

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

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

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

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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
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

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

Sec. 1. 35-A MRSA §3132, sub-§2, as amended by PL 1989, c. 60, §3, is further amended to read:

2. Line not resulting from construction or purchase. Except as otherwise provided in subsection 3-A, whenever any electric utility or utilities propose to erect within this State a transmission line capable of operating at 100 kilovolts, or more, and the transmission line does not result from the construction of a generating facility pursuant to this section or the purchase of generating capacity, transmission capacity or energy, the utility or utilities shall file a petition for the approval of the proposed line. The petition is subject to the requirements of subsection 1, paragraphs B and C. The commission shall issue its order within 6 months after the petition is filed unless this period is extended as provided in subsection 1, paragraph D.

At the time of filing of a petition for approval of a proposed line under this section, the utility shall send a copy of the petition by certified mail to the municipal officers of the municipality or municipalities in which the line is to be located.

Sec. 2. 35-A MRSA §3132, sub-§6, as amended by PL 1987, c. 387, §1, is further amended to read:

6. Commission order; certificate of public convenience. In its order, the commission shall make specific findings with regard to the need for the proposed facilities. If the commission finds that a need exists, it shall issue a certificate of public convenience and necessity for the facilities. If the commission orders or allows the erection of the facilities, the order shall be subject to all other provisions of law and the right of any other agency to approve the facilities. The electric utility may submit a petition for and obtain approval of a proposed transmission line under this section before applying for approval under municipal ordinances adopted pursuant to Title 30-A, Part 2, Subpart 6-A; and Title 38, section 438-A. The issuance of a certificate of public convenience and necessity establishes that, as of the date of issuance of the certificate, the decision by the utility to erect or construct was prudent.

See title page for effective date.

CHAPTER 797

H.P. 1627 - L.D. 2249

An Act to Limit the Role of Rating Organizations in Property and Casualty Rate Making

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

Sec. 1. 24-A MRSA §2301, as amended by PL 1977, c. 694, §415, is further amended to read:

§2301. Purpose of chapter; interpretation

The purpose of this chapter is to promote the public welfare by regulating insurance rates, in accordance with the intent of Congress as expressed in Public Law 15 -- 79th Congress, to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate limited cooperative action among insurers in rate-making rate-making related activities and in other matters within the scope of this chapter. Nothing in this chapter is intended to prohibit or discourage reasonable competition, or to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This chapter shall be liberally interpreted to carry into effect this section. Unless otherwise specified, all hearings held under this chapter shall be in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 2. 24-A MRSA §2302-A is enacted to read:

§2302-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. "Commercial lines" means any line of insurance that is not a personal line.

2. "Developed losses" means losses, including loss adjustment expenses, adjusted, using standard actuarial techniques, to eliminate the effect of differences between current payment or reserve estimates and those needed to provide actual ultimate loss and loss adjustment expense payments.

3. "Expense" means that portion of a rate attributable to acquisition, field supervision and collection expenses; general expenses; and taxes, licenses and fees.

4. "Loss trending" means any procedure for projecting developed losses to the average date of loss for the period during which the policies are to be effective.

5. "Personal lines" means homeowners, tenants, private passenger nonfleet automobiles, mobile homes and other property and casualty insurance for personal, family or household needs.

6. "Prospective loss costs" means that portion of a rate that does not include provisions for expenses, other than loss adjustment expenses, or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

7. "Rate" means the cost of insurance per exposure unit, whether expressed as a single number or as a prospective loss cost with an adjustment to account for the treatment of expenses, profit, and individual insurer

variation in loss experience, prior to any application of individual risk variation based on loss or expense considerations, and not including minimum premium.

8. "Supplementary rating information" means any manual or plan of rates, classification rating schedule, minimum premium, policy fee, rating rule, underwriting rule, statistical plan and any other similar information needed to determine the applicable rate in effect or to be in effect.

9. "Supporting information" means:

A. The experience and judgment of the filer and the experience or data of other insurers or advisory organizations relied upon by the filer;

B. The interpretation of any other data relied upon by the filer; and

C. Descriptions of methods used in making rates, and any other information required by the superintendent to be filed.

Sec. 3. **24-A MRSA §2303, sub-§1, ¶¶D and E,** as enacted by PL 1969, c. 132, §1, are repealed.

