

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 867, L.D. 1247, Bill, "An Act to Amend Certain Provisions of the Insurance Code Involving the Powers of the Superintendent"

Amend the bill in section 2 in subsection 2-A in paragraph C in the 3rd line from the end (page 1, line 37 in L.D.) by striking out the following: "20" and inserting in its place the following: '10'

Further amend the bill by striking out all of section 6 and inserting in its place the following:

'Sec. 6. 24-A MRSA §2101, sub-§3 is enacted to read:

3. If the superintendent has reason to believe that any insurer or other person is acting in violation of this section or section 404, the superintendent shall commence proceedings in accordance with sections 12-A and 404. Section 2105 applies to all process, notices and statements of charges to be served on the unauthorized insurer or insurers.

Sec. 7. 24-A MRSA §2102, as amended by PL 1973, c. 625, §142, is further amended to read:

§2102. Purposes as related to Unauthorized Insurers

The purpose of section 12-A and sections 2102 to 2108 (Unauthorized Insurers Process Act) ~~and sections 2109 to 2111~~ (Unauthorized Insurers False Advertising Process Act) is to subject certain insurers to the jurisdiction of the superintendent and the courts of this State in suits and disciplinary proceedings as provided therein, by or on behalf of insureds or beneficiaries under insurance contracts or the superintendent. The Legislature declares its concern that many

2 Maine residents hold insurance policies delivered in this State
3 by unauthorized insurers, other than as to surplus lines
4 coverages written pursuant to chapter 19, thus presenting to such
5 residents the often insuperable obstacle of resort to distant
6 courts for the assertion of legal rights under their policies;
7 and that such insurers may induce residents to purchase insurance
8 through false advertising sent into this State. In furtherance of
9 such state interest, the Legislature herein provides a method of
10 substituted service of process upon such insurers, declares that
11 in so doing it exercises its power to protect Maine residents, to
12 define, for the purposes of this chapter, what constitutes doing
13 business in this State, and also exercises powers and privileges
14 available to the State under Public Law 15, 79th Congress of the
15 United States, chapter 20, 1st Session, S. 340, as amended, which
16 declares that the business of insurance and every person engaged
17 therein shall be are subject to the laws of the several states.'

18 Further amend the bill by striking out all of section 11 and
19 inserting in its place the following:

20 'Sec. 11. 24-A MRS §2165-A is enacted to read:

21 §2165-A. Cease and desist orders; actions against defined and
22 undefined unfair and deceptive practices

23 1. Emergency cease and desist orders issued pursuant to
24 section 12-A, subsection 2-A may not be imposed for violations
25 under this section.

26 2. The superintendent may issue a cease and desist order
27 pursuant to section 12-A, subsection 2 if, after a hearing, the
28 superintendent finds that any person in this State has engaged or
29 is engaging in any act or practice defined or prohibited under
30 this chapter or rules adopted pursuant to this chapter or that a
31 resident of this State has so engaged or is so engaging in
32 another state.

33 3. The superintendent may issue a cease and desist order
34 pursuant to section 12-A, subsection 2 if, after a hearing, the
35 superintendent finds that any person in the State has engaged or
36 is engaging, or that a resident of the State has engaged or is
37 engaging in another state, in an unfair or deceptive practice not
38 defined in this chapter or in rules adopted pursuant to this
39 chapter. For any undefined practice, the civil penalties set
40 forth in section 12-A, subsection 1 may not be imposed for
41 practice engaged in prior to the issuance and service of a valid
42 cease and desist order.'

43 Further amend the bill by renumbering the sections to read
44 consecutively.
45

Further amend the bill by inserting before the statement of fact the following:

FISCAL NOTE

This bill allows the Bureau of Insurance to issue emergency cease and desist orders in certain situations. Any costs associated with this activity can be absorbed within current budgeted resources of the Department of Professional and Financial Regulation.'

STATEMENT OF FACT

The emergency cease and desist order provision of the bill is amended to decrease the time within which a hearing must be held after the issuance of an emergency cease and desist order to 10 days. Reference to a show cause order has been removed from the prehearing procedure for insurers lacking a certificate of authority. The amendment establishes a hearing process for the issuance of cease and desist orders against insurers engaged in unfair and deceptive practices.

Reported by the Committee on Banking and Insurance
Reproduced and distributed under the direction of the Clerk of the House
(5/14/91) (Filing No. H-315)