

# MAINE STATE LEGISLATURE

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L.D. 118

(Filing No. S-92 )

STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A " to S.P. 99, L.D. 118, Bill, "An Act to Amend the Law Concerning Insurance Cancellation Control"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** this Act corrects certain ambiguities in the present law; and

**Whereas,** it is important to resolve these ambiguities as soon as possible; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 24-A MRSA §2009-A is enacted to read:**

**§2009-A. Cancellation and nonrenewal of surplus lines coverage**

**1. Notice. Cancellation and nonrenewal by an insurer of surplus lines coverage subject to this chapter shall not be effective unless received by the named insured at least 14 days prior to the effective date of cancellation or, when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. A postal service certificate of mailing to the named insured at the insured's last known address shall be conclusive proof of receipt on the 5th calendar day after mailing.**

1        2. Exemption. Cancellation and nonrenewal by an insurer of  
2        surplus lines coverage subject to this chapter shall not be  
3        subject to sections 2908 and 3007.

5        Sec. 2. 24-A MRSA §2908, sub-§5, ¶A, as enacted by PL 1985, c.  
6        671, §1, is amended to read:

7                    A. Cancellation Except for workers' compensation insurance,  
8                    cancellation shall not be effective prior to 10 days after  
9                    receipt by the insured of a notice of cancellation. Notice  
10                   of cancellation of workers' compensation insurance shall be  
11                   subject to Title 39, section 23, subsection 1. The notice  
12                   shall state the effective date of and the reason or reasons  
13                   for cancellation.

14        Sec. 3. 24-A MRSA §2908, sub-§§6 and 9, as enacted by PL 1985,  
15        c. 671, §1, are amended to read:

16                   6. Any insured who has received a notice of an insurer's  
17                   intent to cancel a policy may, within 45 days of the receipt of  
18                   the notice, request a hearing before the superintendent. The  
19                   purpose of this hearing shall be limited to establishing the  
20                   existence of the proof or evidence given by the insurer in its  
21                   notice of cancellation. The burden of proof of the reason for  
22                   cancellation shall be upon the insurer. The superintendent shall  
23                   have the authority to order that a policy remain in effect both  
24                   pending and, if the superintendent finds in favor of the insured,  
25                   subsequent to a hearing. If the superintendent finds in favor of  
26                   the insurer at a hearing, the superintendent may order the policy  
27                   to remain in force for 14 days to allow the insured to obtain  
28                   other coverage.

29                   9. This section applies to all contracts of casualty  
30                   insurance, except surplus lines contracts, delivered or issued  
31                   for delivery in this State, both before and after the effective  
32                   date of this section. Provisions in this section relating to  
33                   nonrenewal of policies shall take effect 30 days after the  
34                   effective date of this section.

35        Sec. 4. 24-A MRSA §2915, first ¶, as amended by PL 1979, c.  
36        347, §3, is further amended to read:

37                   No notice of cancellation of a policy shall be effective  
38                   unless received by the named insured at least 20 days prior to  
39                   the effective date of cancellation, or, where ~~when~~ the  
40                   cancellation is for nonpayment of premium, at least 10 days prior  
41                   to the effective date of cancellation. In the event the policy is  
42                   an automobile physical damage policy, like notice of cancellation  
43                   shall also be given to any other person mentioned in the loss  
44                   payable clause. A ~~post-office--department~~ postal service  
45                   certificate of mailing to the named insured at ~~his~~ the insured's  
46                   last known address shall be conclusive proof of receipt on the  
47                   ~~3rd~~ 5th calendar day after mailing.

1           **Sec. 5. 24-A MRSA §2920**, as amended by PL 1979, c. 347, §7,  
3 is further amended to read:

5       **§2920. Hearing before superintendent**

7           Any named insured who has received a statement of reason for  
9 cancellation, or of reason for an insurer's intent not to renew a  
policy, may, within 30 days of the receipt of a statement of  
reason, request a hearing before the Superintendent of Insurance.  
11 The purpose of this hearing shall be limited to establishing the  
existence of the proof or evidence given by the insurer in its  
13 reason for cancellation or intent not to renew. The burden of  
proof of the reason for cancellation or intent not to renew shall  
15 be upon the insurer. The ~~Insurance-Superintendent~~ superintendent  
shall have the authority to order that a policy continue in  
17 effect both pending and, if the superintendent finds in favor of  
the insured, subsequent to a hearing. If the superintendent  
19 finds in favor of the insurer at a hearing, the superintendent  
may order the policy to remain in force for 14 days to allow the  
21 insured to obtain other coverage. Acting in conformity with the  
Maine Administrative Procedure Act, Title 5, chapter 375,  
23 subchapter II, the ~~Insurance-Superintendent~~ superintendent may  
adopt rules and ~~regulations~~ for carrying out this section.

