

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1089

S.P. 321

In Senate, March 5, 2019

### **An Act To Ban Discretionary Clauses in Life and Health Insurance Policies**

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator CARPENTER of Aroostook.

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

2 **Sec. 1. 24-A MRSA §2501**, as amended by PL 2009, c. 244, Pt. I, §1, is further  
3 amended to read:

4 **§2501. Scope of chapter**

5 This chapter applies only to contracts of life insurance and annuities, other than  
6 reinsurance, group life insurance and group annuities, except that:

7 1. Section 2537 also applies as to group life insurance and group annuity contracts;  
8 ~~and~~

9 2. Sections 2541 to 2551 apply to group annuities other than those exempted by  
10 section 2542-; and

11 3. Section 2557 also applies to group life insurance and group annuity contracts.

12 **Sec. 2. 24-A MRSA §2557** is enacted to read:

13 **§2557. Absolute discretion clauses**

14 A policy, contract or certificate offered, delivered, issued or renewed for delivery in  
15 this State by an insurer to provide life insurance or annuity benefits may not contain a  
16 provision purporting to reserve sole or absolute discretion to the insurer to interpret the  
17 terms of the contract or to provide standards of interpretation or review that are  
18 inconsistent with the laws of this State. An insurer may not enforce a provision in a  
19 policy, contract or certificate that was offered, executed, delivered or issued for delivery  
20 in this State and has been continued or renewed by a group policy holder or individual  
21 enrollee in this State that purports to reserve sole or absolute discretion to the insurer to  
22 interpret the terms of the contract or to provide standards of interpretation or review that  
23 are inconsistent with the laws of this State.

24 **Sec. 3. 24-A MRSA §2770** is enacted to read:

25 **§2770. Absolute discretion clauses**

26 An individual health insurance policy, contract or certificate may not contain a  
27 provision purporting to reserve sole or absolute discretion to the insurer to interpret the  
28 terms of the contract or to provide standards of interpretation or review that are  
29 inconsistent with the laws of this State. An insurer may not enforce a provision in a  
30 policy, contract or certificate that was offered, executed, delivered or issued for delivery  
31 in this State and has been continued or renewed by an individual enrollee in this State that  
32 purports to reserve sole or absolute discretion to the insurer to interpret the terms of the  
33 contract or to provide standards of interpretation or review that are inconsistent with the  
34 laws of this State.

35 **Sec. 4. 24-A MRSA §2847-V** is enacted to read:

1 **§2847-V. Absolute discretion clauses**

2 A group health insurance policy, contract or certificate may not contain a provision  
3 purporting to reserve sole or absolute discretion to the insurer to interpret the terms of the  
4 contract or to provide standards of interpretation or review that are inconsistent with the  
5 laws of this State. An insurer may not enforce a provision in a policy, contract or  
6 certificate that was offered, executed, delivered or issued for delivery in this State and has  
7 been continued or renewed by a group policy holder in this State that purports to reserve  
8 sole or absolute discretion to the insurer to interpret the terms of the contract or to provide  
9 standards of interpretation or review that are inconsistent with the laws of this State.

10 **Sec. 5. 24-A MRSA §4260** is enacted to read:

11 **§4260. Absolute discretion clauses**

12 An individual or group health maintenance organization policy, contract or certificate  
13 may not contain a provision purporting to reserve sole or absolute discretion to the insurer  
14 to interpret the terms of the contract or to provide standards of interpretation or review  
15 that are inconsistent with the laws of this State. An insurer may not enforce a provision  
16 in a policy, contract or certificate that was offered, executed, delivered or issued for  
17 delivery in this State and has been continued or renewed by a group policy holder or  
18 individual enrollee in this State that purports to reserve sole or absolute discretion to the  
19 insurer to interpret the terms of the contract or to provide standards of interpretation or  
20 review that are inconsistent with the laws of this State.

21 **SUMMARY**

22 This bill adds a provision in the individual and group life insurance and health  
23 insurance and health maintenance organization provisions in the Maine Insurance Code  
24 that prohibits the inclusion or enforcement of a contract provision allowing the insurer  
25 sole or absolute discretion to interpret the terms of the insurance contract.