

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 472, L.D. 1464, Bill, "An Act to Establish Minimum Regulatory Standards for Insurers to Permit the Bureau of Insurance to Seek National Accreditation"

Amend the bill by inserting after the title and before the enacting clause the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the National Association of Insurance Commissioners (NAIC) is a voluntary association of the 50 state insurance regulators; and

Whereas, an accreditation process has been developed to ensure consistent, high-quality standards of insurance financial regulation throughout the country; and

Whereas, the regulatory program of the Bureau of Insurance has had a preliminary audit and changes in the insurance laws were required to achieve compliance with NAIC standards; and

Whereas, the financial regulatory program of the Bureau of Insurance will be audited by a team of certified public accountants and attorneys in August 1993; and

Whereas, several additional rules must be implemented by the Superintendent of Insurance to satisfy accreditation standards; and

Whereas, attainment of accreditation is crucial to Maine's domestic insurance industry because serious financial penalties will apply to those insurers seeking to sell insurance outside of Maine if the financial regulatory program of the Bureau of Insurance is not accredited before year end 1993; and

COMMITTEE AMENDMENT

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2 **Whereas,** in the judgment of the Legislature, these facts
3 create an emergency within the meaning of the Constitution of
4 Maine and require the following legislation as immediately
5 necessary for the preservation of the public peace, health and
6 safety; now, therefore,

7 Further amend the bill by striking out everything after the
8 enacting clause and before the statement of fact and inserting in
9 its place the following:

10 **Sec. 1. 5 MRSA 139-A,** as amended by PL 1991, c. 780, Pt. Y,
11 §12, is further amended by adding at the end a new paragraph to
12 read:

13 The Treasurer of State shall obtain the written approval of
14 the Superintendent of Insurance prior to releasing any securities
15 received by the Treasurer of State and deposited in custodial
16 accounts pursuant to the deposit requirements of the Maine
17 Insurance Code.

18 **Sec. 2. 24-A MRSA §221, sub-§1,** as amended by PL 1991, c. 828,
19 §1, is further amended to read:

20 1. For the purpose of determining its financial condition,
21 fulfillment of its contractual obligations and compliance with
22 the law, the superintendent shall examine the affairs,
23 transactions, accounts, records and assets of each authorized
24 insurer, and of any person as to any matter relevant to the
25 financial affairs of the insurer or to the examination, as often
26 as the superintendent determines advisable. In determining the
27 nature, scope and timing of an examination, the superintendent
28 shall consider criteria, including, but not limited to, the
29 results of financial statement analyses and ratios, changes in
30 management or ownership, actuarial opinions, reports of
31 independent certified public accountants and other criteria
32 adopted by the National Association of Insurance Commissioners
33 and published in its Examiners' Handbook. Except as otherwise
34 expressly provided, domestic insurers must be examined at least
35 once every 3 years, unless the superintendent defers making an
36 examination for a longer period; but in no event may domestic
37 insurers an authorized insurer be examined less frequently than
38 once every 5 years. Examination of an alien insurer is limited
39 to its insurance transactions, assets, trust deposits and affairs
40 in the United States, except as otherwise required by the
41 superintendent.

42 **Sec. 3. 24-A MRSA §221, sub-§3-A** is enacted to read:

43 3-A. On or after January 1, 1994 the superintendent may
44 accept a full examination report by the insurance regulatory
45 authority of the insurance company's state of domicile or
46 port-of-entry state for any foreign or alien insurer licensed in

2 this State in lieu of an examination by the superintendent if, at
4 the time of the examination, that regulatory authority was
6 accredited under the National Association of Insurance
8 Commissioners' Financial Regulation Standards and Accreditation
10 Program or if the examination was performed under the supervision
12 of an accredited insurance regulatory authority or with the
14 participation of one or more examiners who are employed by an
16 accredited insurance regulatory authority and who, after a review
18 of the examination workpapers and report, state under oath that
20 the examination was performed in a manner consistent with the
22 standards and procedures required by the regulatory authority.

24 **Sec. 4. 24-A MRSA §221, sub-§4**, as enacted by PL 1969, c. 132,
26 §1, is amended to read:

28 4. As far as practical, the examination of a foreign or
30 alien insurer shall must be made in cooperation with the
32 insurance supervisory officials of other states in which the
34 insurer transacts business. Duties may be divided among the
36 participating states in any manner consistent with the standards
38 established by the laws of this State that are applicable to
40 foreign and alien insurers.

42 **Sec. 5. 24-A MRSA §221-A, sub-§3**, as amended by PL 1989 c.
44 846, Pt. C, §1 and affected by Pt. E, §4, is further amended to
46 read:

48 3. **Audits required.** All insurers, excepting insurers
50 transacting business in this State pursuant to the terms of
52 chapter 51, shall cause to be conducted an annual audit by an
independent certified public accountant and shall file an audited
financial report with the superintendent on or before June 30th
1st for the year ending December 31st preceding. An extension of
the filing deadline may be granted by the superintendent upon a
showing by the insurer or its accountant that there exists valid
justification for such an extension. A firm of independent
certified public accountants engaged to perform an audit of an
insurer shall substitute the appointed audit partner in charge
with another audit partner in charge at least once every 7
years. An accountant substituted for pursuant to this subsection
may not serve as a partner in charge of that audit until 2 years
from the date of substitution.

54 **Sec. 6. 24-A MRSA §221-A, sub-§4**, as enacted by PL 1985 c.
56 330, §1, is amended to read:

58 4. **Content of annual audited financial reporting.** Annual
60 audited financial reporting shall must consist of the following.

62 A. Financial statements furnished under this section shall
must be examined by independent certified public accountants
in accordance with generally accepted auditing standards as

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2 prescribed by the American Institute of Certified Public
 3 Accountants. The opinion of the accountant shall must cover
 4 all years for which a financial presentation is made.

6 The opinion expressed concerning the financial statements
 7 filed under this section shall must conform with the
 8 accounting practices prescribed or permitted by the
 9 superintendent or the insurance supervisory official of the
 10 insurer's state of domicile. ~~Insurers may elect to present~~
 11 ~~financial statements filed under this section on the basis~~
 12 ~~of generally accepted accounting principles if such~~
 13 ~~statements contain a reconciliation of shareholders equity,~~
 14 ~~surplus funds, and results of operations to the statutory~~
 15 ~~basis of accounting required for insurers generally~~ An
 16 insurer, with the approval of the superintendent, may file
 17 audited consolidated or combined financial statements in
 18 lieu of separate annual audited financial statements if the
 19 insurer is part of a group of insurance companies that uses
 20 a pooling agreement and such an insurer cedes all of its
 21 direct and assumed business to the pool or if the insurer
 22 has executed a 100% reinsurance agreement with one or more
 23 of the insurers in the group and the pooling or reinsurance
 24 agreement affects the solvency of the insurer or the
 25 integrity of the insurer's reserves. In those cases, a
 26 columnar consolidating or combining worksheet must be filed
with the report.

