

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1544

S.P. 539

In Senate, April 27, 2017

An Act To Update the Maine Insurance Code To Maintain Conformance with Uniform National Standards

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.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator WHITTEMORE of Somerset.

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

2 **PART A**

3 **Sec. A-1. 24 MRSA §2306**, as amended by PL 1997, c. 592, §3, is further
4 amended to read:

5 **§2306. Reports**

6 ~~Annually, on or before March 1st, every~~ Every corporation organized under this
7 chapter shall file in the office of the superintendent ~~a statement~~ annual and quarterly
8 financial statements substantially similar to those required of health insurers under Title
9 24-A, sections 423, 423-A and 423-D verified by at least 2 of the principal officers of that
10 corporation ~~showing its condition on the previous December 31st~~. The statement must be
11 on an annual or quarterly statement blank of the National Association of Insurance
12 Commissioners for use by nonprofit hospital or medical service corporations, be prepared
13 in accordance with the association's annual or quarterly statement instructions, follow
14 practices and procedures prescribed by the association's accounting practices and
15 procedures manual and be accompanied by any useful or necessary modification or
16 adaptation and any additional information required by the superintendent. The
17 superintendent may by rule or order require the filing of more frequent reports.

18 A nonprofit hospital or medical service corporation that controls and operates a
19 health maintenance organization as a division or line of business of the corporation shall
20 file on a continuing basis any additional periodic financial reports required by ~~the~~
21 superintendent by rule Title 24-A, section 4208.

22 **Sec. A-2. 24 MRSA §2317-B, sub-§§1-A and 1-B** are enacted to read:

23 **1-A. Title 24-A, section 423-C.** Reports of material transactions, Title 24-A, section
24 423-C;

25 **1-B. Title 24-A, section 423-G.** Corporate governance annual disclosure, Title
26 24-A, section 423-G;

27 **Sec. A-3. 24 MRSA §2317-B, sub-§16-B** is enacted to read:

28 **16-B. Title 24-A, chapter 11.** Assets and liabilities, Title 24-A, chapter 11;

29 **Sec. A-4. 24-A MRSA §423-A**, as enacted by PL 1985, c. 330, §6, is amended to
30 read:

31 **§423-A. Interim financial reporting requirements**

32 **1. Quarterly statement.** ~~Within 45 days~~ No later than the 15th day of the 2nd
33 month following the close of any calendar quarter, except the 4th quarter, an authorized
34 insurer, that is subject to the requirements of section 423, shall ~~upon the superintendent's~~
35 request, made to the authorized insurer, not later than the end of the quarter to be reported

1 upon file a quarterly ~~report~~ statement of financial condition with the ~~Bureau of Insurance~~
2 superintendent.

3 **2. Form and content.** The quarterly ~~report~~ statement must be in the form
4 requested by the superintendent and shall contain such information as the superintendent
5 deems necessary or if the superintendent elects shall be conformed to the reporting format
6 developed prescribed by the National Association of Insurance Commissioners and which
7 is in customary use in the United States for differing types of authorized insurers must be
8 prepared in accordance with the association's quarterly statement instructions.

9 **3. Verification.** The report ~~shall~~ must be verified by the oath of the insurer's
10 president or vice-president, and the secretary or actuary as applicable, or in the absence of
11 the foregoing, by 2 other principal officers; or if a reciprocal insurer, by the oath of the
12 attorney-in-fact or its like officers if a corporation.

13 **4. Supplemental reporting.** Upon the superintendent's request, the insurer shall file
14 periodic reports of financial condition on a monthly basis, or at other intervals prescribed
15 by the superintendent, in such form and containing such information as the
16 superintendent prescribes.

17 **Sec. A-5. 24-A MRSA §423-G** is enacted to read:

18 **§423-G. Corporate governance annual disclosure**

19 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
20 following terms have the following meanings.

21 A. "Corporate governance annual disclosure" or "CGAD" means a confidential
22 report filed by an insurer or insurance group pursuant to this section.

23 B. "Domestic insurance carrier" means an insurance company, health maintenance
24 organization, fraternal benefit society, nonprofit hospital or medical service
25 organization or nonprofit health plan domiciled in this State.

26 C. "Insurance group" means the insurance carriers and affiliates included within a
27 domestic insurance carrier's insurance holding company system as defined in section
28 222, subsection 2, paragraph C.

29 D. "Lead state," with respect to an insurance group, means the state designated as the
30 lead state for the insurance group as determined by the procedures outlined in the
31 most recent financial analysis handbook adopted by the NAIC, except that if the
32 designated lead state does not have a corporate governance disclosure law
33 substantially similar to this section, the superintendent shall designate this State or
34 another state with a substantially similar law as the lead state for purposes of this
35 section.

36 E. "NAIC" means the National Association of Insurance Commissioners or its
37 successor organization of insurance regulators.

38 **2. Disclosure requirement.** This subsection governs corporate governance annual
39 disclosure filings.

1 A. A domestic insurance carrier shall file a corporate governance annual disclosure
2 in accordance with this subsection no later than June 1st of each calendar year. The
3 carrier's insurance group may file the CGAD on behalf of the carrier.

4 (1) If the CGAD is completed at the insurance group level, and this State is not
5 the group's lead state, the CGAD must be filed with the chief insurance regulator
6 of the lead state in accordance with the laws of the lead state, and a copy must be
7 filed with the superintendent if requested by the superintendent.

8 (2) If the CGAD is completed at the legal entity level or if this State is the
9 group's lead state, the CGAD must be filed with the superintendent.

10 B. The CGAD must contain the information described in subsection 3, paragraph B
11 and must include a signature of the domestic insurance carrier or insurance group's
12 chief executive officer or corporate secretary attesting to the best of that individual's
13 belief and knowledge that the domestic insurance carrier has implemented the
14 corporate governance practices and that a copy of the CGAD has been provided to
15 the domestic insurance carrier's board of directors or the appropriate committee
16 thereof.

17 C. A CGAD may provide information regarding corporate governance at the level of
18 the group's ultimate controlling parent or intermediate holding company, at the
19 individual legal entity level or at any combination of these levels depending upon
20 how the domestic insurance carrier or insurance group has structured its system of
21 corporate governance. The domestic insurance carrier or insurance group is
22 encouraged to make the CGAD at the level:

23 (1) At which the domestic insurance carrier's or insurance group's risk appetite is
24 determined;

25 (2) At which the earnings, capital, liquidity, operations and reputation of the
26 domestic insurance carrier are overseen collectively and at which the supervision
27 of those factors is coordinated and exercised; or

28 (3) At which legal liability for failure of general corporate governance duties is
29 placed.

30 If the domestic insurance carrier or insurance group determines the level of reporting
31 based on the 3 criteria under this paragraph, it shall indicate which of the criteria
32 were used to determine the level or levels of reporting and explain any subsequent
33 changes in the level of reporting.

34 D. If the CGAD is completed at the insurance group level, the lead state shall
35 conduct the review of the CGAD and any additional requests for information must be
36 made through the lead state.

37 E. Domestic insurance carriers providing information substantially similar to the
38 information required by this section in other documents provided to the
39 superintendent, including proxy statements filed in conjunction with Form B
40 requirements or other state or federal filings provided to the bureau, may not be
41 required to duplicate that information in the CGAD, but may only be required to
42 cross-reference the document in which the information is included.

1 **3. Contents of corporate governance annual disclosure.** This subsection governs
2 the contents of corporate governance annual disclosure filings.

3 A. The domestic insurance carrier or insurance group shall ensure that the CGAD
4 contains the material information necessary to permit the superintendent to gain an
5 understanding of the domestic insurance carrier's or insurance group's corporate
6 governance structure, policies and practices. The superintendent may require
7 additional information that is determined to be material and necessary to provide a
8 clear understanding of the corporate governance policies, including the reporting or
9 information system or controls implementing those policies.

10 B. The CGAD must be prepared consistent with rules adopted pursuant to subsection
11 6. Documentation and supporting information must be maintained and made
12 available upon examination or upon request of the superintendent.

13 C. The domestic insurance carrier or insurance group has discretion over its
14 responses to the CGAD inquiries, as long as those responses meet the requirements of
15 this section.

16 **4. Confidentiality.** This subsection governs confidentiality in corporate governance
17 annual disclosure filings.

18 A. Documents, materials or other information in the possession or control of the
19 bureau that are obtained by, created by or disclosed to the superintendent or any other
20 person under this section, including the CGAD, are confidential and privileged, are
21 not public records within the meaning of the Freedom of Access Act, are not subject
22 to subpoena, are not subject to discovery or admissible in evidence in any private
23 civil action and may not be made public without the prior written consent of the
24 domestic insurance carrier. Neither the superintendent nor any person who received
25 information from or under the authority of the superintendent under this section may
26 be permitted or required to testify in any private civil action concerning information
27 that is confidential under this subsection.

28 B. This subsection does not prohibit the superintendent from using information that
29 is confidential under this subsection in the furtherance of any regulatory or legal
30 action brought as a part of the superintendent's official duties.

31 C. The superintendent may share information that is confidential under this
32 subsection only in accordance with the requirements of section 216, subsection 5.

33 D. The privilege provided by this subsection does not supersede any other applicable
34 privilege or confidentiality protection, nor does disclosure of confidential information
35 to the superintendent pursuant to this section constitute a waiver of any such privilege
36 or protection.

37 **5. NAIC and independent consultants.** This subsection governs independent
38 consultants retained to review corporate governance annual disclosure and compliance
39 with this section.

40 A. The superintendent may retain, at the domestic insurance carrier's expense,
41 independent consultants as provided in section 208, including attorneys, actuaries,
42 accountants and other experts as may be reasonably necessary to assist the

1 superintendent in reviewing the CGAD and related information or the domestic
2 insurance carrier's compliance with this section.

