

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 892

S.P. 280

In Senate, March 8, 2011

**An Act To Establish an Insurance Fraud Division within the
Department of Professional and Financial Regulation, Bureau of
Insurance**

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

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator SULLIVAN of York.
Cosponsored by Senators: PLOWMAN of Penobscot, SNOWE-MELLO of Androscoggin,
Representatives: DOW of Waldoboro, FITZPATRICK of Houlton, MARTIN of Eagle Lake.

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

2 **Sec. 1. 16 MRSA §614, sub-§1**, as amended by PL 1999, c. 155, Pt. A, §5, is
3 further amended to read:

4 **1. Limitation on dissemination of intelligence and investigative information.**
5 Reports or records that contain intelligence and investigative information and that are
6 prepared by, prepared at the direction of or kept in the custody of a local, county or
7 district criminal justice agency; the Bureau of State Police; the Department of the
8 Attorney General; the Maine Drug Enforcement Agency; the Office of State Fire
9 Marshal; the Department of Corrections; the Department of Professional and Financial
10 Regulation, Bureau of Insurance, Insurance Fraud Division; the criminal law enforcement
11 units of the Department of Marine Resources or the Department of Inland Fisheries and
12 Wildlife; or the Department of Conservation, Division of Forest Protection when the
13 reports or records pertain to arson are confidential and may not be disseminated if there is
14 a reasonable possibility that public release or inspection of the reports or records would:

- 15 A. Interfere with law enforcement proceedings;
- 16 B. Result in public dissemination of prejudicial information concerning an accused
17 person or concerning the prosecution's evidence that will interfere with the ability of
18 a court to impanel an impartial jury;
- 19 C. Constitute an unwarranted invasion of personal privacy;
- 20 D. Disclose the identity of a confidential source;
- 21 E. Disclose confidential information furnished only by the confidential source;
- 22 F. Disclose trade secrets or other confidential commercial or financial information
23 designated as such by the owner or source of the information or by the Department of
24 the Attorney General;
- 25 G. Disclose investigative techniques and procedures or security plans and procedures
26 not generally known by the general public;
- 27 H. Endanger the life or physical safety of any individual, including law enforcement
28 personnel;
- 29 I. Disclose conduct or statements made or documents submitted by any person in the
30 course of any mediation or arbitration conducted under the auspices of the
31 Department of the Attorney General;
- 32 J. Disclose information designated confidential by some other statute; or
- 33 K. Identify the source of complaints made to the Department of the Attorney General
34 involving violations of consumer or antitrust laws.

35 **Sec. 2. 24-A MRSA §2179**, as amended by PL 1973, c. 585, §12, is repealed.

36 **Sec. 3. 24-A MRSA §2186, sub-§4, ¶C** is enacted to read:

37 C. An insurer having knowledge or a reasonable belief that a fraudulent insurance act
38 is being, will be or has been committed shall provide to the superintendent the

1 information required by the superintendent in a manner prescribed by the
2 superintendent. For purposes of this paragraph, "insurer" does not include an
3 insurance producer or other person acting on behalf of the insurer.

4 **Sec. 4. 24-A MRSA §2186, sub-§4, ¶D** is enacted to read:

5 D. A person having knowledge or a reasonable belief that a fraudulent insurance act
6 is being, will be or has been committed may provide to the superintendent the
7 information required by the superintendent in a manner prescribed by the
8 superintendent.

9 **Sec. 5. 24-A MRSA §2187, sub-§1, ¶B**, as amended by PL 2005, c. 433, §1 and
10 affected by §28, is further amended to read:

11 B. "Authorized agency" or "authorized agencies" means:

12 (1) The Attorney General;

13 (2) A district attorney responsible for prosecution in the municipality where the
14 fraud occurred;

15 (3) The Federal Bureau of Investigation, or any other federal agency, only for the
16 purposes of subsection 2;

17 (4) The State Fire Marshal;

18 (5) The Superintendent of Insurance;

19 (6) The Superintendent of Financial Institutions;

20 (7) The United States Attorney's office when authorized or charged with
21 investigation or prosecution of the insurance fraud in question, only for the
22 purposes of subsection 2;

23 (8) The State Police, state law enforcement officials or local law enforcement
24 officials; ~~or~~

25 (9) The National Association of Insurance Commissioners;

26 (10) An international association of insurance supervisors;

27 (11) An international criminal police organization;

28 (12) A national insurance crime bureau or similar organization that collects,
29 receives, investigates or analyzes information concerning insurance fraud;

30 (13) Insurance supervisors or law enforcement authorities outside the United
31 States; or

32 (14) The Workers' Compensation Board.

33 **Sec. 6. 24-A MRSA §2187, sub-§4**, as enacted by PL 1997, c. 675, §2, is
34 repealed.

35 **Sec. 7. 24-A MRSA §2187, sub-§5**, as enacted by PL 1997, c. 675, §2, is
36 amended to read:

1 **5. Immunity.** In the absence of fraud, malice or bad faith, any person, including, but
2 not limited to, an insurer or authorized agency, that furnished information relating to
3 suspected, anticipated or completed fraudulent insurance acts is not liable for any
4 damages in any civil action for furnishing the information if that information is furnished
5 to or received from an authorized agency. In the absence of fraud, malice or bad faith, an
6 insurer that furnished information to or received information from another insurer for the
7 purpose of detecting, prosecuting or preventing fraudulent insurance acts is not liable for
8 any damages in any civil action for furnishing that information. Nothing in this
9 subsection is intended to abrogate or modify in any way any common law or statutory
10 privilege or immunity previously enjoyed by any person.

11 **Sec. 8. 24-A MRSA §2188** is enacted to read:

12 **§2188. Insurance Fraud Division**

13 **1. Division established.** The Insurance Fraud Division, referred to in this section as
14 "the division," is established within the bureau. The division shall work in coordination
15 with other bureau divisions and staff and other regulatory and law enforcement agencies
16 to accomplish its duties.

17 **2. Duties.** The duties of the division are to:

18 A. Initiate independent inquiries and conduct independent investigations when the
19 division has cause to believe that a fraudulent insurance act as defined in section
20 2186, deceptive insurance practice or insurance deception may be or has been
21 committed;

22 B. Review reports or complaints of alleged fraudulent insurance acts as defined in
23 section 2186, deceptive insurance practices and insurance deception from federal,
24 state and local law enforcement and regulatory agencies, persons engaged in the
25 business of insurance and the public to determine whether the reports require further
26 investigation and to conduct these investigations;

27 C. Conduct independent examinations of alleged fraudulent insurance acts as defined
28 in section 2186, deceptive insurance practices and insurance deception and undertake
29 independent studies to determine the extent of fraudulent and deceptive insurance
30 acts and practices;

31 D. Assist the superintendent in developing and implementing programs to prevent
32 fraudulent insurance acts as defined in section 2186 and abuse, deceptive insurance
33 practices and insurance deception;

34 E. Assist the Attorney General in the prosecution and prevention of insurance fraud,
35 deceptive insurance practices and insurance deception; and

36 F. Prepare any reports regarding insurance fraud and deception required by law.

37 **3. Other law enforcement; regulatory authority.** This section does not:

38 A. Preempt the authority or relieve the duty of other law enforcement or regulatory
39 agencies to investigate, examine and prosecute suspected violations of law;

