

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2411

S.P. 920 In Senate, March 2, 1988  
Approved for Introduction by a Majority of the Legislative  
Council pursuant to Joint Rule 26.

Reference to the Committee on Banking and Insurance  
suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator THERIAULT of Aroostook.

Cosponsored by Representative RYDELL of Brunswick,  
Representative ALLEN of Washington, Speaker MARTIN of Eagle  
Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 AN ACT to Clarify the Laws Regulating the  
2 Insurance Industry to Ensure its  
3 Regulation by State Antitrust Laws.  
4

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

7 Sec. 1. 24-A MRSa §2301, as amended by PL 1977,  
8 c. 694, §415, is further amended to read:

1 §2301. Purpose of chapter; interpretation

2 The purpose of this chapter is to promote the  
3 public welfare by regulating insurance rates, in  
4 accordance with the intent of Congress as expressed in  
5 Public Law 15 - 79th Congress, to the end that they  
6 shall not be excessive, inadequate or, unfairly  
7 discriminatory, and to authorize and regulate  
8 cooperative action among insurers in rate making and  
9 in other matters within the scope of this chapter or  
10 in violation of the provisions of state fair trade  
11 laws as set out in Title 5, sections 206 and 213, and  
12 Title 10, sections 1101 to 1108. Nothing in this  
13 chapter is intended to prohibit or discourage  
14 reasonable competition, or to prohibit, or encourage  
15 except to the extent necessary to accomplish the  
16 aforementioned purpose, uniformity in insurance rates,  
17 rating systems, rating plans or practices. This  
18 chapter shall be liberally interpreted to carry into  
19 effect this section. Unless otherwise specified, all  
20 hearings held under this chapter shall be in  
21 accordance with the procedures set forth in the Maine  
22 Administrative Procedure Act, Title 5, chapter 375,  
23 subchapter IV.

24 Sec. 2. 24-A MRSA §2303, sub-§1, ¶D, and  
25 sub-§3, as enacted by PL 1969, c. 132, §1, are  
26 repealed.

27 Sec. 3. 24-A MRSA §2304, as last amended by PL  
28 1973, c. 585, §12, is further amended to read:

29 §2304. Rate filings

30 1. Every insurer shall file with the  
31 superintendent, except as to inland marine risks which  
32 by general custom of the business are not written  
33 according to manual rates or rating plans, every  
34 manual, minimum, class rate, rating schedule or rating  
35 plan and every other rating rule, and every  
36 modification of any of the foregoing which it proposes  
37 to use. Every such filing shall state the effective  
38 date thereof, and shall indicate the character and  
39 extent of the coverage contemplated. Every such  
40 filing shall be made not less than 30 days in advance

1 of the stated effective date unless such 30-day  
2 requirement is waived by the superintendent and said  
3 effective date may be suspended by the superintendent  
4 for a period of time not to exceed 60 days.

5 2. When a filing is not accompanied by the  
6 information upon which the insurer supports such  
7 filing, and the superintendent does not have  
8 sufficient information to determine whether such  
9 filing meets the requirements of this chapter, he  
10 shall require the insurer to furnish the information  
11 upon which it supports the filing. Any filing may be  
12 supported by the experience, or judgment if experience  
13 is not available, of the insurer or rating  
14 organization making the filing, the experience of  
15 other insurers or rating advisory organizations or  
16 any other factors which the insurer or rating  
17 organization deems relevant. A filing and any  
18 supporting information shall be open to public  
19 inspection after the filing becomes effective.

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

27 4. A rate filing and its supporting data are  
28 ~~confidential until the filing becomes effective.~~

29 Sec. 4. 24-A MRSA §2305, as amended by PL 1973,  
30 c. 585, §12, is further amended to read:

31 §2305. Exemption from filing

32 Under such rules and regulations as he adopts,  
33 the superintendent may, by written order, suspend or  
34 modify the requirement of filing as to any kind of  
35 insurance, subdivision or combination thereof, or as  
36 to classes of risks, the rates for which cannot  
37 practicably be filed before they are used. Such  
38 orders, and rules and regulations shall be made  
39 known to insurers and rating advisory organizations

1 affected thereby. The superintendent may make such  
2 examination as he deems advisable to ascertain whether  
3 any rates affected by such order meet the standards  
4 set forth in section 2303, subsection 1, paragraph B.

