

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 428

H.P. 338

House of Representatives, February 1, 2001

An Act to Modify the Bureau of Insurance Complaint Ratios and to Increase the Amount of Penalties Assessed Against Violators of the Maine Insurance Code.

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative O'NEIL of Saco.
Cosponsored by Senator LaFOUNTAIN of York and
Representatives: MAYO of Bath, SULLIVAN of Biddeford.

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

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PART A

Sec. A-1. 24-A MRSA §216, sub-§2, as amended by PL 1997, c. 314, §1, is further amended to read:

2. All records of the bureau are subject to public inspection, except as otherwise expressly provided by law as to particular matters; and except that records, correspondence and reports of investigation in connection with actual or claimed violations of this Title or prosecution or disciplinary action for those violations are confidential. The confidential nature of any such record, correspondence or report may not limit or affect use of the same by the superintendent in any such prosecution or action. This subsection does not preclude participation by the superintendent in the establishment of an interstate complaint handling system that may involve the sharing of information with insurance regulatory officials in other jurisdictions and with the National Association of Insurance Commissioners, as long as the names of the complainant and insured remain confidential. This subsection does not preclude the dissemination of aggregate ratios of substantiated consumer complaints to the public by the superintendent. Only complaints received in writing and on a form approved by the superintendent are included in the calculation of the complaint ratio. A complaint received by electronic means is considered a written complaint. ~~A--substantiated--consumer--complaint--includes--any matter in which the resolution results in a favorable outcome to the consumer,--including,--but--not--limited--to,--the--recovery--of premium--refunds,--additional--amounts--paid--on--claims--or--policy reinstatements,--A matter in which the actions of an insurer are in violation of this Title is deemed a substantiated complaint.~~ The superintendent shall adopt rules necessary to define the method for calculating complaint ratios. Rules adopted pursuant to this subsection are ~~major-substantive~~ routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

PART B

Sec. B-1. 24-A MRSA §12-A, sub-§1, as repealed and replaced by PL 1997, c. 634, Pt. B, §1, is amended to read:

1. **Civil penalty.** Civil penalties may be assessed against any person who:

A. Violates any provision of this Title, Title 24 or any other law enforced by the superintendent;

2 B. Violates any rule lawfully adopted by the
superintendent; or

4 C. Violates any lawful order of the superintendent that has
not been stayed by order of the superintendent or the
6 Superior Court.

8 The Superior Court, upon an action brought by the Attorney
General, may assess a civil penalty of not less than \$500 and not
10 more than \$5,000 for each violation in the case of an individual
and not less than \$2,000 and not more than \$15,000 for each
12 violation in the case of a corporation or other entity other than
an individual, unless the applicable law specifies a different
14 civil penalty.

16 The superintendent, following an adjudicatory hearing, may assess
a civil penalty of up to \$500 for each violation in the case of
18 an individual and a civil penalty of up to ~~\$2,000~~ \$10,000 for
each violation in the case of a corporation or other entity other
20 than an individual, unless the applicable law specifies a
different civil penalty. The superintendent may assess a civil
22 penalty only if the Attorney General elected not to pursue an
action in Superior Court to seek civil penalties. The Attorney
24 General shall notify the superintendent in writing whether or not
the Attorney General elects to pursue an action in Superior Court
26 within 90 days after receiving a request from the superintendent
for such an action.

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SUMMARY

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Part A of this bill eliminates the requirement that the
Bureau of Insurance consider only defined "substantiated"
34 complaints in calculating and publicizing complaint ratios that
compare insurers by the number of written complaints received by
36 the Bureau of Insurance proportionate to insurer market share by
lines of business. It also provides that rules adopted pursuant
38 to the subsection are routine technical, rather than major
substantive rules.

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Part A of this bill also clarifies that only a written
42 complaint submitted on a form approved by the Superintendent of
Insurance will be counted as a complaint for purposes of this
44 section.

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Part B of this bill increases the amount of penalties the
Superintendent of Insurance may assess against corporations or
48 other entities for violations of the insurance laws or rules from
\$2,000 per violation to \$10,000 per violation.