Sec. 4. **24-A MRSA §2303, sub-§1, ¶¶G to I** are enacted to read:

G. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans that establish standards for measuring variations in hazards or expense provisions, or both. These standards may measure any differences among risks that may have a probable effect upon losses or expenses. No risk classification may be based upon race, creed, national origin or the religion of the insured.

H. The expense provisions included in the rates to be used by an insurer must reflect the operating methods of the insurer and its anticipated expenses.

I. Rates may contain a provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit allowance, consideration must be given to investment income.

Sec. 5. **24-A MRSA §2303, sub-§3,** as enacted by PL 1969, c. 132, §1, is repealed.

Sec. 6. **24-A MRSA §2303, sub-§3-A** is enacted to read:

3-A. Rates made in accordance with this section may be used subject to this chapter.

Sec. 7. **24-A MRSA §2304,** as amended by PL 1989, c. 192, §1, is repealed.

Sec. 8. **24-A MRSA §§2304-A and 2304-B** are enacted to read:

§2304-A. Rate filings

1. Every insurer shall file with the superintendent, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual rate, minimum premium, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing must state the effective date of the filing, and indicate the character and extent of the coverage contemplated. Every such filing must be made not less than 30 days in advance of the stated effective date unless that 30-day requirement is waived by the superintendent. The effective date may be suspended by the superintendent for a period of time not to exceed 60 days.

2. Every insurer must file or incorporate by reference material that has been approved by the superintendent at the time rates are filed, including all supplementary rating, and supporting information to be used in support of or in conjunction with a rate. The information furnished in support of a filing may include or reference:

A. The experience or judgment of the insurer or information filed by an advisory organization on behalf of the insurer as permitted by sections 2321-D and 2321-E;

B. The insurer's interpretation of any statistical data upon which it relies;

C. The experience of other insurers or advisory organizations; or

D. Any other relevant factors.

3. An advisory organization filing of prospective loss costs and supplementary rating information must be filed for approval at least 60 days before it becomes effective. This period may be extended by the superintendent for an additional period not to exceed 60 days if written notice is given to the advisory organization that additional time is needed for the consideration of the filing. Upon written application by the advisory organization, the superintendent may authorize a filing that has been reviewed to become effective before the expiration of the waiting period or any extension of the waiting period. A filing is deemed to meet the requirements of this chapter unless disapproved by the superintendent within the waiting period or any extension of the waiting period.

If the superintendent has requested the advisory organization to furnish the information upon which it supports that filing, the waiting period commences as of the date that information is furnished.

4. When a filing is not accompanied by the information upon which the insurer supports that filing, the

superintendent may require the insurer to furnish the information upon which it supports the filing.

Any filing may be supported by the experience, or judgment if experience is not available, of the insurer or advisory organization making the filing, the experience of other insurers or advisory organizations or any other factors that the insurer or advisory organization determines relevant. A filing and any other supporting information is open to public inspection after the filing becomes effective.

5. Specific inland marine rates on risks specially rated, made by an advisory organization, must be filed with the superintendent, become effective when filed, and are deemed approved and in compliance with the requirements of this chapter until the superintendent rejects the filing.

6. Filings of rates to be utilized in connection with one or more mass marketing plans as defined in section 2932 must clearly identify their applicability to those plans.

7. A rate filing and its supporting data are confidential until the filing becomes effective.

8. Nothing in this chapter requires an advisory organization or its members or subscribers immediately to refile final rates or premium charges previously approved or lawfully in effect. Members or subscribers of an advisory organization are authorized to continue to use rates or premium charges approved or lawfully in effect before the effective date of this chapter.

§2304-B. Reference filings

1. An insurer may satisfy its obligations to make rate filings by becoming a participating insurer of a licensed advisory organization that makes reference filings of advisory prospective loss costs and by authorizing the superintendent to accept reference filings on its behalf. The insurer's rates are the prospective loss costs filed by the advisory organization that have been approved in accordance with section 2321-E combined with the modifications and expense and profit factors filed by the insurer.

2. An insurer may request that its expense and profit factors and its loss cost modifications remain on file with the superintendent. Upon approval of an advisory organization loss cost reference filing, the insurer's rates are the combination of the approved prospective loss costs and the insurer's expense and profit factors and its loss cost modification filed with the superintendent.

3. If an insurer has authorized an advisory organization to file prospective loss cost information on its behalf, the insurer must make a filing with the superintendent pursuant to section 2304-A if it intends to delay, modify or in any way not adopt an approved loss cost filing.

