

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
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District Court or the Superior Court of the district or county in which the person resides, or in the district or county in which the violation occurred.

Sec. 3. 33 MRSA §1551, sub-§1-A is enacted to read:

1-A. Owner. "Owner" means any person, corporation, partnership, organization or other legal entity, including a municipality, county or other political subdivision of the State, an agency of the Federal Government and any quasi-governmental entity, which owns or controls historic property.

See title page for effective date.

CHAPTER 172

S.P. 99 - L.D. 118

An Act to Amend the Law Concerning Insurance Cancellation Control

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this Act corrects certain ambiguities in the present law; and

Whereas, it is important to resolve these ambiguities as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 24-A MRSA §2009-A is enacted to read:

§2009-A. Cancellation and nonrenewal of surplus lines coverage

1. Notice. Cancellation and nonrenewal by an insurer of surplus lines coverage subject to this chapter shall not be effective unless received by the named insured at least 14 days prior to the effective date of cancellation or, when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. A postal service certificate of mailing to the named insured at the insured's last known address shall be conclusive proof of receipt on the 5th calendar day after mailing.

2. Exemption. Cancellation and nonrenewal by an insurer of surplus lines coverage subject to this chapter shall not be subject to sections 2908 and 3007.

Sec. 2. 24-A MRSA §2908, sub-§5, ¶A, as enacted by PL 1985, c. 671, §1, is amended to read:

A. Cancellation Except for workers' compensation insurance, cancellation shall not be effective prior to 10 days after receipt by the insured of a notice of cancellation. Notice of cancellation of workers' compensation insurance shall be subject to Title 39, section 23, subsection 1. The notice shall state the effective date of and the reason or reasons for cancellation.

Sec. 3. 24-A MRSA §2908, sub-§§6 and 9, as enacted by PL 1985, c. 671, §1, are amended to read:

6. Any insured who has received a notice of an insurer's intent to cancel a policy may, within 45 days of the receipt of the notice, request a hearing before the superintendent. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence given by the insurer in its notice of cancellation. The burden of proof of the reason for cancellation shall be upon the insurer. The superintendent shall have the authority to order that a policy remain in effect both pending and, if the superintendent finds in favor of the insured, subsequent to a hearing. If the superintendent finds in favor of the insurer at a hearing, the superintendent may order the policy to remain in force for 14 days to allow the insured to obtain other coverage.

9. This section applies to all contracts of casualty insurance, except surplus lines contracts, delivered or issued for delivery in this State, both before and after the effective date of this section. Provisions in this section relating to nonrenewal of policies shall take effect 30 days after the effective date of this section.

Sec. 4. 24-A MRSA §2915, first ¶, as amended by PL 1979, c. 347, §3, is further amended to read:

No notice of cancellation of a policy shall be effective unless received by the named insured at least 20 days prior to the effective date of cancellation, or, ~~where~~ when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. In the event the policy is an automobile physical damage policy, like notice of cancellation shall also be given to any other person mentioned in the loss payable clause. A ~~post office department~~ postal service certificate of mailing to the named insured at ~~his~~ the insured's last known address shall be conclusive proof of receipt on the ~~3rd~~ 5th calendar day after mailing.

Sec. 5. 24-A MRSA §2920, as amended by PL 1979, c. 347, §7, is further amended to read:

§2920. Hearing before superintendent

Any named insured who has received a statement of reason for cancellation, or of reason for an insurer's intent not to renew a policy, may, within 30 days of the receipt of a statement of reason, request a hearing before the Superintendent of Insurance. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence given by the insurer in its reason for cancellation or intent not

to renew. The burden of proof of the reason for cancellation or intent not to renew shall be upon the insurer. The ~~Insurance Superintendent~~ superintendent shall have the authority to order that a policy continue in effect both pending and, if the superintendent finds in favor of the insured, subsequent to a hearing. If the superintendent finds in favor of the insurer at a hearing, the superintendent may order the policy to remain in force for 14 days to allow the insured to obtain other coverage. Acting in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, the ~~Insurance Superintendent~~ superintendent may adopt rules and ~~regulations~~ for carrying out this section.

Sec. 6. 24-A MRSA §3007, sub-§§6 and 9, as enacted by PL 1985, c. 671, §2, are amended to read:

6. Any insured who has received a notice of an insurer's intent to cancel a policy may, within 45 days of the receipt of the notice, request a hearing before the superintendent. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence given by the insurer in its notice of cancellation. The burden of proof of the reason for cancellation shall be upon the insurer. The superintendent shall have the authority to order that a policy remain in force both pending and, if the superintendent finds in favor of the insured, subsequent to a hearing. If the superintendent finds in favor of the insurer at a hearing, the superintendent may order the policy to remain in force for 14 days to allow the insured to obtain other coverage.

9. This section applies to all contracts of property insurance, except surplus lines contracts, delivered or issued for delivery in this State, both before and after the effective date of this section. Provisions in this section relating to nonrenewal of policies shall take effect 30 days after the effective date of this section.

Sec. 7. 24-A MRSA §3050, first ¶, as amended by PL 1979, c. 347, §10, is further amended to read:

No notice of cancellation of a policy shall be effective unless received by the named insured at least 20 days prior to the effective date of cancellation, or, ~~where~~ when the cancellation is for nonpayment of premium, at least 10 days prior to the effective date of cancellation. A ~~post-office department~~ postal service certificate of mailing to the named insured at ~~his~~ the insured's last known address shall be conclusive proof of receipt on the ~~3rd~~ 5th calendar day after mailing.

Sec. 8. 24-A MRSA §3054, as amended by PL 1979, c. 347, §13, is further amended to read:

§3054. Hearing before Superintendent of Insurance

Any named insured who has received a statement of reason for cancellation, or of reason for an insurer's intent not to renew a policy, may, within 30 days of the receipt of a statement of reason, request a hearing before the Superintendent of Insurance. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence used by the insurer in its reason for cancellation or intent not to renew. The burden of proof of the reason for cancellation

or intent not to renew shall be upon the insurer. The ~~Insurance Superintendent~~ superintendent shall adopt rules and ~~regulations~~ for carrying out this section. ~~If the insurer does not meet the burden of proof, the Insurance Superintendent~~ The superintendent shall have the authority to order the policy to continue in effect both pending and, if the superintendent finds in favor of the insured, subsequent to a hearing. If the superintendent finds in favor of the insurer at a hearing, the superintendent may order the policy to remain in force for 14 days to allow the insured to obtain other coverage.

Sec. 9. Report on surplus lines insurance. The Superintendent of Insurance shall report to the Joint Standing Committee on Banking and Insurance by February 1, 1990, concerning surplus lines insurance within the State, including such matters as availability of insurance, practices of insurers with respect to cancellation and nonrenewal and any complaints received by the Bureau of Insurance.

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

Effective May 26, 1989.

CHAPTER 173

H.P. 232 - L.D. 316

An Act Relating to Confidentiality of Investigative Records of Boards and Commissions

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

10 MRSA §8003-B is enacted to read:

§8003-B. Confidentiality of investigative records

1. During investigation. All complaints and investigative records of the licensing boards and commissions within the Department of Professional and Financial Regulation shall be confidential during the pendency of an investigation. Those records shall become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter IV has been issued;

B. The complaint has been listed on a meeting agenda of the board or commission;

C. A consent agreement has been executed; or

D. A letter of dismissal has been issued or the investigation has otherwise been closed.