ 4, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

4. If the commission does not approve the plan or agreement, it shall so notify the insurer in writing specifying its reasons therefor.

Sec. 457. 24-A MRSA § 3475, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Upon application of any domestic insurer, the ~~superintendent~~ **commission** is authorized to approve the fairness of the terms and conditions of the issuance by the insurer of any shares of its capital stock or of guaranty capital or bonds or its other securities or obligations in exchange for one or more bona fide outstanding securities, claims or property interest of any other insurer or corporation, domestic or foreign, or partly in such exchange and partly for cash; but only after a hearing has been held by the ~~superintendent~~ **commission** upon the fairness of such terms and conditions at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear and be heard.

Sec. 458. 24-A MRSA § 3475, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. Notice of such hearing and conduct thereof shall be as provided in chapter 3 (the insurance commission).

Sec. 459. 24-A MRSA § 3476, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Any person proposing to acquire the controlling capital stock or guaranty capital shares of any domestic stock insurer and thereby to change the control of

the insurer, other than through merger or consolidation or affiliation as provided for in this chapter, shall first apply to the ~~superintendent~~ **commission** in writing for approval of such proposed change of control. The application shall state the names and addresses of the proposed new owners of the controlling stock or shares and contain such additional information as the ~~superintendent~~ **commission** may reasonably require.

Sec. 460. 24-A MRSA § 3476, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission shall not approve the proposed change of control if it finds:

Sec. 461. 24-A MRSA § 3476, sub-§§ 3 and 4, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

3. If the commission does not by affirmative action approve or disapprove the proposed change of control within 30 days after the date such application was so filed with it, the proposed change may be made without such approval. Except that if the commission gives notice to the parties of a hearing to be held by it with respect to the proposed change of control, and the hearing is held within such 30 days or on a date mutually acceptable to the commission and the parties, the commission shall have 10 days after the conclusion of the hearing within which to so approve or disapprove the proposed change; and if not so approved or disapproved, the change may thereafter be made without the commission's approval.

4. If the commission disapproves the proposed change, it shall give written notice thereof to the parties, setting forth in detail the reasons for disapproval.

Sec. 462. 24-A MRSA § 3476, sub-§ 5, as repealed and replaced by PL 1977, c. 694, § 428, is amended to read:

5. The ~~superintendent~~ **commission shall file a complaint with the Administrative Court seeking to suspend or revoke the certificate of authority held by any insurer, the control of which has been changed in violation of this section.**

Sec. 463. 24-A MRSA § 3477, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. A mutual insurer may become a stock insurer, or a combination stock and mutual insurer, under such reasonable plan and procedure as may be approved by the ~~superintendent~~ **commission after a hearing thereon of which notice was given to the insurer, its directors or trustees, its officers, employees and its members, all of whom shall have the right to appear and be heard at the hearing.**

Sec. 464. 24-A MRSA § 3477, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission shall not approve any such plan or procedure unless:

Sec. 465. 24-A MRSA § 3477, sub-§ 2, ¶ B, as amended by PL 1973, c. 585, § 12, is further amended to read:

B. It is subject to approval by vote of not less than 2/3 of the insurer's current members entitled to vote and voting thereon in person, by proxy, or by mail at a meeting of members entitled to vote and called for the purpose pursuant to such reasonable notice and procedure as may be approved by the **superintendent commission**; if a life insurer, right to vote shall be limited to members who hold policies other than group policies or term policies for terms of less than 20 years, and whose policies have been in force for not less than one year;

Sec. 466. 24-A MRSA § 3477, sub-§ 2, ¶ C, as amended by PL 1973, c. 585, § 12, is further amended to read:

C. The equity of each member in the insurer is determinable under a fair and reasonable formula approved by the **superintendent commission**, which such equity shall be based upon the insurer's entire surplus as shown by the insurer's financial statement filed with the **superintendent commission**, including all voluntary reserves but excluding contingently repayable funds and outstanding guaranty capital shares at the redemption value thereof, and without taking into account the value of nonadmitted assets or of insurance business in force;

Sec. 467. 24-A MRSA § 3477, sub-§ 2, ¶ E, as amended by PL 1973, c. 585, § 12, is further amended to read:

E. The members entitled to participate in the purchase of stock or distribution of assets shall include not less than all current policyholders of the insurer and each existing person who had been a policyholder of the insurer within 3 years prior to the date such plan was submitted to the **superintendent commission**;

Sec. 468. 24-A MRSA § 3477, sub-§ 2, ¶ G, as amended by PL 1973, c. 585, § 12, is further amended to read:

G. The plan provides for payment to each member, not electing to apply his equity in the insurer for or upon the purchase price of stock to which preemptively entitled, of cash in an amount found to be reasonable by the **superintendent commission** but not in excess of 50% of the amount of his equity not so used for the purchase of stock, and which cash payment together with stock so purchased, if any, shall constitute full payment and discharge of the member's equity or property interest in such mutual insurer;

Sec. 469. 24-A MRSA § 3477, sub-§ 2, ¶ I, as amended by PL 1973, c. 585, § 12, is further amended to read:

I. The **superintendent commission** finds that the insurer's management has not, through reduction in volume of new business written, or cancellation or through any other means sought to reduce, limit or affect the number or identity of the insurer's members to be entitled to participate in such plan, or to secure for the individuals comprising management any unfair advantage through such plan.

Sec. 470. 24-A MRSA § 3477, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. Subsection 2 shall not be deemed to prohibit the inclusion in the conversion plan of provisions under which the individuals comprising the insurer's management and employee group shall be entitled to purchase for cash, at the same price as offered to the insurer's members, shares of stock not taken by members on the preemptive offering to members, in accordance with such reasonable classification of such individuals as may be included in the plan and approved by the ~~superintendent~~ **commission**.

Sec. 471. 24-A MRSA § 3477, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. No director, officer, agent or employee of the insurer, or any other person, shall receive any fee, commission or other valuable consideration whatsoever, other than their usual regular salaries and compensation, for in any manner aiding, promoting or assisting in such conversion, except as set forth in the plan approved by the ~~superintendent~~ **commission**. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys at law, accountants and actuaries for services performed in the independent practice of their professions, even though also directors of the insurer.

Sec. 472. 24-A MRSA § 3480, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 3480. Approval by commission

1. The plan and agreement referred to in section 3479 shall not be effectuated until filed with and approved by the ~~superintendent~~ **commission** in writing. The insurers shall furnish the ~~superintendent~~ **commission** such additional information in relation to the proposed merger or consolidation as the ~~superintendent~~ **commission** may reasonably require.

2. The ~~superintendent~~ **commission** shall approve the plan and agreement unless he finds that it:

- A. Is contrary to law; or
- B. Is inequitable to the policyholders of any domestic insurer involved; or
- C. Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer; or
- D. Would materially tend to lessen competition in the insurance business in this State or elsewhere as to the kinds of insurance involved, or would materially tend to create a monopoly as to such business; or
- E. Is subject to other material and reasonable objections.

3. If the ~~superintendent~~ **commission** does not approve the plan and agreement, he it shall so notify the insurers parties thereto in writing, specifying his reasons therefor.

Sec. 473. 24-A MRSA § 3481, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Upon approval by the **superintendent commission** as provided in section 3480, the plan and agreement of merger or consolidation shall be submitted to the Attorney General and be examined by him. If the Attorney General finds the plan and agreement to be properly drawn and signed and otherwise in conformity with the Constitution and laws of this State, he shall so certify thereon in writing.

2. Within 60 days from date of approval by the **superintendent commission** both an original and a copy of the plan and agreement showing thereon the certificate of the Attorney General shall be delivered to the Office of the Secretary of State. The Secretary of State shall file such copy and enter the date of filing on both the copy and the original, shall record the copy and return the original to the surviving merged or consolidated corporation.

Sec. 474. 24-A MRSA § 3481, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. If a domestic insurer is merged into or consolidated with a foreign insurer, the foreign insurer shall not transact insurance in this State until it has procured a certificate of authority from the **superintendent commission** therefor under this Title.

Sec. 475. 24-A MRSA § 3483, sub-§ 1, last sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

No such agreement shall become effective unless filed with the **superintendent commission**, or if disapproved by ~~him~~ it.

Sec. 476. 24-A MRSA § 3483, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

The commission shall disapprove such agreement within a reasonable time after filing if it finds:

Sec. 477. 24-A MRSA § 3483, sub-§ 2, ¶ D, as amended by PL 1973, c. 585, § 12, is further amended to read:

D. That the assuming reinsurer is not authorized to transact such insurance in this State, or is not qualified as for such authorization or will not appoint the **superintendent commission** and ~~his~~ **its** successors as its irrevocable attorney for service of process, so long as any policy so reinsured or claim thereunder remains in force or outstanding; or

Sec. 478. 24-A MRSA § 3483, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. If the commission disapproves the agreement, it shall forthwith notify in writing each insurer involved, specifying its reasons therefor.

Sec. 479. 24-A MRSA § 3483, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. No director, officer, agent or employee of any insurer party to such reinsurance, or any other person, shall receive any special compensation for arranging or with respect to any such reinsurance, except as is set forth in the reinsurance agreement filed with the **superintendent commission**.

Sec. 480. 24-A MRSA § 3484, sub-§ 1, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

A solvent domestic stock or mutual insurer, which then is not the subject of a delinquency proceeding under chapter 57, may voluntarily dissolve under a plan therefor in writing authorized by its board of directors, approved or adopted by stockholders or members as hereinafter provided, and filed with and approved by the **superintendent commission**.

Sec. 481. 24-A MRSA § 3484, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The commission shall approve the plan unless found by it to be unlawful or unfair or inequitable or prejudicial to the interests of any stockholder, policyholder or creditor.

Sec. 482. 24-A MRSA § 3484, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. If a mutual insurer, the plan must have been approved by vote of not less than 2/3 of the policyholders voting thereon at a special meeting of such policyholders called and held for the purpose pursuant to such reasonable notice and information as the **superintendent commission** may have approved.

Sec. 483. 24-A MRSA § 3484, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. Following approval of the dissolution and plan therefor by members or adopted thereof by stockholders as above provided, and approval by the **superintendent commission**, the trustees designated or provided for in the plan shall proceed to execute the plan. When all liabilities of the corporation have been discharged or otherwise adequately provided for, and all assets of the corporation have been liquidated and distributed in accordance with the plan, the trustees shall so certify in quadruplicate under oath in writing. The trustees shall deliver the original and the 3 copies of such certificate to the **superintendent commission**. The **superintendent commission** shall make such examination of the affairs of the corporation, and of the liquidation and distribution of its assets and discharge of or provision for its liabilities as ~~he~~ **it** deems advisable. If upon such examination ~~he~~ **it** finds that the facts set forth in the certificate of the trustees are true, ~~he~~ **it** shall inscribe ~~his~~ **its** approval on the certificate, file the original thereof so inscribed in the Office of the Secretary of State, file a copy thereof in the bureau and return the remaining 2 copies to the trustees. The trustees shall file one of such copies for recording in the registry of deeds of the county in this State in which the corporation's principal place of business is located, and retain the fourth copy for the corporate files.

Sec. 484. 24-A MRSA § 3485, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, retirement of guaranty fund capital shares and payment of expenses of administration and of the dissolution and liquidation procedure shall be distributed to currently existing persons who had been members of the insurer for at least a year and who were its members at any time within 36 months next preceding the date such liquidation was authorized or ordered, or date of last termination of the insurer's certificate of authority, whichever date is the earlier; except that if the ~~superintendent~~ **commission** has reason to believe that those in charge of the insurer's management have caused or encouraged the reduction of the number of members of the insurer, or changed the identity thereof, in anticipation of liquidation and for the purpose of reducing or controlling thereby the number or identity of persons who may be entitled to share in distribution of the insurer's assets, ~~he~~ it may enlarge the qualification period in such manner as ~~he~~ it deems to be reasonable.