28 The opinion shall must be expressed to the insurer by the
 29 accountant on his the accountant's letterhead and shall show
 30 the address of the office issuing that opinion, shall must
 31 be manually executed and shall be dated.

32 B. Financial statements, as a minimum, shall must consist
 33 of:

- 36 (1) Balance sheet;
- 38 (2) Statement of gain or loss from operations;
- 40 (3) Statement of change ~~in financial position~~ cash
 42 flow;
- 44 (4) Statement of change in capital paid-up, gross
 45 paid-in and contributed surplus and unassigned funds,
 46 surplus funds; and
- 48 (5) Notes to financial statements.

50 C. The statement shall must include an independent
 51 certified public accountant's report respecting evaluation
 52 of internal controls.

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2 D. The statement shall must include an independent
 4 certified public accountant's letter attesting to his that
 6 certified public accountant's qualifications, his possession
 of license and his subscription to the code of professional
 ethics and pronouncements issued by the American Institute
 of Certified Public Accountants.

8 Sec. 7. 24-A MRSA §222, sub-§2, ¶ D-1, as enacted by PL 1991,
 10 c. 828, §3, is repealed.

12 Sec. 8. 24-A MRSA §222, sub-§2, ¶D-2 is enacted to read:

14 D-2. "Net gains from operations" means:

16 (1) For life insurers, the net income or loss after
dividends to policyholders and federal income taxes but
 18 before the inclusion of net realized capital gains or
losses; and

20 (2) For nonlife insurers, the net income or loss after
dividends to policyholders and federal income taxes and
 22 net realized capital gains or losses.

24 Sec. 9. 24-A MRSA §222, sub-§2, ¶¶G and H are enacted to read:

26 G. "Surplus regarding policyholders" means admitted assets
less all liabilities.

28 H. "Unassigned funds" means the undistributed and
 30 unappropriated amount of surplus remaining on the balance
 32 sheet date as the result of all operations of an insurance
company from its commencement of business.

34 Sec. 10. 24-A MRSA §222, sub-§10, as enacted by PL 1975, c.
 36 356, §1, is amended to read:

38 **10. Insurer's surplus; adequacy factors.** For the purposes
 of this chapter, in determining whether an insurer's surplus to
 40 policyholders is reasonable in relation to the insurer's
 outstanding liabilities and adequate to its financial needs, the
 following factors, among others, shall may be considered:

42 A. The size of the insurer as measured by its assets,
 44 capital and surplus, reserves, premium writings, insurance
 in force and other appropriate criteria;

46 B. The extent to which the insurer's business is
 48 diversified among the several lines of insurance;

50 C. The number and size of the risks insured in each line of
 business;

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2 D. The extent of the geographical dispersion of the
insurer's insured risks;

4 E. The nature and extent of the insurer's reinsurance
6 program;

8 F. The quality, diversification and liquidity of the
insurer's investment portfolio;

10 G. The recent past and projected future trend in the size
12 of the insurer's surplus to as regards policyholders;

14 H. ~~The surplus to policyholders maintained by other~~
~~comparable insurers~~ The quality and liquidity of investments
16 in subsidiaries or affiliates. The department may discount
18 any such investment or treat any investment as a nonadmitted
asset for purposes of determining the adequacy of surplus as
regards policyholders whenever the investment so warrants;

20 I. The adequacy of the insurer's reserves; and

22 J. ~~The quality and liquidity of investments in subsidiaries~~
~~or affiliates.~~ The surplus as regards policyholders
24 maintained by other comparable insurers in respect of the
26 factors set out in this subsection; and

28 K. The quality of the company's earnings and the extent to
which the reported earnings include extraordinary items.

30 **Sec. 11. 24-A MRSA §222, sub-§11, as amended by PL 1991, c.**
32 **828, §6, is repealed.**

34 **Sec. 12. 24-A MRSA §222, sub-§§11-A and 11-B are enacted to**
read:

36 11-A. Extraordinary dividends. For purposes of this
38 subsection, an extraordinary dividend or distribution is any
dividend or distribution that exceeds the greater of:

40 A. Ten percent of the insurer's surplus to policyholders as
42 of December 31st of the preceding year; or

44 B. The net gain from operations for the 12-month period
46 ending December 31st of the preceding year.

In addition to the provisions of paragraphs A and B, any dividend
48 or distribution declared at any time within 5 years following any
acquisition of control of a domestic insurer or by any person
50 controlling that insurer, as long as that is an extraordinary
dividend that has not been approved by a number of continuing
52 directors equal to a majority of the continuing directors in

2 office immediately preceding that acquisition of control is an
3 extraordinary dividend.

4 A pro rata distribution of any class of the insurer's own
5 securities is not considered an extraordinary dividend or
6 distribution for purposes of this section. An insurer subject to
7 registration under this section may pay an extraordinary dividend
8 or make any other extraordinary distribution to its stockholders
9 upon the expiration of 60 days from the time the superintendent
10 is notified of the declaration if within that period the
11 superintendent has not disapproved the payment or upon the
12 superintendent's approval of that payment within the 60-day
13 period. Notwithstanding any other provision of law, an insurer
14 may declare an extraordinary dividend or distribution that is
15 conditional upon the superintendent's approval and such a
16 declaration does not confer any rights to stockholders until the
17 superintendent has approved the payment of the dividend or
18 distribution or the superintendent has not disapproved that
19 payment within the 60-day period. The insurer's surplus
20 following any dividends or distributions to shareholders under
21 this subsection must be reasonable in relation to the insurer's
22 outstanding liabilities and adequate to meet the insurer's
23 financial needs. An extraordinary dividend or distribution that
24 is permissible under statutory terms and conditions in the
25 insurer's state of domicile is deemed to meet the requirements of
26 this section if the value of that dividend or distribution does
27 not materially exceed the value that would be permissible under
28 this section.

