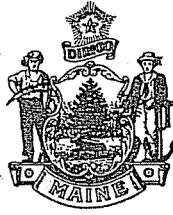


MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1510

H.P. 1059

House of Representatives, December 10, 2009

An Act To Maintain Compliance of Maine's Insurance Laws with National Standards

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 8, 2009. Referred to the Committee on Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TREAT of Hallowell.

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

2 PART A

3 Sec. A-1. 24-A MRSA §221-A, sub-§3, as amended by PL 1999, c. 113, §5, is
4 further amended to read:

5 **3. Audits required.** All insurers, excepting insurers transacting business in this
6 State pursuant to the terms of chapter 51, shall cause to be conducted an annual audit by
7 an independent certified public accountant. Each domestic insurer shall file an audited
8 financial report with the superintendent on or before June 1st for the year ending
9 December 31st preceding. An extension of the filing deadline may be granted by the
10 superintendent upon a showing by the insurer or its accountant that there exists valid
11 justification for such an extension. A foreign or alien insurer shall file an audited
12 financial report upon the superintendent's request. A firm of independent certified public
13 accountants engaged to perform an audit of an insurer shall substitute the appointed audit
14 partner in charge with another audit partner in charge at least once every 7 ½ years. An
15 accountant substituted for pursuant to this subsection may not serve as a partner in charge
16 of that audit until 2 ½ years after the date of substitution, unless the superintendent waives
17 this requirement on the basis of unusual circumstances upon application by the insurer.

18 Sec. A-2. 24-A MRSA §221-A, sub-§7, as amended by PL 1999, c. 113, §7, is
19 repealed and the following enacted in its place:

20 7. Exemptions. Upon written application of any insurer subject to this section, the
21 superintendent may grant an exemption of the filing requirements under this section if the
22 superintendent finds upon review of the application that compliance would constitute a
23 financial hardship upon the insurer.

24 An insurer is exempt from the filing requirements of this section for any year in which the
25 insurer's annual statement reflects:

26 A. Nationwide business in an amount less than \$1,000,000 in written premium plus
27 reinsurance assumed; and

28 B. Outstanding loss reserves in an amount less than \$1,000,000.

29 Sec. A-3. 24-A MRSA §222, sub-§11-A, as amended by PL 1999, c. 113, §12, is
30 repealed.

31 Sec. A-4. 24-A MRSA §222, sub-§11-B, as enacted by PL 1993, c. 313, §12, is
32 repealed.

33 Sec. A-5. 24-A MRSA §222, sub-§11-C is enacted to read:

34 11-C. Dividends and distributions. The superintendent shall review all dividends
35 and distributions declared or paid by any insurer registered under subsection 8 at least
36 annually.

37 A. An insurer shall notify the superintendent within 5 days after the declaration of
38 any dividend or distribution. If the dividend or distribution is not disapproved

1 pursuant to paragraph B and is not an extraordinary dividend as defined in paragraph
2 C, the insurer may pay the dividend or distribution once the superintendent has
3 approved the payment or 10 days have elapsed after the superintendent's receipt of
4 notice.

5 B. The superintendent shall issue an order restricting or disallowing the payment of
6 dividends and distributions if the superintendent determines that the insurer's surplus
7 would not be reasonable in relation to the insurance company's outstanding
8 liabilities, that the insurer's surplus would be inadequate to that company's financial
9 needs or that the insurer's financial condition would constitute a condition hazardous
10 to policyholders, claimants or the public.

11 C. An extraordinary dividend may not be paid until affirmatively approved by the
12 superintendent or until at least 60 days after the superintendent has received a request
13 to pay an extraordinary dividend.