3 B. Any persons retained under paragraph A must be under the direction and control
4 of the superintendent, are subject to the same confidentiality standards and
5 requirements as the superintendent and must act in a purely advisory capacity.

6 C. The superintendent may not retain an independent consultant that has not verified
7 to the superintendent, with notice to the domestic insurance carrier, that it is free of a
8 conflict of interest and that it has internal procedures in place to monitor ongoing
9 freedom from conflicts and to comply with the confidentiality standards and
10 requirements of this section.

11 D. The superintendent may share confidential information provided or obtained
12 under this section with the NAIC only in accordance with a written agreement that
13 contains the provisions specified in section 216, subsection 5, paragraph C and the
14 following additional provisions:

15 (1) Procedures and protocols for sharing by the NAIC only with other state
16 regulators from states in which the insurance group has domiciled insurance
17 carriers. The agreement must provide that the recipient agrees to maintain the
18 confidentiality and privileged status of the CGAD-related documents, materials
19 or other information and must document the NAIC's legal authority to maintain
20 confidentiality;

21 (2) A provision that prohibits the NAIC from storing the information shared
22 pursuant to this section in a permanent database after the underlying analysis is
23 completed;

24 (3) A provision requiring the NAIC to provide prompt notice to the
25 superintendent, in addition to the notice to the domestic insurance carrier or
26 insurance group required by section 216, regarding any subpoena, request for
27 disclosure or request for production of the domestic insurance carrier's or
28 insurance group's CGAD-related information; and

29 (4) A provision expressly requiring the written consent of the domestic insurance
30 carrier before any information shared pursuant to this section may be made
31 public.

32 E. The superintendent may share confidential information provided or obtained
33 under this section with an independent consultant only in accordance with a written
34 agreement that makes compliance with the confidentiality requirements of this
35 section one of the consultant's duties as a state contractor and includes all protections
36 that the NAIC is required to provide in an agreement entered into under paragraph D.

37 **6. Rules.** The superintendent may adopt reasonable rules as necessary to implement
38 this section. Rules adopted pursuant to this subsection are routine technical rules as
39 defined in Title 5, chapter 375, subchapter 2-A.

40 **7. Severability.** If any provision of this section other than subsection 4, or the
41 application thereof to any person or circumstance, is determined to be invalid, that
42 determination does not affect the provisions or applications of this section that can be

1 given effect without the invalid provision or application, and to that end the provisions of
2 this section with the exception of subsection 4 are severable.

3 **8. Relationship to other laws.** This section may not be construed to prescribe or
4 impose corporate governance standards and internal procedures beyond those required of
5 business corporations under Title 13-C. This section may not be construed to limit the
6 superintendent's examination authority under sections 221 and 222 or the rights or
7 obligations of 3rd parties in connection with examinations conducted under those
8 sections.

9 **Sec. A-6. 24-A MRSA §1102, sub-§4,** as amended by PL 1987, c. 399, §4, is
10 further amended to read:

11 **4.** Any investment limitation or diversification requirement based upon the amount
12 of the insurer's assets or particular funds ~~shall~~ must relate to such assets or funds as
13 shown by the insurer's annual or quarterly statement as of the ~~December 31st next~~
14 statement date immediately preceding the date of acquisition of the investment by the
15 insurer or as shown by a current applicable financial statement, prepared on the same
16 basis as that annual or quarterly statement, resulting from merger with another insurer,
17 bulk reinsurance or change in capitalization.

18 **Sec. A-7. 24-A MRSA §1152, sub-§4,** as enacted by PL 1987, c. 399, §14, is
19 amended to read:

20 **4. Basis for limitation or diversification.** Any investment limitation or
21 diversification requirement based upon the amount of the insurer's assets or particular
22 funds ~~shall~~ must relate to such assets or funds as shown by the insurer's annual or
23 quarterly statement as of the ~~December 31st next~~ statement date immediately preceding
24 the date of acquisition of the investment by the insurer, or as shown by a current
25 applicable financial statement, prepared on the same basis as that annual or quarterly
26 statement, resulting from merger with another insurer, bulk reinsurance or change in
27 capitalization.

28 **Sec. A-8. 24-A MRSA §4134, sub-§1,** as amended by PL 1997, c. 592, §70, is
29 further amended to read:

30 **1.** Every society transacting business in this State shall annually, on or before the
31 first day of March, unless for cause shown such time has been extended by the
32 superintendent, file with the superintendent a true statement of its financial condition,
33 transactions and affairs for the preceding calendar year. The statement must be in general
34 form and context as approved by the National Association of Insurance Commissioners
35 for fraternal benefit societies and as supplemented by additional information required by
36 the superintendent. The society shall also file quarterly statements in accordance with the
37 National Association of Insurance Commissioners quarterly statement instructions for
38 fraternal benefit societies, if applicable, and shall report material investment and
39 reinsurance transactions consistent with section 423-C. If the society provides health care
40 benefits, it shall file a health insurance supplement consistent with section 423-D. The
41 fee for filing the annual statement is the same as for an insurer as provided in section 601.

1 **Sec. A-9. 24-A MRSA §4134, sub-§7**, as amended by PL 1973, c. 585, §12, is
2 further amended to read:

3 7. A society neglecting to file the annual or quarterly statement in the form and
4 within the time provided by this section shall forfeit \$100 for each day during which such
5 neglect continues, and, upon notice by the superintendent to that effect, its authority to do
6 business in this State ~~shall cease~~ ceases while such default continues.

7 **Sec. A-10. 24-A MRSA §4204-A, sub-§2**, as amended by PL 2001, c. 88, §§3 to
8 5, is further amended to read:

9 **2. Surplus maintained.** Except as provided in this section, every health
10 maintenance organization must maintain a minimum surplus equal to the greater of:

11 A. One million dollars;

12 B. Two percent of the first \$150,000,000 of annual premium revenues as reported in
13 the most recent annual financial statement ~~covering~~ filed with the superintendent by
14 the health maintenance ~~organization's immediately preceding fiscal year as filed with~~
15 the superintendent on the first \$150,000,000 of premium and organization, plus 1% of
16 annual premium ~~on the premium~~ in excess of \$150,000,000;

17 C. An amount equal to the sum of 3 ~~months~~ months' uncovered health care
18 expenditures as reported ~~on~~ in the most recent annual financial statement ~~covering~~
19 filed with the superintendent by the health maintenance ~~organization's immediately~~
20 ~~preceding fiscal year as filed with the superintendent~~ organization;

21 D. An amount equal to 8% of the health maintenance organization's annual health
22 care expenditures, except those paid on a capitated basis, as reported ~~on~~ in the most
23 recent annual financial statement ~~covering~~ filed with the superintendent by the health
24 maintenance ~~organization's immediately preceding fiscal year as filed with the~~
25 ~~superintendent~~ organization; or

26 E. An amount equal to the company action level risk-based capital as defined in
27 chapter 79.

28 **Sec. A-11. 24-A MRSA §4208**, as amended by PL 1993, c. 313, §§33 to 35, is
29 further amended to read:

30 **§4208. Annual and interim reports**

31 1. Every health maintenance organization shall file ~~annually, on or before March~~
32 ~~1st or within any reasonable extension of time that the superintendent for good cause~~
33 ~~shown may have granted on or before March 1st, with the superintendent a full and true~~
34 ~~statement of its financial condition, transactions and affairs as of December 31st of the~~
35 ~~preceding year~~ annual and quarterly financial statements substantially similar to those
36 required of health insurers under sections 423, 423-A and 423-D, verified by at least 3
37 principal officers, and shall provide a copy of that each statement to the Commissioner of
38 Health and Human Services. The superintendent may by rule or order require the filing
39 of ~~quarterly or more frequent reports, which may be required to include liability for~~
40 ~~uncovered expenditures as well as an audit opinion.~~

1 **1-A.** The annual and quarterly statements must be prepared in accordance with the
2 National Association of Insurance Commissioners annual and quarterly statement
3 instructions and must follow practices and procedures prescribed by the National
4 Association of Insurance Commissioners accounting practices and procedures manual for
5 health maintenance organizations. If the health maintenance organization is operated as a
6 division or line of business by an insurer or by a nonprofit hospital or medical service
7 corporation, the superintendent shall designate the applicable portions of the financial
8 statement form that must be filed, so as to eliminate information that is inapplicable to
9 health maintenance organizations that are not separately incorporated and to minimize
10 duplication between the statement filed under this section and the overall financial
11 statement of the insurer or nonprofit hospital or medical service corporation.

12 **1-B.** Every health maintenance organization shall file an annual audit opinion
13 substantially similar to those required of insurers under section 221-A.

14 ~~3. The annual statement must be prepared in accordance with the National~~
15 ~~Association of Insurance Commissioners annual statement instructions and must follow~~
16 ~~practices and procedures prescribed by the National Association of Insurance~~
17 ~~Commissioners accounting practices and procedures manual for health maintenance~~
18 ~~organizations. The annual statement and quarterly statements must include, if required by~~
19 ~~the Commissioner of Health and Human Services or by the superintendent:~~

20 A. A summary of information compiled pursuant to section 4204 in the form
21 required by the Commissioner of Health and Human Services; and

22 B. Other information related to the performance of the health maintenance
23 organization that is necessary to enable the superintendent to carry out the
24 superintendent's duties under this chapter.

25 4. The superintendent may refuse to continue or may suspend or revoke the
26 certificate of authority of a health maintenance organization failing to file an annual or
27 quarterly statement when due.

28 **Sec. A-12. 24-A MRSA §4222-B, sub-§5**, as amended by PL 2001, c. 88, §6, is
29 further amended to read:

30 5. ~~The requirements of section 222, subsections 2 to 9, subsections 11-A and 11-B~~
31 ~~and subsections 13 to 18 sections 221 to 228, to the extent not inconsistent with this~~
32 ~~chapter and the reasonable implications of this chapter, apply to domestic health~~
33 ~~maintenance organizations.~~

34 **Sec. A-13. 24-A MRSA §4222-B, sub-§§23 and 24** are enacted to read:

35 **23.** Section 423-C, relating to reporting of material investment and reinsurance
36 transactions, applies to health maintenance organizations.