30 11-B. All other dividends and distributions. For purposes
31 of this subsection, unassigned funds exclude an amount equal to
32 50% of the net of unrealized capital gains and unrealized capital
33 losses reduced by that portion of the asset valuation reserve
34 attributable to equity investments, except that such an amount
35 can not serve to increase unassigned funds. An insurer subject
36 to registration under this section may pay from its unassigned
37 funds, dividends and distributions, other than those defined in
38 subsection 11-A, if the insurer has notified the superintendent
39 within 5 days following the declaration of any dividend under
40 this subsection and at least 10 days prior to the payment of any
41 dividend under this subsection. A dividend or distribution
42 otherwise limited under this subsection may be paid by a foreign
43 insurer to its stockholders if the insurer's domiciliary
44 insurance regulatory authority has given approval prior to that
45 payment. A domestic insurer may pay a dividend or distribution
46 to its stockholders from other than unassigned funds, upon the
47 expiration of 60 days from the time the superintendent is
48 notified of the declaration, if the superintendent has not within
49 that period disapproved the payment or upon the superintendent's
50 approval of that payment within the 60-day period. An insurer's
51 surplus following any dividends or distributions paid to
52 shareholders under this subsection must be reasonable in relation

2 to the insurer's outstanding liabilities and adequate to meet the
3 insurer's financial needs. The superintendent shall review at
4 least annually dividends and distributions declared or paid by an
5 insurer under this subsection. The superintendent shall issue an
6 order restricting or disallowing the payment of dividends and
7 distributions by an insurer upon a determination by the
8 superintendent that the insurer's surplus is not of a maintained
9 value reasonable in relation to the insurance company's
10 outstanding liabilities and is inadequate to that company's
11 financial needs or a determination that the insurer's financial
12 condition constitutes a condition hazardous to policyholders,
13 claimants or the public.

14 **Sec. 13. 24-A MRS §222, sub-§14-A is enacted to read:**

15 **14-A. Recovery.**

16
17 A. If an order for liquidation or rehabilitation of a
18 domestic insurer has been entered, the receiver appointed
19 under that order has the right to recover on behalf of the
20 insurer:

21
22 (1) From any parent corporation or holding company or
23 person or affiliate who otherwise controlled the
24 insurer, the amount of any distributions other than
25 distributions of shares of the same class of stock paid
26 by the insurer on its capital stock; or

27
28 (2) Any payment in the form of a bonus, termination
29 settlement or extraordinary lump-sum salary adjustment
30 made by the insurer or by any subsidiary of that
31 insurer to a director, officer or employee when the
32 distribution or payment pursuant to this subparagraph
33 or subparagraph (1) is made at any time during the one
34 year preceding the petition for liquidation,
35 conservation or rehabilitation, subject to the
36 limitations of paragraphs B, C and D.

37
38 B. Such a distribution is not recoverable if the parent
39 corporation or affiliate shows that when paid the
40 distribution was lawful and reasonable and that the insurer
41 did not know and could not reasonably have known that the
42 distribution could adversely affect the ability of the
43 insurer to fulfill its contractual obligations.

44
45 C. Any person who was a parent corporation or holding
46 company or a person who otherwise controlled the insurer or
47 affiliate at the time distributions were paid is liable up
48 to the amount of distributions or payments under paragraph A
49 that the person received. Any person who otherwise
50 controlled the insurer at the time the distributions were
51 declared is liable up to the amount of the distributions the
52

2 person would have received if that person had been paid
3 immediately. If 2 or more persons are liable for the same
4 distributions, those persons are jointly and severally
5 liable.

6 D. The maximum amount recoverable under this subsection is
7 the amount needed in excess of all other available assets of
8 the impaired or insolvent insurer to pay the contractual
9 obligations of the impaired or insolvent insurer and to
10 reimburse any guaranty funds.

11 E. To the extent that any person liable under paragraph C
12 is insolvent or fails to pay claims due pursuant to
13 paragraph C, its parent corporation or holding company or
14 person who otherwise controlled it at the time the
15 distribution was paid, is jointly and severally liable for
16 any resulting deficiency in the amount recovered from the
17 parent corporation or holding company or person who
18 otherwise controlled it.

19 **Sec. 14. 24-A MRSA §223, sub-§2, as amended by PL 1973, c.**
20 **585, §12, is further amended to read:**

21 2. The superintendent shall conduct each examination in an
22 expeditious, fair and impartial manner, consistent with current
23 guidelines and procedures adopted from time to time by the
24 National Association of Insurance Commissioners and published in
25 its Examiners' Handbook.

26 **Sec. 15. 24-A MRSA §237, first ¶, as amended by PL 1991, c.**
27 **334, §3, is further amended to read:**

28 The expense of maintaining the Bureau of Insurance must be
29 assessed annually by the Superintendent of Insurance against all
30 insurers licensed to do business in this State in proportion to
31 their respective direct gross premium written on business in this
32 State during the year ending December 31st immediately preceding
33 the fiscal year for which assessment is made. The annual
34 assessment upon all insurers must be applied to the budget of the
35 bureau for the fiscal year commencing July 1st. For any biennial
36 period, total assessment must be in an amount not exceeding .0015
37 .002 of total direct premiums written. When the superintendent
38 calculates the amount of the annual assessment, the
39 superintendent must consider, among other factors, the staffing
40 level required to administer the responsibilities of the bureau.

41 **Sec. 16. 24-A MRSA §423, sub-§1, as amended by PL 1973, c.**
42 **585, §12, is further amended to read:**

43 1. Each authorized insurer shall annually on or before
44 March 1st, or within any reasonable extension of time therefor
45 which that the superintendent for good cause may have granted on
46

or before such March 1st, file with the superintendent a full and true statement of its financial condition, transactions and affairs as of December 31st preceding. The statement shall must be ~~in the general form and context of, and require information as called for by, the form of annual statement as currently in general and customary use in the United States for the type of insurer and kinds of insurance to be reported upon~~ on an annual statement blank of the National Association of Insurance Commissioners, be prepared in accordance with the association's annual statement instructions, and follow practices and procedures prescribed by the association's accounting practices and procedures manual, with any useful or necessary modification or adaptation thereof and as supplemented by additional information required by the superintendent. The statement shall must be verified by the oath of the insurer's president or vice-president, and secretary or actuary as applicable, or in the absence of the foregoing, by 2 other principal officers; or if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation.

Sec. 17. 24-A MRSA §731-B, sub-§1, ¶C, as amended by PL 1991, c. 38, is further amended by amending subparagraph (7) to read:

(7) The corpus of the trust is to be valued as any other admitted asset or assets; ~~or~~

Sec. 18. 24-A MRSA §731-B, sub-§3, ¶C, as enacted by PL 1989, c. 846, Pt. E, §2 and affected by §4, is amended to read:

C. Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, ~~provided the Securities Valuation Office of the National Association of Insurance Commissioners has determined that the institution meets the standards that it determines necessary and appropriate to the quality of a financial institution issuing letters of credit for this purpose~~ no later than December 31st of the year for which filing is being made and in the possession of the ceding company on or before the filing date of its annual statement.

