

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

---

Legislative Document

No. 284

H.P. 191

House of Representatives, February 2, 1991

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 MARSANO of Belfast.

Cosponsored by Representative TRACY of Rome, Senator COLLINS of Aroostook and Senator BUSTIN of Kennebec.

---

STATE OF MAINE

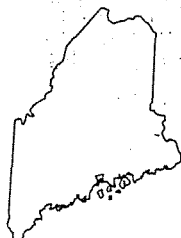
---

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

---

An Act to Amend and to Clarify Confidentiality Provisions in the Maine  
Insurance Code.

---



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

2  
3 Sec. 1. 24 MRSA §2321, sub-§2, as amended by PL 1979, c. 558,  
4 §2, is further amended to read:

5  
6 2. **Filing information.** When a filing is not accompanied by  
7 the information upon which the organization supports such that  
8 filing, or the superintendent does not have sufficient  
9 information to determine whether such that filing meets the  
10 requirements that the rates shall may not be excessive,  
11 inadequate or unfairly discriminatory, he the superintendent  
12 shall require the organization to furnish the information upon  
13 which it supports the filing. ~~A filing and supporting information~~  
14 ~~shall be a public record within the meaning of Title 1, section~~  
15 ~~402, subsection 3 and shall become part of the official record of~~  
16 ~~any hearing held pursuant to section 2322.~~ For the purpose of  
17 determining whether the filing produces rates that are not  
18 excessive, inadequate or unfairly discriminatory, the  
19 superintendent may employ consultants, including actuaries, and  
20 the reasonable costs of the consultants, including actuaries,  
21 which shall must include costs of testifying at any hearing held  
22 pursuant to section 2322, shall must be borne by the organization  
23 making such the filing.

24  
25 Sec. 2. 24-A MRSA §216, as amended by PL 1989, c. 269, §5, is  
26 repealed.

27 Sec. 3. 24-A MRSA §216-A is enacted to read:

28  
29 **§216-A. Records; destruction; inspection; confidentiality**

30  
31 1. **Records.** The superintendent shall carefully preserve in  
32 the bureau and in permanent form a correct account of all  
33 official transactions and of all fees and money received by  
34 virtue of the superintendent's office, together with all  
35 financial statements, examination reports, correspondence,  
36 filings and documents duly received by the bureau. All records  
37 and documents of the bureau are subject to subpoena by a court of  
38 competent jurisdiction. The superintendent may destroy unneeded  
39 or obsolete records and filings in the bureau in accordance with  
40 provisions and procedures generally applicable to administrative  
41 agencies of the State.

42  
43 2. **Public records; exceptions.** All records of the bureau  
44 are subject to public inspection except as otherwise expressly  
45 provided by law as to particular matters. The following  
46 documents are confidential:

47  
48 A. Except as otherwise provided by law, form filings, rule  
49 filings and rate filings, including actuarial information  
50 and other supporting data, but only until the filings become  
51 effective or until a notice of hearing, pursuant to Title 5,  
52 chapter 375, subchapter IV, has been issued;

2 B. Filings and supporting data in connection with insurance  
4 company applications for certificates of authority until the  
certificates of authority become effective;

6 C. Working papers and interoffice and intraoffice memoranda  
8 generated by bureau employees in connection with insurer or  
agency financial examinations;

10 D. Working papers and interoffice and intraoffice memoranda  
12 used or prepared by bureau employees in connection with  
14 investigations and preparation for hearings, and agency  
actions, except to the extent they are incorporated into the  
administrative record pursuant to Title 5, section 9059;

16 E. Information regarding individual insureds, except when  
18 that information is or may be relied upon by the  
superintendent to conclude investigations as described in  
paragraph F; and

20 F. Complaints, records, correspondence, reports and any  
22 other information gathered by bureau employees as a result  
24 of pending investigations in connection with actual or  
26 claimed violations of this Title until the investigation is  
concluded. For the purposes of this subsection, an  
investigation is concluded when:

28 (1) A notice of an adjudicatory hearing pursuant to  
30 Title 5, chapter 375, subchapter IV is issued; or

32 (2) A consent order is signed by the superintendent.

34 3. Disclosure during pending investigation.  
Notwithstanding subsection 2, paragraph F, a complaint or  
36 investigative record may be disclosed during the pendency of an  
investigation:

38 A. By the superintendent as part of an interstate complaint  
40 handling system that may involve the sharing of information  
42 with insurance regulatory officials and with the National  
Association of Insurance Commissioners, except that the  
names of the complainant and the insured must remain  
confidential;

44 B. To the public, as pertains to complaint information  
46 regarding insurers, only in the form of complaint ratios;

48 C. To bureau employees involved in the investigation;

50 D. By a bureau employee designated by the superintendent  
when necessary to facilitate the investigation;

2 E. To other state or federal agencies when the files  
4 contain evidence of possible violations of laws enforced by  
those agencies;

6 F. By the superintendent when necessary to avoid imminent  
8 and serious harm;

10 G. To insurers, as pertains to potential agents, but only  
12 to the extent of advising that an investigation is pending;  
and

14 H. To the person investigated upon request, except that the  
names of the complainant and the insured must remain  
16 confidential.

18 The superintendent may refuse to disclose part or all of any  
investigative information, including the fact of an  
20 investigation, when the superintendent determines that disclosure  
would prejudice the investigation.

22 4. Attorney General records. The provision or disclosure  
24 of investigative records of the Department of the Attorney  
General to a bureau employee designated by the superintendent  
26 does not constitute a waiver of the confidentiality, provided  
under Title 5, section 200-D, of those records for any other  
28 purposes. Further disclosure of those investigative records is  
subject to the discretion of the Attorney General.

30 Sec. 4. 24-A MRSA §2304, sub-§4, as amended by PL 1989, c.  
32 843, §1, is repealed.

34 Sec. 5. 24-A MRSA §2304-A, sub-§7, as enacted by PL 1989, c.  
797, §8, and affected by §§37 and 38, is repealed.

36 Sec. 6. 24-A MRSA §2736, sub-§2, as amended by PL 1979, c.  
38 558, §7, is further amended to read:

40 2. Rate filing. When a filing is not accompanied by the  
information upon which the insurer supports such that filing, or  
42 the superintendent does not have sufficient information to  
determine whether such that filing meets the requirements that  
44 rates shall may not be excessive, inadequate or unfairly  
discriminatory, the superintendent shall require the insurer to  
46 furnish the information upon which it supports the filing. A  
filing and supporting information shall be a public record within  
48 the meaning of Title 1, section 402, subsection 3 and shall  
become part of the official record of any hearing held pursuant  
to section 2736-A.

50 Sec. 7. 24-A MRSA §4223, as amended by PL 1985, c. 704, §7,  
52 is further amended to read:

