

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1535

6  
7 S.P. 585

In Senate, May 17, 1985

8 Reference to the Committee on Business and Commerce suggested and  
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Bustin of Kennebec.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT Relating to Financial Regulation of  
18 Insurance Companies.  
19

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

22 Sec. 1. 24-A MRSA §221-A is enacted to read:

23 §221-A. Financial audit requirements

24 1. Purpose. The purpose of this section is to  
25 provide the superintendent with a means of improved  
26 financial monitoring of insurers doing business in  
27 this State. This mechanism of increased financial  
28 surveillance of insurers shall not be a substitute  
29 for financial examinations required or authorized by  
30 this Title generally.

31 2. Definitions. As used in the section, unless  
32 the context indicates otherwise, the following terms  
33 have the following meanings.

1           A. "Accountant" and "independent certified public  
2           accountant" mean an independent certified  
3           public accountant or firm licensed to practice in  
4           the State or in any state recognizing similar re-  
5           ciprocal licensing requirements and who is a mem-  
6           ber in good standing of the American Institute of  
7           Certified Public Accountants. It shall also mean,  
8           in the case of Canadian and British domiciled  
9           companies, a Canadian or British chartered  
10           accountant.

11           B. "Audited financial report" means a written  
12           report which meets the requirements of subsection  
13           4.

14           C. "Insurer" means any insurance company doing  
15           business in the State pursuant to this Title and  
16           includes, but is not limited to, all life, acci-  
17           dent and health, property and casualty, title,  
18           direct writing reinsuring companies and surplus  
19           lines companies regulated by the Bureau of Insur-  
20           ance.

21           3. Audits required. All insurers, excepting ins-  
22           urers transacting business in this State pursuant to  
23           the terms of chapter 51, shall cause to be conducted  
24           an annual audit by an independent certified public  
25           accountant and shall file an audited financial report  
26           with the superintendent on or before June 30th for  
27           the year ending December 31st preceding. An extension  
28           of the filing deadline may be granted by the superin-  
29           tendent upon a showing by the insurer or its account-  
30           ant that there exists valid justification for such  
31           an extension.

32           4. Content of annual audited financial report-  
33           ing. Annual audited financial reporting shall consist  
34           of the following.

35           A. Financial statements furnished under this  
36           section shall be examined by independent certi-  
37           fied public accountants in accordance with gener-  
38           ally accepted auditing standards as prescribed by  
39           the American Institute of Certified Public Ac-  
40           countants. The opinion of the accountant shall  
41           cover all years for which a financial presenta-  
42           tion is made.

1           The opinion expressed concerning the financial  
2           statements filed under this section shall conform  
3           with the accounting practices prescribed or per-  
4           mitted by the superintendent or the insurance su-  
5           pervisory official of the insurer's state of dom-  
6           icile. Insurers may elect to present financial  
7           statements filed under this section on the basis  
8           of generally accepted accounting principles if  
9           such statements contain a reconciliation of  
10           shareholders equity, surplus funds, and results  
11           of operations to the statutory basis of account-  
12           ing required for insurers generally.

13           The opinion shall be expressed to the insurer by  
14           the accountant on his letterhead and shall show  
15           the address of the office issuing that opinion,  
16           shall be manually executed and shall be dated.

17           B. Financial statements, as a minimum, shall  
18           consist of:

19                   (1) Balance sheet;

20                   (2) Statement of gain or loss from opera-  
21                   tions;

22                   (3) Statement of change in financial posi-  
23                   tion;

24                   (4) Statement of change in capital paid-up,  
25                   gross paid-in and contributed surplus and  
26                   unassigned funds, surplus funds; and

27                   (5) Notes to financial statements.

28           C. The statement shall include an independent  
29           certified public accountant's report respecting  
30           evaluation of internal controls.

31           D. The statement shall include an independent  
32           certified public accountant's letter attesting to  
33           his qualifications, his possession of license and  
34           his subscription to the code of professional eth-  
35           ics and pronouncements issued by the American In-  
36           stitute of Certified Public Accountants.

