

MAINE STATE LEGISLATURE

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No. 1502

H.P. 1052

House of Representatives, March 19, 2007

An Act To Clarify and Update the Laws Related to Property and Casualty Insurance

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

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PRIEST of Brunswick.
Cosponsored by Senator SNOWE-MELLO of Androscoggin and
Representatives: CANAVAN of Waterville, RICHARDSON of Warren, SAVAGE of
Falmouth.

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

2 **PART A**

3 **Sec. A-1. 24-A MRSA §2303, sub-§3-A**, as enacted by PL 1989, c. 797, §6 and
4 affected by §§37 and 38, is repealed.

5 **PART B**

6 **Sec. B-1. 24-A MRSA §2304-A, sub-§1**, as amended by PL 2003, c. 671, Pt. A,
7 §1, is further amended to read:

8 1. Every insurer shall file with the superintendent, except as to inland marine risks,
9 which by general custom of the business are not written according to manual rates or
10 rating plans, every manual rate, minimum premium, class rate, rating schedule or rating
11 plan and every other rating rule, and every modification of any of the foregoing that it
12 proposes to use. The filing must state the effective date of the filing and indicate the
13 character and extent of the coverage contemplated. The filing must be made not less than
14 30 days in advance of the stated effective date unless that 30-day requirement is waived
15 by the superintendent. The effective date may be suspended by the superintendent for a
16 period of time not to exceed 60 days, except that the effective date for filings made
17 electronically may not be suspended. Filings made electronically must be acted on no
18 later than 30 days from receipt unless an extension is requested by the filer.

19 **PART C**

20 **Sec. C-1. 24-A MRSA §2908, sub-§1, ¶E**, as enacted by PL 1985, c. 671, §1, is
21 amended to read:

22 E. "Renewal" or "to renew" means the issuance of, or the offer to issue by an
23 insurer, a policy succeeding a policy previously issued and delivered by the same
24 insurer or an affiliate of the insurer or the issuance of a certificate or notice extending
25 the terms of an existing policy for a specified period beyond its expiration date. For
26 the purposes of this section, the transfer of a policy from an insurer to an affiliate is
27 considered a policy renewal.

28 **Sec. C-2. 24-A MRSA §2908, sub-§5, ¶D** is enacted to read:

29 D. For policies providing automobile physical damage coverage, like notice of
30 cancellation or nonrenewal must also be given to any party named in a loss payable
31 clause.

32 **Sec. C-3. 24-A MRSA §2912, sub-§1**, as enacted by PL 1973, c. 339, §1, is
33 amended to read:

34 1. **Policy.** "Policy" means an automobile insurance policy providing bodily injury
35 liability, property damage liability, medical payments, uninsured motorist coverage,
36 physical damage coverage, or any combination thereof, ~~delivery~~ delivered or issued for
37 delivery in this State, insuring a single individual or one or more related individuals

1 resident in the same household, as named insured and insuring vehicles of the following
2 types only:

3 A. Motor vehicles of the private passenger or station wagon type ~~which that~~ are not
4 used as public conveyances nor rented to others; and

5 B. Any other 4-wheel motor vehicles with a load capacity of 1,500 pounds or less
6 ~~which that~~ are not used in the business or professions of the insured.

7 **Sec. C-4. 24-A MRSA §2912, sub-§2**, as amended by PL 2005, c. 114, §1, is
8 further amended to read:

9 **2. Renewal or renew.** "Renewal" or "to renew" means the issuance and delivery by
10 an insurer of a policy replacing at the end of the previous policy term a policy previously
11 issued and delivered by the same insurer, or the issuance and delivery of a certificate or
12 notice extending the coverage of the policy beyond its original term. ~~Any renewal policy~~
13 ~~with a term of one year or less, other than a replacement policy for an unfinished term,~~
14 ~~with a term of one year or less is considered written, for the purposes of this~~
15 ~~subchapter, for a term of one year.~~ For purposes of this subchapter, the transfer of a
16 policy from an insurer to an affiliate is considered a policy renewal.

17 Any policy written for a term longer than one year or with no fixed expiration date is
18 considered written for successive policy terms of one year for the purposes of this
19 subchapter.