37 **24.** Section 423-G, relating to corporate governance annual disclosure filings, applies
38 to health maintenance organizations.

1 **Sec. A-14. Corporate governance annual disclosure filing due date.** A
2 domestic insurance carrier's initial corporate governance annual disclosure filing pursuant
3 to the Maine Revised Statutes, Title 24-A, section 423-G, is due on June 1, 2018.

4 **PART B**

5 **Sec. B-1. 24-A MRSA §221, sub-§1,** as amended by PL 1993, c. 313, §2, is
6 further amended to read:

7 **1.** For the purpose of determining its financial condition, fulfillment of its
8 contractual obligations and compliance with the law, the superintendent shall examine the
9 affairs, transactions, accounts, records and assets of each authorized insurer, and of any
10 person as to any matter relevant to the financial affairs of the insurer or to the
11 examination, as often as the superintendent determines advisable. In determining the
12 nature, scope and timing of an examination, the superintendent shall consider criteria,
13 including, but not limited to, the results of financial statement analyses and ratios,
14 changes in management or ownership, actuarial opinions, reports of independent certified
15 public accountants and other criteria adopted by the National Association of Insurance
16 Commissioners and published in its Examiners' Financial Condition Examiners
17 Handbook or Market Regulation Handbook, as applicable, or their successor publications.
18 Except as otherwise expressly provided, domestic insurers must be examined at least
19 once every 3 years, unless the superintendent defers making an examination for a longer
20 period; but in no event may an authorized insurer be examined less frequently than once
21 every 5 years. Examination of an alien insurer is limited to its insurance transactions,
22 assets, trust deposits and affairs in the United States, except as otherwise required by the
23 superintendent.

24 **Sec. B-2. 24-A MRSA §222, sub-§2, ¶B-3** is enacted to read:

25 B-3. "Groupwide supervisor" means the regulatory official who is determined or
26 acknowledged by the superintendent under subsection 7-C to have the authority to
27 engage in conducting and coordinating groupwide supervision activities over an
28 internationally active insurance group or other insurance group that has requested
29 groupwide supervision.

30 **Sec. B-3. 24-A MRSA §222, sub-§2, ¶D-2,** as enacted by PL 1993, c. 313, §8,
31 is amended to read:

32 D-2. "Net ~~gains~~ gain from operations" means:

33 (1) For life insurers, the net income or loss after dividends to policyholders and
34 federal income taxes but before the inclusion of net realized capital gains or
35 losses; and

36 (2) For nonlife insurers, the net income or loss after dividends to policyholders
37 and federal income taxes and net realized capital gains or losses.

38 **Sec. B-4. 24-A MRSA §222, sub-§2, ¶D-6** is enacted to read:

39 D-6. "Internationally active insurance group" means an insurance holding company
40 system that meets the following criteria:

1 (1) The group has premiums written in at least 3 countries;

2 (2) The percentage of gross premiums written outside the United States is at least
3 10% of the insurance holding company system's total gross written premiums;
4 and

5 (3) Based on a 3-year rolling average, the total assets of the insurance holding
6 company system are at least \$50,000,000,000 or the total gross written premiums
7 of the insurance holding company system are at least \$10,000,000,000.

8 **Sec. B-5. 24-A MRSA §222, sub-§4-C, ¶C**, as enacted by PL 2013, c. 238, Pt.
9 A, §11 and affected by §34, is amended to read:

10 C. An application required by paragraph A must contain the following information
11 as applicable, made under oath or affirmation, except that if the proposed transaction
12 is subject to regulation under the Exchange Act or Title 32, chapter 135, the
13 superintendent may accept the relevant documents filed with the United States
14 Securities and Exchange Commission or the Department of Professional and
15 Financial Regulation, Office of Securities in lieu of some or all of the documents
16 required by this paragraph:

17 (1) The name and address of each person by whom or on whose behalf the
18 merger or other acquisition of control is to be effected and:

19 (a) If the person acquiring control is an individual, the person's principal
20 occupation and all offices and positions held during the past 5 years and any
21 convictions for crimes other than minor traffic violations ~~during the past 10~~
22 ~~years~~; and

23 (b) If the person acquiring control is not an individual, a report of the nature
24 of its business operations during the past 5 years or for a lesser period the
25 person and any predecessors have been in existence; an informative
26 description of the business intended to be done by the person and the person's
27 subsidiaries; and a list of all individuals who are or who have been selected
28 to become directors or executive officers of the person or who perform or
29 will perform functions appropriate to such positions. The list must include
30 the information required by division (a) for each individual listed;

31 (2) The source, nature and amount of the consideration used or to be used in
32 effecting the merger or other acquisition of control, a description of any
33 transaction through which funds were or are to be obtained for any such purpose,
34 including any pledge of the insurer's stock or the stock of any of its subsidiaries
35 or controlling affiliates, and the identity of persons furnishing consideration. If a
36 source of consideration is a loan made in the lender's ordinary course of business,
37 the identity of the lender is confidential if the person filing the application so
38 requests;

39 (3) Fully audited financial information as to the earnings and financial condition
40 of each acquiring person for the preceding 5 fiscal years, or for a lesser period if
41 the acquiring person and any predecessors have been in existence for less than 5
42 years, and similar unaudited information as of a date not earlier than 90 days
43 before the filing of the application;

- 1 (4) Any plans or proposals that each acquiring person may have to liquidate the
2 insurer, to sell its assets or merge or consolidate it with any person or to make
3 any other material change in its business or corporate structure or management;
- 4 (5) The number of shares of any security referred to in paragraph A that each
5 acquiring person proposes to acquire, the terms of the offer, request, invitation,
6 agreement or acquisition referred to in paragraph A and a statement as to the
7 method by which the fairness of the proposal was arrived at;
- 8 (6) The amount of each class of any security referred to in paragraph A that is
9 beneficially owned or concerning which there is a right to acquire beneficial
10 ownership by each acquiring person;
- 11 (7) A full description of any contracts, arrangements or understandings with
12 respect to any security referred to in paragraph A in which any acquiring person
13 is involved, including but not limited to transfer of any of the securities, joint
14 ventures, loan or option arrangements, puts or calls, guarantees of loans,
15 guarantees against loss or guarantees of profits, division of losses or profits or the
16 giving or withholding of proxies. The description must identify the persons with
17 whom the contracts, arrangements or understandings have been entered into;
- 18 (8) A description of the purchase by any acquiring person of any security
19 referred to in paragraph A during the 12 calendar months preceding the filing of
20 the application, including the dates of purchase, names of the purchasers and
21 consideration paid or agreed to be paid;
- 22 (9) A description of any recommendations to purchase any security referred to in
23 paragraph A made during the 12 calendar months preceding the filing of the
24 application by any acquiring person or by anyone based upon interviews with or
25 at the suggestion of the acquiring person;
- 26 (10) Copies of all tender offers for, requests or invitations for tenders of,
27 exchange offers for and agreements to acquire or exchange any securities referred
28 to in paragraph A and copies of any additional related soliciting material that has
29 been distributed;
- 30 (11) The terms of any agreement, contract or understanding made or proposed to
31 be made with any broker-dealer as to solicitation of securities referred to in
32 paragraph A for tender and the amount of any fees, commissions or other
33 compensation to be paid to broker-dealers with regard to the solicitation of
34 securities referred to in paragraph A;
- 35 (12) An agreement by the person required to file the application to provide the
36 annual enterprise risk report required by subsection 8, paragraph B-1 for as long
37 as control by the person exists;
- 38 (13) An acknowledgement by the person required to file the application that the
39 person and all subsidiaries within its control in the insurance holding company
40 system will provide information to the superintendent upon request as necessary
41 to evaluate enterprise risk to the insurer;
- 42 (14) A statement as to whether or not the proposed transaction will result in an
43 increase in market share in this State in any line of insurance as specified in the

1 annual statement required to be filed under section 423 for one or more insurers
2 with combined market share greater than 5% and, if so, such further information
3 on the competitive impact of the proposed transaction as the superintendent
4 requires by rule or order; and

5 (15) Such additional information as the superintendent may prescribe by rule or
6 order.

7 **Sec. B-6. 24-A MRSA §222, sub-§7-C** is enacted to read:

8 **7-C. Groupwide supervision.** This subsection governs groupwide supervision.

9 A. The superintendent is authorized to act as the groupwide supervisor in accordance
10 with the provisions of this subsection for any internationally active insurance group,
11 or any other insurance holding company system that has requested the identification
12 of a groupwide supervisor pursuant to this subsection, or to acknowledge another
13 regulatory official as the groupwide supervisor if the insurance group:

14 (1) Does not have substantial insurance operations in the United States;

15 (2) Has substantial insurance operations in the United States, but not in this
16 State; or

17 (3) Has substantial insurance operations in the United States and this State, but
18 the superintendent has determined pursuant to the factors set forth in paragraphs
19 B and G that the other regulatory official is the appropriate groupwide supervisor.