Sec. 485. 24-A MRSA § 3485, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. The insurer shall make a reasonable classification of its policies so held by such members, and a formula based upon such classification for determination of the equitable distributive share of each such member. Such classification and formula shall be subject to the approval of the ~~superintendent, who~~ **commission, which** shall approve the same except for reasonable cause.

Sec. 486. 24-A MRSA § 3486, sub-§ 2, ¶¶ D and E, as enacted by PL 1977, c. 377, are amended to read:

D. If the parent corporation has adopted the plan and is neither a domestic corporation nor an authorized insurer, its agreement to be bound by this section with respect to the plan, its consent to the enforcement against it in this State of the rights of shareholders pursuant to the plan, and a designation of the ~~superintendent~~ **commission** as the agent upon whom process may be served against the parent corporation in the manner set forth in section 421 in any action or proceeding to enforce any such rights; and

E. Such other provisions with respect to the plan as the board of directors, trustees or other governing body deems necessary or desirable, or which the ~~superintendent~~ **commission** may prescribe.

Sec. 487. 24-A MRSA § 3486, sub-§ 3, as enacted by PL 1977, c. 377, is amended to read:

3. Upon adoption of the plan, it shall be duly executed by the president and attested by the secretary, or the executive officers corresponding thereto, under the corporate seal of the parent corporation or the domestic stock insurance company which has adopted the plan, as the case may be. Thereupon, a certified

copy of the plan, together with a certificate of its adoption subscribed by such officers and affirmed by them as true under the penalties of perjury and under the seal of the parent corporation or the domestic stock insurance company, as the case may be, shall be submitted to the ~~superintendent~~ **commission** for ~~his~~ **its** approval. The ~~superintendent~~ **commission** shall thereupon consider the plan and, if satisfied that it complies with this section, is fair and equitable and not inconsistent with law, ~~he~~ **it** shall approve the plan. If the ~~superintendent~~ **commission** disapproves the plan, notification of ~~his~~ **its** disapproval, assigning the reasons therefor, shall be given in writing by ~~him~~ **it** to the parent corporation or domestic stock insurance company that submitted the plan. No plan shall take effect unless the approval of the ~~superintendent~~ **commission** has been obtained.

Sec. 488. 24-A MRSA § 3486, sub-§ 4, as enacted by PL 1977, c. 377, is amended to read:

4. If the ~~superintendent~~ **commission** approves the plan, the parent corporation or the domestic stock insurance company which has adopted the plan shall deliver to each person who, as of the date of delivery, is a holder of record of stock to be acquired pursuant to the plan, a copy of the plan, or a summary thereof approved by the ~~superintendent~~ **commission**, in person or by depositing the same in the post office, postage prepaid, addressed to the stockholder at his address of record. On or before the date of acquisition proposed in the plan, the parent corporation or domestic stock insurance company which has adopted the plan shall file with the ~~superintendent~~ **commission** a certificate, executed by its president and attested by its secretary, or the executive officers corresponding thereto, and subscribed by such officers and affirmed by them as true under the penalties of perjury, and under the seal of the parent corporation or the domestic stock insurance company, as the case may be, attesting to compliance with this subsection.

Sec. 489. 24-A MRSA § 3552, sub-§ 7, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

7. Commission. Commission means the State Insurance Commission or person duly designated to exercise the powers of that office during an attack or acute emergency.

Sec. 490. 24-A MRSA § 3553, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. With the approval of the ~~superintendent~~ **commission** any domestic organization may, at any time, adopt, in the same manner as in the case of ordinary bylaws, emergency bylaws to become operative during a period of acute emergency. Emergency bylaws may contain provisions with respect to the number of directors capable of acting which shall constitute its board, the number of such directors which shall constitute a quorum at a meeting of the board, the number of votes necessary for action by such board, the manner in which vacancies on the board shall be filled, the line of succession of its officers, and the interim management of the affairs of the insurance organization; such provisions, if approved by the ~~superintendent~~ **commission**, need not comply with the

requirement of the charter of such domestic organization or of the insurance or incorporation laws of this State.

Sec. 491. 24-A MRSA § 3553, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. Section 3554 and section 3555, subsections 2 to 6 shall not be applicable during a period of acute emergency to any domestic organization operating in accordance with and under emergency bylaws theretofore approved by the **superintendent commission**.

Sec. 492. 24-A MRSA § 3554, first ¶, last sentence, as enacted by PL 1969, c. 132, § 1, is amended to read:

Any insurance organization which changes the location of its principal office during an acute emergency shall notify the **superintendent commission** thereof in writing as soon as practical, stating the address of the new location, the address of the former location and the dates when business is ceasing at the former location and commencing at the latter location.

Sec. 493. 24-A MRSA § 3554, 5th ¶ from the end, as amended by PL 1973, c. 585, § 12, is further amended to read:

As soon as practicable after each meeting of an emergency board of directors, the person who presided thereat shall notify the **superintendent commission** in writing of the time and place of such meeting, of the manner in which notice thereof was given, of the persons present and of all actions taken at such meeting.

Sec. 494. 24-A MRSA § 3554, last ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

This section shall not be deemed applicable during a period of acute emergency to any domestic organization operating in accordance with and under emergency bylaws theretofore approved by the **superintendent commission**.

Sec. 495. 24-A MRSA § 3555, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 3555. Powers of the commission

1. **Designate additional acting directors.** If at any time during an acute emergency, the number of directors or acting directors of a domestic insurance organization who are capable of acting shall be less than 3, as determined by the **superintendent commission** after a reasonable investigation, the **superintendent commission** shall have the power to designate additional acting directors in such number as will bring to 3 the number of directors and acting directors who are capable of acting.

2. **Resolve controversies.** To resolve controversy as to the power of any group of persons purporting to act as an emergency board of directors so to act, the **superintendent commission** shall, upon a determination that such action will tend to promote the safe and sound and orderly conduct of the business of any

domestic insurance organization, have power to issue orders declaring that any such group shall or shall not have the powers of an emergency board of directors, or confirming, modifying or vacating in whole or in part any action taken or purportedly taken by any such group or by removing any acting director.

3. Declare provisions of law operative or inoperative. At any time after an attack, upon ~~his~~ **its** determination that such action will tend to promote certainty as to the powers of insurance organizations or individuals pursuant to this chapter or that such action is desirable to enable insurance organizations to take preparatory precautions prior to the occurrence of an acute emergency, the ~~superintendent~~ **commission** shall have power to declare that any provision of this chapter which ~~he~~ **it** may specify shall be operative with respect to any domestic insurance organization or to the Maine business of any other insurance organization which ~~he~~ **it** may designate. Upon such declaration such organization and its directors, officers, acting directors and acting officers shall have all powers conferred by this chapter. The failure of the ~~superintendent~~ **commission** so to declare shall not be deemed to limit the powers of any organization or its directors, officers, acting directors or acting officers where an acute emergency exists in fact.

At any time after the commencement of an acute emergency or after the ~~superintendent~~ **commission** shall have declared any provision of this chapter operative under this subsection upon ~~his~~ **its** determination that an insurance organization is able, in whole or in part, to carry on its business in compliance with its charter and the laws, other than this chapter, the ~~superintendent~~ **commission** shall have power to declare that any provision of this chapter which ~~he~~ **it** may specify shall be inoperative with respect to any domestic insurance organization or in the Maine business of any other insurance organization which ~~he~~ **it** may designate. Upon such declaration, such organization shall be governed by its charter and the provisions of law other than this chapter, except insofar as they remain inoperative.

4. Possession of business and property. Upon the determination that, as a result of an acute emergency, the business and affairs of an insurance organization cannot otherwise be conducted in a safe and sound manner, the ~~superintendent~~ **commission** may forthwith take possession of the business and property of the insurance organization within this State or, if a domestic insurance organization, its business and property wherever situated. This chapter shall be applicable in any case in which the ~~superintendent~~ **commission** takes possession of an insurance organization under this subsection as through the insurance organization were an insurer of which the ~~superintendent~~ **commission** had taken possession under this chapter, except that no such provision shall be applicable which the ~~superintendent~~ **commission** shall have declared inapplicable under this subsection. The ~~superintendent~~ **commission** shall have power to declare inapplicable any such provision upon ~~his~~ **its** determination that the same is inappropriate or unnecessary to protect the interest of the public or the stockholders or creditors of the insurance organization, in view of the acute emergency and the nature of the organization.

5. When powers exercised. The powers given the **superintendent commission** by subsections 2 and 4 shall be exercised by ~~him~~ it only in the event that there is no court of competent jurisdiction available to which an application can be made for an order permitting ~~him~~ it to exercise such powers with respect to a particular insurance organization. The powers conferred by subsection 4 shall not be exercised in a case of an insurance organization which is not insolvent within the meaning of this chapter, unless the **superintendent commission** finds that such insurance organization lacks personnel able to manage its business in the interest of the public stockholders and policyholders.

6. Regulations. The **superintendent commission** shall have power to issue general and specific regulations, directives and orders consistent with and in furtherance of the purposes of this chapter.

Sec. 496. 24-A MRSA § 3556, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. Powers of board. During an acute emergency the board of a domestic insurance organization which has adopted emergency bylaws approved by the **superintendent commission** shall have all of the powers conferred by such bylaws, and no other or different powers with respect to the subject matter of this chapter, and the board of a domestic insurance organization which has not adopted emergency bylaws approved by the **superintendent commission** shall have all of the powers of an emergency board of directors as the same are provided for under this chapter.

Sec. 497. 24-A MRSA § 3606, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 3606. Certificate of authority required

No such insurer shall transact insurance in this State except as authorized by a subsisting certificate of authority issued to the insurer by the commission.

Sec. 498. 24-A MRSA § 3607, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. If an insurer operating under this section fails to comply with the commission's request to increase its paid-in guaranty capital funds within the amount otherwise required by law, it shall cease to write any class or kind of insurance other than fire, marine or glass until such time as the commission's request has been complied with.

Sec. 499. 24-A MRSA § 3611, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 3611. Guaranty capital shares; increase of paid-in capital

If an insurer heretofore or hereafter has been authorized to transact insurance upon the basis of guaranty capital shares not 100% paid-in, the unpaid portion of

such guaranty or so much thereof as the commission deems necessary shall be paid in at such times as in the opinion of the commission is necessary for the adequate protection of the policyholders.

Sec. 500. 24-A MRSA § 3612, first sentence, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

When the cash and other available assets of an insurer with guaranty capital shares are exhausted, such part of the guaranty capital fund as may be required shall, with the approval of the commission, be drawn and used to pay losses then due.

Sec. 501. 24-A MRSA § 3617, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. The decision on such complaint, when filed by any party except the insurer or a receiver or the commission, shall rest in the discretion of the court.

Sec. 502. 24-A MRSA § 3617, sub-§, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

Whenever the directors unreasonably neglect to make an assessment or call to satisfy an admitted or ascertained claim upon the insurer, any judgment creditor, or any person holding such admitted or ascertained claim, or the ~~superintendent~~ **commission** may make the application.

Sec. 503. 24-A MRSA § 3619, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

Whenever the court appoints a master or auditor to make the apportionment or calculation for an assessment, such master or auditor shall appoint a time and place to hear all parties interested in the assessment or call, and shall give personal notice thereof, in writing, to the ~~superintendent~~ **commission**, and through the post office or in such other manner as the court directs, so far as he is able, to all persons liable upon the assessment or call.

