

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2054

6
7 H.P. 1457

House of Representatives, February 24, 1986

8 Reported by Representative Brannigan from the Committee on Business
9 and Commerce. Sent up for concurrence and ordered printed. Approved by
the Legislative Council on September 25, 1985.

10 EDWIN H. PERT, Clerk

Reported from the Joint Standing Committee on Business and Commerce
under Joint Rule 19.

11
12 STATE OF MAINE
13

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

17 AN ACT Relating to Cancellation and
18 Nonrenewal of Property and Casualty
19 Insurance Contracts.
20

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

23 Sec. 1. 24-A MRSA §2908 is enacted to read:

24 §2908. Cancellation and nonrenewal

25 1. As used in this section, unless the context
26 indicates otherwise, the following terms have the
27 following meanings.

28 A. "Cancellation" means termination of a policy
29 at a date other than its expiration date.

30 B. "Expiration date" means the date upon which
31 coverage under a policy ends. It also means, for
32 a policy written for a term longer than one year
33 or with no fixed expiration date, each annual an-
34 niversary date of the policy.

1 C. "Nonpayment of premium" means the failure or
2 inability of the named insured to discharge any
3 obligation in connection with the payment of pre-
4 mium on a policy of insurance subject to this
5 regulation, whether the payments are payable di-
6 rectly to the insurer or its agent or indirectly
7 payable under a premium finance plan or extension
8 of credit.

9 D. "Nonrenewal" means termination of a policy at
10 its expiration date.

11 E. "Renewal" or "to renew" means the issuance
12 of, or the offer to issue by an insurer, a policy
13 succeeding a policy previously issued and deliv-
14 ered by the same insurer or the issuance of a
15 certificate or notice extending the terms of an
16 existing policy for a specified period beyond its
17 expiration date.

18 2. Except as provided by subsection 7, no con-
19 tract of casualty insurance may be cancelled by an
20 insurer prior to the expiration of the policy, except
21 on grounds stated in the policy which pertain to the
22 following:

23 A. Nonpayment of premium;

24 B. Fraud or material misrepresentation made by
25 or with the knowledge of the named insured in ob-
26 taining the policy, continuing the policy or in
27 presenting a claim under the policy;

28 C. Substantial change in the risk which in-
29 creases the risk of loss after insurance coverage
30 has been issued or renewed, including, but not
31 limited to, an increase in exposure due to rules,
32 legislation or court decision;

33 D. Failure to comply with reasonable loss con-
34 trol recommendations;

35 E. Substantial breach of contractual duties,
36 conditions or warranties; or

37 F. Determination by the superintendent that the
38 continuation of a class or block of business to

1 which the policy belongs will jeopardize a compa-
2 ny's solvency or will place the insurer in viola-
3 tion of the insurance laws of this State or any
4 other state.

5 3. If a policy has been issued for a term longer
6 than one year and, for additional premium considera-
7 tion, a premium has been guaranteed, the insurer may
8 not refuse to renew the policy or increase the policy
9 premium for the term of that policy.

10 4. If an insurer offers or purports to renew a
11 contract, but on less favorable terms to the insured
12 or at higher rates or a higher rating plan, the new
13 terms or rates and rating plan may take effect on the
14 renewal date, if the insurer has provided the insured
15 30 days notice. If the insurer has not so notified
16 the contract holder, the contract holder may elect to
17 cancel the renewal policy within the 30-day period
18 after receipt of the notice or delivery. Earned pre-
19 mium for the period of coverage for such time as the
20 renewal contract may have been in force, shall be
21 calculated pro rata at the lower of the current or
22 previous year's rate. If the insured accepts the re-
23 newal, the premium increase, if any, and other
24 changes shall be effective the day following the pri-
25 or policy's expiration or anniversary date. This sec-
26 tion does not apply if the change is a rate, form or
27 plan filed with the superintendent and applicable to
28 the entire class of business to which the policy be-
29 longs or to a premium increase based on the altered
30 nature or extent of the risk insured against.

31 5. Cancellation or nonrenewal is not effective
32 until notice is received by the insured as follows.

33 A. Cancellation shall not be effective prior to
34 10 days after receipt by the insured of a notice
35 of cancellation. The notice shall state the ef-
36 fective date of and the reason or reasons for
37 cancellation.