20 B. In cooperation with other state, federal and international regulatory agencies, and
21 in consultation with the insurance group, the superintendent shall identify a single
22 groupwide supervisor for each internationally active insurance group that includes an
23 insurer registered under subsection 8 and has the discretion to identify a single
24 groupwide supervisor for any other insurance holding company system that has
25 requested that the superintendent identify a groupwide supervisor. The
26 superintendent may determine that the superintendent is the appropriate groupwide
27 supervisor for an insurance group that conducts substantial insurance operations
28 concentrated in this State or may acknowledge that a regulatory official from another
29 jurisdiction is the appropriate groupwide supervisor for the insurance group. The
30 superintendent shall consider the following factors when making a determination or
31 acknowledgment under this paragraph and shall reconsider that determination or
32 acknowledgment if the superintendent finds that there has been a material change in
33 the following factors:

34 (1) The place of domicile of the insurers within the insurance group that hold the
35 largest share of the group's written premiums, assets or liabilities;

36 (2) The place of domicile of the top-tiered insurer or insurers in the insurance
37 holding company system of the insurance group;

38 (3) The location of the executive offices or largest operational offices of the
39 insurance group;

40 (4) The recommendation made by a regulatory official who is a candidate for
41 designation under the criteria in this paragraph but has notified the superintendent

1 that a different regulatory official would be a more appropriate groupwide
2 supervisor;

3 (5) Whether another regulatory official is acting or is seeking to act as the
4 groupwide supervisor under a regulatory system that the superintendent
5 determines to be:

6 (a) Substantially similar to the system of regulation provided under the laws
7 of this State; or

8 (b) Otherwise sufficient in terms of providing for groupwide supervision,
9 enterprise risk analysis and cooperation with other regulatory officials; and

10 (6) Whether another regulatory official acting or seeking to act as the groupwide
11 supervisor provides the superintendent with reasonably reciprocal recognition
12 and cooperation.

13 C. If another regulatory official is acting as the groupwide supervisor of an insurance
14 group subject to groupwide supervision under this subsection, the superintendent
15 shall acknowledge that regulatory official as the groupwide supervisor and may not
16 consider designating the superintendent as the groupwide supervisor under paragraph
17 B unless there is a material change in the insurance group that results in:

18 (1) The insurance group's insurers domiciled in this State holding the largest
19 share of the group's premiums, assets or liabilities; or

20 (2) This State being the place of domicile of the top-tiered insurer or insurers in
21 the insurance holding company system of the insurance group.

22 D. If more than one regulatory official is acting as the groupwide supervisor of an
23 insurance group, the superintendent is authorized to cooperate with any of them under
24 paragraph G.

25 E. Pursuant to subsection 1-A, the superintendent is authorized to collect from any
26 insurer registered pursuant to subsection 8 all information necessary to determine
27 whether the superintendent should act as the groupwide supervisor of an insurance
28 group or whether the superintendent should acknowledge another regulatory official
29 to act as the groupwide supervisor. Before issuing a determination that an insurance
30 group is subject to groupwide supervision by the superintendent, the superintendent
31 shall notify the insurer registered pursuant to subsection 8 and the ultimate
32 controlling person within the insurance group. The insurance group has no less than
33 30 days to provide the superintendent with additional information pertinent to the
34 pending determination. The superintendent shall publish on the bureau's publicly
35 accessible website the identity of all insurance groups that the superintendent has
36 determined are subject to groupwide supervision by the superintendent.

37 F. If the superintendent is the groupwide supervisor for an insurance group, the
38 superintendent is authorized to engage in any of the following groupwide supervision
39 activities:

40 (1) Assess the enterprise risks within the insurance group to ensure that:

- 1 (a) The material financial condition and liquidity risks to the members of the
2 insurance group that are engaged in the business of insurance are identified
3 by management; and
- 4 (b) Reasonable and effective mitigation measures are in place;
- 5 (2) Request, from any member of the insurance group, information necessary
6 and appropriate to assess enterprise risk, including, but not limited to,
7 information about the members of the insurance group regarding:
- 8 (a) Governance, risk assessment and management;
- 9 (b) Capital adequacy; and
- 10 (c) Material intercompany transactions;
- 11 (3) Coordinate and, through the authority of the regulatory officials of the
12 jurisdictions where members of the insurance group are domiciled, compel
13 development and implementation of reasonable measures designed to ensure that
14 the insurance group is able to promptly recognize and mitigate enterprise risks to
15 members of the insurance group that are engaged in the business of insurance;
- 16 (4) Communicate with other state, federal and international agencies that
17 regulate members of the insurance group and share relevant information subject
18 to the confidentiality provisions of subsection 13-A, through supervisory colleges
19 as set forth in subsection 7-B or otherwise;
- 20 (5) Enter into agreements with or obtain documentation from any insurer
21 registered under subsection 8, any member of the insurance group and any other
22 state, federal and international regulatory agencies for members of the insurance
23 group, providing the basis for or otherwise clarifying the superintendent's role as
24 groupwide supervisor, including provisions for resolving disputes with other
25 regulatory officials. Such agreements or documentation may not serve as
26 evidence in any proceeding that any insurer or person within an insurance
27 holding company system not domiciled or incorporated in this State is doing
28 business in this State or is otherwise subject to jurisdiction in this State; and
- 29 (6) Other groupwide supervision activities, consistent with the authorities and
30 purposes set out in subparagraphs (1) to (5), as considered necessary by the
31 superintendent.
- 32 G. If the superintendent acknowledges that another regulatory official from a
33 jurisdiction that is not accredited by the National Association of Insurance
34 Commissioners is the groupwide supervisor, the superintendent is authorized to
35 cooperate reasonably, through supervisory colleges or otherwise, with groupwide
36 supervision undertaken by the groupwide supervisor, as long as:
- 37 (1) The superintendent's cooperation is in compliance with the laws of this State;
38 and
- 39 (2) The regulatory official acknowledged as the groupwide supervisor also
40 recognizes and cooperates with the superintendent's activities as a groupwide
41 supervisor for other insurance groups as applicable. When such recognition and

1 cooperation is not reasonably reciprocal, the superintendent is authorized to
2 refuse recognition and cooperation.

3 H. The superintendent is authorized to enter into agreements with or obtain
4 documentation from any insurer registered under subsection 8, any affiliate of the
5 insurer and other state, federal and international regulatory agencies for members of
6 the insurance group in order to provide the basis for or otherwise clarify a regulatory
7 official's role as groupwide supervisor.

8 I. The superintendent may adopt rules necessary for the administration of this
9 subsection. Rules adopted pursuant to this paragraph are routine technical rules as
10 defined in Title 5, chapter 375, subchapter 2-A.

11 J. A registered insurer subject to this subsection is liable for and shall pay the
12 reasonable expenses of the superintendent's participation in the administration of this
13 subsection, including the engagement of attorneys, actuaries and any other
14 professionals and all reasonable travel expenses.

15 **Sec. B-7. 24-A MRSA §222, sub-§9, ¶A-1**, as enacted by PL 2013, c. 238, Pt.
16 A, §21 and affected by §34, is amended to read:

17 A-1. Agreements for ~~cost-sharing~~ management services and ~~management cost~~
18 sharing must include any provisions required by the superintendent by rule.

19 **Sec. B-8. 24-A MRSA §222, sub-§9, ¶E**, as amended by PL 2013, c. 238, Pt. A,
20 §21 and affected by §34, is further amended to read:

21 E. A domestic insurer shall notify the superintendent in writing at least 30 days in
22 advance, unless the superintendent authorizes a shorter period, before entering into or
23 materially amending or modifying any of the following kinds of transactions with any
24 member of its holding company system:

25 (1) Sales, purchases, exchanges, loans or extensions of credit, guarantees or
26 investments that are equal to or exceed:

27 (a) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted
28 assets as of December 31st of the preceding year and 25% of surplus to
29 policyholders;

30 (b) With respect to life insurers, 3% of the insurer's admitted assets as of
31 December 31st of the preceding year; or

32 (c) With respect to nonprofit hospital and medical service organizations and
33 their 100% controlled affiliates that operate as monoline health insurers or
34 health maintenance organizations, the lesser of 5% of the entity's admitted
35 assets as of December 31st of the preceding year and 25% of surplus to
36 policyholders;

37 (2) Loans or extensions of credit to any person who is not an affiliate, if the
38 insurer makes the loan or extension of credit with the agreement or understanding
39 that the proceeds in whole or in substantial part are to be used to make loans or
40 extensions of credit to, purchase assets of or make investments in any affiliate of

1 the insurer if the loan, extension of credit, purchase or investment is equal to or
2 exceeds:

3 (a) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted
4 assets as of December 31st of the preceding year and 25% of surplus to
5 policyholders;

6 (b) With respect to life insurers, 3% of the insurer's admitted assets as of
7 December 31st of the preceding year; or

8 (c) With respect to nonprofit hospital and medical service organizations and
9 their 100% controlled affiliates that operate as monoline health insurers or
10 health maintenance organizations, the lesser of 5% of the entity's admitted
11 assets as of December 31st of the preceding year and 25% of surplus to
12 policyholders;

13 (3) All reinsurance pooling agreements, and all reinsurance agreements in which
14 the reinsurance premium or a change in the insurer's liabilities, or the projected
15 reinsurance premium or a projected change in the insurer's liabilities in any of the
16 next 3 years, equals or exceeds 5% of the insurer's surplus to policyholders, as of
17 December 31st of the preceding year, including those agreements that may
18 require as consideration the transfer of assets from an insurer to a nonaffiliate if
19 an agreement or understanding exists between the insurer and nonaffiliate that
20 any portion of the assets will be transferred to one or more affiliates of the
21 insurer;

22 (4) All management agreements, cost-sharing arrangements, tax allocation
23 agreements, service contracts and guaranties, with the exception of guaranties
24 that are quantifiable in amount and do not exceed, in the aggregate, the lesser of
25 0.5% of admitted assets and 10% of surplus as regards policyholders as of
26 December 31st of the preceding year;

27 (5) Any transactions that are part of a plan or series of like transactions with
28 persons within the holding company system if the ~~purpose of those separate~~
29 ~~transactions is to avoid the statutory threshold amount and thus avoid the review~~
30 ~~that would occur otherwise~~ transactions when aggregated over any 12-month
31 period exceed the reporting thresholds of this paragraph. If the superintendent
32 determines that those separate transactions were entered into ~~over any 12-month~~
33 ~~period for such a purpose, the superintendent may exercise authority for the~~
34 purpose of avoiding regulatory review by circumventing statutory reporting
35 requirements, that determination is a sufficient basis for disapproving the
36 transactions under this subsection; and

37 (6) Any other material transactions specified by rule that the superintendent has
38 determined may adversely affect the interests of the insurer's policyholders.