Sec. 504. 24-A MRSA § 3621, last sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

When, on application of the ~~superintendent~~ **commission** or any person interested, the court is of opinion that further attempts to collect an assessment than partially collected will not benefit those having claims against the insurer, it may stay its further collection.

Sec. 505. 24-A MRSA § 3622, sub-§ 1, ¶¶ A and B, as amended by PL 1973, c. 585, § 12, are further amended to read:

A. Surplus. The insurer shall have and maintain a surplus to policyholders, as determined by its last annual statement filed with the ~~superintendent~~ **commission**, of not less than \$100,000, or

B. Surplus and unearned premium reserve. The insurer shall have and maintain a surplus to policyholders, as determined by its latest annual statement filed with the ~~superintendent~~ **commission**, of not less than \$75,000, provided its unearned premium reserve is at all times less than its surplus to policyholders.

Sec. 506. 24-A MRSA § 3628, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. No fee shall be required by the ~~superintendent~~ **commission** for license as resident agent issued to any individual referred to in subsection 1, as agent of such an insurer.

Sec. 507. 24-A MRSA § 3629, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. Chapter 3 (the insurance ~~superintendent~~ **commission**), except that an insurer transacting insurance only on the assessment plan shall not be subject to section 228 (examination expense), and shall not be required to pay the expense of examination of the insurer;

Sec. 508. 24-A MRSA § 3856, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Twenty-five or more persons domiciled in this State may organize a domestic reciprocal insurer and make application to the ~~superintendent~~ **commission** for a certificate of authority to transact insurance.

Sec. 509. 24-A MRSA § 3856, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The proposed attorney shall fulfill the requirements of and shall execute and file with the ~~superintendent~~ **commission**, when applying for a certificate of authority, a declaration setting forth:

Sec. 510. 24-A MRSA § 3856, sub-§ 2, ¶ I, as amended by PL 1973, c. 585, § 12, is further amended to read:

I. A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than 6 months at an adequate rate theretofore filed with and approved by the ~~superintendent~~ **commission**;

Sec. 511. 24-A MRSA § 3857, sub-§ 2, as repealed and replaced by PL 1977, c. 694, § 429, is amended to read:

2. The ~~superintendent~~ **commission** may refuse to grant a certificate of authority, and may file a complaint with the Administrative Court seeking suspension or revocation of a certificate of authority, for failure of the attorney to comply with any applicable provision of this Title, in addition to other grounds for those sanctions.

Sec. 512. 24-A MRSA § 3858, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable, and no such power or agreement shall be used or be effective in this State until approved by the **superintendent commission**.

Sec. 513. 24-A MRSA § 3860, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Concurrently with the filing of the declaration provided for in section 3856, the attorney of a domestic reciprocal insurer shall file with the **superintendent commission** a bond in favor of this State for the benefit of all persons damaged as a result of breach by the attorney of the conditions of his bond as set forth in subsection 2. The bond shall be executed by the attorney and by an authorized corporate surety, and shall be subject to the **superintendent's commission's** approval.

Sec. 514. 24-A MRSA § 3860, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. The bond shall provide that it is not subject to cancellation unless 30 days' advance notice in writing of cancellation is given both the attorney and the **superintendent commission**.

Sec. 515. 24-A MRSA § 3861, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 3861. Deposit in lieu of bond

In lieu of the bond required under section 3860, the attorney may maintain on deposit with the Treasurer of State through the office of the **superintendent commission** a like amount in cash or in value of securities qualified under this Title as insurers' investments, and subject to the same conditions as the bond.

Sec. 516. 24-A MRSA § 3863, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Legal process shall be served upon a domestic reciprocal insurer by serving the insurer's attorney at his principal offices or by serving the **superintendent commission** as the insurer's process agent under sections 421 and 422.

Sec. 517. 24-A MRSA § 3864, 3rd sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

No such withdrawal or repayment shall be made without the advance approval of the **superintendent commission**.

Sec. 518. 24-A MRSA § 3865, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

In determining the financial condition of a reciprocal insurer, the **superintendent commission** shall apply the following rules.

Sec. 519. 24-A MRSA § 3865, sub-§ 1, as enacted by PL 1969, c. 132, § 1, is further amended to read:

1. ~~He~~ **It** shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.

Sec. 520. 24-A MRSA § 3870, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Assessments may from time to time be levied upon subscribers of a domestic reciprocal insurer liable therefor under the terms of their policies by the attorney upon approval in advance by the subscribers' advisory committee and the ~~superintendent~~ **commission**; or by the ~~superintendent~~ **commission** in liquidation of the insurer.

Sec. 521. 24-A MRSA § 3871, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. While his policy is in force or within one year after its termination, he is notified by either the attorney or the ~~superintendent~~ **commission** of ~~his intentions~~ **the intention** to levy such assessment, or

Sec. 522. 24-A MRSA § 3873, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum capital stock and surplus required to be maintained by a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee, the ~~superintendent~~ **commission** shall issue ~~his~~ **its** certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this State, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this State for so long as all such surplus remains unimpaired.

Sec. 523. 24-A MRSA § 3873, sub-§ 2, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

Upon impairment of such surplus, the ~~superintendent~~ **commission** shall forthwith revoke the certificate.

Sec. 524. 24-A MRSA § 3873, sub-§ 3, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

The ~~superintendent~~ **commission** shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualified to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it.

Sec. 525. 24-A MRSA § 3874, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 3874. Subscribers' share in assets

Upon the liquidation of a domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy obligations, the return of any contributions of the attorney or other persons to its surplus, and the return of any unused premium, savings or credits then standing on subscribers' accounts, shall be distributed to its subscribers who were such within the 12 months prior to the last termination of its certificate of authority, according to such reasonable formula as the **superintendent commission** may approve.

Sec. 526. 24-A MRSA § 3875, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. A domestic reciprocal insurer upon affirmative vote of not less than 2/3 of its subscribers who vote on such merger pursuant to due notice and the approval of the **superintendent commission** of the terms therefor, may merge with another reciprocal insurer or be converted to a stock or mutual insurer.

Sec. 527. 24-A MRSA § 3875, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. The **superintendent commission** shall not approve any plan for such merger or conversion which is inequitable to subscribers, or which, if for conversion to a stock insurer, does not give each subscriber preferential right to acquire stock of the proposed insurer proportionate to his interest in the reciprocal insurer as determined in accordance with section 3874 and a reasonable length of time within which to exercise such right.

Sec. 528. 24-A MRSA § 3876, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. If the attorney fails to make up such deficiency or to make the assessment within 30 days after the **superintendent commission** orders him to do so or if the deficiency is not fully made up within 60 days after the date the assessment was made, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this Title.

Sec. 529. 24-A MRSA § 3876, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. If liquidation of such an insurer is ordered, an assessment shall be levied upon the subscribers for such an amount, subject to limits as provided by this chapter, as the **superintendent commission** determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds contributed by the attorney or other persons, but including the reasonable cost of the liquidation.

Sec. 530. 24-A MRSA § 4104, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. Such articles of incorporation, duly certified copies of the constitution, laws and rules, copies of all proposed forms of certificates, applications therefor, and

circulars to be issued by the society and a bond condition upon the return to applicants of the advanced payments if the organization is not completed within one year shall be filed with the commission, which may require such further information as it deems necessary. The bond with sureties approved by the commission shall be in such amount, not less than \$5,000 nor more than \$25,000, as required by the commission. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of law have been complied with, the commission shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as hereinafter provided.

Sec. 531. 24-A MRSA § 4104, sub-§ 3, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

No preliminary certificate granted under this section shall be valid after one year from its date or after such further period, not exceeding one year, as may be authorized by the ~~superintendent~~ **commission** upon cause shown unless the 500 applicants hereinafter required have been secured and the organization has been completed as herein provided.

Sec. 532. 24-A MRSA § 4104, sub-§ 4, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

Upon receipt of a preliminary certificate from the ~~superintendent~~ **commission**, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected.

Sec. 533. 24-A MRSA § 4104, sub-§ 4, ¶ E, as amended by PL 1973, c. 585, § 12, is further amended to read:

E. There has been submitted to the ~~superintendent~~ **commission**, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

Sec. 534. 24-A MRSA § 4104, sub-§ 4, ¶ F, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

It shall have been shown to the ~~superintendent~~ **commission** by sworn statement of the treasurer, or corresponding officer of such society, that at least 500 applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least \$2,500, all of which shall be credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses.

Sec. 535. 24-A MRSA § 4104, sub-§ 5, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

5. The commission may make such examination and require such further information as it deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, it shall issue to the society a certificate to that effect and that the society is authorized to transact business pursuant to this chapter. The certificate shall be prima facie evidence of the existence of the society at the date of such certificate. The commission shall cause a record of such certificate to be made. A certified copy of such record may be given in evidence with like effect as the original certificate.

Sec. 536. 24-A MRSA § 4108, 2nd ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

It shall file with the commission:

Sec. 537. 24-A MRSA § 4108, sub-§ 2, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

2. A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the commission, but not earlier than December 31st, next preceding the date of the contract;

Sec. 538. 24-A MRSA § 4108, 3rd ¶ from the end, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

If the commission finds that the contract is in conformity with this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, it shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event, the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the commission or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the commission of such state or territory and a certificate of such approval filed with the commission of this State.

Sec. 539. 24-A MRSA § 4109, first sentence, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

Any domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the requirements of section 3352, if such plan of conversion has been approved by the commission.

Sec. 540. 24-A MRSA § 4109, 6th sentence, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

No such conversion shall take effect unless and until approved by the commission which may give such approval, if it finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

Sec. 541. 24-A MRSA § 4111, 2nd ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

No amendment to the articles of incorporation, constitution or laws of any domestic society shall take effect unless approved by the commission, which shall approve such amendment, if it finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this State or with the character, objects and purposes of the society. Unless the commission shall disapprove any such amendment within 60 days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the commission shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case it disapproves such amendment, the reasons therefor shall be stated in such written notice.

Sec. 542. 24-A MRSA § 4111, 3rd ¶, first sentence, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

Within 90 days from the approval thereof by the commission, all such amendments, or a synopsis thereof, shall be furnished to all members of the society either by mail or by publication in full in the official organ of the society.

Sec. 543. 24-A MRSA § 4111, 2nd ¶ from the end, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

Every foreign or alien society authorized to do business in this State shall file with the commission a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or laws within 90 days after the enactment of same.

Sec. 544. 24-A MRSA § 4120, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

No life benefit certificate shall be delivered or issued for delivery in this State unless a copy of the form shall have been filed with the commission and approved by it as conforming to the requirements of this section and not inconsistent with any other provisions of law applicable thereto. A certificate shall be deemed approved unless disapproved by the commission within 60 days from the date of such filing.

Sec. 545. 24-A MRSA § 4121, as last amended by PL 1977, c. 694, § 430, is repealed and the following enacted in its place:

§ 4121. Accident and health insurance and total and permanent disability insurance certificates

No society shall issue or deliver in this State any certificate or other evidence of any contract or accident insurance or health insurance or of any total and permanent disability insurance contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the commission and approved by it as conforming to reasonable rules and regulations from time to time made by it and as not inconsistent with any other provisions of law applicable thereto. The commission shall, within a reasonable time after the filing of any such form, notify the society filing the same either of its approval or of its disapproval of such form. The commission may approve any such form which in its opinion contains provisions on any one or more of the several requirements made by it which are more favorable to the members than the one or ones so required. The commission shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to chapter 33. Where the commission deems inapplicable, either in part or in their entirety, the provisions of the foregoing sections, it may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member. Any filing made hereunder shall be deemed approved unless disapproved within 60 days from the date of such filing. The procedures governing all rules and regulations promulgated under authority of this section shall conform to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

Sec. 546. 24-A MRSA § 4123, first sentence, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make such reinsurance and authorized to do business in this State, or if not so authorized, one which is approved by the commission, but no such society may reinsure substantially all of its insurance in force without the written permission of the commission.

