

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 854

H.P. 654

House of Representatives, February 15, 2001

**An Act to Amend the Maine Insurance Code to Adopt Statutory
Insurance Accounting Principles.**

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 GLYNN of South Portland.

Cosponsored by Senator LaFOUNTAIN of York and

Representatives: CANAVAN of Waterville, CRESSEY of Baldwin, MAYO of Bath, O'NEIL of Saco, SMITH of Van Buren, SULLIVAN of Biddeford, YOUNG of Limestone, Senator: ABROMSON of Cumberland.

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

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Sec. 1. 24 MRSA §2301, sub-§9-A, ¶A, as enacted by PL 1993, c. 702, Pt. A, §1, is amended to read:

A. A corporation subject to this chapter may invest funds in the same manner and to the same extent as domestic mutual insurers under the provisions of Title 24-A, chapter 13-A, ~~except that such a corporation~~ and shall maintain reserves for possible losses or fluctuation in the value of investments as contemplated in Title 24-A, section ~~921 901-A~~, subsection ~~6 2~~. Those reserves must comprehend, at a minimum, an asset valuation reserve and an income maintenance reserve calculated by methods that are consistent with standards that have been adopted by the superintendent for management of investment risk by life and health insurers.

Sec. 2. 24 MRSA §2301, sub-§9-A, ¶H, as enacted by PL 1993, c. 702, Pt. A, §1, is amended to read:

H. For corporations subject to this subsection, the following terms have the following meanings.

(1) "Admitted assets" means those assets owned by the corporation, ~~as defined in~~ recognized pursuant to Title 24-A, section ~~901 901-A~~, reduced in amount by any applicable provision of this Title or Title 24-A. For purposes of applying the investment limitations of Title 24-A, chapter 13-A, the asset value must be that contained in the annual statement of the corporation as of December 31st of the year next preceding the making of the investment or contained in an audited financial report, as defined in Title 24-A, section 221-A, of more current origin prepared on the basis of statutory accounting principles.

(2) "Subscriber reserves" means those reserves held by the corporation for the protection of subscribers that are the excess of the corporation's assets over its liabilities as set forth in the annual statement of the corporation as of December 31st of the year next preceding the making of the investment or contained in an audited financial report, as defined in Title 24-A, section 221-A, of more current origin prepared on the basis of statutory accounting principles;

Sec. 3. 24 MRSA §2301, sub-§9-C, as enacted by PL 1993, c. 702, Pt. A, §1, is amended to read:

2 **9-C. Health maintenance organizations.** A corporation
3 subject to this chapter is not required to maintain separate
4 reserves or surplus with respect to the operations of a health
5 maintenance organization that is not a separate legal entity.
6 All assets of the corporation must be available to pay claims
7 arising from corporate operations, other than with the exception
8 of assets supporting reserves set aside in accordance with a plan
9 for the continuation of benefits to health maintenance
10 organization members under Title 24-A, section 4204, subsection 7
11 and assets supporting additional reserves as defined in Title
12 24-A, section 921, must be available to pay claims arising from
13 corporate operations to the extent required by rules adopted by
14 the superintendent pursuant to Title 24-A, section 901-A. A
15 hospital or medical service corporation that establishes and
16 maintains a health maintenance organization not organized as a
17 separate legal entity shall maintain separate accounting for the
18 health maintenance organization;

19 **Sec. 4. 24-A MRSA §222, sub-§2, ¶F,** as amended by PL 1999, c.
20 113, §9, is further amended to read:

21 F. "Subsidiary" of a specified person means an affiliate
22 controlled by that person, directly or ~~indirectly~~, through
23 one or more intermediaries.

24 **Sec. 5. 24-A MRSA §222, sub-§8, ¶B,** as enacted by PL 1975, c.
25 356, §1, is amended to read:

26 B. Every insurer subject to registration shall file a
27 registration statement on a form provided by the
28 superintendent, which shall must contain current information
29 about:

30 (1) The capital structure, general financial
31 condition, ownership and management of the insurer and
32 of any person controlling the insurer;

33 (2) The following transactions currently outstanding
34 between the insurer and its affiliates:

35 (a) Loans and other investments, and purchases,
36 sales or exchanges of securities of the affiliate
37 by the insurer or of the insurer by its affiliates;

38 (b) Purchases, sales or exchanges of assets;

39 (c) Transactions not in the ordinary course of
40 business;