39 A notice of amendment or modification of a transaction must include the reasons for
40 the change and the financial impact on the domestic insurer. The insurer shall notify
41 the superintendent within 30 days after terminating an agreement previously reported
42 under this paragraph.

1 The superintendent shall disapprove a transaction that is subject to this paragraph if
2 the transaction violates the standards of this section or other applicable law or
3 adversely affects the interests of policyholders. The superintendent's failure to make
4 a determination on a proposed transaction within 30 days after it has been submitted
5 for review has the effect of an approval, unless the superintendent has issued a notice
6 of adjudicatory hearing on the proposal in accordance with section 230.

7 **Sec. B-9. 24-A MRSA §222, sub-§11-C, ¶C**, as enacted by PL 2009, c. 511, Pt.
8 A, §5, is amended to read:

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

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

15 (a) ~~Exceeds~~ When aggregated with all other dividends and distributions paid
16 or proposed to be paid by the insurer less than a full year before the payment
17 date, exceeds the greater of 10% of the insurer's surplus to policyholders as
18 of December 31st of the preceding year ~~or~~ and the net gain from operations
19 for the preceding calendar year, ~~whichever is greater;~~

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. B-10. 24-A MRSA §222, sub-§13-A, ¶A**, as enacted by PL 2013, c. 238,
35 Pt. A, §26 and affected by §34, is amended to read:

36 A. For purposes of this subsection, "holding company information" means any of the
37 following documents, materials and other information if the document, material or
38 other information has not specifically and expressly been designated as a public
39 record by other applicable law:

40 (1) Information obtained by the superintendent pursuant to an examination or
41 investigation pursuant to subsection 1-A to the same extent as the information

- 1 would have been confidential if obtained in an examination or investigation
2 conducted under section 220 or 221;
- 3 (2) A registration statement or report filed under subsection 8, including all
4 supporting information;
- 5 (3) A report filed under subsection 9, including all supporting information;
- 6 (4) A notice of proposed divestiture filed under subsection 4-C, paragraph B,
7 until the divestiture transaction has occurred;
- 8 (5) A disclosure of the beneficial owner of securities made by a broker-dealer
9 pursuant to subsection 4-C, paragraph E;
- 10 (6) The identity of a lender that is to finance a proposed transaction if declared
11 confidential under subsection 4-C, paragraph C, subparagraph (2);
- 12 (7) Information filed in support of any required attestation of risk management
13 or internal controls under subsection 4-C, paragraph C, subparagraph (12) or
14 (13);
- 15 (8) A competitive impact statement filed under subsection 4-C, paragraph C,
16 subparagraph (14), including all supporting information;
- 17 (8-A) Groupwide supervision information reported or provided to the
18 superintendent under subsection 7-C;
- 19 (9) Information obtained under an information-sharing agreement entered into
20 pursuant to this section to the extent that it is protected by the confidentiality
21 provisions of the agreement;
- 22 (10) Information obtained pursuant to this section from a jurisdiction other than
23 this State to the extent that it is confidential under the laws of the jurisdiction in
24 which it is normally maintained; and
- 25 (11) Information obtained under this section to the extent that it is confidential
26 under other applicable law, including, but not limited to, section 216, section 225
27 and Title 1, section 402, subsection 3.

28 **Sec. B-11. 24-A MRSA §223, sub-§1**, as amended by PL 1991, c. 828, §7, is
29 further amended to read:

30 **1.** Whenever the superintendent determines to examine the affairs of any person,
31 the superintendent shall designate one or more examiners and instruct them as to the
32 scope of the examination. The superintendent may designate a bureau employee or may
33 designate an examiner outside the bureau ~~if the designee is a competent public accountant~~
34 ~~or an actuary who is a member of the American Academy of Actuaries and is in active~~
35 ~~practice~~ who has been retained pursuant to section 208. Examiners may be attorneys,
36 appraisers, independent actuaries, independent certified public accountants or other
37 professionals and specialists with skills relevant to the examination. The examiner shall,
38 upon demand, exhibit the examiner's official credentials to the person under examination.

39 A. An examiner may not be designated by the superintendent if the examiner directly
40 or indirectly has a conflict of interest or is affiliated with the management of or owns

1 a pecuniary interest in any person subject to examination under sections 221 and 222.
2 This section may not be construed to preclude automatically an examiner from being:

- 3 (1) A policyholder or claimant under an insurance policy;
- 4 (2) A grantor of a mortgage or similar instrument on the examiner's residence to
5 a regulated entity if done under customary terms and in the ordinary course of
6 business;
- 7 (3) An investment owner in shares of regulated diversified investment
8 companies; or
- 9 (4) A settlor or beneficiary of a "blind trust" into which any otherwise
10 impermissible holdings have been placed.

11 **Sec. B-12. 24-A MRSA §223, sub-§2**, as amended by PL 1993, c. 313, §14, is
12 further amended to read:

13 **2.** The superintendent shall conduct each examination in an expeditious, fair and
14 impartial manner, consistent with current guidelines and procedures adopted from time to
15 time by the National Association of Insurance Commissioners and published in its
16 Examiners' Financial Condition Examiners Handbook or Market Regulation Handbook
17 as applicable, or their successor publications.

18 PART C

19 **Sec. C-1. 24-A MRSA §731-B, sub-§1, ¶D**, as amended by PL 2013, c. 238, Pt.
20 B, §6, is further amended to read:

21 D. Does not meet the requirements of paragraph A, B, B-1, B-2 or C, but only with
22 respect to risks located in a jurisdiction where that reinsurance is required by law.
23 The superintendent may waive the requirements of subsections 2 and 5 to the extent
24 that compliance with those requirements is not feasible for compulsory reinsurance
25 subject to this paragraph. The superintendent for good cause after notice and
26 opportunity for hearing may disallow or reduce the credit otherwise permitted under
27 this paragraph.

28 **Sec. C-2. 24-A MRSA §731-B, sub-§2-B** is enacted to read:

29 **2-B.** Through rules adopted under subsection 7, the superintendent may establish
30 additional requirements that reinsurance agreements that are subject to this subsection
31 must satisfy to qualify for credit.

32 A. This subsection applies only to reinsurance of:

- 33 (1) Life insurance policies with guaranteed nonlevel gross premiums or
34 guaranteed nonlevel benefits;
- 35 (2) Universal life insurance policies with provisions resulting in the ability of a
36 policyholder to keep a policy in force over a secondary guarantee period;
- 37 (3) Variable annuities with guaranteed death or living benefits;
- 38 (4) Long-term care insurance policies; or

1 (5) Other life and health insurance and annuity products for which the National
2 Association of Insurance Commissioners adopts model regulatory requirements
3 with respect to credit for reinsurance.

4 B. Requirements established under this subsection may address:

5 (1) The valuation of assets or reserve credits;

6 (2) The amount and forms of acceptable security, in accordance with rules that
7 may supplement or modify the requirements of subsection 3; and

8 (3) The circumstances pursuant to which credit will be reduced or eliminated.

9 C. Requirements established under this subsection may take into consideration the
10 results of applying the valuation manual adopted under section 959 to ceded policies
11 whose statutory reserves are calculated according to a prior methodology.

12 D. Requirements established with respect to reinsurance described in paragraph A,
13 subparagraphs (1) and (2) may apply to any treaty for which the risk ceded includes:

14 (1) Policies issued on or after January 1, 2015; or

15 (2) Risk on policies issued before January 1, 2015 and ceded in connection with
16 the treaty, in whole or in part, on or after January 1, 2015.

17 E. This subsection does not apply to cessions to an assuming insurer that:

18 (1) Is certified in this State pursuant to subsection 1, paragraph B-2; or

19 (2) Maintains at least \$250,000,000 in capital and surplus as determined in
20 accordance with section 901-A, excluding the impact of any permitted or
21 prescribed practices; and is:

22 (a) Licensed in at least 26 states; or

23 (b) Licensed in at least 10 states and licensed or accredited in a total of at
24 least 35 states.

25 **PART D**

26 **Sec. D-1. 24-A MRSA §4379, first ¶**, as enacted by PL 1969, c. 132, §1, is
27 amended to read:

28 The priorities in distribution of assets from the insurer's estate ~~shall be to pay~~
29 unsecured claims, including the unsecured portion of undersecured claims, are in the
30 order as shown in this section. The first \$50 of the amount allowed on each claim in the
31 classes under subsections 2 to 3, 4, 4-B, 5 and 6 shall must be deducted from the claim
32 and included in the class under subsection 8. Claims shall may not be cumulated by
33 assignment to avoid application on the \$50 deductible provision. Subject to the \$50
34 deductible provision, every claim in each class shall must be paid in full or adequate
35 funds retained for the payment thereof before claims of the next succeeding class receive
36 any payment. No subclasses shall may be established within any class.

37 **Sec. D-2. 24-A MRSA §4379, sub-§2**, as enacted by PL 1969, c. 132, §1, is
38 repealed.

1 **Sec. D-3. 24-A MRSA §4379, sub-§§4-A and 4-B** are enacted to read:

2 **4-A. Federal claims.** Claims of the Federal Government not included in the classes
3 under subsections 3 or 4, except to the extent that a similar claim would be subordinated
4 in a proceeding conducted under the United States Bankruptcy Code.

5 **4-B. Wages.** Debts due to employees of the insurer, other than officers, for services
6 performed, not to exceed \$1,000 to each employee and earned within one year
7 immediately preceding the filing of the petition for liquidation. This priority is in lieu of
8 any other similar priority authorized by law as to wages or compensation of such
9 employees.