Sec. 547. 24-A MRSA § 4124, 4th sentence, as repealed and replaced by PL 1977, c. 682, § 5, is repealed and the following enacted in its place:

For each license or renewal the society shall pay the commission a fee which shall be the same as for an insurer as provided in section 601.

Sec. 548. 24-A MRSA § 4125, first ¶, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

No foreign or alien society shall transact business in this State without a license issued by the commission. Any such society may be licensed to transact business in this State upon filing with the commission:

Sec. 549. 24-A MRSA § 4125, sub-§ 3, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

3. A power of attorney to the commission as prescribed in section 4129;

Sec. 550. 24-A MRSA § 4125, sub-§ 4, as amended by PL 1973, c. 585, § 12, is further amended to read:

4. A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the **superintendent commission**, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the **superintendent commission** of this State;

Sec. 551. 24-A MRSA § 4126, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. When the **superintendent commission** upon investigation finds that a domestic society:

- A. Has exceeded its powers;
- B. Has failed to comply with any provision of this chapter;
- C. Is not fulfilling its contracts in good faith;
- D. Has a membership of less than 400 after an existence of one year or more;
or
- E. Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business;

he it shall notify the society of such deficiency or deficiencies and state in writing the reasons for his its dissatisfaction. He It shall at once issue a written notice to the society requiring that the deficiency or deficiencies which exist are corrected. After such notice the society shall have a 30-day period in which to comply with the **superintendent's commission's** request for correction, and if the society fails to comply, the **superintendent commission** shall notify the society of his its findings of noncompliance and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the **superintendent commission** may present the facts relating thereto to the Attorney General who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto.

The court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

Sec. 552. 24-A MRSA § 4126, sub-§ 2, ¶ A, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

A. The commission finds that the violation complained of has been corrected;

Sec. 553. 24-A MRSA § 4126, sub-§§ 4 and 5, as amended by PL 1973, c. 585, § 12, are repealed and the following enacted in their place:

4. No action under this section shall be recognized in any court of this State unless brought by the Attorney General upon request of the commission. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the commission as such receiver.

5. The provisions of this section relating to hearing by the commission, action by the Attorney General at the request of the commission, hearing by the court, injunction and receivership shall be applicable to a society which shall voluntarily determine to discontinue business.

Sec. 554. 24-A MRSA § 4127, sub-§ 1, first ¶, as repealed and replaced by PL 1977, c. 694, § 432, is amended to read:

Following investigation the ~~superintendent~~ **commission** may file a complaint with the Administrative Court seeking suspension or revocation of the license of a foreign or alien society upon evidence that the society:

Sec. 555. 24-A MRSA § 4127, sub-§ 1, last ¶, as repealed and replaced by PL 1977, c. 694, § 432, is amended to read:

The duration of any license suspension will be determined by the Administrative Court. Notwithstanding any of the provisions of this subsection, the ~~superintendent~~ **commission** has the authority to amend, modify or refuse to renew any license for cause, pursuant to the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 556. 24-A MRSA § 4129, as last amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 4129. Service of process

Every society authorized to do business in this State shall appoint in writing the commission and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this State. Copies of such appointment, certified by the commission, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

Service shall only be made upon the commission, or if absent, upon the person in charge of its office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commission, it shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. Legal process

shall not be served upon a society except in the manner herein provided. At the time of serving any process upon the commission, the plaintiff or complainant in the action shall pay to the commission a fee of \$5.

Sec. 557. 24-A MRSA § 4130, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4130. Injunction

No application or petition for injunction against any domestic, foreign or alien society, or branch thereof, shall be recognized in any court of this State unless made by the Attorney General upon request of the ~~superintendent~~ **commission**.

Sec. 558. 24-A MRSA § 4131, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4131. Review

All decisions and findings of the ~~superintendent~~ **commission** made under this chapter shall be subject to review by proper proceedings in any court of competent jurisdiction in this State.

Sec. 559. 24-A MRSA § 4134, sub-§ 1, As amended by PL 1973, c. 585, § 12, is further amended to read:

1. Every society transacting business in this State shall annually, on or before the first day of March, unless for cause shown such time has been extended by the ~~superintendent~~ **commission**, file with the ~~superintendent~~ **commission** a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee of \$50 for filing same. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the ~~superintendent~~ **commission**.

Sec. 560. 24-A MRSA § 4134, sub-§ 3, first sentence, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

As a part of the annual statement herein required, each society shall, on or before the first day of March, file with the commission a valuation of its certificates in force on December 31st last preceding, provided the commission may, in its discretion for cause shown, extend the time for filing such valuation for not more than 2 calendar months.

Sec. 561. 24-A MRSA § 4134, sub-§ 6, ¶ B, sub-¶¶ (1) and (2), as amended by PL 1973, c. 585, § 12, are further amended to read:

(1) For certificates of life insurance: American Men Ultimate Table of Mortality, with Bowerman's or Davis' extension thereof or with the consent of the ~~superintendent~~ **commission**, the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality

Table, using actual age of the insured for male risks and an age more than 3 years younger than the actual age of the insured for female risks;

(2) For annuity and pure endowment certificates, excluding any disability and accidental death benefits in such certificates: The 1937 Standard Annuity Mortality Table or the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the **superintendent commission**;

Sec. 562. 24-A MRSA § 4134, sub-§ 6, ¶ B, sub-¶ (5), as amended by PL 1973, c. 585, § 12, is further amended to read:

(5) For noncancellable accident and health benefits: The class III disability table (1926) with conference modifications or, with the consent of the **superintendent commission**, tables based upon the society's own experience.

Sec. 563. 24-A MRSA § 4134, sub-§ 6, 2nd ¶ from the end, as amended by PL 1973, c. 585, § 12, is further amended to read:

The **superintendent commission** may, in ~~his~~ **its** discretion, accept other standards for valuation if ~~he~~ **it** finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The **superintendent commission** may, in ~~his~~ **its** discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this State. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of 3 consecutive years, the **superintendent commission** may require additional reserves when deemed necessary in ~~his~~ **its** judgment on account of such certificates.

Sec. 564. 24-A MRSA § 4134, sub-§ 7, as amended by PL 1973, c. 585, § 12, is further amended to read:

7. A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit \$100 for each day during which such neglect continues, and, upon notice by the **superintendent commission** to that effect, its authority to do business in this State shall cease while such default continues.

Sec. 565. 24-A MRSA § 4135, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 4135. Examination of domestic societies

The **commission**, or any person it may appoint, shall have the power of visitation and examination into the affairs of any domestic society and it shall make such examination at least once in every 3 years. It may employ assistants for the purpose of such examination, and it, or any person it may appoint, shall have free access to all books, papers and documents that relate to the business of the society. The minutes of the proceedings of the supreme legislative or

governing body and of the board of directors or corresponding body of a society shall be in the English language. In making any such examination, the commission may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the society. A summary of the report of the commission and such recommendations or statements of the commission as may accompany such report shall be read at the first meeting of the board of directors or corresponding body of the society following the receipt thereof, and if directed so to do by the commission, shall also be read at the first meeting of the supreme legislative or governing body of the society following the receipt thereof. A copy of the report, recommendations and statements of the commission shall be furnished by the society to each member of such board of directors or other governing body. The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commission.

Sec. 566. 24-A MRSA § 4136, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place:

§ 4136. Examination of foreign and alien societies

The commission, or any person whom it may appoint, may examine any foreign or alien society transacting or applying for admission to transact business in this State. It may employ assistants and it, or any person it may appoint, shall have free access to all books, papers and documents that relate to the business of the society. It may in its discretion accept, in lieu of such examination, the examination of the insurance department of the state, territory, district, province or country where such society is organized. The compensation and actual expenses of the examiners making any examination or general or special valuation shall be paid by the society examined or by the society whose certificate obligations have been valued, upon statements furnished by the commission.

Sec. 567. 24-A MRSA § 4137, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4137. No adverse publications

Pending, during or after an examination or investigation of a society, either domestic, foreign or alien, the ~~superintendent~~ commission shall make public no financial statement, report or finding, nor shall he it permit to become public any financial statement, report or finding affecting the status, standing or rights of any society, until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire.

Sec. 568. 24-A MRSA § 4142, 2nd ¶ from the end, as amended by PL 1973, c. 585, § 12, is further amended to read:

The ~~superintendent~~ **commission** may require from any society or association, by examination or otherwise, such information as will enable ~~him~~ **it** to determine whether such society or association is exempt from this chapter.

Sec. 569. 24-A MRSA § 4202, sub-§ 1-A is enacted to read:

1-A. Commission. “**Commission**” shall mean the **Insurance Commission**.

Sec. 570. 24-A MRSA § 4202, sub-§ 10, as enacted by PL 1975, c. 503, is repealed.

Sec. 571. 24-A MRSA § 4203, sub-§ 1, first sentence, as enacted by PL 1975, c. 503, is amended to read:

Notwithstanding any law of this State to the contrary, any person may apply to the ~~superintendent~~ **commission** for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this chapter.

Sec. 572. 24-A MRSA § 4203, sub-§ 2, 2nd sentence, as enacted by PL 1975, c. 503, is amended to read:

Each such applicant may continue to operate until the ~~superintendent~~ **commission** acts upon the application.

Sec. 573. 24-A MRSA § 4203, sub-§ 3, first ¶, as enacted by PL 1975, c. 503, is amended to read:

Each application for a certificate of authority shall be verified by an officer or authorized representative of the applicant, shall be in a form prescribed by the ~~superintendent~~ **commission** and shall set forth or be accompanied by the following:

Sec. 574. 24-A MRSA § 4203, sub-§ 3, ¶H, as enacted by PL 1975, c. 503, is amended to read:

H. Financial statements showing the applicant’s assets, liabilities and sources of financial support. If the applicant’s financial affairs are audited by independent certified public accountants, a copy of the applicant’s most recent regular certified financial statement shall be deemed to satisfy this requirement, unless the ~~superintendent~~ **commission** directs that additional or more recent financial information is required for the proper administration of this chapter;

Sec. 575. 24-A MRSA § 4203, sub-§ 3, ¶J, as enacted by PL 1975, c. 503, is amended to read:

J. A power of attorney duly executed by such applicant, if not domiciled in this State, appointing the ~~superintendent~~ **commission** and ~~his~~ **its** successors in office, and duly authorized deputies, as the true and lawful attorney of such applicant in and for this State upon whom all lawful process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this State may be served;

Sec. 576. 24-A MRSA § 4203, sub-§ 3, ¶ Q, as enacted by PL 1975, c. 503, is amended to read:

Q. Such other information as the ~~superintendent~~ **commission** may reasonably require to make the determinations required in section 4204.

Sec. 577. 24-A MRSA § 4204, sub-§ 1, first ¶, as enacted by PL 1975, c. 503 and as amended, is further amended to read:

Procedure upon receipt of an application for issuance of a certificate of authority. Upon receipt of an application for issuance of a certificate of authority, the ~~superintendent~~ **commission** forthwith shall transmit copies of such application and accompanying documents to the Commissioner of Human Services.

Sec. 578. 24-A MRSA § 4204, sub-§ 2, first ¶, as enacted by PL 1975, c. 503 and as amended, is further amended to read:

The ~~superintendent~~ **commission** shall issue or deny a certificate of authority to any person filing an application pursuant to section 4203 within 20 business days of receipt of the certification from the Commissioner of Human Services.

Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 4220, if the ~~superintendent~~ **commission** is satisfied that the following conditions are met:

Sec. 579. 24-A MRSA § 4204, sub-§ 2, ¶ C, 2nd ¶, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

In making this determination, the commission may consider:

Sec. 580. 24-A MRSA § 4207, sub-§ 2, as enacted by PL 1975, c. 503, is amended to read:

2. No evidence of coverage, or amendment thereto, shall be issued or delivered to any person in this State until a copy of the form of the evidence of coverage, or amendment thereto, has been filed with and approved by the ~~superintendent~~ **commission**.

Sec. 581. 24-A MRSA § 4207, sub-§§ 4 and 5, as enacted by PL 1975, c. 503, are amended to read:

4. A copy of the form of the evidence of coverage to be used in this State, and any amendment thereto shall be subject to the filing and approval requirements of this section unless it is subject to the jurisdiction of the ~~superintendent~~ **commission** under the laws governing health insurance, or nonprofit hospital or medical service organization, in which event the filing and approval provisions of such laws shall apply.

5. No schedule of charges for enrollee coverage for health care services, or amendment thereto, may be used in conjunction with any health maintenance organization until a copy of such schedule, or amendment thereto, has been filed with and approved by the ~~superintendent~~ **commission**.

Sec. 582. 24-A MRSA § 4207, sub-§§ 7 and 8, as enacted by PL 1975, c. 503, are repealed and the following enacted in their place:

7. The commission shall, within a reasonable period, approve any form and any schedule of charges if the requirements of this section are met. It shall be unlawful to issue such form or to use such schedule of charges until approved. If the commission disapproves such filing, it shall notify the filer. In the notice, the commission shall specify the reasons for its disapproval. A hearing will be granted within 10 days after a request in writing by the person filing. If the commission does not disapprove any form or schedule of charges within 30 days of the filing of such form or charges, they shall be deemed approved.

8. The commission may require the submission of whatever relevant information it deems necessary in determining whether to approve or disapprove a filing made pursuant to this section.

Sec. 583. 24-A MRSA § 4208, sub-§ 1, as enacted by PL 1975, c. 503 and as amended, is further amended to read:

1. Every health maintenance organization shall annually, on or before the first day of April, file a report verified by at least 2 principal officers with the ~~superintendent~~ **commission** with a copy to the Commissioner of Human Services, covering the preceding calendar year.

Sec. 584. 24-A MRSA § 4208, sub-§ 2, first ¶, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

Such report shall be on forms prescribed by the commission and shall include:

Sec. 585. 24-A MRSA § 4208, sub-§ 2, ¶A, as enacted by PL 1975, c. 503, is amended to read:

A. A financial statement of the organization, including its balance sheet and receipts and disbursements for the preceding year certified by an independent certified public accountant; such financial statement shall conform to report methods or procedures as prescribed in a regulation promulgated by the ~~superintendent~~ **commission**;

Sec. 586. 24-A MRSA § 4208, sub-§ 2, ¶E, as enacted by PL 1975, c. 503, is amended to read:

E. Such other information relating to the performance of the health maintenance organization as is necessary to enable the ~~superintendent~~ **commission** to carry out ~~his~~ **its** duties under this chapter.

Sec. 587. 24-A MRSA § 4210, sub-§ 1, 2nd and 3rd sentences, as enacted by PL 1975, c. 503, are amended to read:

A health maintenance organization may apply to the ~~superintendent~~ **commission** for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse

selection by prospective enrollees, or to avoid unreasonably high or unmarketable charges for enrollee coverage for health care services. The ~~superintendent~~ **commission** shall approve or deny such application within 10 days of the receipt thereof from the health maintenance organization.

Sec. 588. 24-A MRSA § 4211, sub-§ 1, as enacted by PL 1975, c. 503 and as amended, is further amended to read:

1. Every health maintenance organization shall establish and maintain a complaint system which has been approved by the ~~superintendent~~ **commission**, after consultation with the Commissioner of Human Services, to provide reasonable procedures for the resolution of written complaints initiated by enrollees concerning health care services and general operating procedures.

Sec. 589. 24-A MRSA § 4211, sub-§ 2, first ¶, as enacted by PL 1975, c. 503 and as amended, is further amended to read:

Each health maintenance organization shall submit to the ~~superintendent~~ **commission** and the Commissioner of Human Services an annual report in a form prescribed by the ~~superintendent~~ **commission** after consultation with the Commissioner of Human Services, which shall include:

Sec. 590. 24-A MRSA § 4211, sub-§§ 3 and 4, as enacted by PL 1975, c. 503, and as amended, are repealed and the following enacted in their place:

3. **The health maintenance organization shall maintain records of written complaints filed with it concerning other than health care services and shall submit to the commission a summary report at such times and in such format as the commission may require. Such complaints involving other persons shall be referred to such persons with a copy to the commission.**

4. **The commission and the Commissioner of Human Services may examine such complaint system.**

Sec. 591. 24-A MRSA § 4212, sub-§ 2, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

2. **An enrollee may not be cancelled or nonrenewed except for the failure to pay the charge for such coverage or for such other reasons as may be promulgated by the commission.**

Sec. 592. 24-A MRSA § 4213, as amended by PL 1977, c. 694, § 433, is repealed and the following enacted in its place:

§ 4213. Regulation of agents

The commission may, after notice and hearing pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents. An agent means a person directly or indirectly associated with a health maintenance organization who engages in solicitation or enrollment.

Sec. 593. 24-A MRSA § 4215, sub-§ 1, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

1. The commission may make an examination of the affairs of any health maintenance as often as it deems it necessary for the protection of the interests of the people of this State, but not less frequently than once every 3 years.

Sec. 594. 24-A MRSA § 4215, sub-§§ 3 and 4, as enacted by PL 1975, c. 503 and as amended, are further amended to read:

3. Every health maintenance organization shall submit its books and records relating to health care services to such examinations and in every way facilitate them. For the purpose of examinations, the ~~superintendent~~ commission and the Commissioner of Human Services may administer oaths to and examine the officers and agents of the health maintenance organization.

4. The expenses of examinations under this section shall be assessed against the organization being examined and remitted to the ~~superintendent~~ commission or the Commissioner of Human Services for whom the examination is being conducted.

Sec. 595. 24-A MRSA § 4215, sub-§ 5, as enacted by PL 1975, c. 503 and as amended, is repealed and the following enacted to read:

5. In lieu of such examination, the commission or Commissioner of Human Services may accept the report of an examination made by persons holding comparable office of another state.

Sec. 596. 24-A MRSA § 4216, sub-§ 1, first ¶, as repealed and replaced by PL 1977, c. 694, § 434, is amended to read:

The ~~superintendent~~ commission may file a complaint with the Administrative Court seeking the suspension or revocation of any certificate of authority issued to a health maintenance organization under this chapter if ~~he~~ it finds that any of the following conditions exist:

Sec. 597. 24-A MRSA § 4216, sub-§ 1, ¶ A, as enacted by PL 1975, c. 503, is amended to read:

A. The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under section 4203, unless amendments to such submissions have been filed with and approved by the ~~superintendent~~ commission;

Sec. 598. 24-A MRSA § 4216, sub-§ 1, ¶ D, first ¶, as enacted by PL 1975, c. 503, and as amended, is repealed and the following enacted in its place:

The Commissioner of Human Services certifies to the commission that:

Sec. 599. 24-A MRSA § 4216, sub-§ 4, 3rd sentence, as enacted by PL 1975, c. 503, is amended to read:

The ~~superintendent~~ **commission** may, by written order, permit such further operation of the organization ~~has~~ **as it** may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage.

Sec. 600. 24-A MRSA § 4217, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

§ 4217. Rehabilitation, liquidation or conservation of health maintenance organizations

Any rehabilitation, liquidation or conservation of a health maintenance organization shall be deemed to be the rehabilitation, liquidation or conservation of an insurance company and shall be conducted under the supervision of the commission pursuant to the laws governing the rehabilitation, liquidation or conservation of insurance companies. The commission may institute summary proceedings in the same manner as provided in the laws governing delinquent insurers, and it may apply for an order directing him to rehabilitate, liquidate or conserve a health maintenance organization when in its opinion the continued operation of the health maintenance organization would be hazardous either to the enrollees or to the people of this State.

Sec. 601. 24-A MRSA § 4218, as amended by PL 1977, c. 694, § 435, is repealed and the following enacted in its place:

§ 4218. Regulations

The commission may, after notice and hearing pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, promulgate reasonable rules and regulations as are necessary or proper to carry out this chapter. Such rules and regulations shall be subject to review in accordance with sections 229 to 236.

Sec. 602. 24-A MRSA § 4219, sub-§ 1, as repealed and replaced by PL 1977, c. 694, § 436, is amended to read:

1. When the ~~superintendent~~ **commission** has cause to believe that grounds exist for the filing of a complaint seeking the suspension or revocation of a certificate of authority, ~~he~~ **it** shall notify the health maintenance organization and the Commissioner of Human Services in writing specifically stating the grounds for suspension or revocation. The Commissioner of Human Services, or his designated representative, shall participate in any disciplinary proceedings. In the process of determining whether grounds for suspension or revocation exist the findings of the commissioner with respect to matters relating to the quality of health care services provided shall be conclusive and binding upon the ~~Superintendent of Insurance~~ **Insurance Commission**. The duration of and conditions attached to any suspension shall be determined by the Administrative Court.

Sec. 603. 24-A MRSA § 4219, sub-§ 2, as repealed and replaced by PL 1977, c. 694, § 436, is amended to read:

2. The ~~Superintendent of Insurance~~ **commission**, acting in concert with the Commissioner of Human Services, has the authority to amend, modify or refuse to renew any certificate of authority for cause, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 604. 24-A MRSA § 4220, sub-§ 1, first ¶, as enacted by PL 1975, c. 503, is repealed and the following enacted in its place:

Every health maintenance organization subject to this chapter shall pay to the commission the following fees:

Sec. 605. 24-A MRSA § 4220, sub-§ 2, as enacted by PL 1975, c. 503 and as amended, is repealed and the following enacted in its place:

2. Fees charged under this section shall be distributed as follows: 50% to the commission and 50% to the Commissioner of Human Services.

Sec. 606. 24-A MRSA § 4221, sub-§ 1, as amended by PL 1977, c. 694, § 437, is further amended to read:

1. The ~~superintendent~~ **commission** may levy an administrative penalty in an amount not less than \$100 nor more than \$500, if reasonable notice in writing is given of the intent to levy the penalty and the health maintenance organization has a reasonable time within which to remedy the defect in its operations which give rise to the penalty citation. The ~~superintendent~~ **commission** may augment this penalty by an amount equal to the sum that ~~he~~ **it** calculates to be the damages suffered by enrollees or other members of the public.

Sec. 607. 24-A MRSA § 4221, sub-§ 2, as enacted by PL 1975, c. 503 and as amended, is further amended to read:

2. If the ~~superintendent~~ **commission** or the Commissioner of Human Services shall for any reason have cause to believe that any violation of this chapter has occurred or is threatened, the ~~superintendent~~ **commission** or Commissioner of Human Services may give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in such suspected violation, to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation.

Proceedings under this subsection shall not be governed by any formal procedural requirements and may be conducted in such manner as the ~~superintendent~~ **commission** or the Commissioner of Human Services may deem appropriate under the circumstances.

Sec. 608. 24-A MRSA § 4221, sub-§ 3, first ¶, as enacted by PL 1975, c. 503, is amended to read:

The **superintendent commission** may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of this chapter.