4. An insurer's expense and profit factors and loss cost modifications must remain in effect until the insurer withdraws or refiles new factors pursuant to section 2304-A. The superintendent may request that an insurer provide supporting information for the filed expense and profit factors and loss cost modifications at any time.

Sec. 9. 24-A MRSA §2305, as amended by PL 1973, c. 585, §12, is further amended to read:

§2305. Exemption from filing

Under such rules and regulations as ~~he adopts~~ may be adopted, the superintendent may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and ~~rating~~ advisory organizations affected thereby. The superintendent may make such examination as ~~he deems~~ determined advisable to ascertain whether any rates affected by such order meet the standards set forth in section 2303, subsection 1, paragraph B.

Sec. 10. 24-A MRSA §2306, sub-§1, as amended by PL 1973, c. 585, §12, is further amended to read:

1. If at any time the superintendent has reason to believe that a filing does not meet the requirements of this chapter, or violates any of the provisions of chapter 23, ~~he~~ the superintendent shall, after a hearing held upon not less than 10 days' written notice, specifying the matters to be considered at such hearing, to every insurer and ~~rating~~ advisory organization which made such filing, issue an order specifying in what respects ~~he~~ the superintendent finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of the order shall be sent to every such insurer and ~~rating~~ advisory organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

Sec. 11. 24-A MRSA §2308, sub-§1, ¶A, as enacted by PL 1987, c. 337, is amended to read:

A. The ~~insured insurer~~ files a written application with the superintendent signed by the insured or applicant stating the reasons for the request.

Sec. 12. 24-A MRSA §2309, as amended by PL 1973, c. 585, §12, is further amended to read:

§2309. Rating organizations -- workers' compensation filings for members and subscribers authorized

An insurer may satisfy its obligation to make workers' compensation filings required by ~~section 2304~~ sections 2304-A and 2363 by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the superintendent to

accept such filings on its behalf. Nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

Sec. 13. 24-A MRSA §2310, as amended by PL 1977, c. 694, §§416 and 417, is further amended to read:

§2310. Workers' compensation rating organizations -- licensing

1. No rating organization shall make or file rates for risks located in this State without first being licensed therefor under this chapter.

2. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this State, may make application to the superintendent for license as a workers' compensation rating organization ~~for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application,~~ and shall file therewith with the superintendent as applicable:

A. A certified copy of its constitution, its articles of agreement or association, or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business;

B. A certified list of its members and subscribers;

C. The name and address of a resident of this State upon whom notices or orders of the superintendent or process affecting such rating organization may be served;

D. A statement of its qualifications as a rating organization; and

E. A power of attorney appointing the superintendent to be the true and lawful attorney of such organization in and for this State, upon whom all lawful process in any action or proceeding against the organization, other than an action or proceeding instituted by the superintendent, may be served in the same manner as service of process on insurers under section 422.

3. If the superintendent finds that the applicant is competent, trustworthy and otherwise qualified to act as a workers' compensation rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, ~~he the superintendent shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization~~ the rating organization. At the time of issuance of such license, the superintendent shall establish a biennial continuation date for the purpose of biennial continuation of the license in force. Every such application shall be

granted or denied in whole or in part by the superintendent within 60 days after the ~~same~~ application has been filed ~~with him~~.

4. Licenses issued pursuant to this section shall remain in effect until midnight of the biennial continuation date and thereafter may be continued biennially unless the Administrative Court suspends or revokes the licenses following a complaint filed by the superintendent. The fee for the license and for each biennial continuation thereof shall be as specified in section 601, fee schedule.

5. The superintendent may file a complaint with the Administrative Court seeking the suspension or revocation of licenses issued pursuant to this section in the event any rating organization ceases to meet the requirements of this section.

Sec. 14. 24-A MRSA §2311, as amended by PL 1973, c. 585, §12, is further amended to read:

§2311. Subscribers to workers' compensation rating organizations

1. Subject to rules and regulations which have been approved by the superintendent as reasonable, each workers' compensation rating organization shall permit any insurer to be a subscriber to its rating service for any kind of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its subscribers.

2. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the superintendent at a hearing held upon at least 10 days' written notice to such rating organization and to such subscriber or insurer. If the superintendent finds that such rule or regulation is unreasonable in its application to subscribers, ~~he the superintendent~~ shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within 30 days after it was made, the insurer may request a review by the superintendent as if the application had been rejected. If the superintendent finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, ~~he the superintendent~~ shall order the rating organization to admit the insurer as a subscriber. If ~~he the superintendent~~ finds that the action of the rating organization was justified, ~~he the superintendent~~ shall make an order affirming its action.

Sec. 15. 24-A MRSA §2312, as amended by PL 1973, c. 585, §12, is further amended to read:

§2312. Notice of changes

Every workers' compensation rating organization shall notify the superintendent promptly of every change in its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business, its list of members and subscribers, and the name and address of the resident of this State designated by it upon whom notices or orders of the superintendent or process affecting such rating organization may be served.

Sec. 16. 24-A MRSA §§2313 and 2314, as enacted by PL 1969, c. 132, §1, are amended to read:

§2313. Rules not to affect dividends

No workers' compensation rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

§2314. Technical services

Any workers' compensation rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all subscribers without discrimination.

Sec. 17. 24-A MRSA §2315, as amended by PL 1973, c. 585, §12, is further amended to read:

§2315. Stamping bureau

Any fire insurance ~~rating~~ advisory organization may provide for the examination of its members' and subscribers' policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within 60 days furnish satisfactory evidence to the ~~rating~~ advisory organization of the correction of any error or omission previously called to its attention by the ~~rating~~ advisory organization, the ~~rating~~ advisory organization shall notify the superintendent thereof. All information so submitted for examination shall be confidential.

Sec. 18. 24-A MRSA §2317, as amended by PL 1983, c. 551, §2, is repealed.

Sec. 19. 24-A MRSA §2318, as amended by PL 1973, c. 585, §12, is repealed.

Sec. 20. 24-A MRSA §2319, as amended by PL 1989, c. 467, §1, is further amended to read:

§2319. Appeal by insureds as to filings

1. Any ~~person or organization in interest~~ insured aggrieved with respect to any filing, rate, expense or premium level which is in effect may make written appli-

cation to the superintendent for a hearing thereon, ~~except that the insurer or rating organization that made the filing shall not be authorized to proceed under this section.~~ Any The application shall specify the grounds to be relied upon by the applicant in asserting that the filing, rate, expense or premium level is unjust or unreasonable. The Public Advocate, as appointed under Title 35-A, section 1701, may file a written application under this section only with respect to workers' compensation filings, rates, expenses or premium levels, provided that:

A. Application is made only on behalf of the general body of workers' compensation policyholders, not on behalf of individual policyholders; and

B. No filing is made by the Public Advocate earlier than 180 days from the expiration of the period for appealing a rate filing under section 236.

2. If the superintendent finds that the application is made in good faith, that the applicant would be so aggrieved if the applicant's grounds were established, and that such grounds otherwise justify holding such a hearing, the superintendent shall, by written order, require that the insurer or rating organization prepare within 30 days a responsive filing containing information necessary, in the judgment of the superintendent, to review the application. ~~This~~ For workers' compensation filings, this responsive filing may include all information required pursuant to section 2363, subsections 4 and 5 5-A and such additional information as the superintendent may require pursuant to section 2363, subsection 6.

A. A copy of the superintendent's written order requiring a responsive filing and specifying its contents or determining that no further action on the application is warranted shall be provided to the Public Advocate when the application concerns workers' compensation policies or rates and to the person or organization making the application for relief under subsection 1.

B. A copy of the responsive filing shall be served on the Public Advocate when the application concerns workers' compensation policies or rates and on the applicant. Upon receipt of an order from the superintendent requiring a responsive filing concerning workers' compensation which resulted from an application by the Public Advocate, the insurer or rating organization shall pay to the superintendent a filing fee of \$50,000 which the superintendent shall immediately credit to the Public Advocate. The fee shall be segregated and expended for employing outside consultants and paying other expenses to fulfill the requirements of this section. Any portion of the fee not expended shall be returned to the filer.

C. The public hearing shall be conducted no fewer than 30 days and no more than 60 days from the date the responsive filing is determined complete by the superintendent, unless the superintendent

extends these limits pursuant to section 2363, subsection 6 in workers' compensation cases.