10 **Sec. D-4. 24-A MRSA §4379, sub-§5,** as enacted by PL 1969, c. 132, §1, is
11 amended to read:

12 **5. Residual classification.** All other claims, including claims of ~~the federal~~ or any
13 state or local government, not falling within other classes under this section. Claims,
14 including those of any governmental body, for a penalty or forfeiture ~~shall be allowed~~ are
15 included in this class only to the extent of the pecuniary loss sustained from the act,
16 transaction or proceeding out of which the penalty or forfeiture arose, with reasonable
17 and actual costs occasioned thereby. The remainder of such claims ~~shall~~ must be
18 postponed to the class of claims under subsection 8.

19 **Sec. D-5. 24-A MRSA §4379, sub-§8, ¶A,** as enacted by PL 1969, c. 132, §1, is
20 amended to read:

21 A. The first \$50 of each claim in the classes under subsections ~~2 through 3, 4, 4-B, 5~~
22 and 6 subordinated under this section;

23 **Sec. D-6. 24-A MRSA §4386, sub-§2, ¶A,** as enacted by PL 1981, c. 347, is
24 amended to read:

25 A. Reserving amounts for the payment of the expenses of administration and the
26 claims falling within the priorities established in section 4379, subsections 1 and ~~2~~
27 4-B;

28 **PART E**

29 **Sec. E-1. 24-A MRSA §6401,** as enacted by PL 1991, c. 828, §33, is amended to
30 read:

31 **§6401. Short title**

32 This chapter may be known and cited as the "Maine Business Transacted with
33 Broker-Controlled Producer-controlled Insurer Act."

34 **Sec. E-2. 24-A MRSA §6402, sub-§2,** as enacted by PL 1991, c. 828, §33, is
35 repealed.

1 **Sec. E-3. 24-A MRSA §6402, sub-§4**, as enacted by PL 1991, c. 828, §33, is
2 amended to read:

3 **4. Controlling producer.** "Controlling ~~broker~~ producer" means a ~~broker~~ producer
4 who directly or indirectly controls an insurer.

5 **Sec. E-4. 24-A MRSA §6402, sub-§5**, as enacted by PL 1991, c. 828, §33, is
6 amended to read:

7 **5. Controlled insurer.** "Controlled insurer" means a licensed property or casualty
8 insurer that is controlled directly or indirectly by a ~~broker~~ producer.

9 **Sec. E-5. 24-A MRSA §6402, sub-§6**, as enacted by PL 1991, c. 828, §33, is
10 amended to read:

11 **6. Licensed property or casualty insurer.** "Licensed property or casualty insurer"
12 ~~or "insurer"~~ means any person licensed to transact a property or casualty insurance
13 business, or both, in this State. ~~The following, inter alia, are not licensed insurers for the~~
14 ~~purposes of this chapter with the exception of:~~

15 A. ~~All risk retention groups as defined in the federal Superfund Amendments~~
16 ~~Reauthorization Act of 1986, Public Law No. 99-499, 100 Stat. 1613 (1986) and the~~
17 ~~Risk Retention Act, 15 United States Code, Section 3901 et seq. and the Maine~~
18 ~~Liability Risk Retention Act;~~

19 B. ~~All A residual market pools and pool or joint underwriting authorities authority or~~
20 ~~associations association; and or~~

21 C. ~~All captive insurers, which for the purposes of this chapter are insurance~~
22 ~~companies owned by another organization whose exclusive purpose is to insure risks~~
23 ~~of the parent organization and affiliated companies or, in the case of groups and~~
24 ~~associations, insurance organizations owned by the insureds whose exclusive purpose~~
25 ~~is to insure risks to member organizations or group members and their affiliates. A~~
26 ~~special purpose reinsurance vehicle holding a limited certificate of authority under~~
27 ~~section 782 or a captive insurance company, other than a risk retention group,~~
28 ~~licensed under section 6702.~~

29 **Sec. E-6. 24-A MRSA §6402, sub-§7**, as amended by PL 1997, c. 457, §53 and
30 affected by §55, is further amended to read:

31 **7. Producer.** "Producer" means an insurance producer licensed or required to be
32 licensed pursuant to chapter 16 or a person holding or required to hold a comparable
33 license in another state where a licensed property or casualty insurer does business.

34 **Sec. E-7. 24-A MRSA §6402, sub-§8**, as enacted by PL 1991, c. 828, §33, is
35 amended to read:

36 **8. Subproducer.** "Subproducer" means a producer who, for shared commission or
37 other recompense, places business with a controlled insurer through a controlling ~~broker~~
38 producer.

1 **Sec. E-8. 24-A MRSA §6403**, as enacted by PL 1991, c. 828, §33, is amended to
2 read:

3 **§6403. Applicability**

4 This ~~Act~~ chapter applies to licensed property or casualty insurers ~~as defined in section~~
5 ~~6402~~, either domiciled in this State or domiciled in a state that is not an accredited state
6 with a substantially similar law in effect. Section 222, to the extent not modified by this
7 chapter, continues to apply to all parties within holding company systems subject to this
8 chapter.

9 **Sec. E-9. 24-A MRSA §6404**, as enacted by PL 1991, c. 828, §33, is amended to
10 read:

11 **§6404. Minimum standards**

12 **1. Applicability.** This section applies as follows.

13 A. This section applies if, in any calendar year, the aggregated amount of gross
14 written premium on business placed with a controlled insurer by a controlling ~~broker~~
15 producer is equal to or greater than 5% of the admitted assets of the controlled insurer
16 as of September 30th of the preceding year, as reported in the controlled insurer's
17 quarterly statement.

18 B. Notwithstanding paragraph A, this section does not apply if:

19 (1) The controlling ~~broker~~ producer:

20 (a) Places insurance only with the controlled insurer, only with the
21 controlled insurer and a member or members of the controlled insurer's
22 holding company system or only with the controlled insurer's parent, affiliate
23 or subsidiary and receives no compensation based upon the amount of
24 premiums written in connection with such insurance; and

25 (b) Accepts insurance placements only from nonaffiliated subproducers and
26 not directly from insureds; and

27 (2) The controlled insurer, except for insurance business written through a
28 residual market facility such as the workers' compensation residual market
29 mechanism or the State's automobile assigned risk plan, accepts insurance
30 business only from a controlling ~~broker~~ producer, a producer controlled by the
31 controlled insurer or a producer that is a subsidiary of the controlled insurer.

32 **2. Required contract provisions.** A controlled insurer may not accept business
33 from a controlling ~~broker~~ producer and a controlling ~~broker~~ producer may not place
34 business with a controlled insurer unless there is a written contract between the
35 controlling ~~broker~~ producer and the controlled insurer specifying the responsibilities of
36 each party. The contract must be approved by the board of directors of the insurer and
37 must contain the following minimum provisions.

38 A. The controlled insurer may terminate the contract for cause upon written notice to
39 the controlling ~~broker~~ producer. The controlled insurer shall suspend the authority of

1 the controlling ~~broker~~ producer to write business during the pendency of any dispute
2 regarding the cause for the termination.

3 B. The controlling ~~broker~~ producer shall render timely accounts to the controlled
4 insurer detailing all material transactions including information necessary to support
5 all commissions, charges and other fees received by or owed to the controlling ~~broker~~
6 producer.

7 C. The controlling ~~broker~~ producer shall remit all funds due under the terms of the
8 contract to the controlled insurer on at least a monthly basis. The due date must be
9 fixed so that premiums or installments of premiums collected are remitted no later
10 than 90 days after the effective date of any policy placed with the controlled insurer
11 under the contract.

12 D. All funds collected for the controlled insurer's account must be held in trust by the
13 controlling ~~broker~~ producer in a fiduciary capacity, in one or more appropriately
14 identified bank accounts in banks that are members of the Federal Reserve System, in
15 accordance with applicable insurance laws. Funds of a controlling ~~broker~~ producer
16 not licensed in this State must be maintained in compliance with the requirements of
17 the controlling ~~broker's~~ producer's domiciliary jurisdiction.

18 E. The controlling ~~broker~~ producer shall maintain separately identifiable records of
19 business written for the controlled insurer. The controlled insurer must have access
20 and may copy all accounts and records related to its business in a form usable by the
21 insurer. The records must be retained according to section 3408.

22 F. The contract may not be assigned in whole or in part by the controlling ~~broker~~
23 producer.

24 G. The controlled insurer shall provide the controlling ~~broker~~ producer with its
25 underwriting standards, rules, procedures, rates and conditions, including manuals
26 setting forth the rates to be charged and the conditions for the acceptance or rejection
27 of risks. The controlling producer shall comply with those standards, rules,
28 procedures, rates and conditions, which must be the same as those applicable to
29 comparable business placed with the controlled insurer by a producer other than the
30 controlling ~~broker~~ producer.

31 H. The rates of the controlling ~~broker's~~ producer's commissions, charges and other
32 fees may not be greater than those applicable to comparable business placed with the
33 controlled insurer by producers other than controlling ~~brokers~~ producers. For
34 purposes of this paragraph and paragraph G, examples of "comparable business"
35 include the same lines of insurance, the same kinds of insurance, the same kinds of
36 risks, similar policy limits and similar quality of business.

37 I. If the contract provides that the controlling ~~broker~~ producer, on insurance business
38 placed with the insurer, must be compensated contingent upon the insurer's profits on
39 that business, then that compensation may not be determined and paid until at least 5
40 years after the premiums on liability insurance are earned and at least one year after
41 the premiums are earned on any other insurance. The commissions may not be paid
42 until the adequacy of the controlled insurer's reserves on remaining claims are
43 independently verified pursuant to subsection 3.

1 J. The controlled insurer shall place a limit on the controlling ~~broker's~~ producer's
2 writings in relation to the controlled insurer's surplus and total writings. The insurer
3 may establish a different limit for each line or subline of business. The controlled
4 insurer shall notify the controlling ~~broker~~ producer when the applicable limit is
5 approached and may not accept business from the controlling ~~broker~~ producer if the
6 limit is reached. The controlling ~~broker~~ producer may not place business with the
7 controlled insurer if notified by the controlled insurer that the limit has been reached.