(1) A letter of credit from an issuer determined to be acceptable as of the date of issuance or the date of confirmation of the letter, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continues to be acceptable as security until its expiration, extension, renewal, modification or amendment, whichever first occurs. The ceding insurer shall replace a nonqualifying letter of credit at its earliest opportunity.

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(2) The letter of credit must indicate that it is not subject to any condition or qualification outside the letter of credit, and that the beneficiary need only draw a sight draft under the letter and present the letter to obtain funds and that no other document need be presented.

Sec. 19. 24-A MRSA §981, as amended by PL 1991, c. 828, §22, is further amended to read:

§981. Valuation of bonds

1. All bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

A. If purchased at par, and not valued by the National Association of Insurance Commissioners, at the par value;

A-1. Pursuant to valuations ascribed by the Securities Valuation Office of the National Association of Insurance Commissioners, either through its most current published valuations or in response to an insurer's required submissions to the Securities Valuation Office; or

B. If purchased If not valued by the National Association of Insurance Commissioners and the purchase is above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such that method, according to such accepted method of valuation as is approved by the superintendent. Purchase price may not be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of securities.

~~C. Purchase price may in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities;~~

~~C-1. The superintendent may require the use of standards of valuation promulgated by the National Association of Insurance Commissioners in determining value to be ascribed to securities subject to this section; and~~

~~D. Unless otherwise provided by valuation established or approved by the superintendent, no such security may be carried at above the call price for the entire issue during any period within which the security may be so called.~~

2. The superintendent shall ~~have full discretion in~~ may determine the method of calculating values according to the rules set forth in this section.

3. Unless otherwise provided by valuation established or approved by the superintendent, a security may not be carried at above the call price for the entire issue during any period within which a security may be so called.

Sec. 20. 24-A MRSA §982, as amended by PL 1977, c. 432, §2, is further amended to read:

§982. Valuation of other securities

1. Securities, other than those referred to in section 981, held by an insurer shall ~~must~~ be valued, in the discretion of the superintendent, by the Securities Valuation Office of the National Association of Insurance Commissioners. If such a valuation is not available, the superintendent may determine the value of the securities at their market value, or at their appraised value, or at prices a value determined by him the superintendent as representing their fair market value. The method employed, if the superintendent values or causes such a valuation of securities, must be provided to the insured upon its request.

2. Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the superintendent and in accordance with such method of computation as he ~~the superintendent~~ may approve.

3. The stock of a subsidiary of an insurer shall ~~be is~~ valued on the basis of the greater of the value of only such of the assets of such subsidiary as would constitute lawful investments for the insurer if acquired or held directly by the insurer or such other value determined pursuant to standards and cumulative limitations contained in a regulation promulgated by the superintendent or if the superintendent so permits or requires, he may permit or require any class or classes of insurers domiciled or authorized to do business in this State to value their investments or any class or classes thereof in any subsidiary, as of any date heretofore or hereafter in accordance with any applicable valuation or method approved by the National Association of Insurance Commissioners and adopted in a regulation promulgated by the superintendent consistent with applicable valuation methods of the Securities Valuation Office of the National Association of Insurance Commissioners. The insurer shall submit information as required by the Securities Valuation Office to permit that office to appropriately value the subsidiary. If such a valuation is not available, the superintendent may determine value. The method employed, if the

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superintendent values or causes a valuation of such a subsidiary, must be provided to the insurer upon its request.

Sec. 21. 24-A MRSA §1106, as amended by PL 1989, c. 846, Pt. B, §§2 to 5 and Pt. E, §4, is further amended to read:

§1106. Diversification; property, casualty and other nonlife insurers

~~Except for those investments subject to the restrictions of chapter 13-A, all~~ The investments of an insurer are subject to the following diversification requirements and limitations.

1. Not less than 30% of the insurer's assets in aggregate amount shall may consist of cash funds, agents' balances less than 90 days past due, and investments eligible under the following sections:

- A. 1107 (public obligations);
- B. 1108 (obligations, stock of certain federal and international agencies);
- C. 1109 (investment grade corporate obligations);
- D. 1112 (preferred or guaranteed stocks);
- E. 1116 (trustees' or receivers' obligations);
- F. 1117 (equipment trust certificates);
- G. 1118 (acceptances, bills of exchange);
- H. 1119 (savings and loan institutions);
- I. 1120 (common trust funds, mutual funds);
- J. 1124 (mortgage loans); and
- K. 1126 (housing developments).

2. The insurer shall may not invest in aggregate amount in excess of its surplus as to policyholders in all investments eligible under the following sections:

- A. 1113 (common stocks);
- B. 1114 (insurance stocks);
- C. 1115 (stocks of subsidiaries); and
- D. 1120, subsection 2 (mutual funds); ~~and~~

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2 E.--1109-A-(high-yield-corporate-obligations)-

4 3. The insurer shall may not invest in aggregate amount
6 over 20% of its assets in all investments in real estate eligible
under sections 1125 (real estate) and 1127 (leased property).

8 4. Except as otherwise expressly provided, an insurer shall
10 may not invest more than 10% of its assets in the securities of
any one person, other than investments eligible under the
12 following sections:

14 A. 1107 (public obligations); and

16 B. 1108 (obligations, stock of certain federal and
international agencies).

18 5. The insurer's investments in common stock, preferred
20 stock, debt obligations and other securities of subsidiaries
other than insurance subsidiaries are limited to the lesser of
22 10% of the insurer's admitted assets or 50% of the insurer's
surplus as to policyholders except in instances when a greater
investment has been approved by the superintendent.

24 6. The assets of an insurer may be invested in obligations
26 issued, assumed, guaranteed or accepted by domestic institutions,
or trustees or receivers of those institutions and preferred
28 shares of any of those institutions, except that, without the
prior approval of the superintendent, a domestic insurer may not
30 acquire any high-yield or medium grade obligations of any
institution if:

32 A. The aggregate amount of all medium grade obligations and
34 all high-yield obligations then held by the insurer exceeds
the lesser of 20% of its admitted assets or its surplus as
36 to policyholders;

38 B. The aggregate amount of all high-yield obligations then
held by the insurer exceeds 10% of its admitted assets;

40 C. The aggregate amount of all high-yield obligations rated
42 5 or 6 by the Securities Valuation Office of the National
Association of Insurance Commissioners or, if not rated by
44 the National Association of Insurance Commissioners, rated
at the equivalent of 5 or 6 by Moody's Investors Service,
46 Inc., Standard and Poor's Corporation, Fitch Investors
Service, Inc. or Duff and Phelps, Inc. exceeds 3% of
48 admitted assets;

50 D. The aggregate amount of all high-yield obligations rated
52 6 by the Securities Valuation Office of the National
Association of Insurance Commissioners or, if not rated by

2 the National Association of Insurance Commissioners, rated
3 the equivalent of 6 by Moody's Investors Service, Inc.,
4 Standard and Poor's Corporation, Fitch Investors Service,
5 Inc. or Duff and Phelps, Inc., exceeds 1% of admitted assets;

6 E. The aggregate amount of medium grade obligations issued,
7 guaranteed or insured by any one institution then held by
8 the insurer exceeds 1% of its admitted assets.