Sec. 609. 24-A MRSA § 4221, sub-§ 4, as enacted by PL 1975, c. 503, is amended to read:

4. In the case of any violation under this chapter, if the **superintendent commission** elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to this section, the **superintendent commission** may apply to the Superior Court to issue an injunction restraining the company in whole or in part from proceeding further with its business, or ~~he~~ **it** may apply for an order of the court to command performance consistent with contractual obligations of the health maintenance organization.

Sec. 610. 24-A MRSA § 4353, sub-§ 6, as amended by PL 1973, c. 585, § 12, is further amended to read:

6. "Reciprocal state" means any state other than this State in which in substance and effect the uniform insurers liquidation act, as defined in section 4363, is in force, including provisions requiring that the Insurance ~~commissioner~~ **Commission** or equivalent insurance supervisory official be the receiver of a delinquent insurer, and in which effective provisions exist for avoidance of fraudulent conveyances and unlawful preferential transfers.

Sec. 611. 24-A MRSA § 4354, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. The venue of delinquency proceedings against a domestic insurer shall be in the county in this State of the insurer's principal place of business; or, if the principal place of business is located in another state, in any county in this State selected by the **superintendent commission** for the purpose. The venue of proceedings against foreign insurers shall be in any county in this State selected by the **superintendent commission** for the purpose.

Sec. 612. 24-A MRSA § 4354, sub-§ 3, as amended by PL 1973, c. 585, § 12, is further amended to read:

3. At any time after commencement of a proceeding, the **superintendent commission** or any other party may apply to the court for an order changing the venue of, and removing, the proceeding to any other county of this State in which the proceeding may most conveniently, economically and efficiently be conducted.

Sec. 613. 24-A MRSA § 4356, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The **superintendent commission** may petition for an order directing him to

rehabilitate a domestic insurer or an alien insurer domiciled in this State on any one or more of the following grounds:

Sec. 614. 24-A MRSA § 4356, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. On any ground for liquidation of the insurer under section 4357, if the ~~superintendent~~ **commission** believes rehabilitation possible without substantial increase of risk to creditors, policyholders or the public;

Sec. 615. 24-A MRSA § 4356, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. If the ~~superintendent~~ **commission** finds after hearing that any individual exercising executive power with respect to or otherwise materially influencing or controlling the insurer, directly or indirectly, is dishonest or untrustworthy in matters affecting the insurer, and has not been or cannot effectively and permanently be removed from such power, influence or control;

Sec. 616. 24-A MRSA § 4356, sub-§ 7, as amended by PL 1973, c. 585, § 12, is further amended to read:

7. For failure of the insurer, or its parent corporation, or subsidiary or affiliated person controlled by the insurer, to submit its books, accounts, records and affairs to the reasonable inspection or examination of the ~~superintendent~~ **commission** or ~~his its~~ examiner as authorized under this Title; or if any individual exercising any executive authority in the affairs of the insurer or parent corporation or subsidiary or affiliated person has refused to be examined under oath, by the ~~superintendent~~ **commission** or ~~his its~~ examiner thereunto duly authorized, whether within this State or otherwise, concerning the pertinent affairs of the insurer or parent corporation or subsidiary or affiliated person, or if examined under oath refuses to divulge pertinent information reasonably known to him; or for failure of officers, employees and other representatives of the insurer or parent corporation or subsidiary or affiliated person to comply promptly with the reasonable requests of the ~~superintendent~~ **commission** of ~~his its~~ examiner for the purposes of and during the conduct of any such examination;

Sec. 617. 24-A MRSA § 4356, sub-§ 9, as amended by PL 1973, c. 585, § 12 is further amended to read:

9. If the insurer has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge or consolidate substantially its entire property or business in that of any other insurer, without first having obtained the written approval of the ~~superintendent~~ **commission** as required under this Title;

Sec. 618. 24-A MRSA § 4357, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The ~~superintendent~~ **commission** may apply to the court for an order appointing

~~him it~~ as receiver, if ~~his its~~ appointment as receiver is not then in effect, and directing ~~him it~~ to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trustee assets in this State, whether or not there has been a prior order directing ~~him it~~ to rehabilitate the insurer, upon any one or more of the following grounds:

Sec. 619. 24-A MRSA § 4357, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. That the insurer has failed to cure an impairment of surplus or capital or assets within the time allowed therefor by any lawful order of the ~~superintendent~~ **commission**;

Sec. 620. 24-A MRSA § 4357, sub-§ 5, as amended by PL 1973, c. 585, § 12, is further amended to read:

5. That efforts to rehabilitate the insurer and remove the causes or adverse effects thereof for which rehabilitation was instituted have failed despite all reasonable efforts by the ~~superintendent~~ **commission**, or cannot be continued without material increase of risk of loss to the insurer's creditors or policyholders; or

Sec. 621. 24-A MRSA § 4358, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4358. Ground for conservation, foreign and alien insurers

The ~~superintendent~~ **commission** may apply to the court for an order appointing ~~him it~~ as receiver or ancillary receiver, and directing ~~him it~~ to conserve the assets within this State, of a foreign or alien insurer upon any of the applicable ground specified in sections 4356 or 4357, or upon the ground that the insurer's property has been sequestered in its domiciliary sovereignty or in any other sovereignty; or in case of an alien insurer, that the insurer has failed to make good an impairment of its trustee funds within the time required therefor by order of the ~~superintendent~~ **commission**.

Sec. 622. 24-A MRSA § 4359, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4359. Grounds for ancillary liquidation, foreign and alien insurers

The ~~superintendent~~ **commission** may apply to the court for an order appointing ~~him it~~ to liquidate the business of a foreign or alien insurer having assets, business or claims in this State upon the appointment in the domiciliary sovereignty of such insurer of a receiver, liquidator, conservator, rehabilitator or other officer by whatever name called for the purpose of liquidating the business of the insurer.

Sec. 623. 24-A MRSA § 4360, sub-§ 1, as amended by PL 1973, c. 585, § 12, is further amended to read:

1. The ~~superintendent~~ **commission** shall commence a delinquency proceeding

authorized under this chapter, the Attorney General representing ~~him~~ it, by filing a petition in a court of proper jurisdiction praying for appointment of the ~~superintendent~~ **commission** as receiver of the insurer.

Sec. 624. 24-A MRSA § 4361, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4361. Service of process

A certified copy of any order to show cause issued under section 4360, and a copy of the petition upon which the same is made, shall be served upon the insurer by delivering the same to its president, vice-president, secretary, treasurer, director or to its managing agent or attorney in fact, if a reciprocal insurer; or if no such officer or functionary can readily be found in this State, then such process may be served upon the insurer by service thereof upon the ~~superintendent~~ **commission** pursuant to sections 421 or 422.

Sec. 625. 24-A MRSA § 4362, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4362. Injunctions

1. Upon application by the ~~superintendent~~ **commission** for such an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

2. The court may at any time during a proceeding under this chapter issue such other injunctions or orders as may be deemed necessary to prevent interference with the ~~superintendent~~ **commission** or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part thereof.

3. Notwithstanding any other provision of law, no bond shall be required of the ~~superintendent~~ **commission** as a prerequisite for the issuance of any injunction or restraining order pursuant to this section.

Sec. 626. 24-A MRSA § 4364, sub-§§ 1, 2, 4, 6 and 7, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Whenever under this chapter a receiver is to be appointed in delinquency proceedings for an insurer, the court shall appoint the ~~superintendent~~ **commission** as such receiver. The court shall order the ~~superintendent~~ **commission** forthwith to take possession of the assets of the insurer and to administer the same under the orders of the court.

2. As a domiciliary receiver, the ~~superintendent~~ **commission** shall be vested by operation of law with the title to all of the property, contracts and rights of action

and all of the books and records of the insurer, wherever located, as of the date of entry of the order directing ~~him~~ **it** to rehabilitate or liquidate a domestic insurer or to liquidate the United States branch of an alien insurer domiciled in this State, and ~~he~~ **it** shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are herein prescribed for ancillary receivers appointed in this State as to assets located in this State.

4. The ~~superintendent~~ **commission** as domiciliary receiver shall be responsible for the proper administration of all assets coming into ~~his~~ **its** possession or control. The court may at any time require a bond from ~~him~~ **the commission** or ~~his~~ **its** deputies, if deemed desirable for the protection of such assets.

6. In connection with delinquency proceedings, the ~~superintendent~~ **commission** may appoint one or more special ~~deputy superintendents~~ **deputies** to act for ~~him~~ **it** and ~~he~~ **it** may employ such counsel, clerks and assistants as ~~he~~ **it** deems necessary. The compensation of the special deputies, counsel, clerks or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver and shall be paid out of the funds or assets of the insurer. Within the limits of duties imposed upon them, special deputies shall possess all the powers given to and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings.

7. During such receivership, the ~~superintendent~~ **commission** shall file in the court, at regular intervals not less frequently than quarterly, ~~his~~ **its** true reports in summary form of the insurer's affairs under the receivership, and of progress being made in accomplishing the objectives of the receivership. All such reports, together with such additional or special reports as the court may reasonably require, shall be subject to review by the court; and all actions of the receiver therein reported shall be subject to the court's approval, but the court shall not withhold approval or disapprove any such action, unless found by the court after a hearing thereon in open court to be unlawful or arbitrary or capricious.

Sec. 627. 24-A MRSA § 4365, sub-§ 1 as amended by PL 1973, c. 585, § 12, is further amended to read:

1. Whenever under this chapter an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this State, the court shall appoint the ~~superintendent~~ **commission** as ancillary receiver. The ~~superintendent~~ **commission** shall file a petition requesting the appointment on the grounds set forth in section 4358 or 4359:

A. If ~~he~~ **it** finds that there are sufficient assets of the insurer located in this State to justify the appointment of an ancillary receiver; or

B. If 10 or more persons resident in this State having claims against such insurer file a petition with the ~~superintendent~~ **commission** requesting the

appointment of such ancillary receiver.

Sec. 628. 24-A MRSA § 4367, sub-§ 2, ¶ B, as enacted by PL 1969, c. 132, § 1 is amended to read:

B. If ancillary proceedings have been commenced in this State, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this State, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered or certified mail or by personal service at least 40 days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based and the priorities asserted, if any. If the domiciliary receiver within 30 days after the giving of such notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered or certified mail or by personal service, of ~~his~~ ~~its~~ intention to contest such claim, ~~he~~ ~~it~~ shall be entitled to appear or to be represented in any proceeding in this State involving adjudication of the claim. The final allowance of the claim by the courts of this State shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this State.

Sec. 629. 24-A MRSA § 4370, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4370. Limitations on appointment of receiver; action by judgment creditor

No order, judgment or decree enjoining, restraining or interfering with the prosecution of the business of any insurer or for the appointment of a temporary or permanent receiver of a domestic insurer shall be made or granted otherwise than upon the petition of the ~~superintendent~~ **commission** represented by the Attorney General as provided in this chapter.

Sec. 630. 24-A MRSA § 4371, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4371. Deposit of moneys

The ~~moneys~~ ~~moneys~~ collected by the ~~superintendent~~ **commission** in a proceeding under this chapter shall be from time to time deposited in one or more state or national banks, savings banks or trust companies, and in the case of the insolvency or voluntary or involuntary liquidation of any such depository which is an institution organized and supervised under the laws of this State, such deposits shall be entitled to priority of payment on an equality with any other priority given by the banking laws of this State. The ~~superintendent~~ **commission** may in ~~his~~ ~~its~~ discretion deposit such ~~moneys~~ ~~moneys~~ or any part thereof in a national bank or trust company as a trust fund.

