

MAINE STATE LEGISLATURE

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L.D. 1853

DATE: 4-14-04

(Filing No. H-908)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND SPECIAL SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 692, L.D. 1853, Bill, "An Act To Amend the Laws Relating to Property Insurance"

Amend the amendment in Part A by striking out all of sections 8 and 9 and inserting in their place the following:

'Sec. A-8. 24-A MRSA §3051, as amended by PL 1979, c. 347, §12, is further amended to read:

§3051. Notice of intent

No An insurer shall may not fail to renew a policy except by notice to the insured as provided in this subchapter. A notice of intention not to renew shall is not be effective unless received by the named insured at least 30 days prior to the expiration date of the policy. A post-office--department post office certificate of mailing to the named insured at his the insured's last known address shall-be is conclusive proof of receipt on the 3rd calendar day after mailing. The reason shall must accompany the notice of intent not to renew, together with notification of the right to apply for a hearing before the Superintendent of Insurance within 30 days as provided.

The reason or reasons for the intended nonrenewal action shall must accompany the notice of intent not to renew and the reason or reasons shall must be explicit. Explanations such as "underwriting reasons," "underwriting experience," "loss record," "location of risk," "credit report" and similar insurance terms are not by themselves acceptable explanations of an insurer's intended nonrenewal of a policy insuring property of the kind

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2 defined in section 3048. The reason for nonrenewal shall must be
a good faith reason ~~ratiionally~~ and related to the insurability of
4 the property or a ground for cancellation pursuant to section
3049.

6 This section shall does not apply:

8 1. If the insurer has manifested its willingness to renew;
or

10 2. If the insured fails to pay any premium due or any
12 advance premium required by the insurer for renewal.

14 Sec. A-9. 24-A MRSA §3054, as amended by PL 1989, c. 172,
16 §8, is further amended to read:

18 **§3054. Hearing before Superintendent of Insurance**

Any A named insured who has received a statement of reason
20 for cancellation, or of reason for an insurer's intent not to
renew a policy, may, within 30 days of the receipt of a statement
22 of reason, request a hearing before the Superintendent of
Insurance. The purpose of this hearing shall--be is limited to
24 establishing the existence of the proof or evidence used by the
insurer in its reason for cancellation or intent not to renew.
26 The burden of proof of the reason for cancellation or intent not
to renew shall--be-upon is on the insurer. If an insurer's reason
28 for nonrenewal is not based on a ground for cancellation
permitted under section 3049, the insurer must provide proof or
30 evidence that the reason for nonrenewal is a good faith reason
and related to the insurability of the property. A statement
32 from the insurer that the risk does not meet the insurer's
underwriting guidelines alone is not considered sufficient proof
34 or evidence. The superintendent shall adopt rules for carrying
out this section. The superintendent shall--have the authority to
36 may order the policy to continue in effect both pending and, if
the superintendent finds in favor of the insured, subsequent to a
38 hearing. If the superintendent finds in favor of the insurer at
a hearing, the superintendent may order the policy to remain in
40 force for 14 days to allow the insured to obtain other coverage.'

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SUMMARY

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Under the provisions of the Maine Property Insurance
46 Cancellation Control Act, current law, as reflected in Committee
Amendment "A," requires that an insurer base its decision to
48 nonrenew an insurance policy subject to the Act on one or more
good faith reasons "rationally related" to the insurability of

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2 the property. In the recent decision, York Ins. Co. of Maine
3 Inc. v. Supt. of Ins., 2004 ME 45, April 7, 2004, the Law Court
4 interpreted the term "rationally related" in discussing what
5 standard should be applied to determine whether an insurance
6 company has met its burden of proof to establish that its
7 decision to nonrenew a homeowner's insurance policy was
8 rationally related to the insurability of the property. In the
9 York decision, the Law Court concluded that the Legislature
10 intended "rationally related" to mean that the insurance company
11 need only prove "a reasonably conceivable state of facts that
12 could provide a rational basis" for the company's nonrenewal
13 decision.

14 This amendment strikes the word "rationally" to clarify
15 legislative intent that a reason for nonrenewal must be related
16 to the insurability of the property. The purpose of this
17 amendment is to clarify the appropriate standard to apply in
18 determining whether an insurance company's decision to nonrenew a
19 homeowner's insurance policy complies with the law. The change in
20 language is intended to maintain the Bureau of Insurance's
21 ability to exercise its statutory authority in hearings to
22 determine when an insurance company has established the existence
23 of proof or evidence for its reason for nonrenewal. Without the
24 amendment, the recent York decision may be construed to provide
25 insurers with a lower standard upon which to establish their
26 burden of proof for nonrenewal decisions.

28 The amendment is not intended to affect the application of
29 the remainder of the Law Court's analysis in York, including its
30 conclusion that an insurance company's decision not to renew a
31 homeowner's insurance policy is not per se irrational because it
32 was not supported by empirical data.

34
36 SPONSORED BY: 
37 (Representative O'NEIL)

38 TOWN: Saco
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HOUSE AMENDMENT