3. If, after such a hearing, the superintendent finds that the filing, rate, expense or premium level does not meet the requirements of this chapter, the superintendent shall issue a final order specifying in what respects the superintendent finds that the filing fails to meet the requirements of this chapter, or is unjust and unreasonable, and stating when, within a reasonable period thereafter, the filing, rate, expense or premium level shall be changed, replaced or determined no longer effective. Copies of the order shall be sent to the applicant and to every insurer and rating or advisory organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

Sec. 21. 24-A MRSA §2320, as amended by PL 1973, c. 585, §12, is further amended to read:

§2320. Information furnished insureds; hearings and appeals of insureds

1. Every rating organization, advisory organization and every insurer ~~which makes its own rates~~ shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate, a prospective loss cost or supplementary rating information made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

2. Every rating organization, advisory organization and every insurer ~~which makes its own rates~~ shall provide within this State reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or ~~by his~~ through an authorized representative, on ~~his~~ written request to review the manner in which such rating system has been applied in connection with the insurance afforded ~~him~~ that person. If the rating organization, advisory organization or insurer fails to grant or reject such request within 30 days after it is made, the applicant may proceed in the same manner as if ~~his~~ that application had been rejected. Any party affected by the action of such rating organization, advisory organization or such insurer on such request may, within 30 days after written notice of such action, appeal to the superintendent, who, after a hearing held upon not less than 10 days' written notice to the appellant and to such rating organization, advisory organization or insurer, may affirm or reverse such action.

Sec. 22. 24-A MRSA §2321, as amended by PL 1973, c. 585, §12, is repealed.

Sec. 23. 24-A MRSA §§2321-A to 2321-E are enacted to read:

§2321-A. Licensing advisory organizations

1. No advisory organization may provide any service relating to the rates of any insurance subject to this

chapter, and no insurer may utilize the services of that organization for those purposes unless the organization has obtained a license under subsection 3, paragraph C.

2. No advisory organization may refuse to supply any services for which it is licensed in this State to any insurer authorized to do business in this State and offering to pay the fair and usual compensation for the services.

3. The licensing of advisory organizations is governed by the following.

A. An advisory organization's application for a license must include:

(1) A copy of its constitution, charter, articles of organization, agreement, association or incorporation, and a copy of its bylaws, plan of operation and any other rules or regulations governing the conduct of its business;

(2) A list of its members and subscribers;

(3) The name and address of one or more residents of this State upon whom notices, process affecting it, or orders of the superintendent may be served;

(4) A statement showing its technical qualifications for acting in the capacity for which it seeks a license;

(5) A biography of the ownership and management of the organization; and

(6) Any other relevant information and documents that the superintendent may require.

B. Every organization which has applied for a license must notify the superintendent of every material change in the facts or in the documents on which its application was based. Any amendment to a document filed under this section must be filed at least 30 days before it becomes effective.

C. If the superintendent finds that the applicant and the natural persons through whom it acts are competent, trustworthy and technically qualified to provide the services proposed, and that all requirements of the law are met, the superintendent shall issue a license specifying the authorized activity of the applicant. The superintendent may not issue a license if the proposed activity would tend to create a monopoly or to lessen substantially the competition in any market.

D. The superintendent may at any time, after hearing, revoke or suspend the license of an advisory organization that does not comply with the requirements and standards of this section.

§2321-B. Insurers and advisory organizations; prohibited activity**1. No insurer or advisory organization may:**

A. Attempt to monopolize, or combine or conspire with any other person to monopolize an insurance market; or

B. Engage in a boycott, on a concerted basis, of an insurance market.

2. No insurer may agree with any other insurer or with an advisory organization to mandate adherence to or to mandate use of any rate, rating plan, rating schedule, rating rule, policy or bond form, rate classification, rate territory, underwriting rule, survey, inspection or similar material, except as needed to develop statistical plans permitted by section 2323.

A. The fact that 2 or more insurers, whether or not members or subscribers of an advisory organization, use consistently or intermittently the same rates, rating plans, rating schedules, rating rules, policy or bond forms, rate classifications, rate territories, underwriting rules, surveys or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.

B. Two or more insurers having a common ownership or operating in this State under common management or control may act in concert between or among themselves with respect to any matters pertaining to those activities authorized in this chapter as if they constituted a single insurer.

3. No insurer or advisory organization may make any arrangement with any other insurer, advisory organization, or other person that has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance.

§2321-C. Advisory organizations; prohibited activity

In addition to the other prohibitions described in section 2321-B, except as specifically permitted under section 2321-D, no advisory organization may compile or distribute recommendations relating to rates that include profit or expenses other than loss adjustment expenses.