Sec. 631. 24-A MRSA § 4372, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4372. Exemption from fees

The ~~superintendent~~ **commission** shall not be required to pay any fee to any public officer in this State for service of process, filing, recording, issuing a transcript or certificate or authenticating any paper or instrument pertaining to the exercise by the ~~superintendent~~ **commission** of any of the powers or duties conferred upon ~~him~~ **it** under this chapter, whether or not such paper or instrument be executed by the ~~superintendent~~ **commission** or ~~his~~ **its** deputies, employees or attorneys of record and whether or not it is connected with the commencement of any action or proceeding by or against the ~~superintendent~~ **commission**, or with the subsequent conduct of such action or proceeding.

Sec. 632. 24-A MRSA § 4373, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4373. Escrowing on pledge of assets

For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer pursuant to this chapter, the ~~superintendent~~ **commission** may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness therefor and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property, whether real, personal or mixed, of such insurer, and the ~~superintendent~~ **commission** subject to the approval of the court shall have power to take any and all other action necessary and proper to consummate any such loan and to provide for the repayment thereof. The ~~superintendent~~ **commission** shall be under no obligation personally or in ~~his~~ **its** official capacity to repay any loan made pursuant to this section.

Sec. 633. 24-A MRSA § 4374, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4374. Termination of rehabilitation

If at any time the court finds, after hearing in open court, upon petition of the ~~superintendent~~ **commission** or of the insurer or of his own motion, that the objectives of an order to rehabilitate a domestic insurer or an alien insurer domiciled in this State have been accomplished, and that the insurer can be returned to its own management without further jeopardy to the insurer and its creditors or policyholders or stockholders or to the public, the court may, upon a full report and accounting by the ~~superintendent~~ **commission** relative to the conduct of the insurer's affairs during the rehabilitation and of the insurer's current financial condition, terminate the rehabilitation and by order return the insurer, its assets and affairs, to the insurer's management.

Sec. 634. 24-A MRSA § 4375, sub-§§ 3 and 4, as amended by PL 1973, c. 585, § 12, are further amended to read:

3. Every director, officer, employee, stockholder, member or any other person acting on behalf of such insurer, who, within 2 years prior to the filing of a petition

for an order to show cause against such insurer under this chapter, shall knowingly participate in the making of any transfer or the creation of any lien prohibited by subsection 1, and every person receiving any property of, or cash surrender from, such insurer or the benefit thereof as a result of a transaction voidable under subsection 2, shall be jointly and severally liable therefor and shall be bound to account to the ~~commissioner~~ **commission** as receiver, rehabilitator, liquidator or conservator, as the case may be.

4. The ~~superintendent~~ **commission** as receiver, rehabilitator, liquidator or conservator may avoid any transfer of or lien upon the property of an insurer which any creditor, stockholder or member of such insurer might have avoided and may recover the property so transferred or its value from the person to whom it was transferred, unless he was a bona fide holder for value prior to the date of the entry of an order to show cause under this chapter. Such property may be recovered or its value collected from whoever may have received it, except a bona fide holder for value.

Sec. 635. 24-A MRSA § 4377, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. After the entry of the order of insolvency, regardless of any prior notice that may have been given to creditors, the ~~superintendent~~ **commission** shall notify all persons who may have claims against the insurer to file such claims with ~~him~~ **the commission**, at a place and within the time specified in the notice, or that such claims shall be forever barred. The time specified in the notice shall be as fixed by the court for filing of claims and which shall be not less than 6 months after the entry of the order of insolvency. The notice shall be given in such manner and for such reasonable period of time as may be ordered by the court.

Sec. 636. 24-A MRSA § 4382, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4382. Report and petition for assessment

Within 3 years after the date of the entry of an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer, the ~~superintendent~~ **commission** may make and file ~~his~~ **its** report and petition to the court setting forth:

1. The reasonable value of the assets of the insurer;
2. The liabilities of the insurer to the extent thus far ascertained by the ~~superintendent~~ **commission**;
3. The aggregate amount of the assessment, if any, which the ~~superintendent~~ **commission** deems reasonably necessary to pay all claims, the costs and expenses of the collection of the assessments and the costs and expenses of the delinquency proceedings in full; and
4. Any other information relative to the affairs or property of the insurer that the ~~superintendent~~ **commission** deems material.

Sec. 637. 24-A MRSA § 4383, sub-§§ 1 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Upon the filing and reading of the report and petition provided for in section 4382, the court, ex parte, may order the **superintendent commission** to assess all members or subscribers of the insurer who may be subject to such an assessment, in such an aggregate amount as the court finds reasonably necessary to pay all valid claims as may be timely filed and proved in the delinquency proceedings, together with the costs and expenses of levying and collecting assessments and the costs and expenses of the delinquency proceedings in full. Any such order shall require the **superintendent commission** to assess each such member or subscriber for his proportion of the aggregate assessment, according to such reasonable classification of such members or subscribers and formula as may be made by the **superintendent commission** and approved by the court.

3. After the entry of the order to levy and assess members or subscribers of an insurer referred to in subsections 1 and 2, the **superintendent commission** shall levy and assess members or subscribers in accordance with the order.

Sec. 638. 24-A MRSA § 4384, sub-§§ 1, 3, and 5, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Any assessment of a subscriber or member of an insurer made by the **superintendent commission** pursuant to the order of court fixing the aggregate amount of the assessment against all members or subscribers and approving the classification and formula made by the **superintendent commission** under section 4383, subsection 1 shall be prima facie correct.

3. If any such member or subscriber fails to pay the assessment within the period specified in the notice, which period shall not be less than 20 days after mailing, the **superintendent commission** may obtain an order in the delinquency proceedings requiring the member or subscriber to show cause at a time and place fixed by the court why judgment should not be entered against such member or subscriber for the amount of the assessment together with all costs, and a copy of the order and a copy of the petition therefor shall be served upon the member or subscriber within the time and in the manner designated in the order.

5. The **superintendent commission** may collect any such assessment through any other lawful means.

Sec. 639. 24-A MRSA § 4385, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Whenever in the **superintendent's commission's** opinion liquidation of a domestic insurer or an alien insurer domiciled in this State would be facilitated by a federal receivership, and when any ground exists upon which the **superintendent commission** might petition the court for an order of rehabilitation or liquidation of the insurer under this chapter, or if such an order has already been entered, the **superintendent commission** may request another **superintendent commission** or

other resident of another state to petition any appropriate federal district court for the appointment of a federal receiver. The **superintendent commission** may intervene in any such action to support or oppose the petition, and may accept appointment as the receiver if so designated. So much of this chapter shall apply to the receivership as may be applicable and appropriate. Upon the **superintendent's commission's** motion, the courts of this State shall relinquish all jurisdiction over the insurer for purposes of rehabilitation or liquidation.

2. If ~~he~~ **it** is appointed receiver under this section, the **superintendent commission** shall comply with requirements necessary to give ~~him~~ **it** title to and control over the assets and affairs of the insurer.

Sec. 640. 24-A MRSA § 4401, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. If the **superintendent commission** determines after a hearing that any insurer has committed or engaged in, or is committing or engaging in, or is about to commit or engage in any act, practice or transaction that would subject it to formal delinquency proceedings under section 4351 to 4407, ~~he~~ **the commission** may make and serve upon the insurer and other persons involved such orders, other than seizure orders under sections 4404 and 4405, as ~~he~~ **it** deems reasonably necessary to correct, eliminate or remedy such conduct, condition or ground. Orders to cure impairment of capital or surplus of a domestic insurer are subject to sections 3423 and 3424.

2. If the **superintendent commission** believes that irreparable harm to the insurer or its policyholders, creditors or the public may occur unless ~~his~~ **its** order is issued with immediate effect, ~~he~~ **it** may make and serve ~~his~~ **its** order without notice and before hearing, and shall simultaneously therewith serve upon the insurer and other persons involved the notice of hearing as required under subsection 3.

Sec. 641. 24-A MRSA § 4401, sub-§ 3, as repealed and replaced by PL 1977, c. 694, § 438, is amended to read:

3. The **superintendent's commission's** order and notice of hearing thereunder shall be served in such a manner as conforms with the notice provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 642. 24-A MRSA § 4402, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4402. —appeal from commission's order

If the **superintendent commission** has issued a summary order before hearing as provided in section 4401, subsection 2, any person upon whom such order is served may waive the **superintendent's commission's** hearing and apply for any immediate judicial relief available under law and without first exhausting administrative remedies. Section 236 (appeal from **superintendent commission**)

shall apply as to appeals from the ~~superintendent's~~ **commission's** order made after hearing.

Sec. 643. 24-A MRSA § 4403, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. The ~~superintendent~~ **commission** may apply for and any Superior Court may grant such restraining orders, temporary and permanent injunctions and other orders as may be deemed necessary to enforce the ~~superintendent's~~ **commission's** order.

2. Violation of any order of the ~~superintendent~~ **commission** issued under section 4401 by any person as to whom the order is in effect shall subject such person to a penalty of not to exceed \$10,000, to be collected in a civil action brought by the Attorney General in the name of the State of Maine. The Attorney General shall deposit all funds so collected with the Treasurer of State to the credit of the Insurance Division Regulatory Revolving Fund.

Sec. 644. 24-A MRSA § 4404, sub-§§ 1 and 2, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Upon filing by the ~~superintendent~~ **commission** in any Superior Court of this State of ~~his~~ **its** verified petition alleging any ground for a formal delinquency proceeding against an insurer under sections 4351 to 4358 and that the interests of the insurer's policyholders or creditors or the public will be jeopardized by delay, and setting forth the order deemed necessary by the ~~superintendent~~ **commission**, the court shall, ex parte and without notice or hearing, issue the requested order. The requested order may:

A. Direct the ~~superintendent~~ **commission** to take possession and control of all or part of the property, books, accounts and records of the insurer and the premises occupied by it for transaction of its business; and

B. Until further order of court, enjoin the insurer and its officers, managers, agents and employees from removal, concealment or other disposition of its property, and from transaction of its business, except with the ~~superintendent's~~ **commission's** written consent.

2. The court's order shall be for such duration, specified in the order, as the court deems necessary to enable the ~~superintendent~~ **commission** to ascertain the insurer's condition. On motion of any party or on its own motion, the court may hold such hearings as it deems desirable after such notice as it deems appropriate, and extend or shorten the duration or modify the terms of the order. The court shall vacate the seizure order, if the ~~superintendent~~ **commission** fails to commence a formal proceeding under sections 4351 to 4385 after reasonable opportunity to do so; and a seizure order is automatically vacated by issuance of the court's order pursuant to formal delinquency proceedings under such sections of this chapter.

Sec. 645. 24-A MRSA § 4405, sub-§§ 1, 2 and 3, as amended by PL 1973, c. 585,

§ 12, are further amended to read:

1. If it appears to the ~~superintendent~~ **commission** that the interests of policyholders, creditors or the public will be jeopardized by delay incident to requesting a court seizure order, then on any ground which would justify a court seizure order under section 4404, and without notice and without applying to the court, the ~~superintendent~~ **commission** may issue a seizure order which must contain a statement verified by ~~him~~ **it** of the grounds of ~~his~~ **its** action. As directed by the seizure order, the ~~superintendent's~~ **commission's** representatives shall forthwith take possession and control of all or part of the property, books, accounts and records of the insurer, and of the premises occupied by the insurer for transaction of its business. The ~~superintendent~~ **commission** shall retain possession and control until the order is vacated or is replaced by an order of court pursuant to subsection 2 or pursuant to a formal proceeding under this chapter.

2. At any time after seizure under subsection 1 the insurer may apply to the Superior Court for Kennebec County or for the county in this State in which the insurer's principal office is located. The court shall thereupon order the ~~superintendent~~ **commission** to appear forthwith and shall thereafter proceed as if the order were a court seizure order issued under section 4404.

