

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

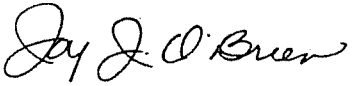
Legislative Document

No. 1517

S.P. 546

In Senate, May 8, 1989

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


JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRANNIGAN of Cumberland.
Cosponsored by Representative JOSEPH of Waterville.

STATE OF MAINE

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

An Act to Protect Maine Insurance Consumers.



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

3 24-A MRSA c. 4 is enacted to read:

5 CHAPTER 4

7 INSURANCE CONSUMER PROTECTION ACT

9 §301. Short title

11 This chapter shall be known and may be cited as the
13 "Insurance Consumer Protection Act."

15 §302. Rules for reporting insurance data

17 1. Reporting. Within 90 days of the effective date of this
section, the superintendent shall promulgate rules that:

19 A. Require each insurer licensed to write property or
21 casualty insurance in this State to record and report its
23 loss and expense experience and other data as may be
necessary to determine whether rates are excessive,
inadequate or unfairly discriminatory;

25 B. Include provisions to assure confidentiality of the data
27 with regard to information relevant to individual claims; and

29 C. Include standard and uniform definitions for information
31 required to be submitted to the bureau under this chapter
consistent with generally accepted accounting principals
unless no generally accepted standard definitions exist.

33 The superintendent may designate one or more rate service
35 organizations or advisory organizations to gather and compile
37 this data, provided the data is reported separately for each
39 company. The superintendent shall require each insurer licensed
to write property or casualty insurance in this State, as a
supplement to its annual statement, to submit a report on a form
furnished by the bureau showing its direct writings in this State
and in the United States.

41 2. Hearing. Within 30 days of the effective date of this
43 section, the superintendent shall:

45 A. Issue a list of standard classes of business and of
47 standard units of exposure for which any commercial
insurance company must report data under this chapter; and

49 B. Hold hearings, inviting all interested parties, to
51 develop a reporting form to be used by the commercial
insurance companies to carry out this chapter.

1 §303. Types of insurance

3 The supplemental report required by section 302 shall
4 include, but not be limited to, the following types of insurance,
5 written by the insurer which shall be shown separately:

7 1. Political subdivisions. Political subdivision liability
8 insurance, reported separately in the following categories:

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10 A. Municipalities;

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12 B. School districts; and

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14 C. Authorities;

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16 2. Public officials. Public official liability insurance;

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18 3. Liquor. Liquor liability insurance;

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20 4. Day care centers. Day care center liability insurance;

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22 5. Errors and omissions. Errors and omissions liability
23 insurance;

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24 6. Officers and directors. Officers and directors
25 liability insurance, reported separately as follows:

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26 A. Nonprofit entities; and

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27 B. For-profit entities;

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28 7. Products. Products liability insurance;

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29 8. Medical. Medical malpractice insurance;

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30 9. Attorneys. Attorneys malpractice insurance;

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31 10. Architects and engineers. Architects and engineers
32 malpractice insurance;

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33 11. Motor vehicle. Motor vehicle insurance, reported
34 separately for commercial and private passenger vehicles as
35 follows:

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35 A. Motor vehicle liability insurance first party benefits;

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36 B. Motor vehicle bodily injury insurance;

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37 C. Motor vehicle property liability insurance;

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38 D. Uninsured motorist insurance; and

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1 E. Underinsured motorist insurance; and

3 12. Other. Any other line of insurance directed or
requested by the superintendent.

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7 §304. Data required

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9 The supplemental report shall include the following data,
both specific to this State and to the United States, by the type
of insurance for the previous year ending on December 31st:

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13 1. Direct written. Direct premiums written;

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17 2. Net written. Net premiums written;

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21 3. Direct earned. Direct premiums earned;

23

25 4. Net earned. Net premiums earned;

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29 5. Net investment. Net investment income, including
realized capital gains and losses, which shall be shown
separately, but excluding unrealized capital gains and losses,
using estimates when necessary;

31

33 6. Unrealized capital gains and losses. Net investment
income, including realized capital gains and losses, which shall
be shown separately, and including unrealized capital gains and
losses which shall be shown separately, using estimates, when
necessary;

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37 7. Claims developed. Incurred claims developed as the sum
of the following:

39

41 A. Dollar amount of claims paid;

43

45 B. Reserves for reported claims at the end of the current
year minus reserves for reported claims at the end of the
previous year;

47

49 C. Reserves for incurred but not reported claims at the end
of the current year minus reserves for incurred but not
reported claims at the end of the previous year;

51

D. Loss adjustment expenses paid; and

E. Reserves for loss adjustment expenses at the end of the

 current year minus reserves for loss adjustment expenses at
the end of the previous year.