5 Sec. 5. 24-A MRSA §2306, sub-§1, as amended by  
6 PL 1973, c. 585, §12, is further amended to read:

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

23 Sec. 6. 24-A MRSA §2309, as amended by PL 1973,  
24 c. 585, §12, is repealed.

25 Sec. 7. 24-A MRSA §2310, as amended by PL 1977,  
26 c. 694, §§416 and 417, is repealed.

27 Sec. 8. 24-A MRSA §§2311 and 2312, as amended  
28 by PL 1973, c. 585, §12, are repealed.

29 Sec. 9. 24-A MRSA §§2313 and 2314, as enacted  
30 by PL 1969, c. 132, §1, are repealed.

31 Sec. 10. 24-A MRSA §2315, as amended by PL  
32 1973, c. 585, §12, is repealed.

33 Sec. 11. 24-A MRSA §2316, as enacted by PL  
34 1969, c. 132, §1, is repealed.

35 Sec. 12. 24-A MRSA §2317, as amended by PL  
36 1983, c. 551, §2, is repealed.

1           Sec. 13. 24-A MRS §2318 and 2319, as amended  
2 by PL 1973, c. 585, §12, are repealed.

3           Sec. 14. 24-A MRS §2320, as amended by PL  
4 1973, c. 585, §12, is further amended to read:

5           §2320. Information furnished insureds; hearings and  
6           appeals of insureds

7           1. Every rating organization and every  
8 insurer which makes its own rates shall, within a  
9 reasonable time after receiving written request  
10 therefor and upon payment of such reasonable charge as  
11 it may make, furnish to any insured affected by a rate  
12 made by it, or to the authorized representative of  
13 such insured, all pertinent information as to such  
14 rate.

15          2. Every rating organization and every  
16 insurer which makes its own rates shall provide  
17 within this State reasonable means whereby any person  
18 aggrieved by the application of its rating system may  
19 be heard, in person or by his authorized  
20 representative, on his written request to review the  
21 manner in which such rating system has been applied in  
22 connection with the insurance afforded him. If the  
23 rating organization or insurer fails to grant or  
24 reject such request within 30 days after it is made,  
25 the applicant may proceed in the same manner as if his  
26 application had been rejected. Any party affected by  
27 the action of such rating organization or such  
28 insurer on such request may, within 30 days after  
29 written notice of such action, appeal to the  
30 superintendent, who, after a hearing held upon not  
31 less than 10 days' written notice to the appellant and  
32 to such rating organization or insurer, may affirm  
33 or reverse such action.

34          Sec. 15. 24-A MRS §2321, sub-§1, as enacted by  
35 PL 1969, c. 132, §1, is amended to read:

36          1. Every group, association or other organization  
37 of insurers, whether located within or outside this  
38 State, which assists insurers which make their own

1 filings or rating organizations in rate making, by  
2 the collection and furnishing of loss or expense  
3 statistics, or by the submission of recommendations,  
4 but which does not make filings under this chapter  
5 historical data on paid claims and reserves for  
6 reported claims, shall be known as an advisory  
7 organization.

8 Sec. 16. 24-A MRSA §2321, sub-§4, as amended by  
9 PL 1973, c. 585, §12, is further amended to read:

10 4. No insurer which makes its own filings nor  
11 any rating organization shall may support its filings  
12 by statistics or adopt rate making recommendations,  
13 furnished to it by an advisory organization which has  
14 not complied with this section or with an order of the  
15 superintendent involving such statistics or  
16 recommendations issued under subsection 3. If the  
17 superintendent finds such insurer or rating  
18 organization to be in violation of this subsection,  
19 he may issue an order requiring the discontinuance of  
20 such violation.