3. Every law enforcement officer of this State shall assist the ~~superintendent~~ **commission** in making and enforcing any such seizure, and every sheriff's and police department shall furnish him with such deputies, patrolmen or officers as are necessary for that purpose.

Sec. 646. 24-A MRSA § 4406, sub-§§ 1 and 3, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. The ~~superintendent~~ **commission** shall hold all hearings in summary proceedings privately unless the insurer requests a public hearing, in which case the hearing shall be public.

3. In all summary proceedings and judicial reviews thereof, all records of the insurer, other documents, and all insurance ~~bureau~~ **commission** files and court records and papers, so far as they pertain to or are part of the record of the summary proceedings, shall be and remain confidential except as necessary to obtain compliance therewith, unless the court after hearing arguments by the parties in chambers shall order otherwise, or unless the insurer requests that the matter be made public. Until the court otherwise orders, all papers filed with the clerk of court shall be held by him in a confidential file.

Sec. 647. 24-A MRSA § 4407, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4407. —penalty for refusal to deliver property, etc.

Any person having possession or custody of and refusing to deliver to the ~~superintendent~~ **commission** or ~~his~~ **its** representative upon request any of the

property, books, accounts, documents or other records of an insurer against which a seizure order or a summary order has been issued by the ~~superintendent~~ **commission** or by the court, as provided under sections 4401 to 4406, shall upon conviction thereof be subject to a fine of not over \$10,000 or imprisonment for less than one year, or by both.

Sec. 648. 24-A MRSA § 4437, first ¶, as last amended by PL 1973, c. 625, § 160 is further amended to read:

The board of directors of the association shall consist of not less than 7 persons serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments. If no members are selected within 60 days after May 9, 1970, the ~~superintendent~~ **commission** may appoint the initial members of the board of directors.

Sec. 649. 24-A MRSA § 4437, 2nd ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

In approving selections to the board, the ~~superintendent~~ **commission** shall consider among other things whether all members insurers are fairly represented.

Sec. 650. 24-A MRSA § 4438, sub-§ 1, ¶¶ E and F, as amended by PL 1973, c. 585, § 12, are further amended to read:

E. Notify such persons as the ~~superintendent~~ **commission** directs under section 4441, subsection 2, paragraph A;

F. Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the ~~superintendent~~ **commission**, but designation of a member insurer as a servicing facility may be declined by such insurer;

Sec. 651. 24-A MRSA § 4439, sub-§ 1, ¶¶ A and B, as amended by PL 1973, c. 625, § 161, are further amended to read:

A. The association shall submit to the ~~superintendent~~ **commission** a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the ~~superintendent~~ **commission**.

B. If the association fails to submit a suitable plan of operation within 90 days following May 9, 1970 or if at any time thereafter the association fails to submit suitable amendments to the plan, the ~~superintendent~~ **commission** shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate this subchapter. Such rules shall continue

in force until modified by the **superintendent commission** or superseded by a plan submitted by the association and approved by the **superintendent commission**.

Sec. 652. 24-A MRSA § 4439, sub-§ 3, ¶¶ G and H, as amended by PL 1973, c. 585, § 12, are further amended to read:

G. Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the **superintendent commission** within 30 days after the action or decision;

H. Establish the procedures whereby selections for the board of directors will be submitted to the **superintendent commission**; and

Sec. 653. 24-A MRSA § 4439, sub-§ 4, last sentence, as amended by PL 1973, c. 585, § 12, is further amended to read: A delegation under this subsection shall take effect only with the approval of both the board of directors and the **superintendent commission**, and may be made only to a corporation, association or organization which extends protection not substantially less favorable and effective than that provided by this subchapter.

Sec. 654. 24-A MRSA § 4441, sub-§ 1, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The **superintendent commission** shall:

Sec. 655. 24-A MRSA § 4441, sub-§ 2, first ¶, as amended by PL 1973, c. 585, § 12, is further amended to read:

The **superintendent commission** may:

Sec. 656. 24-A MRSA § 4444, sub-§§ 1 to 6, as amended by PL 1973, c. 585, § 12, are further amended to read:

1. Notification. The board of directors, upon majority vote, shall notify the **superintendent commission** of any information indicating that any member insurer may be insolvent or in a financial condition hazardous to policyholders or the public;

2. Examination. The board of directors may, upon majority vote, request that the **superintendent commission** order an examination of any member insurer which the board in good faith believes may be in a financial condition hazardous to policyholders or the public. Within 30 days of the receipt of such request, the **superintendent commission** shall begin such examination. The cost of the examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall the examination report, or any portion thereof, be released to the board of directors prior to its release to the public, but this shall not preclude the **superintendent commission** from complying with subsection 3. The **superintendent commission** shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the **superintendent commission** but shall not

be open to public inspection prior to the release of the examination report, or part thereof to the public, in accordance with section 227;

3. Report. The ~~superintendent~~ **commission** shall report to the board of directors when ~~he it~~ has reasonable cause to believe that any member insurer examined or being examined at the request of the board of directors may be insolvent or in a financial condition hazardous to policyholders or the public;

4. Recommendations. The board of directors may, upon majority vote, make reports and recommendations to the ~~superintendent~~ **commission** upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer. Such reports and recommendations shall not be considered public documents or be open to public inspection;

5. Prevention. The board of directors may, upon majority vote, make recommendations to the ~~superintendent~~ **commission** for the detection and prevention of insurer insolvencies;

6. Causes. The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information available to the association, and submit such report to the ~~superintendent~~ **commission**.

Sec. 657. 24-A MRSA § 4445, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4445. Examination of the association

The association shall be subject to examination and regulation by the ~~superintendent~~ **commission**. The board of directors shall submit, not later than March 30th of each year, a financial report for the preceding calendar year in a form approved by the ~~superintendent~~ **commission**.

Sec. 658. 24-A MRSA § 4448, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4448. Immunity

There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the association or its agents or employees, the board of directors, or the ~~superintendent~~ **commission** or ~~his~~ **its** representatives for any action taken by them in the performance of their powers and duties under this subchapter.

Sec. 659. 24-A MRSA § 4450, first sentence, as amended by PL 1973, c. 585, § 12, is further amended to read:

The ~~superintendent~~ **commission** shall by order terminate the operation of the association as to any kind of insurance with respect to which ~~he it~~ has found, after notice and hearing, that there is in effect a statutory plan of the United States

Government to avoid excessive delay or financial loss to claimants or policyholders because of insurer insolvency and which provides for protection and benefits to residents of this State not materially less favorable than provided under this subchapter.

Sec. 660. 24-A MRSA § 4701, as amended by PL 1973, c. 585, § 12 is further amended to read:

§ 4701. Licensed companies only

No person shall perform or offer to perform in this State, for stipulated fee covering a certain period, any form of road or other tourist service relating to the repair, operation and care of automobiles or to the protection and assistance of automobile owners or drivers, other than licensed insurers; or furnish or offer to furnish tourist service by selling or offering to sell to any proprietor of any so-called roadside house, motel or camp furnishing or offering to furnish meals or lodging to the traveling public, any form of sign or other insignia indicating that said roadside house, motel or camp has been approved by any person, without being licensed therefor by the ~~superintendent~~ **commission**.

Sec. 661. 24-A MRSA § 4702, sub-§ 1, as last amended by PL 1975, c. 767, § 22, is further amended to read:

1. If the ~~superintendent~~ **commission** is of the opinion that an applicant is reliable and entitled to confidence, such applicant shall be granted a license to perform such road or other service in this State, and the license may be continued biennially thereafter so long as the ~~superintendent~~ **commission** regards the licensee as financially responsible and entitled to confidence. At the time of issuance of such license, the ~~superintendent~~ **commission** shall establish a biennial continuation date for the purpose of biennial continuation of the license in force.

Sec. 662. 24-A MRSA § 4702, sub-§ 2, as amended by PL 1973, c. 585, § 12, is further amended to read:

2. The applicant shall pay a license fee to the ~~superintendent~~ **commission** as provided in section 601 (fee schedule).

Sec. 663. 24-A MRSA § 4703, as amended by PL 1973, c. 585, § 12, is further amended to read:

§ 4703. Agents

No person, for himself or in behalf of any other person, shall sell or offer to sell any such road or other service without being licensed therefor by the ~~superintendent~~ **commission**.

Sec. 664. 24-A MRSA § 4704, as last amended by PL 1975, c. 767, § 23, is further amended to read:

§ 4704. Agent's license; fee

The ~~superintendent~~ **commission** shall grant a license to sell such service in

behalf of any person licensed therefor to any applicant who shall furnish the ~~superintendent~~ **commission** with satisfactory evidence of his integrity and authority to sell the service offered. Such license, when granted, shall expire at midnight on the company's biennial continuation date and thereafter may be continued biennially so long as the ~~superintendent~~ **commission** shall be satisfied of the licensee's integrity, authority and responsibility to provide the service stipulated.

The applicant shall pay a license fee to the ~~superintendent~~ **commission** as provided in section 601, fee schedule.

Sec. 665. 24-A MRSA § 4705, as repealed and replaced by PL 1977, c. 694, § 439, is amended to read:

§ 4705. Petition for revocation

The ~~superintendent~~ **commission** may file a complaint with the Administrative Court seeking to revoke or suspend a license for cause, at any time.

Sec. 666. Initial appointments. Of those members of the commission first appointed by the Governor under Title 24-A, section 201, one, who shall be the person holding the Office of Superintendent of Insurance on the day before the effective date of this Act, shall be appointed for 7 years; one shall be appointed for 5 years, and one shall be appointed for 3 years. Upon the expiration of these initial terms, appointments shall be made in accordance with Title 24-A, section 201.

Sec. 667. Initial chairman. The Governor shall designate as the first chairman of the commission that member who is first appointed for a term of 7 years.

Sec. 668. Personnel. It is the intent of the Legislature that all employees of the Bureau of Insurance on the day before the effective date of this Act, other than the superintendent and any deputy superintendent, shall remain employees with all accumulated rights and privileges in the Insurance Commission.

It is further the intent of the Legislature that the person who is the first deputy superintendent of insurance on the day before the effective date of this Act shall be the executive director of the Insurance Commission on the effective date of this Act, and that any other deputy superintendents on the day before the effective date of this Act shall become directors of the Insurance Commission on the effective date of this Act.

Sec. 669. Funds transferred. Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of the Bureau of Insurance shall be transferred to its proper place in the Insurance Commission by the State Controller on recommendation of the chairman of the Insurance Commission.

Sec. 670. Regulations. All existing regulations currently in effect and

operation in the Bureau of Insurance or in any administrative unit of that bureau shall continue in effect, unless in conflict with this Act, until rescinded, amended or changed. "Regulation" includes, but is not limited to, any rule, regulation, order, administrative procedure, policy, determination, directive, authorization, permit, license, privilege, requirement, designation or agreement.

Sec. 671. Forms, licenses, letterheads. All existing forms, licenses, letterheads and similar items bearing the name "Bureau of Insurance" or "Superintendent of Insurance" or which make reference thereto may be used by the Insurance Commission until existing supplies of those items are exhausted.

Sec. 672. Records, property and equipment. All records, property and equipment previously belonging to or allocated for the use of the Bureau of Insurance shall become, on the effective date of this Act, part of the property of the Insurance Commission.

Sec. 673. Contracts, agreements, compacts. All existing contracts, agreements and compacts currently in effect in the Bureau of Insurance shall continue in effect.

Sec. 674. Amendatory provision. Wherever in the Revised Statutes the words "Bureau of Insurance" or "Superintendent of Insurance" appear, they shall mean "Insurance Commission" or, if only one individual is meant for purposes of membership of any board or agency, "Chairman of the Insurance Commission."

STATEMENT OF FACT

The purpose of this bill is reflected in the Title.