In calculating the amount for claims developed, each of the

 above-mentioned amounts shall be itemized within the report;

1
3 8. Expenses. Actual incurred expenses, including
5 commissions, other acquisition costs, general expenses, taxes,
7 licenses and fees, all of which shall be shown separately;

9 9. Underwriting. Net underwriting gain or loss;

11 10. Operating. Net operating gain or loss, including net
13 realized investment income, but excluding unrealized investment
15 income;

17 11. Closed claims. The sum of the value of closed claims
19 and a distribution by size of the claim for each of the following
21 categories arising out of the course of business:

23 A. For uncontested claims;

25 B. Under a judgment entered by a court based upon a
27 verdict; and

29 C. In settlements relating to and completed after
31 institution of judicial proceedings and after a verdict has
33 been rendered in a judicial proceeding;

35 12. Awards legal costs. The sum of the legal costs
37 incurred while settling claims that result in awards or payments
39 of money, broken down by attorney fees and other legal costs for
41 each of the following categories arising out of the course of
43 business:

45 A. For uncontested claims;

47 B. Under a judgment entered by a court based upon a verdict;

49 C. In settlements relating to and completed after
51 institution of judicial proceedings but prior to a verdict;
and

D. In settlements relating to and completed after
institution of judicial proceedings and after a verdict has
been rendered in a judicial proceeding;

13. Nonawards legal costs. The sum of the legal costs
incurred while settling claims that do not result in awards or
payments of money, broken down by attorney fees and other legal
costs for each of the following categories arising out of the
course of business:

A. For uncontested claims;

B. Under a judgment entered by a court based upon a
verdict; and

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C. In settlements relating to and completed after institution of judicial proceedings but prior to a verdict;

14. Reserves per claim paid. The number and dollar amount of each claim closed with payment and the dollar amount initially reserved for each claim, by year incurred;

15. Reserves for all claims paid. The number and total dollar amount for all claims closed with payment and the total dollar amount initially reserved, by year incurred;

16. Reserves per claim not paid. The claims closed without payment and the dollar amount initially reserved for each claim, by year incurred;

17. Reserves for all claims not paid. The number of claims closed without payment and the total dollar amount initially reserved, by year incurred;

18. Reserves per pending claim. The claims pending at the end of each year and the dollar amount reserved for each claim;

19. Reserves for all pending claims. The number of claims pending at the end of each year and the total dollar amount reserved;

20. Reinsurance. The name and address of any company, association or exchange that reinsures any part of the coverage it issues and the coverage provided, restrictions, loss retention per risk, if applicable, and cost of reinsurance; and

21. Other information. Any other information requested by the superintendent.

§305. Report to the Legislature

1. In general. The bureau shall, no later than November 1st of each year, issue a report that summarizes the information reported under section 304, as analyzed and compiled in accordance with subsection 2. A copy of that report shall be sent to:

- A. The President of the Senate;
- B. The Speaker of the House of Representatives;
- C. The Governor;
- D. The National Association of Insurance Commissioners; and

1 E. The National Conference of State Legislatures, for
3 further analysis and distribution to state legislatures.

5 Copies of the report shall be available upon request to the
7 public at the cost of printing.

9 2. Preparation of the report. The report shall be compiled
11 and analyzed by the bureau. The cost of bureau work on the
13 report shall be assessed against the regulated industry in the
15 form of a premium tax. The data shall be compiled and analyzed
17 on a state, regional and national basis. The data compiled under
19 section 304 shall be reported as follows:

21 A. Compiled for each class of business conducted in the
23 State; and

25 B. Analyzed for any differences among insurance companies
27 in coverage of similar classes or business for:

29 (1) Any relationship between claims paid and
31 fluctuations in premiums charged and coverage limits;

33 (2) Any relationship between payments made as a result
35 of out-of-court settlements, payments made in the
37 regular course of business and insurance premiums; and

39 (3) Any other information the bureau considers
41 necessary and appropriate to the purposes of this
43 chapter.

45 3. Restrictions on disclosure. Information required to be
47 reported by an insurance company under section 304 shall not be
49 disclosed other than in a report prepared by the bureau under
51 this section. A report under this section shall not identify
53 this information as having been reported by a particular
 insurance company, except as explicitly authorized by this
 chapter.

4. Actuarial impact statement regarding judicial
 decisions. Any insurance company or rating organization acting
 on behalf of more than one insurance company may file annually,
 at the same time that the annual statement is due, an actuarial
 study detailing the impact of any appellate judicial decision
 rendered during the calendar year reported in the annual
 statement due at that time that it believes will have a
 significant impact on the price or availability of insurance.

5. Certification of report. A report required by this
 section shall be accompanied by a certificate of an independent
 public accountant verifying the accuracy of the report. The
 certificate shall be based upon an audit of such scope and
 procedure and containing such information as the superintendent
 considers appropriate to the purposes of this chapter.

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6. Exemption from reporting. The superintendent may exempt an insurance company from the reporting requirements of this chapter upon determination by the superintendent that reporting by that company:

- A. Would be unnecessary to the purposes of this chapter; and
- B. Would impose an unreasonable burden on the company.

§306. Penalty

Notwithstanding Title 17-A, sections 1252 and 1301, any person who does the following commits a Class D crime and shall, upon conviction, be fined not more than \$50,000 or imprisoned not more than 3 years, or both:

- 1. Fails to report. Fails to file a report in accordance with the requirements of this chapter and rules promulgated under this chapter; or
- 2. False statement. Knowingly makes any false statement or omission of fact in a report required under this chapter.

STATEMENT OF FACT

The purpose of this bill is to protect Maine insurance consumers from unreasonable rates and industry practices.

This bill encourages uniformity of insurance data collection among the 50 states and assures the availability of independently verified insurance data by requiring insurance companies that issue commercial insurance policies to report information relating to these policies to the Legislature for:

- 1. Review and analysis; and
- 2. Use in monitoring the relationship between the civil justice system and insurance premium rates.

This bill also provides for more effective protection of insurance consumers by the Bureau of Insurance through stronger enforcement of rate review authority, market conduct studies and consumer education.