

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,
SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
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sources, excepting microbiological processes. Microbiological products shall include, but are not limited to, raw manures, composted manures and inoculants and shall exclude chemically contaminated and uncomposted sludge. Botanical products shall include, but are not limited to, rotenone, ryania, pyrethrum, ground tobacco stems and leaves and other pesticides of plant origin;

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 13, 1985.

CHAPTER 330

S.P. 585 - L.D. 1535

AN ACT Relating to Financial Regulation of Insurance Companies.

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

Sec. 1. 24-A MRSA §221-A is enacted to read:

§221-A. Financial audit requirements

1. Purpose. The purpose of this section is to provide the superintendent with a means of improved financial monitoring of insurers doing business in this State. This mechanism of increased financial surveillance of insurers shall not be a substitute for financial examinations required or authorized by this Title generally.

2. Definitions. As used in the section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Accountant" and "independent certified public accountant" mean an independent certified public accountant or firm licensed to practice in the State or in any state recognizing similar reciprocal licensing requirements and who is a member in good standing of the American Institute of Certified Public Accountants. It shall also mean, in the case of Canadian and British domiciled companies, a Canadian or British chartered accountant.

B. "Audited financial report" means a written report which meets the requirements of subsection 4.

C. "Insurer" means any insurance company doing business in the State pursuant to this Title and includes, but is not limited to, all life, accident and health, property and casualty, title, direct writing reinsuring companies and surplus lines companies regulated by the Bureau of Insurance.

3. Audits required. All insurers, excepting insurers transacting business in this State pursuant to the terms of chapter 51, shall cause to be conducted an annual audit by an independent certified public accountant and shall file an audited financial report with the superintendent on or before June 30th for the year ending December 31st preceding. An extension of the filing deadline may be granted by the superintendent upon a showing by the insurer or its accountant that there exists valid justification for such an extension.

4. Content of annual audited financial reporting. Annual audited financial reporting shall consist of the following.

A. Financial statements furnished under this section shall be examined by independent certified public accountants in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants. The opinion of the accountant shall cover all years for which a financial presentation is made.

The opinion expressed concerning the financial statements filed under this section shall conform with the accounting practices prescribed or permitted by the superintendent or the insurance supervisory official of the insurer's state of domicile. Insurers may elect to present financial statements filed under this section on the basis of generally accepted accounting principles if such statements contain a reconciliation of shareholders equity, surplus funds, and results of operations to the statutory basis of accounting required for insurers generally.

The opinion shall be expressed to the insurer by the accountant on his letterhead and shall show the address of the office issuing that opinion, shall be manually executed and shall be dated.

B. Financial statements, as a minimum, shall consist of:

- (1) Balance sheet;
- (2) Statement of gain or loss from operations;
- (3) Statement of change in financial position;
- (4) Statement of change in capital paid-up, gross paid-in and contributed surplus and unassigned funds, surplus funds; and
- (5) Notes to financial statements.

C. The statement shall include an independent certified public accountant's report respecting evaluation of internal controls.

D. The statement shall include an independent certified public accountant's letter attesting to his qualifications, his possession of license and his subscription to the code of professional ethics and pronouncements issued by the American Institute of Certified Public Accountants.

5. Rules authorized. The superintendent shall promulgate such rules as shall be necessary to effectuate provisions of this section.

6. Application and effective date. For those insurers doing business in this State which are subject to this section, the filing of the initial annual audited financial reports required under this section shall be due June 30, 1986, covering the calendar year December 31, 1985. Similar recurring reports shall be due each June 30th thereafter.

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

If an insurer's annual statement reflects business in this State in an amount less than \$100,000 in written premium for the preceding year, the insurer is exempt from the filing requirements of this section with respect to that year.