20 **Sec. C-5. 24-A MRSA §2915**, as amended by PL 2005, c. 114, §2, is further
21 amended to read:

22 **§2915. Delivery of notice**

23 A notice of cancellation of a policy is not effective unless received by the named
24 insured at least 20 days prior to the effective date of cancellation, or, when the
25 cancellation is for nonpayment of premium, at least 10 days prior to the effective date of
26 cancellation. In the event the policy ~~is an~~ provides automobile physical damage ~~policy~~
27 coverage, like notice of cancellation must also be given to any ~~other person party~~
28 mentioned in the loss payable clause. A postal service certificate of mailing to the named
29 insured at the insured's last known address is conclusive proof of receipt on the 5th
30 calendar day after mailing.

31 Except for a policy that has been in effect for less than 60 days at the time notice of
32 cancellation is received by the named insured, the reason for cancellation must
33 accompany the notice, together with a notice of the right to apply for a hearing before the
34 ~~Superintendent of Insurance~~ superintendent within 30 days, as provided in section 2920.

35 ~~Prior to the date of renewal of a policy that has been transferred by an insurer to an~~
36 ~~affiliate, the insured must receive notice of any changes to the terms of the policy that are~~
37 ~~less favorable to the insured.~~

38 **Sec. C-6. 24-A MRSA §2916-A, first ¶**, as enacted by PL 1979, c. 336, §1, is
39 amended to read:

1 ~~No~~ A notice of nonrenewal ~~shall~~ may not be issued, unless it is based upon a reason
2 for which the policy could have been cancelled or unless it is based upon one or more of
3 the following grounds ~~which~~ that occurred during the 36-month period preceding the
4 yearly anniversary date of the policy. A nonrenewal is effective only on the policy's
5 yearly anniversary date.

6 **Sec. C-7. 24-A MRSA §2917**, as amended by PL 1979, c. 347, §§5 and 6, is
7 further amended to read:

8 **§2917. Notice of intent**

9 ~~No~~ An insurer ~~shall~~ may not fail to renew a policy except by notice to the insured as
10 provided in this subchapter. A notice of intention not to renew ~~shall~~ is not be effective
11 unless received by the named insured at least 30 days prior to the expiration date of the
12 policy. In the event the policy provides automobile physical damage coverage, like
13 notice of intention not to renew must be given to any party named in the loss payable
14 clause. A post-office post office department certificate of mailing to the named insured at
15 his the insured's last known address shall be is conclusive proof of receipt on the 3rd
16 calendar day after mailing.

17 The reason or reasons for the intended nonrenewal action ~~shall~~ must accompany the
18 notice of intent not to renew and the reason or reasons ~~shall~~ must be explicit.
19 Explanations such as "underwriting reasons," "underwriting experience," "loss record,"
20 "driving experience," "credit report," and similar insurance terms are not by themselves
21 acceptable explanations of an insurer's intended nonrenewal of an automobile insurance
22 policy. A notice of a right to apply for a hearing before the ~~Superintendent of Insurance~~
23 superintendent within 30 days as provided ~~herein~~ shall in this section must accompany
24 the notice of intent not to renew.

25 This section ~~shall~~ does not apply:

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

27 2. If the insured fails to pay any premium due or any advance premium required by
28 the insurer for renewal; or

29 3. If the insurer has transferred a policy to an affiliate. Prior to the date of renewal of
30 a policy that has been transferred by an insurer to an affiliate, the insured must receive
31 notice of any changes to the terms of the policy that are less favorable to the insured.

32 **Sec. C-8. 24-A MRSA §3007, sub-§8**, as amended by PL 1991, c. 25, §2, is
33 further amended to read:

34 **8.** This ~~notice~~ section does not apply to any insurance policy that has not been
35 previously renewed if the policy has been in effect less than 60 days at the time notice of
36 cancellation is mailed or otherwise delivered, except as provided in subsection 1,
37 paragraph A and subsection 5, paragraphs A and C. This section does not apply to any
38 policy subject to ~~the Maine Property Insurance Cancellation Control Act~~, subchapter ~~V~~ 5.
39 This section does not apply to any policy issued pursuant to any assigned risk plan. The

1 superintendent may suspend, in whole or in part, the applicability of this section to any
2 insurer if, in the superintendent's discretion, its application will endanger the ability of the
3 insurer to fulfill its contractual obligation.