10 F. The aggregate amount of high-yield obligations issued,
11 guaranteed, or insured by any one institution then held by
12 the insurer would exceed 1/2 of 1% of its admitted assets.

14 **Sec. 22. 24-A MRSA §1109, first ¶,** as amended by PL 1989, c.
15 846, Pt. B, §6 and affected by Pt. E, §4, is further amended to
16 read:

18 **§1109. Investment grade obligations**

20 An insurer may invest in obligations, other than those
21 eligible for investment under section 1124 (mortgage loans),
22 issued, assumed or guaranteed by any solvent institution created
23 or existing under the laws of the United States or of Canada, or
24 of any state, province, district or territory thereof, provided
25 that the obligations are not in default as to principal or
26 interest, are investment grade corporate obligations as defined
27 in section 1162 1162-A, subsection 6 7, and are qualified under
28 any of the following.

30 **Sec. 23. 24-A MRSA §1109-A,** as enacted by PL 1989, c. 846,
31 Pt. B, §7 and affected by Pt. E, §4, is repealed.

32 **Sec. 24. 24-A MRSA §1110, sub-§1, ¶B,** as amended by PL 1983,
33 c. 759, §1, is repealed.

36 **Sec. 25. 24-A MRSA §1110, sub-§3,** is enacted to read:

38 3. The terms defined in section 1162-A have the same
39 meanings as used in this chapter.

40 **Sec. 26. 24-A MRSA §1156, sub-§2, ¶B,** as enacted by PL 1987,
41 c. 399, §14, is repealed and the following enacted in its place:

44 B. Obligations issued, assumed, guaranteed or accepted by
45 domestic institutions or by trustees or receivers of those
46 institutions, and preferred shares of any of those
47 institutions, provided that without the prior approval of
48 the superintendent, no domestic insurer may acquire any
49 high-yield or medium grade obligations of any institution if:
50

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(1) The aggregate amount of all medium grade obligations and all high-yield obligations then held by the insurer exceeds 20% of its admitted assets;

(2) The aggregate amount of all high-yield obligations then held by the insurer exceeds 10% of its admitted assets;

(3) The aggregate amount of all high-yield obligations rated 5 or 6 by the Securities Valuation Office of the National Association of Insurance Commissioners or, if not valued by the National Association of Insurance Commissioners, rated the equivalent of 5 or 6 by Moody's Investors Service, Inc., Standard and Poor's Corporation, Fitch Investors Service, Inc. or Duff and Phelps, Inc., exceeds 3% of admitted assets;

(4) The aggregate amount of all high-yield obligations rated 6 by the Securities Valuation Office of the National Association of Insurance Commissioners or, if not valued by the National Association of Insurance Commissioners, rated the equivalent of 6 by Moody's Investors Service, Inc., or rated D by Standard and Poor's Corporation, Fitch Investors Service, Inc., or Duff and Phelps, Inc., exceeds 1% of admitted assets;

(5) The aggregate amount of medium grade obligations issued, guaranteed or insured by any one institution then held by the insurer exceeds 1/2 of 1% of its admitted assets; or

(6) The aggregate amount of high-yield obligations issued, guaranteed or insured by any one institution then held by the insurer exceeds 1/2 of 1% of its admitted assets.

Sec. 27. 24-A MRSA §1156, sub-§2, ¶¶D, G and H, as enacted by PL 1987, c. 399, §14, are amended to read:

D. Investments in real property or interests therein located in the United States, held directly or evidenced by partnership interests, stock of corporations, trust certificates or other instruments and acquired:

(1) As an investment for the production of income or to be improved or developed for that investment purpose; or

(2) For the convenient accommodation of the insurer's business.

After giving effect to any of those types of investment

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2 investments, the aggregate amount of investments made under
subparagraph (1) shall may not exceed 20% of the insurer's
4 total admitted assets; the aggregate amount of investments
made under subparagraph (2) shall may not exceed 10% of the
6 insurer's total admitted assets; and the aggregate amount of
investments made under this paragraph shall may not exceed
8 25% of the insurer's total admitted assets. Investments
under subparagraph (1) in any single property, including
improvements on that property, may not in the aggregate
10 exceed 2% of the insurer's total admitted assets;

12 G. The following foreign investments:

14 (1) Canadian securities and investments substantially
of the same classes as those eligible for investment
16 under paragraphs A to F, but the aggregate amount of
those investments which that are held at any time by
18 any insurer shall may not exceed 10% of total admitted
assets, except where when a greater amount is permitted
20 pursuant to subparagraph (2), in which case this
subparagraph shall is not be applicable;

22 (2) In the case of any insurer which that is
24 authorized to do business in a foreign country or
possession of the United States or which that has
26 outstanding insurance, annuity or reinsurance contracts
on lives or risks resident or located in a foreign
28 country or possession of the United States, securities
and investments in that foreign country or possession
30 that are substantially of the same classes as those
eligible for investment under paragraphs A to F, but
32 the aggregate amount of such investments in a foreign
country or a possession of the United States and of
34 cash in the currency of that country or possession
which that is at any time held by that insurer shall
36 may not, except as provided in paragraph H, exceed 1
1/2 times the amount of its reserves and other
38 obligations under those contracts or the amount which
that that insurer is required by law to invest in that
40 country or possession, whichever is greater; and

42 (3) In addition to the foreign investments permitted
under subparagraphs (1) and (2), securities and
44 investments in foreign countries which that are
substantially of the same classes as those eligible for
46 investment under paragraphs A to F, but the aggregate
amount of those investments made pursuant to this
48 subparagraph shall may not exceed 1% of total admitted
assets; and

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2 H. Investments which that do not qualify or are not
permitted under any other paragraph of this subsection;
provided-that as long as:

4
6 (1) After giving effect to any investment made under
this paragraph, the aggregate amount of those
investments shall does not exceed 14% of total admitted
8 assets, except that investments made under this
paragraph in institutions or property not located
10 within the State shall may not exceed 10% of total
admitted assets; and, if the insurer makes investments
12 described in paragraphs A to G and elects to charge
those investments against the quantitative limits in
14 this paragraph instead of the quantitative limits in
paragraphs A to G, then the aggregate amount invested
16 under this paragraph in those types of investment
investments shall may not exceed 5% of total admitted
18 assets for any one of those types of investment
investments;

