

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

water districts and sewer districts as provided in Title 35-A, section 6303, subsection 4, and Title 38, section 1252, subsection 5.

Effective August 4, 1988.

CHAPTER 705

H.P. 1449 — L.D. 1960

AN ACT to Amend the Rules of Construction to Permit Use of Gender-Neutral Language in Maine Statutes.

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

Sec. 1. 1 MRSA §71, sub-§7, as amended by PL 1985, c. 737, Pt. C, §1, is repealed.

Sec. 2. 1 MRSA §71, sub-§7-A is enacted to read:

7-A. Gender. In the construction of statutes, gender-neutral construction shall be applied as provided in this subsection.

A. Whenever reasonable, as determined by the Revisor of Statutes, nouns rather than pronouns shall be used to refer to persons in order to avoid gender identification.

B. In preparing any legislation which amends a section or larger division of the Maine Revised Statutes, the Revisor of Statutes shall be authorized to change any masculine or feminine gender word to a gender-neutral word when it is clear that the statute is not exclusively applicable to members of one sex. The Revisor of Statutes shall not otherwise alter the sense, meaning or effect of any statute.

Effective August 4, 1988.

CHAPTER 706

H.P. 1725 — L.D. 2368

AN ACT to Revise the Solid Waste Law.

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

Sec. 1. 38 MRSA §1310-W, as enacted by PL 1987, c. 557, §5, is repealed.

Sec. 2. Application. Any ordinance adopted by the county commissioners of any county pursuant to the provisions of the Maine Revised Statutes, Title 38, section 1310-W, is void on the effective date of this Act.

Effective August 4, 1988.

CHAPTER 707

S.P. 981 - L.D. 2609

AN ACT to Amend the Maine Insurance Guaranty Association Law.

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

Sec. 1. 24-A MRSA §410, sub-§1, as repealed and replaced by PL 1983, c. 709, §1, is amended to read:

1. To qualify for authority to transact any one kind of insurance, as defined in chapter 9, or combination of kinds of insurance as shown below, an insurer shall possess and thereafter maintain unimpaired paid-in capital stock, if a stock insurer, or unimpaired basic surplus, if a foreign mutual or a reciprocal insurer, and when first so authorized shall possess initial free surplus, all in amounts not less than as determined from the following table.

A health, life and health or multiple line (as described in section 710) insurer may qualify for a certificate of authority to transact a legal services insurance business, as described in chapter 38, if it is otherwise qualified therefor and possesses and thereafter maintains, in addition to the amounts described in the following table, an additional amount of unimpaired paid-in capital stock, if a stock insurer, or unimpaired basic surplus, if a foreign mutual or reciprocal insurer, of not less than \$500,000.

An insurer may qualify for a certificate of authority to transact solely financial guaranty insurance as defined in section 709-A, if it is otherwise qualified therefor and possesses and thereafter maintains paid-in capital stock in the amount of \$2,500,000 and initial free surplus in an amount of \$47,500,000 or, if the insurer is a foreign mutual or reciprocal insurer, minimum required basic surplus in an amount of \$2,500,000 and initial free surplus in an amount of \$47,500,000.

Kind or Kinds of Insurance	Stock Insurers		Foreign mutual, Reciprocal Insurers	
	Minimum Required Capital Stock	Initial Free Surplus	Minimum Required Basic Surplus	Initial Free Surplus
Life	\$1,500,000	\$1,500,000	\$1,500,000*	\$1,500,000*
Health	1,000,000	1,000,000	1,000,000	1,000,000
Life and Health	2,500,000	2,500,000	2,500,000*	2,500,000*
Casualty	1,500,000	1,500,000	1,500,000	1,500,000
Marine and Transportation	1,500,000	1,500,000	1,500,000	1,500,000
Property	1,000,000	1,000,000	1,000,000	1,000,000

Surety	1,500,000	1,500,000	1,500,000	1,500,000
Title	500,000	500,000	500,000	500,000
Multiple line (as defined in section 710)	2,500,000	2,500,000	2,500,000	2,500,000
Life, and any one or more of Property, Casualty, Surety, Marine and Transportation	5,000,000	5,000,000	5,000,000*	5,000,000*

Multiple line (as defined in section 710)	1,000,000	1,000,000	1,000,000	1,000,000
Life, and any one or more of Property, Casualty, Surety, Marine and Transportation	2,000,000	2,000,000	2,000,000*	2,000,000*

* Does not apply as to a reciprocal insurer.