1           5. Notification of adverse financial condition.  
2 Any insurer and any independent certified public ac-  
3 countant representing an insurer with respect to the  
4 report which the insurer is required to file pursuant  
5 to this section shall immediately notify in writing  
6 the president or any other acting senior officer of  
7 the insurer, all members of the board of directors of  
8 the insurer and the superintendent upon any determi-  
9 nation by the independent certified public accountant  
10 that the insurer has materially misstated its finan-  
11 cial condition as reported in the annual statement  
12 required under section 423 for the year ending Decem-  
13 ber 31st preceding.

14 If the accountant subsequent to the date of the au-  
15 dated financial report required by this section be-  
16 comes aware of material subsequent facts which would  
17 have affected his report, the accountant shall pro-  
18 vide such pertinent information upon his determina-  
19 tion to the parties identified in this subsection.

20           6. Access to and maintenance of working papers  
21 of independent certified public accountant. Any in-  
22 surer subject to the filing requirements of this sec-  
23 tion shall require all retained independent certified  
24 public accountants to make available to the superin-  
25 tendent for review workpapers prepared in the conduct  
26 of the audit of the insurer upon that schedule which  
27 is reasonable and timely for the needs of the super-  
28 intendent and the accountant. Workpapers prepared by  
29 the accountant to the extent those papers comprehend  
30 transactions with affiliates, parents or subsidiary  
31 corporations and affecting the final equity determi-  
32 nation of the insurer shall be deemed working papers  
33 of the accountant applicable to the insurers annual  
34 financial audit. The insurer shall require that the  
35 retained accountants retain the workpapers for a pe-  
36 riod of not less than 5 years after the close of the  
37 period reported upon.

38           7. Rules authorized. The superintendent shall  
39 promulgate such rules as shall be necessary to effec-  
40 tuate provisions of this section.

41           8. Application and effective date. For those in-  
42 surers doing business in this State which are subject  
43 to this section, the filing of the initial annual au-

1 dited financial reports required under this section  
2 shall be due June 30, 1986, covering the calendar  
3 year December 31, 1985. Similar recurring reports  
4 shall be due each June 30th thereafter.

5 9. Exemptions. Upon written application of any  
6 insurer subject to this section, the superintendent  
7 may grant an exemption of the filing requirements un-  
8 der this section if the superintendent finds upon re-  
9 view of the application that compliance would consti-  
10 tute a financial hardship upon the insurer.

11 If an insurer's annual statement reflects business in  
12 this State in an amount less than \$100,000 in written  
13 premium for the preceding year, the insurer is exempt  
14 from the filing requirements of this section with re-  
15 spect to that year.

16 Sec. 2. 24-A MRS §412, sub-§4, as enacted by PL  
17 1975, c. 77, is amended to read:

18 4. The superintendent shall not authorize an  
19 alien insurer to transact insurance in this State un-  
20 less it makes in this State through the superintend-  
21 ent and thereafter continuously maintains a deposit,  
22 representing funds in excess of all the insurer's li-  
23 abilities under insurance contracts in force in the  
24 United States of America, of a fair market value in  
25 amount not less than the minimum paid-in capital  
26 stock required under this Title of a foreign stock  
27 insurer authorized to transact like kinds of insur-  
28 ance in this State. The superintendent may require  
29 additional trusted surplus funds in reasonable  
30 amount to secure the interest of beneficiaries under  
31 policies insured by the alien insurer. The deposit  
32 shall be held in trust for the exclusive benefit of  
33 the insurer's policyholders and creditors in the  
34 United States of America.

35 A. In lieu of such a deposit made or maintained  
36 in this State, the superintendent shall accept  
37 the certificate in proper form of the insurance  
38 supervisory official having general supervision  
39 of insurers in any other state to the effect that  
40 a deposit of like quality and amount, or part  
41 thereof, by such insurer is being maintained for  
42 like purposes in public custody or control pursu-  
43 ant to the laws of such state.