20
22 (2) Investments that are neither interest bearing nor
income entitled, including the cost of outstanding bona
24 fide hedging transactions made under section 1153,
subsection 2, shall--be are subject to all of the
provisions of this paragraph; and the aggregate amount
26 of those investments held at any one time shall may not
exceed 3% of total admitted assets;

28
30 (3) The investment limitations contained in this
chapter, qualitative or otherwise, shall may not apply
32 to loans or investments made or acquired under this
paragraph, provided that no loan or investment made or
34 acquired under this paragraph may be represented by any
item described in section 902; any loan or investment
36 expressly prohibited under section 1160; or agent's
agents' balances, or amounts advanced to or owing by
agents, except as to policy loans, mortgage loans and
38 collateral loans to those agents otherwise authorized
under this chapter; or

40
42 (4) The insurer shall keep a separate record of all
loans and investments made or acquired under this
44 paragraph. Any such loan or investment that,
subsequent to the date of making or acquisition, has
46 attained the standard of eligibility and qualifies
under any other provision of this chapter may be
48 considered to have been made or acquired under and in
compliance with that provision and shall may no longer
50 be considered to have been made or acquired under this
paragraph.

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2 **Sec. 28. 24-A MRSA §1156, sub-§3**, as enacted by PL 1987, c.
399, §14, is amended to read:

4 **3. Determination of eligibility.** The eligibility of any
investment under any paragraph of subsection 2 shall must be
6 determined at the time of acquisition, except that investments
qualified under subsection 2, paragraph H, may be requalified at
8 a later date under another provision of this chapter, if the
relevant conditions are satisfied at the time of such
10 requalification.

12 **Sec. 29. 24-A MRSA §1157, sub-§5, ¶A**, as enacted by PL 1987,
c. 399, §14, is amended to read:

14 A. Except with the approval of the superintendent, such
16 that insurer may not make, directly or indirectly, an
investment in any subsidiary if that investment would bring
18 the aggregate net cost of investments in all subsidiaries to
an amount in excess of the lesser of 10% of the insurer's
20 total admitted assets or 50% of the insurer's surplus as
regards policyholders or if that investment would bring the
22 aggregate net investment in that subsidiary to an amount in
excess of 2% of those total admitted assets.

24 **Sec. 30. 24-A MRSA §1162**, as enacted by PL 1987, c. 399,
26 §14, is repealed.

28 **Sec. 31. 24-A MRSA §1162-A**, is enacted to read:

30 As used in this chapter and chapter 13, unless the context
32 indicates otherwise, the following terms have the following
meanings.

34 **1. Admitted assets.** "Admitted assets" means the definition
36 of "assets" set forth in section 901. For purposes of this
chapter and chapter 13, the asset value is that value that may be
38 contained in the annual statement of the corporation filed
pursuant to section 423.

40 **2. Aggregate amount of investments.** "Aggregate amount of
42 investments" means the aggregate value of those investments, as
determined under sections 981 to 984, except as provided in
44 section 1157, subsection 5.

46 **3. Bona fide hedging transaction.** "Bona fide hedging
48 transaction" means a purchase or sale of foreign currency or of a
contract, option, call, put or right entered into for the purpose
50 of offsetting changes in foreign currency exchange rates, or in
the market value of investments held or proposed to be acquired
52 by the insurer, or in the market value of liabilities that the
insurer has or expects to incur, pursuant to a duly adopted
resolution of the insurer's board of directors and written

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operations procedure submitted to the superintendent before making any such purchases and sales, as long as:

A. There is a high correlation between changes in the market value of those hedging purchases and sales and the market value of the assets and liabilities to be hedged;

B. Books and records regarding all such purchases and sales are maintained by the insurer in accordance with generally accepted accounting principles; and

C. The superintendent may adopt further rules regarding the form and content of resolutions, operation procedures, books and accounts and further accounting treatment and valuation methods necessary to ensure compliance with these limitations.

4. Domestic institution. "Domestic institution" means an institution created or existing under the laws of the United States or any state, district or territory.

5. High-yield obligations. "High-yield obligations" means obligations that are neither investment grade nor medium grade obligations.

6. Institution. "Institution" means a corporation, a joint-stock association, a business trust, a business partnership, a business joint venture or any other similar entity.

7. Investment grade obligation. "Investment grade obligation" means an obligation that at the time of acquisition by the insurer is rated 1 or 2 by the Securities Valuation Office of the National Association of Insurance Commissioners. If not valued by the Securities Valuation Office of the National Association of Insurance Commissioners, "investment grade obligation" means an obligation that at the time of acquisition by the insurer is rated the equivalent of 1 or 2 by one of the following nationally recognized independent rating agencies: Moody's Investors Service, Inc. Standard and Poor's Corporation, Fitch Investors Service, Inc., or Duff and Phelps, Inc.

8. Medium grade obligation. "Medium grade obligation" means an obligation that at the time of acquisition by the insurer is rated by the Securities Valuation Office of the National Association of Insurance Commissioners as Class 3 quality. If not valued by the Securities Valuation Office of the National Association of Insurance Commissioners, "medium grade obligation" means an obligation that at the time of acquisition by the insurer is rated the equivalent of 3 by Moody's Investors Service, Inc., Standard and Poor's Corporation, Fitch Investors Service, Inc., or Duff and Phelps, Inc.

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2 9. Not acquired by the insurer from an issuer, underwriter
3 or dealer. "Not acquired by the insurer from an issuer,
4 underwriter or dealer" means acquired by the insurer in an exempt
5 transaction described in the United States Securities Act of
6 1933, Section 4(1) or Section 4(3), 15 United States Code,
7 Section 77d(1) or Section 77d(3), as from time to time amended.

8 10. Obligations. "Obligations" means bonds, debentures,
9 notes and other evidences of indebtedness, regardless of whether
10 liability for payment extends beyond the security for them as
11 well as participation interests in any of those.

12 11. Qualified broker or dealer. "Qualified broker or
13 dealer" means a broker or dealer that is organized under the laws
14 of a state, is registered under the United States Securities
15 Exchange Act of 1934, 15 United States Code, Sections 78a to 78kk
16 and has net capital in excess of \$250,000,000.

17 12. Qualified financial institution. "Qualified financial
18 institution" means a bank or a trust company that is organized
19 under the laws of a state or the United States, has assets in
20 excess of \$5,000,000,000, has, or its parent corporation has,
21 senior obligations outstanding rated AA or better and has a ratio
22 of primary capital to total assets of a least 5 1/2 and a ratio
23 of total capital to total assets of at least 6%.

24 13. Qualified for public sale. "Qualified for public sale"
25 means registered under the United States Securities Act of 1933,
26 15 United States Code, Sections 77a to 77aa.