* Does not apply as to a reciprocal insurer.

Except:

A. An insurer holding a valid certificate of authority to transact insurance in this State on January 1, 1970, may, if otherwise qualified therefor until January 1, 1989, continue to be so authorized while possessing paid-in capital stock, if a stock insurer, or surplus, if a mutual or reciprocal insurer, as required for such authority immediately prior to January 1, 1970.

B. Prior to January 1, 1989, the superintendent shall not authorize such an insurer to transact any other kinds of insurance unless it complies with the requirements as to capital stock, if a stock insurer, or basic surplus, if a mutual or reciprocal insurer, as applied to all kinds of insurance it proposes to transact, as provided in the table contained in this paragraph.

A health, life and health or multiple line (as described in section 710) insurer may qualify for a certificate of authority to transact a legal services insurance business, as described in chapter 38, if it is otherwise qualified therefor and possesses and thereafter maintains, in addition to the amounts described in the following table, an additional amount of unimpaired paid-in capital stock, if a stock insurer, or unimpaired basic surplus, if a foreign mutual or reciprocal insurer, of not less than \$500,000.

Kind or Kinds of Insurance	Stock Insurers		Foreign mutual, Reciprocal Insurers	
	Minimum Required Capital Stock	Initial Free Surplus	Minimum Required Basic Surplus	Initial Free Surplus
Life	\$500,000	\$1,000,000	\$1,000,000*	\$1,000,000*
Health	250,000	250,000	250,000	250,000
Life and Health	500,000	1,000,000	1,000,000*	1,000,000*
Casualty	500,000	500,000	500,000	500,000
Marine and Transportation	500,000	500,000	500,000	500,000
Property	500,000	500,000	500,000	500,000
Surety	500,000	500,000	500,000	500,000
Title	150,000	150,000	150,000	150,000

C. Until January 1, 1989, a domestic mutual insurer formed prior to January 1, 1968, and while possessing surplus of not less than \$200,000 may be authorized to transact, in addition to the types of insurance it was transacting prior to July 24, 1984, any other additional kinds of insurance authorized by its charter; subject to those minimum required basic surplus amounts applicable as to foreign mutual insurers as contained in the table in paragraph B, if the insurer is to transact life insurance together with any one or more of property, casualty, surety or marine and transportation insurances.

D. Domestic mutual insurers holding a certificate of authority upon January 1, 1989, if otherwise qualified, and possessed of basic surplus in minimum required amounts as contained in the table in this paragraph may continue to be so authorized, provided those insurers continue to possess and maintain unimpaired basic surplus funds as determined in this paragraph and applicable to those lines or kinds of insurance permitted by its certificate of authority immediately prior to January 1, 1989. Upon application by any such insurer and written approval by the superintendent, the insurer's certificate of authority may be extended to permit the writing of other kinds or lines of insurance if the insurer is qualified and possessed of basic surplus funds in amounts contained in the table in this paragraph. A domestic mutual insurer holding a certificate of authority prior to January 1, 1989, but which does not possess and maintain basic surplus in the minimum required amounts contained in the table in this paragraph, may continue to be authorized to transact insurance in this State and to write other kinds or lines of insurance, subject to the approval of the superintendent, as long as it maintains 100% reinsurance and has no liabilities.