§2321-D. Advisory organizations; permitted activity

An advisory organization, in addition to other activities not prohibited, is authorized on behalf of its members and subscribers to:

1. Develop statistical plans including territorial and class definitions;

2. Collect statistical data from members, subscribers or any other source;

3. Prepare and distribute prospective loss costs;

4. Prepare and distribute factors, calculations or formulas pertaining to classification, territory, increased limits and other variables;

5. Prepare and distribute manuals of rating rules and rating schedules that do not include final rates, expense provisions, profit provisions or minimum premiums;

6. Distribute information that is required or directed to be filed with the superintendent;

7. Conduct research and on-site inspections in order to prepare classifications of public fire defenses;

8. Consult with public officials regarding public fire protection as it would affect members, subscribers and others;

9. Conduct research and collect statistics in order to discover, identify and classify information relating to causes or prevention of losses;

10. Prepare policy forms and endorsements and consult with members, subscribers and others relative to their use and application;

11. Conduct research and on-site inspections for the purpose of providing risk information relating to individual structures;

12. Collect, compile and distribute past and current prices of individual insurers, and publish such information;

13. File final rates, at the direction of the superintendent, for residual market mechanisms; and

14. Furnish any other services, as approved or directed by the superintendent, related to those enumerated in this section.

§2321-E. Filing of prospective loss costs and supplemental information

Advisory organizations may develop and file with the superintendent for approval prospective loss costs and supplementary rating information. Such filings shall contain the statistical data and supporting information for calculations or assumptions underlying the prospective loss costs. Advisory organization filings are subject to the provisions of sections 2303, 2304-A and 2304-B.

Sec. 24. 24-A MRSA §2322, as amended by PL 1973, c. 585, §12, is repealed.

Sec. 25. 24-A MRSA §2322-A is enacted to read:

§2322-A. Joint underwriting, joint reinsurance pool and residual market activities

1. Notwithstanding section 2321-B, subsection 2 and consistent with sections 2325, 2325-A and 2366,

insurers, rating organizations and advisory organizations participating in joint underwriting, joint reinsurance pools or residual market mechanisms may, in connection with such activity, act in cooperation with each other in the making of rates, rating systems, policy forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss and expense statistics or other information, or conducting research. Joint underwriting, joint reinsurance pools and residual market mechanisms are not considered to be advisory organizations.

2. Insurers, joint underwriters, joint reinsurance pools and residual market activities are regulated as follows.

A. Except to the extent modified by this section, insurers, joint underwriting, joint insurance pool and residual market mechanism activities are subject to the other provisions of chapters 23 and 25.

B. If, after hearing, the superintendent finds that any activity or practice of an insurer participating in joint underwriting or a pool is unfair, is unreasonable, will tend to lessen competition in any market or is otherwise inconsistent with the provisions or purposes of this chapter, the superintendent may issue a written order and require the discontinuance of such activity or practice.

Sec. 26. 24-A MRSA §2323, sub-§1, as amended by PL 1977, c. 694, §418, is further amended to read:

1. The superintendent, acting pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, ~~shall may~~ promulgate reasonable rules and statistical plans, reasonably adopted to each of the rating systems on file ~~with him~~, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers be made available at least annually in such form and detail as may be necessary to aid ~~him~~ the superintendent in determining whether rating systems comply with the standards set forth in section 2303. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this State and are not susceptible of determination by a prorating of countrywide expense experience. The superintendent may also adopt reasonable rules for companies to use in recording and reporting to the superintendent their rates and other information determined to be necessary or appropriate for the administration of this chapter and the effectuation of its purposes.

Sec. 27. 24-A MRSA §2323, sub-§§3 and 4, as amended by PL 1973, c. 585, §12, are further amended to read:

3. The superintendent may designate one or more rating organizations, advisory organizations or other agencies to assist ~~him~~ in gathering such experience and making compilations thereof, and such compilations shall

~~be made available, subject to reasonable rules promulgated by the superintendent, to insurers and rating organizations a public document.~~

4. Each insurer shall report its loss or expense experience to the lawful rating organization, advisory organization or agency of which it is a member or subscriber, but shall not be required to report its loss or expense experience to any rating organization, advisory organization or agency of which it is not a member or subscriber. Any insurer not reporting such experience to a rating organization, advisory organization or other agency may be required to report such experience to the superintendent. Any report of such experience of any insurer filed with the superintendent shall be deemed confidential and shall not be revealed by the superintendent to any other insurer or other person, but the superintendent may make compilations including such experience.