Sec. 2. 24-A MRSA §412, sub-§4, as enacted by PL 1975, c. 77, is amended to read:

4. The superintendent shall not authorize an alien insurer to transact insurance in this State unless it makes in this State through the superintendent and thereafter continuously maintains a deposit, representing funds in excess of all the insurer's liabilities under insurance contracts in force in the United States of America, of a fair market value in amount not less than the minimum paid-in capital stock required under this Title of a foreign stock insurer authorized to transact like kinds of insurance in this State. The superintendent may require additional trustee surplus funds in reasonable amount to secure the interest of beneficiaries under policies insured by the alien insurer. In addition to the foregoing trustee surplus account, an alien insurer authorized pursuant to this Title shall establish and maintain in one or more states of the United States a deposit or deposits of trust assets of a kind and quality as generally required by this section. The value of the deposit or deposits shall be at least equal to those obligations resulting from insurance in force in the United States. The deposit or deposits shall, if located outside the State, be subject to administration standards comparable to those contained in this Title. The deposit shall be held in trust for the exclusive benefit of the insurer's policyholders and creditors in the United States of America.

A. In lieu of such a deposit made or maintained in this State, the superintendent shall accept the certificate in proper form of the insurance supervisory official having general supervision of insurers in any other state to the effect that a deposit of like quality and amount, or part thereof, by such insurer is being maintained for like purposes in public custody or control pursuant to the laws of such state.

Sec. 3. 24-A MRSA §413, sub-§5, as enacted by PL 1969, c. 132, §1, is repealed.

Sec. 4. 24-A MRSA §413, sub-§5-A is enacted to read:

5-A. A copy of a current report of examination of the insurer certified by the public insurance supervisory official of the insurer's state of domicile, or of entry into the United States, if an alien insurer. For purpose of this requirement, a report of

examination shall be deemed "current" only if its date of account is within 24 months of filing of the application, except that the superintendent may, in his discretion, accept a report of examination within a period reasonably proximate to 24 months from its date of account which is filed by the applicant promptly upon its receipt where issuance of the report by the domiciliary regulator has been delayed for reasons beyond the control of the applicant and which are unrelated to the applicant's financial condition or its compliance with applicable laws;

Sec. 5. 24-A MRSA §415-A is enacted to read:

§415-A. Termination of certificate of authority

An authorized insurer which elects to terminate its license authority in this State, in whole or in part, shall submit a withdrawal plan designed to protect policyholders and claimants which is subject to approval by the superintendent. The insurer shall submit its plan at least 60 days prior to its proposed date of withdrawal. The plan shall include, but not be limited to, requirements and procedures for meeting the insurer's existing contractual obligations, providing security in the event of a subsequent insolvency and meeting any applicable statutory obligations. The plan shall also comply with any further terms and conditions which are prescribed by rules adopted by the superintendent. In order to protect the interest of the people of this State, the superintendent may require the insurer to make a deposit of securities of a nature and type eligible under section 1253, to be held in trust by the treasurer in the name of the superintendent.

If an insurer's license authority is revoked, suspended or otherwise terminated in a manner other than by its election, the superintendent shall issue an order which prescribes terms and conditions related to the license termination which shall, to the extent practicable, conform to the requirements governing withdrawal plans as prescribed by this section and rules promulgated under this section. In the event that an insurer attempts to terminate its license authority in this State without filing a withdrawal plan acceptable to the superintendent, the superintendent shall issue an order prescribing the terms and conditions of the termination. Any order issued pursuant to this section, including an order directing an insurer to produce relevant information, may be enforced as provided by section 214.

Sec. 6. 24-A MRSA §423-A is enacted to read:

§423-A. Interim financial reporting requirements

1. Quarterly report. Within 45 days following the close of any calendar quarter, except the 4th quarter, an authorized insurer, subject to the requirements of section 423, shall upon the superintendent's request, made to the authorized insurer, not later than the end of the quarter to be reported upon file a quarterly report of financial condition with the Bureau of Insurance.