For the purposes of this paragraph, any assuming reinsurer must be a corporation which possesses the ability to exercise control of the ceding insurer, must be an insurance company possessed of a certificate of authority to transact the same kinds of insurance in this State as those assumed and shall file a consolidated annual statement as required by section 423.

A health, life and health or multiple line (as described in section 710) insurer may qualify for a certificate of authority to transact a legal services insurance business, as described in chapter 38, if it is otherwise qualified therefor and possesses and thereafter maintains,

in addition to the amounts described in the following table, an additional amount of unimpaired paid-in capital stock, if a stock insurer, or unimpaired basic surplus, if a foreign mutual or reciprocal insurer, of not less than \$500,000.

Kind or Kinds of Insurance	Domestic Mutual Insurers
Life	\$1,000,000
Health	500,000
Life and Health	1,250,000
Casualty	750,000
Marine and Transportation	1,000,000
Property	500,000
Surety	1,000,000
Title	350,000
Multiple Line (as defined in section 710)	1,250,000
Life, and any one or more of Property, Casualty, Surety, Marine and Transportation	2,500,000

E. An insurer which otherwise possesses funds as required under this subsection shall at all times maintain policyholders' surplus, combined paid-in capital stock, if any, and surplus, reasonable in amount, as determined by the superintendent, in relation to the kinds and amount of insurance it has in force, or being written and retained by it, net of applicable reinsurance. In making any such determination, the superintendent shall give due consideration to any applicable standards approved or adopted by the National Association of Insurance Commissioners and to the desirability of substantial uniformity as to such requirements among the respective states.

Sec. 2. 24-A MRSA §709-A is enacted to read:

§709-A. Financial guaranty insurance defined

The term "financial guaranty insurance" includes any insurance under which loss is payable upon proof of occurrence of any of the following events to the damage of an insured claimant or obligee:

1. Failure of any obligor or obligors on any debt instrument or other monetary obligation, including common or preferred stock, to pay when due the principal, interest, dividend or purchase price of the instrument or obligation, whether the failure is the result of a financial default or insolvency and whether or not the obligation is incurred directly or as guarantor by, or on behalf of, another obligor which has also defaulted;

2. Changes in the level of interest rates, whether short term or long term, or in the difference between interest rates existing in various markets;

3. Changes in the rate of exchange of currency, or from the inconvertibility of one currency into another for any reason; or

4. Changes in the value of specific assets, including the residual value of property at the termination of a lease.

Sec. 3. 24-A MRSA §4433, sub-§1, ¶D, as enacted by PL 1969, c. 561, is amended to read:

D. Marine and transportation insurance, as defined in section 708, except for wet marine insurance, as defined in section 708, subsection 2.

Sec. 4. 24-A MRSA §4433, sub-§2, ¶C, as amended by PL 1985, c. 279, §1, is further amended to read:

C. ~~Credit insurance, as defined in section 707, subsection 1, paragraph I; and ;~~

Sec. 5. 24-A MRSA §4433, sub-§2, ¶D, as enacted by PL 1985, c. 279, §1, is amended to read:

D. Insurance contracts procured as surplus lines coverage pursuant to chapter 19: ;

Sec. 6. 24-A MRSA §4433, sub-§2, ¶¶E and F are enacted to read:

E. Title insurance; and

F. Financial guaranty insurance.

Sec. 7. 24-A MRSA §4436, sub-§1, as enacted by PL 1969, c. 561, is amended to read:

1. ~~The workmen's workers'~~ compensation insurance account;

Sec. 8. 24-A MRSA §4438, sub-§1, ¶A, as amended by PL 1985, c. 279, §4, is repealed and the following enacted in its place:

A. Be obligated to pay covered claims existing prior to the determination of the insolvency or arising within 30 days after the determination of insolvency, or before the policy expiration date if less than 30 days after the determination of insolvency, or before the insured replaces the policy or causes its cancellation, if within 30 days of the determination. The obligation shall be satisfied by paying to the claimant an amount as follows:

(1) The full amount of a covered claim for benefits or unearned premium under workers' compensation insurance coverage;

(2) An amount not exceeding \$100,000 per policy for a covered claim for the return of an unearned premium; or

(3) An amount not exceeding \$300,000 per claim for all other covered claims.

