

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 157

H.P. 136

House of Representatives, January 20, 2009

### An Act To Enhance Oversight of Fraternal Benefit Societies

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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 TREAT of Hallowell.  
Cosponsored by Senator ALFOND of Cumberland and  
Representative: PRIEST of Brunswick.

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

2 **Sec. 1. 24-A MRSA §12-A, sub-§4**, as enacted by PL 1989, c. 269, §3, is  
3 amended to read:

4 **4. Refunds of overcharges.** In the event that any insurer, fraternal benefit society,  
5 nonprofit hospital service plan, nonprofit medical service plan, nonprofit health care plan,  
6 health maintenance organization or preferred provider organization makes charges to any  
7 person ~~which~~ that are not in conformity with a filing ~~which~~ that it is required to submit  
8 for approval or disapproval by this Title or Title 24, the superintendent may order that  
9 refunds of any overcharges be made.

10 **Sec. 2. 24-A MRSA §2186, sub-§1, ¶B**, as amended by PL 1999, c. 5, §1 and  
11 affected by §2, is further amended to read:

12 B. "Insurer" means an authorized insurance company, fraternal benefit society,  
13 reinsurer, surplus lines insurer, unauthorized insurer, nonprofit hospital and medical  
14 service organization, health maintenance organization, risk retention group or  
15 multiple employer welfare organization. "Insurer" also includes an insurance  
16 producer or other person acting on the behalf of an insurer. For the purposes of this  
17 section, "insurer" also means the state Medicaid program.

18 **Sec. 3. 24-A MRSA §4126, sub-§6** is enacted to read:

19 6. Nothing in this section may be construed as limiting the superintendent's authority  
20 to take enforcement action under section 12-A in connection with violations of applicable  
21 provisions of this Title.

22 **Sec. 4. 24-A MRSA §4127**, as amended by PL 1977, c. 694, §432 and PL 1999, c.  
23 547, Pt. B, §78 and affected by §80, is repealed.

24 **Sec. 5. 24-A MRSA §4127-A** is enacted to read:

25 **§4127-A. Suspension, revocation or refusal of license of foreign or alien society**

26 The superintendent may suspend, revoke or refuse the license of a foreign or alien  
27 society transacting or applying to transact business in this State as set out in this section.

28 **1. Investigation.** If, upon investigation, the superintendent finds that a foreign or  
29 alien society transacting or applying to transact business in this State has exceeded its  
30 powers, has failed to comply with any of the provisions of this chapter, is not fulfilling its  
31 contracts in good faith or is conducting its business fraudulently or in a manner hazardous  
32 to its members or creditors or the public, the superintendent shall notify the society of the  
33 deficiency or deficiencies and state in writing the reasons that warrant suspension,  
34 revocation or refusal of the society's license. The notice must require that the deficiency  
35 or deficiencies be corrected.

36 After receipt of the notice, the society has 30 days to comply with the superintendent's  
37 request for correction, and if the society fails to comply, the superintendent shall notify  
38 the society of the findings of noncompliance and require the society to show cause, on a

1 date set by the superintendent, why its license should not be suspended, revoked or  
2 refused. If on that date the society does not present good and sufficient reason why its  
3 authority to do business in this State should not be suspended, revoked or refused, the  
4 superintendent may suspend or refuse the license of the society to do business in this  
5 State until satisfactory evidence is furnished to the superintendent that the suspension or  
6 refusal should be withdrawn or the superintendent may revoke the authority of the society  
7 to do business in this State.

8 **2. Continue contracts.** Nothing in this section may be construed as preventing any  
9 foreign or alien society from continuing in good faith all contracts made in this State  
10 during the time the society was legally authorized to transact business in this State.

11 **3. Enforcement action.** Nothing in this section may be construed as limiting the  
12 superintendent's authority to take enforcement action under section 12-A in connection  
13 with violations of applicable provisions of this Title.

14 **Sec. 6. 24-A MRSA §4138**, as amended by PL 2001, c. 421, Pt. B, §§91 and 92  
15 and affected by Pt. C, §1, is repealed.

16 **Sec. 7. 24-A MRSA §4138-A** is enacted to read:

17 **§4138-A. Enforcement; unfair methods of competition and unfair and deceptive**  
18 **acts and practices**

19 A society authorized to do business in this State is subject to the provisions of section  
20 12-A and chapter 23. Nothing in such provisions may be construed as applying to or  
21 affecting the right of any society to determine its eligibility requirements for membership  
22 or as applying to or affecting the offering of benefits exclusively to members or persons  
23 eligible for membership in the society by a subsidiary corporation or affiliated  
24 organization of the society or the offering of benefits only to its members.

25 **Sec. 8. 24-A MRSA §4139**, as enacted by PL 1969, c. 132, §1, is repealed.

## 26 SUMMARY

27 This bill gives the Superintendent of Insurance similar administrative and  
28 enforcement authority over fraternal benefit societies as the superintendent currently has  
29 relating to nonfraternal entities such as insurers and multiple employer welfare  
30 arrangements. The superintendent's current authority is significantly restricted and  
31 inadequate to ensure compliance with Maine law by such entities authorized to operate in  
32 Maine. The bill also amends the definition of "insurer" to include fraternal benefit  
33 societies. In addition, the bill brings Maine law more up to date with the regulation of  
34 fraternal benefit societies in other states.