

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 118

S.P. 99

In Senate, February 9, 1989

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

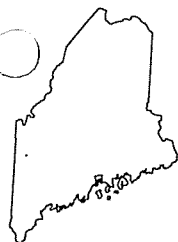
Presented by Senator COLLINS of Aroostook.

Cosponsored by Representative ALLEN of Washington, Representative GARLAND of Bangor and Senator TWITCHELL of Oxford.

STATE OF MAINE

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

An Act to Amend the Law Concerning Insurance Cancellation Control.



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

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

5 §2009-A. Cancellation and nonrenewal of surplus lines coverage

7 Cancellation and nonrenewal by an insurer of surplus lines
9 coverage subject to this chapter shall be subject to sections
11 2908 and 3007. No surplus lines policy issued in this State may
13 provide for the cancellation or nonrenewal of coverage in a
15 manner or for a reason inconsistent with those sections.

17 Sec. 2. 24-A MRSA §2908, sub-§5, ¶A, as enacted by PL 1985, c.
19 671, §1, is amended to read:

21 A. Cancellation Except for workers' compensation insurance,
23 cancellation shall not be effective prior to 10 days after
25 receipt by the insured of a notice of cancellation. Notice
27 of cancellation of workers' compensation insurance shall be
29 subject to Title 39, section 23, subsection 1. The notice
31 shall state the effective date of and the reason or reasons
33 for cancellation.

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

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

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

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

No notice of cancellation of a policy shall be effective

1 unless received by the named insured at least 20 days prior to
2 the effective date of cancellation, or, where when the
3 cancellation is for nonpayment of premium, at least 10 days prior
4 to the date of cancellation. In the event the policy is an
5 automobile physical damage policy, like notice of cancellation
6 shall also be given to any other person mentioned in the loss
7 payable clause. A ~~post-office---department~~ postal service
8 certificate of mailing to the named insured at ~~his~~ the insured's
9 last known address shall be conclusive proof of receipt on the
10 3rd calendar day after mailing.

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

13 **§2920. Hearing before superintendent**

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

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

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

47 9. This section applies to all contracts of property

1 insurance, including surplus lines contracts, delivered or issued
2 for delivery in this State, both before and after the effective
3 date of this section. Provisions in this section relating to
4 nonrenewal of policies shall take effect 30 days after the
5 effective date of this section.

7 Sec. 7. 24-A MRSA §3050, first ¶, as amended by PL 1979, c.
8 347, §10, is further amended to read:

9
10 No notice of cancellation of a policy shall be effective
11 unless received by the named insured at least 20 days prior to
12 the effective date of cancellation, or, where when the
13 cancellation is for nonpayment of premium, at least 10 days prior
14 to the date of cancellation. A ~~post-office-department~~ postal
15 service certificate of mailing to the named insured at his the
16 insured's last known address shall be conclusive proof of receipt
17 on the 3rd calendar day after mailing.

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

21 **§3054. Hearing before Superintendent of Insurance**

22
23 Any named insured who has received a statement of reason for
24 cancellation, or of reason for an insurer's intent not to renew a
25 policy, may, within 30 days of the receipt of a statement of
26 reason, request a hearing before the Superintendent of Insurance.
27 The purpose of this hearing shall be limited to establishing the
28 existence of the proof or evidence used by the insurer in its
29 reason for cancellation or intent not to renew. The burden of
30 proof of the reason for cancellation or intent not to renew shall
31 be upon the insurer. The ~~Insurance-Superintendent~~ superintendent
32 shall adopt rules and regulations for carrying out this section.
33 If the insurer does not meet the burden of proof, the ~~Insurance~~
34 ~~Superintendent~~ superintendent shall have the authority to order
35 the policy to continue in effect both pending and, if the
36 superintendent finds in favor of the insured, subsequent to a
37 hearing. If the superintendent finds in favor of the insurer at
38 a hearing, the superintendent may order the policy to remain in
39 force for a reasonable time to allow the insured to obtain other
40 coverage.

43
44
45 **STATEMENT OF FACT**

46
47 This bill makes several changes to State law governing the
48 cancellation and nonrenewal of property and casualty insurance
49 contracts.

51 Sections 1, 3 and 6 of the bill address an ambiguity in
52 current law as to whether policies issued on a surplus lines
53 basis are subject to State law relating to cancellation of

1 commercial policies. This bill subjects surplus lines policies
to those laws.

3

5 Section 2 addresses a current inconsistency between the
insurance code's 10-day notice of policy cancellation standard
with respect to workers' compensation policies and the Workers'
7 Compensation laws 30-day notice of cancellation standard with
respect to the same policies.

9

11 Sections 3, 5, 6 and 8 of the bill clarify under what
circumstances the Superintendent of Insurance may order an
insurer to maintain coverage in force pending and after
13 proceedings held under any of the cancellation control laws.

15 Section 4 and 7 correct 2 obsolete reference to post office
department certificates of mailing as the United States Postal
17 Service is not a department.