1           Sec. 3. 24-A MRS §413, sub-§5, as enacted by PL  
2 1969, c. 132, §1, is repealed.

3           Sec. 4. 24-A MRS §413, sub-§5-A is enacted to  
4 read:

5           5-A. A copy of a current report of examination  
6 of the insurer certified by the public insurance su-  
7 pervisory official of the insurer's state of domi-  
8 cile, or of entry into the United States, if an alien  
9 insurer. For purpose of this requirement, a report of  
10 examination shall be deemed "current" only if its  
11 date of account is within 24 months of filing of the  
12 application, except that the superintendent may, in  
13 his discretion, accept a report of examination within  
14 a period reasonably proximate to 24 months from its  
15 date of account which is filed by the applicant  
16 promptly upon its receipt where issuance of the re-  
17 port by the domiciliary regulator has been delayed  
18 for reasons beyond the control of the applicant and  
19 which are unrelated to the applicant's financial con-  
20 dition or its compliance with applicable laws;

21           Sec. 5. 24-A MRS §415-A is enacted to read:

22           §415-A. Termination of certificate of authority

23           An authorized insurer which elects to terminate  
24 its license authority in this State, in whole or in  
25 part, shall submit a withdrawal plan designed to pro-  
26 tect policyholders and claimants which is subject to  
27 approval by the superintendent. The insurer shall  
28 submit its plan at least 60 days prior to its pro-  
29 posed date of withdrawal. The plan shall include, but  
30 not be limited to, requirements and procedures for  
31 meeting the insurer's existing contractual obliga-  
32 tions, providing security in the event of a subse-  
33 quent insolvency and meeting any applicable statutory  
34 obligations. The plan shall also comply with any fur-  
35 ther terms and conditions which are prescribed by  
36 rules adopted by the superintendent. In order to pro-  
37 tect the interest of the people of this State, the  
38 superintendent may require the insurer to make a de-  
39 posit of securities of a nature and type eligible un-  
40 der section 1253, to be held in trust by the treasur-  
41 er in the name of the superintendent.

1           If an insurer's license authority is revoked,  
2 suspended or otherwise terminated in a manner other  
3 than by its election, the superintendent shall issue  
4 an order which prescribes terms and conditions relat-  
5 ed to the license termination which shall, to the ex-  
6 tent practicable, conform to the requirements govern-  
7 ing withdrawal plans as prescribed by this section  
8 and rules promulgated under this section. In the  
9 event that an insurer attempts to terminate its li-  
10 cence authority in this State without filing a with-  
11 drawal plan acceptable to the superintendent, the su-  
12 perintendent shall issue an order prescribing the  
13 terms and conditions of the termination. Any order  
14 issued pursuant to this section, including an order  
15 directing an insurer to produce relevant information,  
16 may be enforced as provided by section 214.

17           Sec. 6. 24-A MRSA §423-A is enacted to read:

18           §423-A. Interim financial reporting requirements

19           1. Quarterly report. Within 45 days following  
20 the close of any calendar quarter, except the 4th  
21 quarter, an authorized insurer, subject to the re-  
22 quirements of section 423, shall upon the  
23 superintendent's request, made to the authorized in-  
24 surer, not later than the end of the quarter to be  
25 reported upon file a quarterly report of financial  
26 condition with the Bureau of Insurance.

27           2. Form and content. The quarterly report shall  
28 be in the form requested by the superintendent and  
29 shall contain such information as the superintendent  
30 deems necessary or if the superintendent elects shall  
31 be conformed to the reporting format developed by the  
32 National Association of Insurance Commissioners and  
33 which is in customary use in the United States for  
34 differing types of authorized insurers.

35           3. Verification. The report shall be verified by  
36 the oath of the insurer's president or vice-  
37 president, and the secretary or actuary as applica-  
38 ble, or in the absence of the foregoing, by 2 other  
39 principal officers; or if a reciprocal insurer, by  
40 the oath of the attorney-in-fact or its like officers  
41 if a corporation.