Sec. 28. 24-A MRSA §2324, sub-§§2 and 3, as amended by PL 1973, c. 585, §12, are further amended to read:

2. In order to further uniform administration of rate regulatory laws, the superintendent and every insurer, advisory organization and rating organization may to the extent consistent with this chapter exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

3. Cooperation among rating organizations ~~or among rating~~ advisory organizations and insurers in activities related to rate making or in other matters within the scope of this chapter is authorized, but the filings resulting from such cooperation are subject to all provisions of this chapter which are applicable to filings generally. The superintendent may review such cooperative activities and practices and if, after a hearing, ~~he~~ the superintendent finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with this chapter, ~~he~~ the superintendent may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with this chapter, and requiring the discontinuance of such activity or practice.

Sec. 29. 24-A MRSA §2325, sub-§2, as amended by PL 1979, c. 423, is further amended to read:

2. Every insurer undertaking to transact in this State the business of automobile and motor vehicle bodily injury, property damage liability, physical damage, and medical payments insurance and every ~~rating~~ advisory organization which files rates for such insurance shall cooperate in the preparation and submission of a plan for the equitable apportionment among insurers of applicants for insurance who are in good faith entitled to, but who are unable to procure through ordinary methods, such insurance. The plan shall provide:

A. Reasonable rules governing the equitable distribution of risks by direct insurance, reinsurance or otherwise and their assignment to insurers;

B. Rates and rate modifications applicable to such risks which shall not be excessive, inadequate or unfairly discriminatory;

C. The limits of liability which the insurer shall be required to assume, except that the maximum amount of physical damage coverage for commercial type vehicles shall be determined by the superintendent based on the current cost of new vehicles but not to exceed a maximum amount of \$100,000; and

D. A method whereby applicants for insurance, insureds and insurers may have a hearing on grievances and the right of appeal to the superintendent.

Sec. 30. 24-A MRSA §2325, sub-§§3 and 5, as amended by PL 1973, c. 585, §12, are further amended to read:

3. The plan referred to in subsection 2 shall be filed in writing with the superintendent. The superintendent shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in subsection 2, paragraphs A, B, C and D. The plan, unless sooner approved in writing, shall be on file for a waiting period of 30 days before it becomes effective. The plan shall be deemed approved unless disapproved by the superintendent within the waiting period.

Subsequent to the waiting period, the superintendent may disapprove the plan on the grounds that it does not meet the requirements set forth in subsection 2, paragraphs A, B, C and D, but only after a hearing held upon not less than 10 days' written notice to every insurer and rating advisory organization affected, specifying the matters to be considered at such hearing, and only by an order specifying in what respect ~~he~~ the superintendent finds that the plan fails to meet such requirements, and stating when within a reasonable period thereafter the plan shall be deemed no longer effective. Such order shall not affect any assignment made or policy issued or made prior to the expiration of the period set forth in the order. Amendments to the plan shall be prepared, filed and reviewed in the same manner as herein provided with respect to the original plan.

5. If, after hearing, the superintendent finds that any activity or practice of any insurer or rating advisory organization in connection with the operation of the plan referred to in subsection 2 is unfair or unreasonable or otherwise inconsistent with this section, ~~he~~ the superintendent may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with this section and requiring the discontinuance of such activity or practice.

Sec. 31. 24-A MRSA §2326, sub-§1, ¶C, as enacted by PL 1969, c. 132, §1, is amended to read:

C. Any rating or advisory organization, or any insurer which will affect the rates or premiums chargeable under this chapter.

Sec. 32. 24-A MRSA §2329, sub-§1, as enacted by PL 1969, c. 132, §1, is repealed.

Sec. 33. 24-A MRSA §2329, sub-§2, as repealed and replaced by PL 1977, c. 694, §420, is amended to read:

2. The superintendent may ~~file a complaint with the Administrative Court seeking to suspend the license, after notice and opportunity for hearing, deny, revoke, suspend or limit the permissible activities of any rating or advisory organization or insurer which fails to comply with an order of the superintendent within the time period provided by the order. No ruling of suspension shall become effective until the time prescribed for an appeal has expired, or if an appeal has been taken, until the order of suspension has been affirmed. The duration of the suspension shall be determined by the Administrative Court pursuant to the authority set forth in Title 4, chapter 25.~~

Sec. 34. 24-A MRSA §2330, as amended by PL 1973, c. 585, §12, is further amended to read:

§2330. Appeals from superintendent

Any insurer, advisory organization or rating organization aggrieved by any order or decision of the superintendent may appeal therefrom as provided in section 236 (~~appeal from the superintendent~~).