21 Sec. 17. 24-A MRSA §2323, sub-§1, as amended by  
22 PL 1977, c. 694, §418, is further amended to read:

23 1. The superintendent, acting pursuant to the  
24 Maine Administrative Procedure Act, Title 5, chapter  
25 375, subchapter II, shall promulgate reasonable rules  
26 and statistical plans, reasonably adopted adapted  
27 to each of the rating systems on file with him, which  
28 may be modified from time to time and which shall be  
29 used thereafter by each insurer in the recording and  
30 reporting of its loss and countrywide expense  
31 experience paid claims and reserves for reported  
32 claims, in order that the experience of all insurers  
33 be made available at least annually in such form and  
34 detail as may be necessary to aid him in determining  
35 whether rating systems comply with the standards set  
36 forth in section 2303. Such rules and plans may also  
37 provide for the recording and reporting of expense  
38 experience items paid claims and reserves for  
39 reported claims which are specially applicable to this  
40 State and are not susceptible of determination by a  
41 prorating of countrywide expense experience.

1           Sec. 18. 24-A M RSA §2323, sub-§§3 and 4, as  
2 amended by PL 1973, c. 585, §12, are further amended  
3 to read:

4           3. The superintendent may designate one or more  
5 rating advisory organizations or other agencies to  
6 assist him in gathering such experience data and  
7 making compilations thereof, and such compilations  
8 shall be made available, subject to reasonable rules  
9 promulgated by the superintendent, to insurers and  
10 rating advisory organizations.

11           4. Each insurer shall report its loss or  
12 expense experience paid claims and reserves for  
13 reported claims to the lawful rating advisory  
14 organization or agency of which it is a member or  
15 subscriber, but shall not be required to report its  
16 loss or expense experience such claims and reserves  
17 to any rating advisory organization or agency of  
18 which it is not a member or subscriber. Any insurer  
19 not reporting such experience claims and reserves  
20 to a rating an advisory organization or other  
21 agency may be required to report such experience  
22 claims and reserves to the superintendent. Any  
23 report of such experience of any insurer filed with  
24 the superintendent shall be deemed confidential and  
25 shall not be revealed by the superintendent to any  
26 other insurer or other person, but the superintendent  
27 may make compilations including such experience.

28           Sec. 19. 24-A M RSA §2324, sub-§§2 and 3, as  
29 amended by PL 1973, c. 585, §12, are further amended  
30 to read:

31           2. In order to further uniform administration of  
32 rate regulatory laws, the superintendent and every  
33 insurer and rating advisory organization may  
34 exchange information and experience data historical  
35 data on paid claims and reserves for reported claims  
36 with insurance supervisory officials, insurers and  
37 rating advisory organizations in other states and may  
38 consult with them with respect to rate making and  
39 the application of rating systems.



1           3. Cooperation           among           rating           advisory  
2 organizations           or           among           rating           advisory  
3 organizations and insurers in rate making or in  
4 other matters within the scope of this chapter  
5 collecting and furnishing historical data on paid  
6 claims and reserves for reported claims is authorized,  
7 but the filings resulting from such cooperation are  
8 subject to all provisions of this chapter which are  
9 applicable to filings generally. The superintendent  
10 may review such cooperative activities and practices  
11 and if, after a hearing, he finds that any such  
12 activity or practice is unfair or unreasonable or  
13 otherwise inconsistent with this chapter, he may issue  
14 a written order specifying in what respects such  
15 activity or practice is unfair or unreasonable or  
16 otherwise inconsistent with this chapter, and  
17 requiring the discontinuance of such activity or  
18 practice.

19

STATEMENT OF FACT

20           The purpose of this bill is to promote greater  
21 competition in the insurance industry by making clear  
22 that business activities, making of insurance rates,  
23 and concerted actions by competitors are subject to  
24 Maine antitrust laws. This bill amends the laws  
25 regulating the insurance industry to prohibit joint  
26 rate making, while permitting the continued sharing of  
27 historical data on paid claims and reserves for  
28 reported claims.

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