8 K. The controlling ~~broker~~ producer may negotiate but may not bind reinsurance on
9 behalf of the controlled insurer on business the controlling ~~broker~~ producer places
10 with the controlled insurer, except that the controlling ~~broker~~ producer may bind
11 facultative reinsurance contracts pursuant to obligatory facultative agreements. All
12 such contracts with the controlled insurer must contain underwriting guidelines
13 including, for reinsurance both assumed and ceded, a list of reinsurers with which the
14 automatic agreements are in effect, the coverages and amounts or percentages that
15 may be reinsured and schedules of the commissions allowed.

16 **3. Audit committee.** Every controlled insurer must have an audit committee of the
17 board of directors composed of independent directors. The audit committee shall
18 annually meet with management, the insurer's independent certified public accountants
19 and an independent casualty actuary acceptable to the superintendent to review the
20 adequacy of the insurer's loss reserves.

21 **4. Reporting requirements.** A controlled insurer shall make the following reports.

22 A. In addition to any other required loss reserve certification, by April 1st of each
23 year, the controlled insurer shall file with the superintendent an opinion of an
24 independent casualty actuary acceptable to the superintendent reporting loss ratios for
25 each line of business written and attesting to the adequacy of loss reserves established
26 for losses incurred and outstanding at the preceding year end, including incurred but
27 not reported losses, on business placed by the controlled ~~broker~~ producer.

28 B. The controlled insurer shall report annually to the superintendent the amount of
29 commissions paid to the controlling ~~broker~~ producer, the percentage that amount
30 represents of the net premiums written and comparable amounts and percentage paid
31 to noncontrolling producers for placement of the same kinds of insurance.

32 **Sec. E-10. 24-A MRSA §6405**, as corrected by RR 1991, c. 2, §94, is amended to
33 read:

34 **§6405. Disclosure**

35 ~~Prior to~~ Before the effective date of ~~the~~ any policy placed with a controlled insurer by
36 a controlling producer or a controlling producer's subproducer, the controlling ~~insurer~~
37 producer shall ~~cause the controlling broker to~~ deliver written notice to the prospective
38 insured disclosing the relationship between the ~~broker~~ producer and the controlled
39 insurer, except that if the business is placed through a subproducer who is not a
40 controlling ~~broker~~ producer, the controlling ~~insurer~~ producer shall ~~cause the controlling~~
41 ~~broker to~~ retain and enforce a signed commitment from the subproducer that the

1 subproducer is aware of the relationship between the insurer and the controlling ~~broker~~
2 producer and that the subproducer has notified or will notify the insured.

3 **Sec. E-11. 24-A MRSA §6406, sub-§1**, as enacted by PL 1991, c. 828, §33, is
4 repealed and the following enacted in its place:

5 **1. Civil action by superintendent.** If the superintendent has good cause to believe
6 that a controlled insurer or any policyholder of the controlled insurer has suffered any
7 loss or damage resulting from a violation of this chapter, the superintendent may maintain
8 a civil action or intervene in an action brought by or on behalf of the insurer or
9 policyholder for recovery of compensatory damages or other appropriate relief for the
10 benefit of the insurer or policyholder.

11 **Sec. E-12. 24-A MRSA §6406, sub-§2**, as enacted by PL 1991, c. 828, §33, is
12 amended to read:

13 **2. Civil action by receiver.** If an order for liquidation or rehabilitation of ~~the a~~ a
14 controlled insurer is entered pursuant to chapter 57 and a receiver is appointed, and the
15 ~~superintendent finds pursuant to subsection 1~~ receiver has good cause to believe that the
16 controlling ~~broker~~ producer or any other person has not complied with this chapter or any
17 rule or order made under this chapter and that the insurer suffered any loss or damage
18 because of that noncompliance, the receiver ~~appointed under that order~~ may maintain a
19 civil action for recovery of damages or other appropriate sanctions for the benefit of the
20 insurer.

21 **Sec. E-13. 24-A MRSA §6406, sub-§3**, as enacted by PL 1991, c. 828, §33, is
22 amended to read:

23 **3. Other action.** Nothing contained in this section affects the right of the
24 superintendent to impose any ~~other penalties provided for in this Title~~ or other remedies
25 authorized under section 12-A or other applicable law.

26 **Sec. E-14. 24-A MRSA §6407**, as enacted by PL 1991, c. 828, §33, is repealed.

27 **Sec. E-15. Maine Revised Statutes headnote amended; revision clause.** In
28 the Maine Revised Statutes, Title 24-A, chapter 77, in the chapter headnote, the words
29 "business transacted with broker-controlled property or casualty insurer" are amended to
30 read "business transacted with producer-controlled property or casualty insurer" and the
31 Revisor of Statutes shall implement this revision when updating, publishing or
32 republishing the statutes.

33 **PART F**

34 **Sec. F-1. 24-A MRSA §6456, sub-§2**, as amended by PL 1997, c. 81, §8, is
35 repealed and the following enacted in its place:

36 **2. Superintendent duties; mandatory control level event.** When a mandatory
37 control level event occurs, the superintendent shall take those actions that are necessary to
38 cause the insurer to be placed under regulatory control under chapter 57 or take

1 alternative action as authorized under paragraphs A and B. If the superintendent takes
2 those actions, the mandatory control level event is deemed sufficient grounds for the
3 superintendent to take action under chapter 57, and the superintendent has the rights,
4 powers and duties with respect to the insurer as are set forth in chapter 57. If the
5 superintendent takes actions pursuant to an adjusted risk-based capital report, the insurer
6 is entitled to those protections that are afforded to insurers under the provisions of chapter
7 57, subchapter 2 pertaining to summary proceedings.

8 A. The superintendent may forgo action for up to 90 days after the mandatory
9 control level event if the superintendent finds there is a reasonable expectation that
10 the mandatory control level event may be eliminated within the 90-day period.

11 B. In the case of a property and casualty insurer that is not authorized to write new
12 business, the superintendent may allow the insurer to continue to run off its existing
13 business under the superintendent's supervision if the superintendent determines that
14 there will be sufficient funds to meet the insurer's obligations as they become due.
15 This paragraph does not apply to health insurers.

16 **Sec. F-2. 24-A MRSA §6458, sub-§1**, as enacted by PL 1993, c. 634, Pt. A, §1,
17 is amended to read:

18 **1. Confidentiality.** The following constitute information that might be damaging to
19 the insurer if made available to its competitors and must be kept confidential by the
20 superintendent:

21 A. Risk-based capital reports, with respect to any domestic insurer or foreign insurer,
22 that are filed with the superintendent, to the extent that the information in the reports
23 is not required to be set forth in a publicly available annual statement schedule; and

24 B. Risk-based capital plans, with respect to any domestic insurer or foreign insurer,
25 that are filed with the superintendent, including the results or report of any
26 examination or analysis of an insurer performed pursuant to this chapter and any
27 corrective order issued by the superintendent pursuant to the examination or analysis.

28 The information listed in paragraph A or B may be shared on a confidential basis in
29 accordance with section 216, subsection 5 but may not be made public or be subject to
30 subpoena, other than by the superintendent and then only for the purpose of enforcement
31 actions taken by the superintendent pursuant to this chapter or any other provision of the
32 insurance laws of this State.

33 **Sec. F-3. 24-A MRSA §6458, sub-§3** is enacted to read:

34 **3. Prohibition on use in ratemaking.** Risk-based capital instructions, risk-based
35 capital reports, adjusted risk-based capital reports, risk-based capital plans and revised
36 risk-based capital plans may not be used by the superintendent for purposes of rate
37 review, considered or used as evidence in any rate proceeding or used by the
38 superintendent to calculate or derive any elements of an appropriate premium level or
39 appropriate rate of return. This subsection does not prohibit the consideration of
40 premium rates and projected or realized rates of return for purposes of company action or
41 regulatory action taken under this chapter.

1 **Sec. G-3. 24-A MRSA §6702, sub-§3, ¶C**, as enacted by PL 1997, c. 435, §1, is
2 amended to read:

3 C. The A plan of operation satisfactory to the superintendent, with supporting
4 information demonstrating the overall soundness of its plan of operation;

5 **Sec. G-4. 24-A MRSA §6706, sub-§1, ¶C**, as enacted by PL 2009, c. 335, §12,
6 is amended to read:

7 C. Organized as a ~~manager-managed~~ limited liability company with a limited
8 liability company agreement approved by the superintendent.

9 **Sec. G-5. 24-A MRSA §6706, sub-§2, ¶D**, as enacted by PL 2009, c. 335, §12,
10 is amended to read:

11 D. Organized as a ~~manager-managed~~ limited liability company with a limited
12 liability company agreement approved by the superintendent.

13 **Sec. G-6. 24-A MRSA §6706, sub-§3**, as amended by PL 2009, c. 335, §12, is
14 further amended to read:

15 **3. Incorporators.** A captive insurance company, other than a limited liability
16 company, may not have fewer than 3 incorporators or 3 organizers of whom at least one
17 must be a resident of this State. If the captive insurance company is a limited liability
18 company, ~~at least one manager~~ its certificate of formation must be executed by a resident
19 of this State.

20 **Sec. G-7. 24-A MRSA §6706, sub-§6**, as amended by PL 2013, c. 588, Pt. A,
21 §30, is further amended to read:

22 **6. Board of directors.** If a captive insurance company incorporated in this State is
23 formed as a corporation, then at least one of the members of the board of directors of the
24 company incorporated in this State must be a resident of this State. If the company is
25 formed as a reciprocal insurer, then at least one of the members of the subscribers'
26 advisory committee must be a resident of this State. If the company is organized as a
27 limited liability company, then at least one ~~manager~~ member of its governing body must
28 be a resident of this State.

