

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2310

H.P. 1669

House of Representatives, February 12, 1990

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 that reads 'Ed Pert'.

EDWIN H. PERT, Clerk

Presented by Representative GARLAND of Bangor.

Cosponsored by Senator WHITMORE of Androscoggin, Senator BRANNIGAN of Cumberland and Representative RAND of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Amend the Maine Liability Risk Retention Act.



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

2
4 **Sec. 1. 24-A MRSA §6097**, as enacted by PL 1987, c. 481, §3,
is amended to read:

6 **§6097. Purchasing groups; exemption from certain laws relating**
8 **to the group purchase of insurance**

10 Any purchasing group meeting the criteria established under
the provisions of the federal Liability Risk Retention Amendments
12 of 1986 is exempt from any law of this State relating to the
creation of groups for the purchase of insurance, prohibition of
14 group purchasing or any law that discriminates against a
purchasing group or its members. In addition, an insurer is
16 exempt from any law of this State which prohibits providing, or
offering to provide, to a purchasing group or its members
18 advantages based on their loss and expense experience not
afforded to other persons with respect to rates, policy forms,
20 coverages or other matters. A purchasing group and any insurer
that provides coverage to a purchasing group with Maine members
22 is subject to all other applicable laws of this State including,
but not limited to, chapters 25, 27 and 39.

24 **Sec. 2. 24-A MRSA §6099, sub-§1**, as enacted by PL 1987, c.
26 481, §3, is amended to read:

28 **1. Purchase from risk retention group; insurer; licensed**
agent or broker. A purchasing group may purchase insurance from a
30 risk retention group that is chartered in a state or, in the case
of product liability or completed operations liability coverage,
32 that qualifies under section 6093, ~~section~~ subsection 13,
paragraph C, subparagraph (2); from an insurer admitted in this
34 State ~~in which the purchasing group is located;~~ or from a
licensed agent or broker acting pursuant to the surplus lines
36 laws and regulations of ~~that state~~ this State.

38
40 **STATEMENT OF FACT**

42 The purpose of this bill is to clarify ambiguities in the
Maine Liability Risk Retention Act and to make the current law
44 consistent with recent case law developments. The bill requires
that insurers that provide coverage to risk purchasing groups
46 with members in Maine provide coverage to those members in
accordance with Maine law regarding policy forms and premium
48 rates. This change is in accordance with Insurance Company of
the State of Pennsylvania v. Corcoran, 850 F.2d 88 (2nd Cir.
50 1988). Additionally, the bill requires risk purchasing groups
with members in Maine to purchase coverage either from risk
52 retention groups or from insurers licensed or on the eligible
surplus lines list in Maine. Currently, purchasing groups may

2 purchase coverage either from a risk retention group or from an
insurer licensed or on the surplus lines list in the state that
4 the group claims as its domicile. This change is in accordance
with Swanco Insurance Company v. Hager, 879 F.2d 333 (8th Cir.
1989).