

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Sec. 3. 24-A MRSA § 5, as repealed and replaced by PL 1973, c. 585, § 6, is repealed and the following enacted in its place: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Sec. 5. 24-A MRSA c. 3, 2nd line, as amended by PL 1973, c. 585, § 12, is repealed and the following enacted in its place: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Sec. 7. 24-A MRSA § 201, as amended by PL 1975, c. 771, § 259, is repealed and the following enacted in its place: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.