

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 783

H.P. 590

House of Representatives, March 1, 2011

An Act To Amend the Laws Governing Captive Insurance Companies

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative RICHARDSON of Warren.
Cosponsored by President RAYE of Washington and
Representative: CUSHING of Hampden, Senators: COURTNEY of York, SULLIVAN of
York, WHITTEMORE of Somerset.

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

2 **Sec. 1. 24-A MRSA §6702, sub-§4**, as amended by PL 2009, c. 335, §9, is
3 further amended to read:

4 **4. License.** If the superintendent is satisfied that the documents and statements filed
5 by the captive insurance company under subsections 2 and 3 comply with this chapter,
6 the superintendent may grant a license authorizing it to do insurance business. A captive
7 insurance company shall comply with all applicable federal and state laws relating to the
8 risks insured pursuant to the license granted by the superintendent. In the event of conflict
9 between other state insurance laws and this chapter, the provisions of this chapter control.
10 The state insurance laws to which captive insurance companies are not subject include
11 but are not limited to the provisions in section 2808-B concerning guaranteed issue and
12 community rating requirements and any other group insurance laws in this Title other
13 than those of this chapter.

14 **Sec. 2. 24-A MRSA §6704, sub-§1, ¶B**, as amended by PL 2009, c. 335, §10, is
15 further amended to read:

16 B. In the case of an association captive insurance company, not less than \$750,000
17 nor more than \$3,000,000;

18 **Sec. 3. 24-A MRSA §6706, sub-§4**, as amended by PL 2009, c. 335, §12, is
19 further amended to read:

20 **4. Applicability of chapter 47.** To the extent ~~not inconsistent~~ consistent with this
21 chapter, a captive insurance company is subject to the procedures applicable to domestic
22 insurers pursuant to chapter 47 except that, if the surviving entity after a merger,
23 consolidation, conversion or mutualization is a captive insurance company, a captive
24 insurance company is subject to this chapter. With respect to mergers, consolidations,
25 conversions and mutualizations, the superintendent, in the superintendent's discretion,
26 may:

27 A. Waive any public hearing requirement;

28 B. Permit an alien insurer as a party to a merger as long as the requirements for a
29 merger between a captive insurance company and a foreign insurer apply. For the
30 purposes of this paragraph, an alien insurer must be treated as a foreign insurer and
31 the jurisdiction of the alien insurer is considered a state; or

32 C. Approve the conversion of a captive insurance company organized as a stock
33 insurer to a nonprofit corporation with one or more members or a limited liability
34 company.

35 **Sec. 4. 24-A MRSA §6708, sub-§1**, as enacted by PL 1997, c. 435, §1, is
36 amended to read:

37 **1. Powers, authorities and duties of superintendent.** The powers, authorities and
38 duties relating to examinations and investigations are vested in and imposed upon the
39 superintendent ~~pursuant to chapter 3 are extended to and imposed upon the~~

1 superintendent in respect to examinations of captive insurance companies to the same
2 extent they would otherwise be applicable with respect to domestic insurers in accordance
3 with the provisions of this chapter.

4 **Sec. 5. 24-A MRSA §6718**, as enacted by PL 1997, c. 435, §1, is amended to
5 read:

6 **§6718. Rules**

7 The superintendent may adopt rules to implement this chapter. Rules adopted
8 pursuant to this chapter are ~~routine technical~~ major substantive rules as defined in Title 5,
9 chapter 375, subchapter ~~H-A~~ 2-A.

10 **Sec. 6. 24-A MRSA §6719**, as enacted by PL 1997, c. 435, §1, is amended to
11 read:

12 **§6719. Laws applicable**

13 An insurance law of this State, other than described or referenced in this chapter,
14 does not apply to a captive insurance company. This exclusion must be strictly construed
15 so as to further the public policy to provide an alternative means of securing coverage
16 independent of the requirements of this Title.

17 **SUMMARY**

18 This bill amends the chapter of the Maine Insurance Code governing captive
19 insurance companies to make clear that in the event of any conflict between the
20 provisions of other state insurance laws and the provisions of the laws governing captive
21 insurance companies, the provisions of the captive insurance company laws control.

22 This bill places a cap on the unimpaired paid-in capital and surplus of an association
23 captive insurance company and provides that rules adopted by the Superintendent of
24 Insurance to implement the laws governing captive insurance companies are major
25 substantive rules.