2 (d) Guarantees or undertakings for the benefit of
an affiliate which that result in an actual
4 contingent exposure of the insurer's assets to
liability, other than insurance contracts entered
6 into in the ordinary course of the insurer's
business;

8 (e) All management and service contracts and all
cost-sharing arrangements, other than cost
10 allocation arrangements based upon generally
accepted accounting principles;

12 (f) Reinsurance agreements ~~covering--all--or~~
14 ~~substantially--all--of--one--or--more--lines--of~~
~~insurance-of-the-ceding-insurer;~~ and

16 (3) Other matters concerning transactions between the
18 insurer and any affiliate as may be required by the
superintendent;

20 **Sec. 6. 24-A MRSA §901**, as amended by PL 1991, c. 828, §21,
22 is repealed.

24 **Sec. 7. 24-A MRSA §901-A** is enacted to read:

26 **§901-A. Statutory accounting principles; reserves**

28 **1. Principles; admitted assets.** In evaluating the
financial condition of an insurer, the superintendent shall
30 determine which assets may be recognized as admitted assets, and
shall value the insurer's admitted assets and the insurer's
32 liabilities in accordance with recognized statutory accounting
principles as codified by the National Association of Insurance
34 Commissioners or its successor organization and reflected in the
association's accounting practices and procedures manual and its
36 successor publications and in any permitted accounting practices
approved by the superintendent.

38 **2. Reserve required.** If the superintendent finds, in view
40 of the character of investments held by a domestic insurer, that
it would be prudent for the insurer to establish a special
42 reserve for possible losses or fluctuations in the value of its
investments, including realty holdings acquired by mortgage loan
44 default, the superintendent may permit or require the insurer to
establish such a reserve, reasonable in amount, and may require
46 that the reserve be maintained and reported in any statement or
report of the financial condition of the insurer.

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2 3. Rules. The superintendent may adopt rules to implement
3 the purposes of this chapter. These rules are routine technical
4 rules pursuant to Title 5, chapter 375, subchapter II-A.

5 **Sec. 8. 24-A MRSA §902**, as amended by PL 1987, c. 399, §2, is
6 repealed.

7 **Sec. 9. 24-A MRSA c. 11, sub-c. II**, as amended, is repealed.

8 **Sec. 10. 24-A MRSA c. 11, sub-c. IV**, as amended, is repealed.

9 **Sec. 11. 24-A MRSA §1110, sub-§1-A, ¶¶A and B**, as enacted by
10 PL 1999, c. 715, §4, are amended to read:

11 A. ~~"Admitted assets" has the same meaning as "assets" as~~
12 ~~defined in section 901~~ means assets recognized by the
13 superintendent pursuant to section 901-A.

14 B. "Aggregate amount of investments" means the aggregate
15 value of those investments as determined ~~under sections 981~~
16 ~~to 984, except as provided in section 1157, subsection 5~~ in
17 accordance with statutory accounting principles pursuant to
18 section 901-A and any rules adopted under that section.

19 **Sec. 12. 24-A MRSA §1131, sub-§1, ¶¶A and B**, as repealed and
20 replaced by PL 1987, c. 399, §12, are amended to read:

21 A. The loan or investment shall ~~shall~~ must fulfill the
22 requirements of section 1103 and otherwise qualify as a
23 sound investment.

24 B. No such loan or investment may be represented by:

25 (1) ~~Any item described in section 902~~ asset determined
26 to be nonadmitted pursuant to section 901-A or rules
27 adopted under that section;

28 (2) Any loan or investment expressly prohibited under
29 section 1136; or

30 (3) Agents' balances, or amounts advanced to or owing
31 by agents, except as to mortgage loans and collateral
32 loans to those agents otherwise authorized under this
33 chapter.

34 **Sec. 13. 24-A MRSA §1151-A, sub-§§2 and 3**, as enacted by PL
35 1999, c. 715, §8, are amended to read:

2 **2. Admitted assets.** "Admitted assets" means assets that
3 ~~may be allowed in determining the financial condition of an~~
4 ~~insurer pursuant to sections 901 and 902~~ recognized by the
5 superintendent pursuant to section 901-A.

6 **3. Aggregate amount of investments.** "Aggregate amount of
7 investments" means the aggregate value of those investments, as
8 ~~determined under sections 981 to 984~~ in accordance with statutory
9 accounting principles pursuant to section 901-A and any rules
10 adopted under that section, except as provided in section 1157,
11 subsection 5.

12 **Sec. 14. 24-A MRSA §1156, sub-§2, ¶H,** as amended by PL 1993,
13 c. 313, §27, is further amended to read:

14 H. Investments that do not qualify or are not permitted
15 under any other paragraph of this subsection; as long as:

16 (1) After giving effect to any investment made under
17 this paragraph, the aggregate amount of those
18 investments does not exceed 14% of total admitted
19 assets, except that investments made under this
20 paragraph in institutions or property not located
21 within the State may not exceed 10% of total admitted
22 assets; and, if the insurer makes investments described
23 in paragraphs A to G and elects to charge those
24 investments against the quantitative limits in this
25 paragraph instead of the quantitative limits in
26 paragraphs A to G, then the aggregate amount invested
27 under this paragraph in those types of investments may
28 not exceed 5% of total admitted assets for any one of
29 those types of investments;

30 (2) Investments that are neither interest bearing nor
31 income entitled, including the cost of outstanding bona
32 fide hedging transactions made under section 1153,
33 subsection 2, are subject to all of the provisions of
34 this paragraph; and the aggregate amount of those
35 investments held at any one time may not exceed 3% of
36 total admitted assets;

37 (3) The investment limitations contained in this
38 chapter, qualitative or otherwise, may do not apply to
39 loans or investments made or acquired under this
40 paragraph, provided that no loan or investment made or
41 acquired under this paragraph may be represented by any
42 ~~item described in section 902~~ asset determined to be
43 nonadmitted pursuant to section 901-A or rules adopted
44 under that section; any loan or investment expressly
45 prohibited under section 1160; or agents'

2 balances, or amounts advanced to or owing by agents,
except as to policy loans, mortgage loans and
4 collateral loans to those agents otherwise authorized
under this chapter; or

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

16 **Sec. 15. 24-A MRS §1157, sub-§5, ¶D,** as enacted by PL 1987,
18 c. 399, §14, is amended to read:

20 D. Investments made or acquired by subsidiaries referred to
in paragraph B, subparagraph (1), ~~shall be~~ are considered to
22 be made or acquired directly by the insurer, pro rata, in
the case of a subsidiary not wholly owned, and ~~shall,~~ to
24 such extent, be ~~be~~ are subject to all the provisions and
limitations on the making of investments specified in this
26 chapter with respect to investments by the insurer; ~~shall~~
must be valued in accordance with the provisions of ~~sections~~
28 ~~981-to-984~~ section 901-A and any other applicable provisions
of this Title and any applicable rules adopted by the
30 superintendent; and ~~shall~~ must be located pursuant to
section 3408. Those subsidiaries ~~shall be~~ are subject to
32 examination by the superintendent under section 221,
subsection 1, and section 222, subsection 1.

34 **Sec. 16. 24-A MRS §1157, sub-§6,** as enacted by PL 1987, c.
36 399, §14, is amended to read:

38 **6. Valuation of subsidiary stock.** In determining the
financial condition of an insurer, all investments made directly
40 or indirectly in the stock of its subsidiaries ~~shall~~ must be
valued in accordance with section 982, ~~subsection 3, and~~
42 ~~regulations promulgated~~ 901-A and any rules adopted under that
section.

44 **Sec. 17. 24-A MRS §3629, sub-§6,** as enacted by PL 1969, c.
46 132, §1, is repealed.

48 **Sec. 18. 24-A MRS §3629, sub-§6-A** is enacted to read:

50 6-A. Section 901-A (statutory accounting principles);

2 **Sec. 19. 24-A MRSA §4204, sub-§2-A, ¶D**, as corrected by RR
1993, c. 1, §67, is amended to read:

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6 D. The health maintenance organization is financially
responsible, complies with the minimum surplus requirements
8 of this section and, among other factors, can reasonably be
expected to meet its obligations to enrollees and
10 prospective enrollees.

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

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

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

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

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

42 (b) The adequacy of working capital;

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

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

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

12 **SUMMARY**

14 This bill modernizes the laws governing accounting standards
16 for insurers by adopting the statutory insurance accounting
practices that have been codified by the National Association of
18 Insurance Commissioners, or NAIC, on a nationwide basis effective
January 1, 2001. This bill repeals conflicting or superfluous
20 provisions of the chapter of the Maine Insurance Code relating to
valuation of insurers' assets and liabilities and updates the
22 pertinent cross-references. The bill also corrects an error in
the definition of "subsidiary" in the holding company law and
24 incorporates a change to the transactions-with-affiliates section
that was inadvertently omitted from prior accreditation
legislation.