38 B. Nonrenewal subject to this section shall not
39 be effective prior to 30 days after receipt of
40 written notice by the insured. If an insurer pro-
41 vides a notice of nonrenewal as described in this
42 subsection and thereafter extends the policy 90

1 days or less, an additional notice of nonrenewal
2 is not required with respect to this extension.

3 C. A post-office certificate of mailing to the
4 named insured at his last known address is con-
5 clusive proof of receipt of notice on the 3rd
6 calendar day after mailing.

7 6. Any insured who has received a notice of an
8 insurer's intent to cancel a policy may, within 45
9 days of the receipt of the notice, request a hearing
10 before the superintendent. The purpose of this hear-
11 ing shall be limited to establishing the existence of
12 the proof or evidence given by the insurer in its no-
13 tice of cancellation. The burden of proof of the rea-
14 son for cancellation shall be upon the insurer. The
15 superintendent shall have the authority to order that
16 a policy remain in effect.

17 7. Except as provided in Title 10, chapter 210,
18 no insurer or licensed agent or employee of the in-
19 surer may be held liable in any civil action for
20 statements made in a notice of cancellation or nonre-
21 newal or at a hearing held under this section if the
22 statements were made in good faith and, in the case
23 of cancellation, are reasonably related to the
24 grounds for cancellation.

25 8. This section does not apply to any insurance
26 policy that has not been previously renewed if the
27 policy has been in effect less than 60 days at the
28 time notice of cancellation is mailed or otherwise
29 delivered. This section does not apply to any policy
30 subject to the Maine Automobile Insurance Cancellat-
31 ion Control Act, subchapter II. This section does
32 not apply to workers' compensation insurance or any
33 assigned risk program. The superintendent may sus-
34 pend, in whole or in part, the applicability of this
35 section to any insurer if, in his discretion, its ap-
36 plication will endanger the ability of the insurer to
37 fulfill its contractual obligations.

38 9. This section applies to all policies deliv-
39 ered, issued for delivery or renewed in this State
40 after the effective date of this Act. In the case of
41 policies issued for more than one year or those hav-
42 ing no fixed expiration date, this section applies to

1 these policies on or after the first policy anniver-
2 sary occurring after the effective date of this Act.

3 Sec. 2. 24-A MRSA §3007 is enacted to read:

4 §3007. Cancellation and nonrenewal

5 1. As used in this section, unless the context
6 indicates otherwise, the following terms have the
7 following meanings.

8 A. "Cancellation" means termination of a policy
9 at a date other than its expiration date.

10 B. "Expiration date" means the date upon which
11 coverage under a policy ends. It also means, for
12 a policy written for a term longer than one year
13 or with no fixed expiration date, each annual an-
14 niversary date of the policy.

15 C. "Nonpayment of premium" means the failure or
16 inability of the named insured to discharge any
17 obligation in connection with the payment of pre-
18 mium on a policy of insurance subject to this
19 regulation, whether the payments are payable di-
20 rectly to the insurer or its agent or indirectly
21 payable under a premium finance plan or extension
22 of credit.

23 D. "Nonrenewal" means termination of a policy at
24 its expiration date.

25 E. "Renewal" or "to renew" means the issuance
26 of, or the offer to issue by an insurer, a policy
27 succeeding a policy previously issued and deliv-
28 ered by the same insurer or the issuance of a
29 certificate or notice extending the terms of an
30 existing policy for a specified period beyond its
31 expiration date.

32 2. Except as provided by subsection 7, no con-
33 tract of property insurance may be cancelled by an
34 insurer prior to the expiration of the policy, except
35 on grounds stated in the policy which pertain to the
36 following:

37 A. Nonpayment of premium;

1 B. Fraud or material misrepresentation made by
2 or with the knowledge of the named insured in ob-
3 taining the policy, continuing the policy or in
4 presenting a claim under the policy;

5 C. Substantial change in the risk which in-
6 creases the risk of loss after insurance coverage
7 has been issued or renewed, including, but not
8 limited to, an increase in exposure due to regu-
9 lation, legislation or court decision;

10 D. Failure to comply with reasonable loss con-
11 trol recommendations;

12 E. Substantial breach of contractual duties,
13 conditions or warranties; or

14 F. Determination by the superintendent that the
15 continuation of a class or block of business to
16 which the policy belongs will jeopardize a compa-
17 ny's solvency or will place the insurer in viola-
18 tion of the insurance laws of this State or any
19 other state.