2. Form and content. The quarterly report shall be in the form requested by the superintendent and shall contain such information as the superintendent deems necessary or if the superintendent elects shall be conformed to the reporting format developed by the National Association of Insurance Commissioners and which is in customary use in the United States for differing types of authorized insurers.

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

Sec. 7. 24-A MRSA §731, sub-§2, as amended by PL 1969, c. 177, §15, is repealed.

Sec. 8. 24-A MRSA §731, sub-§2-A is enacted to read:

2-A. An insurer may reinsure all or part of any particular risk with any solvent insurer which meets the following requirements:

A. Is authorized to transact insurance in one or more states;

B. Has surplus to policyholders in an amount not less than the paid-in capital stock required of an authorized foreign stock insurer transacting like kinds of insurance;

C. In the case of a group of individuals who constitute a syndicate of unincorporated alien insurers, has assets held in trust for the benefit of its United States policyholders in a sum not less than \$100,000,000 and is authorized to transact insurance in at least one state;

D. If unauthorized, meets solvency standards required of authorized insurers insuring risks of like character and is in substantial compliance with other requirements as imposed by this Title upon authorized insurers, including, but not limited to, maintenance of surplus funds reasonable in amount, as determined by the superintendent, for the kinds and amounts of insurance in force, as reflected in the records of the reinsurer.

E. In the case of an alien insurer entered as a United States branch in another state, makes and maintains, as a deposit, a trust fund in an amount not less than \$10,000,000. The fund shall be held under fiduciary conditions within the United States for the protection of United States insurers with whom the alien does business and United States beneficiaries of reinsured contracts of insurance. The trust fund shall be in addition to any other trust assets required by this Title;

F. On such periodic filing dates as may be determined by the superintendent, files evidence satisfactory to the superintendent of compliance with paragraphs A to E. The periodic reporting shall include, but not be limited to, a statement of the amount of reinsurance premium assumed by the reinsurer during the reporting period and the reserves held pursuant thereto. The superintendent may establish reporting standards in a rule to be promulgated pursuant to Title 5, chapter 375;

G. All assuming reinsurers shall be subject to the requirements of section 421 whether or not possessed of a certificate of authority. The reinsurers shall appoint the superintendent and his successor in office as process agent; and

H. If the contract of reinsurance, negotiated between or among the parties to the agreement, permits the ceding insurer to retain as security amounts owing to a reinsurer or reinsurers, these amounts shall at all times be under the exclusive control of the ceding insurer. If these amounts are to be held by a trustee, the trust agreement shall conform to the requirements of this section. The corpus of the trust shall be valued as any other admitted asset or assets. Assets other than cash or marketable securities shall be permitted only to the extent that the nature and fair value of those assets has been approved by

the superintendent. The superintendent may promulgate standards in a rule pursuant to Title 5, chapter 375.

Cession of bulk reinsurance by a domestic insurer is subject to section 3483, bulk reinsurance.

Sec. 9. 24-A MRSA §731, sub-§6 is enacted to read:

6. The superintendent is authorized to promulgate such rules as shall be necessary to effectuate the provisions of this section.

Effective September 19, 1985.

CHAPTER 331

S.P. 614 - L.D. 1613

AN ACT Requiring Treatment and Rehabilitation
as a Condition for License Restoration
when Convicted of Alcohol or Drug
Related Vehicular Homicide.

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

29 MRSA §1313-A is enacted to read:

§1313-A. Provisions regarding revocation when homicide is alcohol or drug related

1. Report by district attorney. The district attorney shall forward a report to the Secretary of State when any person is convicted of a criminal homicide or adjudicated to have committed a juvenile offense of criminal homicide as the result of his operation of a motor vehicle when:

A. The person was operating under the influence of intoxicating liquor or drugs;

B. The person had not attained the legal drinking age and was operating a motor vehicle while having .02% or more by weight of alcohol in his blood;

C. There was probable cause to believe that the person was operating under the influence of in-