Sec. 35. 24-A MRSA §2412, sub-§1, as amended by PL 1987, c. 476, §1, is further amended to read:

1. No basic insurance policy or annuity contract form, or application form when written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, may be delivered, or issued for delivery in this State, unless the form has been filed with and approved by the superintendent. This provision shall not apply to surety bonds, or to specially rated inland marine risks, or to policies, riders, endorsements or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. This provision shall also apply to "other group" insurance policies, as defined in sections 2612-A and 2808, effectuated and delivered outside this State, but covering persons resident in this State. As to group insurance policies issued outside the State to trustee groups pursuant to sections 2606-A and 2806, and to association groups pursuant to sections 2607-A and 2805-A, the group certificate to be delivered

or issued for delivery in this State shall be filed with the superintendent, at least 60 days prior to any solicitation in this State, along with sufficient information concerning the nature of the group, including any trust agreements or association bylaws. The foregoing certificate and information shall be filed for the limited purpose of permitting the superintendent to determine whether the group is a bona fide trustee group, as defined in sections 2606-A and 2806, or a bona fide association group, as defined in sections 2607-A and 2805-A. As to group insurance policies issued to groups, other than those described in this subsection, effectuated and delivered outside this State, but covering persons resident in this State, the group certificates to be delivered or issued for delivery in this State shall be filed, for the superintendent's information only, with the superintendent at his the superintendent's request. As to forms for use in property, marine other than wet marine and transportation insurance, casualty and surety insurance coverages, the filing required by this subsection may be made by rating or advisory organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

Sec. 36. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1990-91

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Bureau of Insurance

Positions	(2)
Personal Services	\$47,120
All Other	2,000
Capital Expenditures	2,000

Provides funds for an additional Senior Rate Analyst and a Clerk Typist III and related expenses.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

TOTAL \$51,120

Sec. 37. Effective date. The effective date of this Act is January 1, 1991.

Sec. 38. Application. This Act does not apply to commercial lines until January 1, 1992.

Effective January 1, 1991.

CHAPTER 798

H.P. 1759 - L.D. 2424

An Act to Amend the Laws Pertaining to the Commission on Biotechnology and Genetic Engineering

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

Sec. 1. 7 MRSA §231, sub-§2, as enacted by PL 1987, c. 805, §2, is amended to read:

2. Organization of commission. The commission shall elect its own chairman chair and such other officers as it determines necessary from among the membership. The commission shall meet at the call of the chairman chair or at the request of any 3 members. ~~Five Six~~ members shall constitute a quorum and any action ~~shall~~ require requires the affirmative vote of the greater of either a majority of those present and voting or at least ~~3 4~~ members. The ~~chairman chair~~ and the any other officers shall ~~serve in such capacities for a period of one year following their elections~~ be elected to one-year terms.

Sec. 2. 7 MRSA §233, sub-§§1 and 5 to 7, as enacted by PL 1987, c. 805, §2, are amended to read:

1. Research. To ~~conduct and~~ encourage research designed to further new and more extensive uses of the resources of the State, and to promote and encourage the advancement of biotechnological research in biotechnology and genetic research engineering;

5. Risks. To assess ~~potential~~ risks to the public, including ~~moral, ethical and social~~ the use of biotechnology and genetic engineering, their products and waste products;

6. Release of products and waste products. To study, analyze and review the adequacy of federal and state laws governing the release of any by-products products and waste products of these industries biotechnology and genetic engineering into the environment, ~~as to their adequacy~~ in safeguarding the public health, safety and welfare and, specifically, whether the relevant laws will prevent releases that will have any substantially deleterious effect on the population or environment of this State;

7. Establish standards. To establish standards for the issuance and renewal of permits for the release into the environment of these ~~by-products~~ products and waste products; and

See title page for effective date.

CHAPTER 799

S.P. 938 - L.D. 2373

An Act to Encourage Local and Regional Health Planning and Provide Research and Technical Assistance Related to Responsibilities of the Maine Health Policy Advisory Council

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