27 14. Subsidiary. "Subsidiary" has the meaning as prescribed
28 in section 222, subsection 2, paragraph F. The term "subsidiary"
29 does not include a separate account established under section
30 2537.

31 15. United States. "United States" when used to signify
32 place includes those geographical areas and the lands and waters
33 adjacent to those geographical areas under the jurisdiction of
34 the United States.

35 Sec. 32. 24-A MRSA §4204, sub-§2-A, ¶D, as amended by PL 1989,
36 c. 842, §9, is further amended to read:

37 D. The health maintenance organization is financially
38 responsible, complies with the minimum surplus requirements
39 of section 4204-A, and, among other factors, can reasonably
40 be expected to meet its obligations to enrollees and
41 prospective enrollees.

42 (1) In a determination of minimum surplus requirements, the
43 following terms have the following meanings.

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(a) "Admitted assets" means assets as defined in section 901. For purposes of this chapter, the asset value is that contained in the annual statement of the corporation as of December 31st of the year preceding the making of the investment or contained in any audited financial report, as defined in section 221-A, of more current origin.

(b) "Reserves" means those reserves held by corporations subject to this chapter for the protection of subscribers. For purposes of this chapter, the reserve value is that contained in the annual statement of the corporation as of December 31st of the preceding year or any audited financial report, as defined in section 221-A, of more current origin.

(2) In making the determination whether the health maintenance organization is financially responsible, the superintendent may also consider:

(a) The financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a nonprofit hospital or medical service corporation, a government or any other organization for insuring or providing the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the plan;

(d) Any agreement with providers for the provision of health care services that contains a covenant consistent with subsection 6; and

(e) Any arrangements for insurance coverage or an adequate plan for self-insurance to respond to claims for injuries arising out of the furnishing of health care services.

Sec. 33. 24-A MRSA §4208, sub-§1, as amended by PL 1991, c. 709, §6, is further amended to read:

1. Every health maintenance organization shall file annually, on or before the first day of April March 1st or within any reasonable extension of time that the superintendent for good cause shown may have granted on or before March 1st, file a report--verified--by--at--least--2--principal--officers with the

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superintendent with a full and true statement of its financial condition, transactions and affairs as of December 31st of the preceding year, verified by at least 3 principal officers and shall provide a copy of that statement to the Commissioner of Human Services, covering the preceding calendar year. The superintendent may by rule or order require the filing of quarterly or more frequent reports, which may be required to include liability for uncovered expenditures as well as an audit opinion.

Sec. 34. 24-A MRSA §4208, sub-§2, as enacted by PL 1975, c. 503, is repealed.

Sec. 35. 24-A MRSA §4208, sub-§§3 and 4 are enacted to read:

3. The annual statement must be prepared in accordance with the National Association of Insurance Commissioners annual statement instructions and must follow practices and procedures prescribed by the National Association of Insurance Commissioners accounting practices and procedures manual for health maintenance organizations. The annual statement must include:

A. A summary of information compiled pursuant to section 4204 in the form required by the Commissioner of Human Services; and

B. Other information related to the performance of the health maintenance organization that is necessary to enable the superintendent to carry out the superintendent's duties under this chapter.

4. The superintendent may refuse to continue or may suspend or revoke the certificate of authority of a health maintenance organization failing to file an annual statement when due.

Sec. 36. 24-A MRSA §4233, as enacted by PL 1989, c. 842, §18, is repealed and the following enacted in its place:

§4233. Registration, regulation and supervision of holding company systems

1. Every domestic health maintenance organization is subject to the requirements of section 222, subsections 2 to 9 and 13 to 18, and is considered an insurer for purposes of chapter 57, subchapters I and II.

2. Every domestic health maintenance organization is subject to the requirements of section 221-A. At the superintendent's request, a domestic health maintenance organization must make available to the superintendent the audit work papers of any accountant who has audited that health maintenance organization.

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2 Upon timely notice to a health maintenance organization, the
3 superintendent may review, photocopy or otherwise record the
4 audit work papers generated by any accountant who has audited
5 that health maintenance organization.

6 Health maintenance organization work papers under the
7 superintendent's custody or control are confidential and not
8 subject to public inspection.

9 The work papers of a health maintenance organization's parent,
10 subsidiaries or other corporate affiliates are deemed to be the
11 work papers of that health maintenance organization to the extent
12 the work papers affect the health maintenance organization's
13 final equity determination and reference any transaction between
14 the health maintenance organization and its parent, subsidiaries
15 or corporate affiliates.

16 As a condition of engaging an auditing accountant, the health
17 maintenance organization shall require the accountant to:

18 A. Retain for a period of at least 6 years any work papers
19 prepared in connection with the accountant's audit of that
20 health maintenance organization; and

21 B. Provide, at the request of the health maintenance
22 organization, the original or copies of any work papers
23 created by the accountant in connection with an audit of
24 that health maintenance organization.

25 For purposes of this subsection, the term "work papers" includes,
26 but is not limited to, originals or copies of any schedules,
27 analyses, reconciliations, abstracts, memoranda, narratives, flow
28 charts, company records or other documents prepared or obtained
29 by the accountant and the accountant's employees in the course of
30 conducting an audit of the health maintenance organization.

31 **Sec. 37. 24-A MRSA §6098, sub-§1, ¶ F,** as enacted by PL 1987,
32 c. 481, §3, is amended to read:

33 F. Provide such other information as may be required by the
34 superintendent to verify that the purchasing group is
35 qualified under section 6093, subsection 11 to determine
36 where the purchasing group is located and to determine
37 appropriate tax treatment.

38 **Sec. 38. 24-A MRSA §6098, sub-§4,** as enacted by PL 1987, c.
39 481, §3, is amended to read:

40 **4. Notice of change.** A purchasing group which that intends
41 to do business or is doing business in this State shall notify
42 the superintendent as-to within 10 days of any subsequent changes
43

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in any information or other items provided pursuant to this section.

Sec. 39. 24-A MRSA §6099, sub-§3 is enacted to read:

3. Prohibition on retention of risk. A purchasing group must purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole. That coverage also may provide for a deductible or self-insured retention applicable to individual members.

Sec. 40. 39-A MRSA §409, first ¶, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

The Superintendent of Insurance shall annually assess on self-insuring employers approved pursuant to section 403, respecting the operations of each self-insurer conducted in the State to defray the cost of administration of the Bureau of Insurance. The annual assessment upon approved self-insuring employers must be calculated using the imputed annual standard premium relating to business operations in the State that each self-insurer would have paid during the previous calendar year pursuant to manual rates established by the principal rating organization in the State and using the experience rating procedure approved by the Superintendent of Insurance for that self-insurer. The assessment must be applied to the budget of the bureau for the fiscal year commencing July 1st. The assessment must be in an amount not exceeding ~~1/10~~ 11/100 of 1% of the imputed annual standard premium. When the superintendent calculates the amount of the annual assessment, the superintendent shall may consider, among other things, the staffing level required to administer workers' compensation self-insurance oversight responsibilities of the bureau.