25           **Sec. 6. 24-A MRSA §3007, sub-§§6 and 9**, as enacted by PL 1985,  
27 c. 671, §2, are amended to read:

29           6. Any insured who has received a notice of an insurer's  
intent to cancel a policy may, within 45 days of the receipt of  
31 the notice, request a hearing before the superintendent. The  
purpose of this hearing shall be limited to establishing the  
33 existence of the proof or evidence given by the insurer in its  
notice of cancellation. The burden of proof of the reason for  
35 cancellation shall be upon the insurer. The superintendent shall  
have the authority to order that a policy remain in force both  
37 pending and, if the superintendent finds in favor of the insured,  
subsequent to a hearing. If the superintendent finds in favor of  
39 the insurer at a hearing, the superintendent may order the policy  
to remain in force for 14 days to allow the insured to obtain  
41 other coverage.

43           9. This section applies to all contracts of property  
insurance, except surplus lines contracts, delivered or issued  
45 for delivery in this State, both before and after the effective  
date of this section. Provisions in this section relating to  
47 nonrenewal of policies shall take effect 30 days after the  
effective date of this section.

49           **Sec. 7. 24-A MRSA §3050, first ¶**, as amended by PL 1979, c.  
51 347, §10, is further amended to read:

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1 No notice of cancellation of a policy shall be effective  
 3 unless received by the named insured at least 20 days prior to  
 the effective date of cancellation, or, where when the  
 5 cancellation is for nonpayment of premium, at least 10 days prior  
 to the effective date of cancellation. A ~~post-office-department~~  
postal service certificate of mailing to the named insured at his  
 7 the insured's last known address shall be conclusive proof of  
 receipt on the ~~3rd~~ 5th calendar day after mailing.

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 11 **Sec. 8. 24-A MRSA §3054**, as amended by PL 1979, c. 347, §13,  
 is further amended to read:

13 **§3054. Hearing before Superintendent of Insurance**

15 Any named insured who has received a statement of reason for  
 17 cancellation, or of reason for an insurer's intent not to renew a  
 policy, may, within 30 days of the receipt of a statement of  
 19 reason, request a hearing before the Superintendent of Insurance.  
 The purpose of this hearing shall be limited to establishing the  
 21 existence of the proof or evidence used by the insurer in its  
 reason for cancellation or intent not to renew. The burden of  
 23 proof of the reason for cancellation or intent not to renew shall  
 be upon the insurer. The ~~Insurance-Superintendent~~ superintendent  
 shall adopt rules and ~~regulations~~ for carrying out this section.  
 25 ~~If the insurer does not meet the burden of proof, the Insurance~~  
~~Superintendent~~ The superintendent shall have the authority to  
 27 order the policy to continue in effect both pending and, if the  
superintendent finds in favor of the insured, subsequent to a  
 29 hearing. If the superintendent finds in favor of the insurer at  
a hearing, the superintendent may order the policy to remain in  
 31 force for 14 days to allow the insured to obtain other coverage.

33 **Sec. 9. Report on surplus lines insurance.** The Superintendent of  
 Insurance shall report to the Joint Standing Committee on Banking  
 35 and Insurance by February 1, 1990, concerning surplus lines  
 insurance within the State, including such matters as  
 37 availability of insurance, practices of insurers with respect to  
 cancellation and nonrenewal and any complaints received by the  
 39 Bureau of Insurance.

41 **Emergency clause.** In view of the emergency cited in the  
 preamble, this Act shall take effect when approved.

43 **FISCAL NOTE**

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 47 The minor additional cost of reporting on surplus lines  
 insurance can be absorbed within the existing budgeted resources  
 of the Bureau of Insurance.

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**STATEMENT OF FACT**

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This amendment exempts surplus lines insurance from the cancellation hearing requirements of state law. The present applicability of that law is uncertain. The amendment adds a 14-day notice requirement, or 10 days if for nonpayment of premiums, for cancellation or nonrenewal of surplus lines.

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The amendment retains the exemption of workers' compensation insurance from the general 10-day cancellation notice provision of the Maine Revised Statutes, Title 24-A, section 2908, because the workers' compensation laws require 30 days' notice.

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The amendment retains the clarification that the Superintendent of Insurance may order a policy of auto or other casualty insurance or commercial or personal property insurance to remain in force pending a hearing and subsequent to the hearing if the finding is in favor of the insured. If the finding is in favor of the insurer, the superintendent may order the policy to remain in force for a time to allow the insured to obtain other coverage. The amendment specifies that time as 14 days.

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The amendment retains the change of reference from the post office department to the postal service, but also changes the presumption of receipt for notice purposes from 3 days to 5 days after mailing.

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The amendment also adds an emergency preamble and clause.

Reported by Senator Theriault for the Committee on Banking and Insurance. Reproduced and Distributed Pursuant to Senate Rule 12.

(5/5/89)

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