29 **Sec. G-8. 24-A MRSA §6707**, as amended by PL 1997, c. 583, §4, is further
30 amended to read:

31 **§6707. Financial statements and other reports**

32 **1. Financial statement.** A captive insurance company shall submit an annual
33 statement of financial condition ~~written according to generally accepted accounting~~
34 ~~principles and~~ audited by an independent certified public accountant to the superintendent
35 on or before the last day of the 6th month following the end of the company's fiscal year.

36 A. The audited financial statement of an association captive insurance company or
37 industrial insured captive insurance company must be prepared in conformity with
38 statutory accounting principles.

1 B. The audited financial statement of a captive insurance company other than those
2 set out in paragraph A must be prepared in conformity with either generally accepted
3 accounting principles or statutory accounting principles, at the election of the
4 company.

5 **2. Annual and quarterly statements.** An association captive insurance company or
6 industrial insured captive insurance company shall file ~~an annual statement~~ annual and
7 quarterly statements in accordance with statutory accounting ~~practices~~ principles, each of
8 which must be a true statement of its financial condition, transactions and affairs as of the
9 immediately preceding December 31st, substantially similar to the statements required
10 under sections 423 and 423-A for insurance companies certified under section 414, in
11 general form and context as approved by the National Association of Insurance
12 Commissioners, or other format prescribed by the superintendent, verified by oaths of at
13 least 2 of the insurer's principal officers.

14 **3. Reserves.** The statements required under subsections 1 and 2 must include, but
15 are not limited to, actuarially appropriate reserves for:

- 16 A. Known claims and associated expenses;
- 17 B. Claims incurred but not reported and associated expenses;
- 18 C. Unearned premiums; and
- 19 D. Bad debts, reserves for which must be shown as liabilities.

20 An actuarial opinion regarding reserves for known claims and claims incurred but not
21 reported, and expenses associated with those claims, must be included in the audited
22 statements. The actuarial opinion must be given by a member of the American Academy
23 of Actuaries or other qualified loss reserve specialist as defined in the annual statement
24 instructions adopted by the National Association of Insurance Commissioners.

25 **4. Other reports.** The superintendent may prescribe the format and frequency of
26 other reports, which may include, but are not limited to, summary loss reports, material
27 transaction reports and quarterly interim financial statements.

28 **Sec. G-9. 24-A MRSA §6715,** as amended by PL 1997, c. 583, §5, is further
29 amended to read:

30 **§6715. Confidential information**

31 All information submitted to the superintendent pursuant to section 6702, subsection
32 3 and section 6724, subsection 3 is confidential and is not a public record within the
33 meaning of Title 1, chapter 13, subchapter ~~1~~ 1. Each report or statement filed with the
34 superintendent pursuant to section 6707, except those filed by or with respect to industrial
35 insured groups as defined in section 6701, subsection 8, is confidential and is not a public
36 record within the meaning of Title 1, chapter 13, subchapter ~~1~~ 1. The confidential nature
37 of this information does not limit the ability of the superintendent, in the superintendent's
38 discretion, to disclose such information to a public official in another state, as long as the
39 public official agrees in writing to maintain the confidentiality of such information and
40 the laws of the state in which the public official serves designate such information as
41 confidential.

1 **Sec. G-10. 24-A MRSA §6724, sub-§2**, as enacted by PL 2009, c. 335, §23, is
2 amended to read:

3 **2. Formation.** One or more sponsors may form a sponsored captive insurance
4 company under this chapter. In addition to the general provisions of this chapter, the
5 provisions of this section apply to sponsored captive insurance companies. A sponsored
6 captive insurance company must be incorporated as a stock insurer with its capital
7 divided into shares and held by the stockholder, as a nonprofit corporation with one or
8 more members or as a ~~manager-managed~~ limited liability company with a limited liability
9 company agreement approved by the superintendent.

10 **Sec. G-11. 24-A MRSA §6724, sub-§4, ¶B**, as enacted by PL 2009, c. 335, §23,
11 is amended to read:

12 B. Each participant contract must specify one or more protected cells as the sole
13 source of the participant's coverage and limit the covered losses of the participant to
14 ~~its pro rata share of~~ an amount not to exceed the amount recoverable from the assets
15 of the protected cell or cells identified in the contract and shall provide for pro rata
16 distribution if the assets of a cell are insufficient to pay all liabilities to participants. If
17 the sponsored captive insurance company enters into a contract involving more than
18 one protected cell, the rights and obligations relating to each protected cell must be
19 several rather than joint and the contract must make clear provisions for
20 apportionment of the rights and obligations between protected cells;

21 **Sec. G-12. 24-A MRSA §6724, sub-§4, ¶B-1** is enacted to read:

22 B-1. A sponsored captive insurance company may only reinsure risks of its
23 participants, and its liability to a ceding insurer must be limited to amounts
24 recoverable from the assets of the protected cell or cells participating in the risks
25 giving rise to the underlying losses in accordance with paragraph B. Any
26 management fees or other unallocated expenses payable to a ceding insurer or its
27 affiliate or contractor must be charged pro rata to the protected cell or cells assuming
28 the reinsurance and may not be a liability of the general account;

29 **Sec. G-13. 24-A MRSA §6724, sub-§4, ¶C**, as enacted by PL 2009, c. 335, §23,
30 is amended to read:

31 C. Each protected cell must be accounted for separately on the books and records of
32 the sponsored captive insurance company to reflect the financial condition and results
33 of operations of each protected cell, net income or loss, dividends or other
34 distributions to participants and such other factors as may be provided in the
35 participant contract or required by the superintendent. All attributions of assets and
36 liabilities between a protected cell and the general account must be in accordance
37 with the plan of operation approved by the superintendent;

38 **Sec. G-14. 24-A MRSA §6724, sub-§4, ¶L**, as enacted by PL 2009, c. 335, §23,
39 is amended to read:

1 L. A sponsored captive insurance company shall notify the superintendent in writing
2 within 10 business days after the ~~special purpose reinsurance vehicle~~ company or any
3 protected cell becomes impaired or insolvent.

4 **SUMMARY**

5 This bill updates several provisions of the Maine Insurance Code to incorporate
6 recent amendments to model laws adopted by the National Association of Insurance
7 Commissioners, or NAIC, and makes related technical changes. These amendments
8 maintain the State's compliance with uniform financial solvency standards and with the
9 NAIC's accreditation requirements for state insurance regulators.

10 Part A enhances regulatory oversight and complies with NAIC accreditation
11 requirements by requiring domestic insurance carriers to file corporate governance annual
12 disclosure reports and clarifying the filing requirement for quarterly financial statements.
13 These requirements apply to health maintenance organizations, nonprofit hospital and
14 medical service organizations and fraternal benefit societies as well as to traditional
15 commercial insurance companies. Part A also updates the procedures for examinations
16 and holding company supervision for health maintenance organizations, updates other
17 financial reporting laws to conform to current requirements and clarifies the applicability
18 of statutory accounting principles to nonprofit hospital and medical service organizations.

19 Part B facilitates coordinated regulatory action and complies with NAIC accreditation
20 requirements by incorporating a group supervision framework. It amends the law
21 regarding Maine insurance holding companies and examination laws to update obsolete
22 references to the former NAIC Examiners' Handbook. It clarifies the Superintendent of
23 Insurance's ability to hire examiners with any necessary credentials. It resolves
24 inconsistencies in the criminal conviction reporting requirements and clarifies that
25 dividend payments and affiliate transactions are aggregated over any consecutive 12-
26 month period for purposes of applying statutory materiality thresholds.

27 Part C amends the law regarding credit for reinsurance to allow the Superintendent of
28 Insurance to waive certain requirements and to incorporate the recently developed
29 framework establishing uniform minimum collateral requirements for reserve financing
30 transactions.

31 Part D corrects a conflict between state and federal insolvency laws and clarifies the
32 priority of secured claims and federal claims.

33 Part E updates the Maine Business Transacted with Broker-Controlled Insurer Act to
34 conform it to the current NAIC model act and comply with NAIC accreditation
35 requirements. It corrects an inconsistency by clarifying the law's applicability to
36 domestic risk retention groups, and it replaces obsolete references to "brokers" with
37 references to "producers." Part E also clarifies a definition of "licensed insurer," amends
38 the disclosure section to treat the producer rather than the insurer as the controlling party,
39 removes superfluous enforcement language and repeals an obsolete transition clause.

40 Part F makes technical corrections to the risk-based capital standards laws to address
41 issues identified during the most recent Department of Professional and Financial

1 Regulation, Bureau of Insurance accreditation review. These amendments codify current
2 practice and maintain compliance with NAIC accreditation requirements, clarifying that
3 the solvent run-off exception to mandatory control does not apply to health insurers,
4 clarifying that confidential risk-based capital information may be shared with other public
5 officials and agencies on the same basis as other confidential regulatory information,
6 providing that risk-based capital information may not be used for rate-making purposes
7 except to the extent that ratemaking and related activities are part of a corrective action
8 for a risk-based capital impaired insurer and clarifying that the corrective action plan
9 requirements for foreign insurers apply at all action levels.

10 Part G updates the captive insurance companies laws to respond to emerging
11 regulatory issues and to make technical corrections. It clarifies the definitions of
12 "controlled unaffiliated business" and "pure nonprofit captive insurance company" and
13 clarifies that a captive insurance company's license application's supporting documents
14 must include a plan of operation and that the additional supporting documents required
15 for sponsored captive insurers are subject to the same confidentiality provisions as the
16 other supporting documents. It corrects obsolete references to manager-managed limited
17 liability companies and updates the reporting provisions for association and industrial
18 captive insurers consistent with Part A of the bill. It provides that statutory rather than
19 generally accepted accounting principles audits are to be filed when the captive insurer
20 uses statutory accounting principles as its general basis of accounting, requires a
21 sponsored captive insurer's plan of operation to specify how assets and liabilities are
22 attributed between the protected cells and the general account and clarifies that a
23 sponsored captive insurer's obligations to reinsurers follow the reinsured participant and
24 not the general account.