4 **Sec. C-9. 24-A MRSA §3049, sub-§1**, as amended by PL 1979, c. 347, §8, is
5 further amended to read:

6 **1.** Nonpayment of premium, including nonpayment of any additional premiums,
7 calculated in accordance with the current rating ~~manuel~~ manual of the insurer, justified by
8 a physical change in the insured property or a change in its occupancy or use. ~~No~~ A
9 notice of cancellation for nonpayment of premium ~~shall be~~ is not effective unless deemed
10 received under section 3050 after the premium due date;

11 **Sec. C-10. 24-A MRSA §3050**, as amended by PL 2005, c. 114, §5, is further
12 amended to read:

13 **§3050. Delivery of notice**

14 A notice of cancellation of a policy is not effective unless received by the named
15 insured at least 20 days prior to the effective date of cancellation, or, when the
16 cancellation is for nonpayment of premium, at least 10 days prior to the effective date of
17 cancellation. Like notice must also be given to any party named as mortgagee on the
18 policy. A postal service certificate of mailing to the named insured at the insured's last
19 known address is conclusive proof of receipt on the 5th calendar day after mailing.

20 Except for a policy that has been in effect for less than ~~60~~ 90 days at the time notice
21 of cancellation is received by the named insured, the reason for cancellation must
22 accompany the notice, together with a notice of the right to apply for a hearing before the
23 ~~Superintendent of Insurance~~ superintendent within 30 days, as provided in section 3054.

24 ~~Prior to the date of renewal of a policy that has been transferred by an insurer to an~~
25 ~~affiliate, the insured must receive notice of any changes to the terms of the policy that are~~
26 ~~less favorable to the insured.~~

27 **Sec. C-11. 24-A MRSA §3051**, as amended by PL 2005, c. 114, §§6 to 8, is
28 further amended to read:

29 **§3051. Notice of intent**

30 An insurer may not fail to renew a policy except by notice to the insured as provided
31 in this subchapter. A notice of intention not to renew is not effective unless received by
32 the named insured at least 30 days prior to the expiration date of the policy. Like notice
33 must also be given to any party named as mortgagee on the policy. A post office
34 certificate of mailing to the named insured at the insured's last known address is
35 conclusive proof of receipt on the 3rd calendar day after mailing. The reason must
36 accompany the notice of intent not to renew, together with notification of the right to
37 apply for a hearing before the ~~Superintendent of Insurance~~ superintendent within 30 days
38 as provided.

1 The reason or reasons for the intended nonrenewal action must accompany the notice
2 of intent not to renew and the reason or reasons must be explicit. Explanations such as
3 "underwriting reasons," "underwriting experience," "loss record," "location of risk,"
4 "credit report" and similar insurance terms are not by themselves acceptable explanations
5 of an insurer's intended nonrenewal of a policy insuring property of the kind defined in
6 section 3048. The reason for nonrenewal must be a good faith reason and related to the
7 insurability of the property or a ground for cancellation pursuant to section 3049.

8 This section does not apply:

- 9 1. If the insurer has manifested its willingness to renew;
- 10 2. If the insured fails to pay any premium due or any advance premium required by
11 the insurer for renewal; or
- 12 3. If the ~~insured~~ insurer has transferred a policy to an affiliate.

13 Prior to the date of renewal of a policy that has been transferred by an insurer to an
14 affiliate, the insured must receive notice of any changes to the terms of the policy that are
15 less favorable to the insured.

16 SUMMARY

17 Part A corrects a redundancy made by prior revisions to the rate-making law.

18 Part B amends the rate-filing law to require the Department of Professional and
19 Financial Regulation, Bureau of Insurance to act on electronic filings within 30 days.

20 Part C makes a variety of changes to the cancellation statutes. It amends the
21 definition of "renewal" in the casualty insurance laws by adding language concerning
22 affiliates that the Legislature added to the property insurance law in 2005. It adds to the
23 laws governing cancellation of commercial policies covering physical damage the Maine
24 Automobile Insurance Cancellation Control Act's requirement that the loss payee receive
25 notice of cancellation or nonrenewal. It amends the Maine Automobile Insurance
26 Cancellation Control Act to correct a typographical error in the definition of "policy" and
27 to improve clarity by moving affiliate language from the statute governing cancellation to
28 the statute governing notice of intent not to renew. Part C also corrects technical errors in
29 the property insurance law. It also amends laws governing property insurance
30 cancellation control to be consistent in excepting policies that have been in effect for less
31 than 90 days, to add to personal policies the requirement that a mortgagee receive notice
32 of cancellation, to move a provision concerning affiliate renewal from the statute
33 governing delivery of cancellation notice to the statute governing notice of intention not
34 to renew.