20 3. If a policy has been issued for a term longer
21 than one year and, for additional premium considera-
22 tion, a premium has been guaranteed, the insurer may
23 not refuse to renew or increase the policy premium
24 for the term of that policy.

25 4. If an insurer offers or purports to renew a
26 contract, but on less favorable terms to the insured
27 or at higher rates, and a higher rating plan, the new
28 terms or rates and rating plan may take effect on the
29 renewal date if the insurer has provided the insured
30 notice as required by this section. If the insurer
31 has not so notified the contract holder, the contract
32 holder may elect to cancel the renewal policy within
33 the 30-day period after receipt of the notice or de-
34 livery. Earned premium for the period of coverage for
35 such time as the renewal contract may have been in
36 force shall be calculated pro rata at the lower of
37 the current or previous year's rate. If the insured
38 accepts the renewal, the premium increase, if any,
39 and other changes shall be effective the day follow-
40 ing the prior policy's expiration or anniversary
41 date. This section does not apply if the change is a

1 rate, form or plan filed with the superintendent and
2 applicable to the entire class of business to which
3 the policy belongs or to a premium increase based on
4 the altered nature or extent of the risk insured
5 against.

6 5. Cancellation or nonrenewal is not effective
7 until notice is received by the insured as follows.

8 A. To the extent that section 3002 is applica-
9 ble, the notice of cancellation shall be given as
10 provided for in that section. If section 3002, is
11 not applicable, cancellation shall not be effec-
12 tive prior to 10 days after receipt by the in-
13 sured of a notice of cancellation. The notice
14 shall state the effective date of and the reason
15 or reasons for cancellation.

16 B. Nonrenewal subject to this section shall not
17 be effective prior to 30 days after receipt of
18 notice written by the insured.

19 C. A post-office certificate of mailing to the
20 named insured at his last known address shall be
21 conclusive proof of receipt of notice on the 3rd
22 calendar day after mailing.

23 6. Any insured who has received a notice of an
24 insurer's intent to cancel a policy may, within 45
25 days of the receipt of the notice, request a hearing
26 before the superintendent. The purpose of this hear-
27 ing shall be limited to establishing the existence of
28 the proof or evidence given by the insurer in its no-
29 tice of cancellation. The burden of proof of the rea-
30 son for cancellation shall be upon the insurer. The
31 superintendent shall have the authority to order that
32 a policy remain in force.

33 7. Except as provided in Title 10, chapter 210,
34 no insurer or licensed agent or employee of the in-
35 surer may be held liable in any civil action for
36 statements made in a notice of cancellation or nonre-
37 newal or at a hearing held under this section if the
38 statements were made in good faith and, in the case
39 of cancellation, are reasonably related to the
40 grounds for cancellation.

1 8. This notice does not apply to any insurance
2 policy that has not been previously renewed if the
3 policy has been in effect less than 60 days at the
4 time notice of cancellation is mailed or otherwise
5 delivered. This section does not apply to any policy
6 subject to the Maine Property Insurance Cancellation
7 Control Act, subchapter V. This section does not ap-
8 ply to any policy issued pursuant to any assigned
9 risk plan. The superintendent may suspend, in whole
10 or in part, the applicability of this section to any
11 insurer if, in his discretion, its application will
12 endanger the ability of the insurer to fulfill its
13 contractual obligation.

14 9. This section applies to all policies deliv-
15 ered, issued for delivery or renewed in this State
16 after the effective date of this Act. In the case of
17 policies issued for more than one year or those hav-
18 ing no fixed expiration date, this section shall ap-
19 ply to the policies on or after the first policy an-
20 niversary occurring after the effective date of this
21 Act.

22 STATEMENT OF FACT

23 This bill amends both the casualty insurance sec-
24 tion and the property insurance section of the Maine
25 Insurance Code. Cancellation of policies before the
26 expiration date will not be allowed except under cer-
27 tain circumstances, such as nonpayment of premium,
28 fraud, substantial change in the risk, insolvency or
29 breach of contract or duties. If a mid-term cancella-
30 tion is allowed, there is a 10-day notice requirement
31 prior to expiration of the policy. If an insurer de-
32 cides not to renew a policy, notice of the nonrenewal
33 must be given 30 days before expiration of the poli-
34 cy.

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