1           Sec. 7. 24-A MRSA §731, sub-§2, as amended by PL  
2 1969, c. 177, §15, is repealed.

3           Sec. 8. 24-A MRSA §731, sub-§2-A is enacted to  
4 read:

5           2-A. An insurer may reinsure all or part of any  
6 particular risk with any solvent insurer which meets  
7 the following requirements:

8           A. Is authorized to transact insurance in one or  
9 more states;

10           B. Has surplus to policyholders in an amount not  
11 less than the paid-in capital stock required of  
12 an authorized foreign stock insurer transacting  
13 like kinds of insurance;

14           C. In the case of a group of individuals who  
15 constitute a syndicate of unincorporated alien  
16 insurers, has assets held in trust for the bene-  
17 fit of its United States policyholders in a sum  
18 not less than \$100,000,000 and is authorized to  
19 transact insurance in at least one state;

20           D. Meets solvency standards required of autho-  
21 rized insurers insuring risks of like character  
22 and is in substantial compliance until other re-  
23 quirements relating to financial viability which  
24 are imposed on authorized insurers;

25           E. In the case of an alien insurer entered as a  
26 United States branch in another state, makes and  
27 maintains, as a deposit, a trusteed surplus fund  
28 in an amount not less than \$10,000,000. The fund  
29 shall be held under fiduciary conditions within  
30 the United States for the protection of United  
31 States insurers with whom the alien does business  
32 and United States beneficiaries of reinsured con-  
33 tracts of insurance. The trusteed funds shall be  
34 in addition to any other trust assets required by  
35 this Title; and

36           F. On such periodic filing dates as may be de-  
37 termined by the superintendent, files evidence  
38 satisfactory to the superintendent of compliance  
39 with paragraphs A to E. The periodic reporting

1 shall include, but not be limited to, a statement  
2 of the amount of reinsurance premium assumed by  
3 the reinsurer during the reporting period and the  
4 reserves held pursuant thereto.

5 Cession of bulk reinsurance by a domestic insurer is  
6 subject to section 3483, bulk reinsurance.

7 Sec. 9. 24-A MRSA §731, sub-§6 ie enacted to  
8 read:

9 6. The superintendent is authorized to promul-  
10 gate such rules as shall be necessary to effectuate  
11 the provisions of this section.

12 STATEMENT OF FACT

13 This bill amends current law regarding several  
14 matters relating to financial regulation of insurers  
15 and reinsurers.

16 Section one requires insurers doing business in  
17 the State to retain certified public accountants to  
18 provide the superintendent with an annual audit re-  
19 port. Since insurers are examined generally no more  
20 frequently than every 3 years, this financial sur-  
21 veillance will assist in the detection of any deteri-  
22 oration of financial condition of insurers.

23 Section 2 permits the Superintendent of Insurance  
24 to require additional surplus funds based upon the  
25 exposure of alien insurers operating within the  
26 State. Such additional funds, if required, will be in  
27 proportion to increased risk assumption by any such  
28 insurer.

29 Sections 3 and 4 of the bill will modify the re-  
30 quirements currently in the Maine Revised Statutes,  
31 Title 24-A, concerning examination reports of compa-  
32 nies applying for license. The proposed standard re-  
33 lates provision of an examination report by the ap-  
34 plicant to a 2-year period from the closing date of  
35 the period covered by the report.

36 Section 5 of this bill sets conditions under  
37 which insurers terminate business efforts in the

1 State and provides for deposits to be held by the  
2 Treasurer of State to secure the interest of Maine  
3 resident insureds upon the terminations.

4 Section 6 of the bill establishes a procedure for  
5 the superintendent's requirement of interim financial  
6 statement reporting of insurers financial condition.

7 Sections 7, 8 and 9 of the bill establish  
8 stricter standards for reinsurance companies operat-  
9 ing in the State.

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