Sec. 41. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Bureau of Insurance		
Positions	(2.0)	(2.0)
Personal Services	\$124,000	\$130,000
All Other	4,000	4,000
Provides funding for continuation of one Managing Insurance Examiner position and one Senior Rate Analyst		

2 position; and provides
 3 funding for reclassification
 4 of one Staff Attorney
 5 position to Senior Staff
 6 Attorney position, one Clerk
 7 IV position to Assistant
 8 Company Examiner position and
 9 one part-time Market Conduct
 10 Examiner position to a
 11 full-time Market Conduct
 12 Examiner position.

13 **DEPARTMENT OF PROFESSIONAL AND**
 14 **FINANCIAL REGULATION**
 15 **TOTAL**

\$128,000	\$134,000
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16
 17 **Emergency clause.** In view of the emergency cited in the
 18 preamble, this Act takes effect when approved.
 19

20
 21 **FISCAL NOTE**

1993-94	1994-95
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22
 23 **APPROPRIATIONS/ALLOCATIONS**

Other Funds	\$128,000	\$134,000
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24
 25 **REVENUES**

Other Funds	\$892,000	\$892,000
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26
 27 The bill establishes certain regulatory standards and
 28 includes an allocation section for the Bureau of Insurance by
 29 which these standards can be administered. Additional
 30 allocations for the bureau are \$128,000 and \$134,000 for fiscal
 31 years 1993-94 and 1994-95, respectively.
 32

33
 34 The increase in several of the assessment rates used by the
 35 Bureau of Insurance to fund its operational costs will result in
 36 estimated annual increases of \$892,000 in dedicated revenues for
 37 fiscal years 1993-94 and 1994-95. These additional revenues will
 38 be used to fund the additional allocations made to the bureau in
 39 this bill as well as several other bills proposed during the
 40 First Regular Session of the 116th Legislature.
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STATEMENT OF FACT

This amendment replaces the bill and makes the following changes.

It sets standards to be observed by the Superintendent of Insurance in the examination of insurance companies whereby the accounting procedures of the National Association of Insurance Commissioners, or NAIC, actuarial and financial analyses and certified public accountants' or CPA reports must be considered in fixing the timing and scope of these examinations.

It permits the Superintendent of Insurance to accept the examination reports of another public insurance regulatory official if that other authority is accredited by the NAIC or if examiners from such an accredited state insurance department participated in the examination.

It permits participation of other insurance departments in the examinations of foreign insurers with duties assigned in a manner to satisfy the requirements of the Maine Insurance Code, Maine Revised Statutes, Title 24-A.

It requires insurers to file CPA audit reports each June 1st and permits consolidated reporting by insurers when commonly owned insurers pool business results through reinsurance.

It defines surplus and unassigned funds of insurers for purposes of determining when such insurers may reasonably pay dividends to policyholders.

It deletes sections 8 and 9 of the bill pertaining to reinsurance.

It adds further standards which are to be employed by the Superintendent of Insurance when making a determination as to whether an insurer can safely draw from its surplus funds to pay dividends or make other distributions.

It defines an extraordinary dividend and limits the amount of payments via dividends an insurer may make to shareowners to the greater of 10% of the insurer's surplus or the insurer's net gain in the year previous to the payment unless the superintendent approves the dividend in another value prior to its payment. Additionally, all dividends taken are to be annually reviewed by the superintendent and restrictions on further dividends imposed if adequate capital is not maintained.

It gives powers to a court-appointed receiver of an insurance company in liquidation or rehabilitation to recover

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2 certain payments to an insolvent insurer's affiliates, its
3 officers, directors or employees if those payments were made
4 within one year preceding the filing of a petition for
5 liquidation, conservation or rehabilitation. This is analogous
6 to a bankruptcy trustee's power to avoid certain transfers
7 occurring prior to initiation of bankruptcy proceedings.

8 It requires that the superintendent utilize practices and
9 procedures established by the National Association of Insurance
10 Commissioners when conducting an examination of an insurer.

12 It changes the assessment cap on insurers.

14 It requires that annual financial statements of insurers be
15 presented consistent with standards of preparation established by
16 the National Association of Insurance Commissioners as set out in
17 its published accounting practices and procedures manual.

18 It establishes valuation standards to be used by the
19 superintendent in ascribing value to investments held by insurers
20 and authorizes the use of values published or determined by the
21 National Association of Insurance Commissioners or, if such
22 values are not available, by the superintendent.

24 The amendment establishes a consistent standard for
25 investments in subsidiaries by property and casualty and life and
26 health companies. An insurer may invest a total of up to the
27 lesser of 10% of admitted assets or 50% of policyholder surplus
28 in subsidiaries, but must obtain the superintendent's approval
29 for any greater investment. Further, this section establishes
30 limits on an insurer's ability to invest in debt securities that
31 are not of investment grade.

34 It conforms cross references in the insurers' investment
35 chapters of Maine Revised Statutes, Title 24-A to other
36 provisions to be enacted by passage of this bill.

38 It repeals an existing provision of law that limits
39 investment by property and casualty insurers in noninvestment
40 grade securities; this provision is restated elsewhere in this
41 bill.

42 It conforms definitions and investment terms that will apply
43 similarly to both life and health and property and casualty
44 insurers.

46 It establishes a new medium grade of debt investments that
47 are not of investment or high-yield grade and places
48 concentration limits upon all noninvestment grade securities.

50 It makes several modifications to the Maine Liability Risk
51 Retention Act. These modifications provide for consistency with

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2 the National Association of Insurance Commissioners Model
Liability Risk Retention Act.

4 It permits the Superintendent of Insurance to require risk
6 purchasing groups to file information sufficient to allow a
determination of where a purchasing group is located and to
determine that appropriate premium tax treatment is accorded.

8
10 It provides a time requirement for the filing of information
relating to changes to a purchasing group registration statement.

12 It prohibits a purchasing group from maintaining uninsured
retention amounts.

14 It changes the assessment cap for workers' compensation
16 self-insurers.

18 It adds a fiscal note.

Reported by Senator McCormick for the Committee on Banking
and Insurance. Reproduced and Distributed Pursuant to Senate
Rule 12.
(6/3/93) (Filing No. S-275)

COMMITTEE AMENDMENT