In no event is the association obligated to pay a claimant an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises. Notwithstanding any other provisions of this subchapter, a covered claim shall not

include any claim filed with the association after the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer;

Sec. 9. 24-A MRSA §4441, sub-§1, ¶A, as enacted by PL 1969, c. 561, is amended to read:

A. Notify the association of the existence of an insolvent insurer not later than 3 days after he the superintendent receives notice of the determination of the insolvency. The association shall be entitled to a copy of any complaint seeking an order of liquidation with a finding of insolvency against a member insurer which is domiciled in this State at the same time that the complaint is filed with a court of competent jurisdiction; and

Sec. 10. 24-A MRSA §4443, as enacted by PL 1969, c. 561, is repealed and the following enacted in its place:

§4443. Nonduplication of recovery

1. Insurance policy. Any person having a claim against an insurer under any provision in an insurance policy, other than that of an insolvent insurer, which is also a covered claim, shall be required to exhaust first the person's right under the policy. Any amount otherwise payable on a covered claim under this subchapter shall be reduced by the amount of any recovery under the insurance policy.

2. Governmental insurance. Any person having a claim or legal right of recovery under any governmental insurance, which is also a covered claim, shall be required to exhaust first that person's right under that insurance. Any amount payable on a covered claim under this subchapter shall be reduced by the amount of any recovery under that insurance.

3. Insurance guaranty association. Any person having a claim which may be recovered from more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured, except that, if it is a first party claim for damage to property with a permanent location, that person shall seek recovery first from the association of the location of the property, and, if it is a workers' compensation claim, that person shall seek recovery first from the association of the residence of the claimant. Any recovery under this subchapter shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

Sec. 11. 24-A MRSA §4444, sub-§6, as amended by PL 1985, c. 279, §7, is further amended to read:

6. Report. At the request of the superintendent the board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information

available to the association, and submit such report to the superintendent.

Sec. 12. 24-A MRSA §4449, as amended by PL 1985, c. 279, §8, is further amended by adding at the end a new paragraph to read:

The liquidator, receiver or statutory successor of an insolvent insurer covered by this subchapter shall permit access by the board of directors, or its authorized representative, to those records of the insolvent insurer which are necessary for the board to carry out its functions under this subchapter with regard to covered claims. The liquidator, receiver or statutory successor shall provide the board or its representative with copies of these records upon request by the board and at the expense of the board.

Effective August 4, 1988.

CHAPTER 708

H.P. 1555 — L.D. 2115

AN ACT to Make Certain Statutory Changes to Facilitate District Court Judicial Administration.

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

Sec. 1. 4 MRSA §173-A, as repealed and replaced by PL 1987, c. 414, §1, is amended to read:

§173-A. Costs taxable for the State in civil violation or traffic infraction proceedings

Costs in the amount of \$25 shall be automatically taxable for the State in civil violation and traffic infraction proceedings for failure to pay a fine imposed for the commission of a civil violation or traffic infraction within 30 days of entry of judgment or within 30 days of the date fixed for a final installment payment if the fine is to be paid under a plan approved under Title 14, section 3141, subsection 4.

~~This section applies to all judgments imposing fines which remain unpaid and which predate the effective date of this section.~~

Sec. 2. 5 MRSA §4652, as enacted by PL 1987, c. 515, §1, is amended to read:

§4652. Filing of petition

Proceedings under this chapter shall be filed, heard and determined in the District Court or Superior Court of the division or county in which either the plaintiff or the defendant resides. If the plaintiff has left the plaintiff's residence to avoid abuse harassment, the plaintiff may bring an action in the division or county of the plaintiff's previous residence or new residence.