14 (1) For purposes of this subsection, "extraordinary dividend" means any
15 dividend or distribution, other than a pro rata distribution of a class of the
16 insurer's own securities, that:

17 (a) Exceeds the greater of 10% of the insurer's surplus to policyholders as of
18 December 31st of the preceding year and the net gain from operations for the
19 12-month period ending December 31st of the preceding year;

20 (b) Is declared within 5 years after any acquisition of control of a domestic
21 insurer or of any person controlling that insurer, unless it has been approved
22 by a number of continuing directors equal to a majority of the directors in
23 office immediately preceding that acquisition of control; or

24 (c) Is not paid entirely from unassigned funds. For purposes of this division,
25 50% of the net of unrealized capital gains and unrealized capital losses,
26 reduced, but not to less than zero, by that portion of the asset valuation
27 reserve attributable to equity investments, must be excluded from the
28 calculation of unassigned funds.

29 (2) An insurer may declare an extraordinary dividend on a conditional basis,
30 subject to the superintendent's approval. A declaration pursuant to this
31 subparagraph does not confer any rights upon stockholders until the
32 superintendent has approved the payment or the 60-day review period has
33 elapsed.

34 **Sec. A-6. 24-A MRSA §788**, as amended by PL 2007, c. 386, §16, is further
35 amended to read:

36 **§788. Dividends**

37 The special purpose reinsurance vehicle may not declare or pay dividends in any
38 form to its owners unless the dividends do not cause the reinsurance vehicle or any of its
39 protected cells to become impaired and, after giving effect to the dividends, the assets of
40 the reinsurance vehicle, including assets held in trust pursuant to the terms of the
41 insurance securitization, must be sufficient to meet its obligations. Except for dividends
42 specifically provided for in the approved plan of operation under section 782, subsection

1 2, paragraph H, the prior approval of the superintendent is required for any dividend paid
2 during the term of coverage or while the reinsurance vehicle has undischarged obligations
3 to the ceding insurer. The dividends may be declared by the board of directors of the
4 reinsurance vehicle if the dividends would not violate the provisions of this subchapter or
5 the approved plan of operation and would not jeopardize the fulfillment of the obligations
6 of the reinsurance vehicle or the trustee pursuant to the special purpose reinsurance
7 vehicle insurance securitization, the special purpose reinsurance vehicle contract or any
8 related transaction. The provisions of section 222, ~~subsections 11-A and 11-B~~ subsection
9 11-C do not apply to such dividends.

10 PART B

11 **Sec. B-1. 24-A MRSA §952-A, sub-§5** is enacted to read:

12 **5. Applicability to health carriers.** A health carrier not otherwise subject to this
13 section or section 993 shall file an actuarial opinion in accordance with the applicable
14 National Association of Insurance Commissioners annual statement instructions. For
15 purposes of this section, "health carrier" means an insurer, health maintenance
16 organization, nonprofit corporation subject to Title 24 or fraternal benefit society that
17 provides health insurance or comparable health benefits. This section and rules adopted
18 pursuant to this section apply except to the extent that they do not specifically reference
19 health carriers and impose requirements that are inconsistent with or more stringent than
20 the annual statement instructions.

21 **Sec. B-2. 24-A MRSA §994, sub-§1**, as enacted by PL 2007, c. 281, §2 and
22 affected by §3, is amended to read:

23 **1. Statement of actuarial opinion.** The statement of actuarial opinion under section
24 993, subsection 1 must be provided with the annual ~~actuarial opinion statement~~ under
25 section 993, ~~subsection 2~~ 423 in accordance with the appropriate NAIC property and
26 casualty annual statement instructions and is a public record subject to disclosure
27 pursuant to Title 1, chapter 13.

28 PART C

29 **Sec. C-1. 24-A MRSA §1402, sub-§1, ¶B**, as enacted by PL 1997, c. 457, §23
30 and affected by §55, is amended to read:

31 **B. Employees Property and casualty insurance adjusters who are employees of**
32 **insurers;**

33 **Sec. C-2. 24-A MRSA §1402, sub-§9-A** is enacted to read:

34 **9-A. Multiple peril crop insurance adjuster.** "Multiple peril crop insurance
35 adjuster" means a person who adjusts crop insurance claims under the federal crop
36 insurance program administered by the United States Department of Agriculture.

37 **Sec. C-3. 24-A MRSA §1402, sub-§11-A** is enacted to read:

