

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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
1991

PUBLIC LAWS
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of the preceding year when taken together with all other dividends or distributions paid after December 31st of the preceding year;

B. Is declared at any time when the insurer has recorded or realized a net operating loss for the period subsequent to December 31st of the preceding year that is equal to or greater than 20% of the insurer's surplus to policyholders as of that preceding December 31st;

C. Is declared at any time when the insurer has realized an aggregate net operating loss over the immediately preceding 12 calendar quarters;

D. Is declared at any time when the insurer has realized a net operating loss in any 8 of the immediately preceding 12 calendar quarters;

E. Is declared at any time when the insurer has, in any one of the previous 3 years, paid a dividend that exceeded the operating gain for the calendar year that preceded the payment; or

F. Is declared at any time within 5 years following any acquisition of control of a domestic insurer or any person controlling such insurer unless the dividend or distribution is approved by a number of continuing directors equal to a majority of the continuing directors in office immediately preceding such acquisition of control.

An extraordinary dividend or distribution that is permissible under statutory terms and conditions in the insurer's state of domicile is deemed to meet the requirements of this subsection if the value of the dividend or distribution does not materially exceed that which would be permissible under this subsection.

See title page for effective date.

CHAPTER 38

H.P. 255 - L.D. 346

An Act to Amend Qualifying Standards Applicable to Reinsurance Transactions

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

24-A MRSA §731-B, sub-§1, ¶C, as enacted by PL 1989, c. 846, Pt. E, §2 and as affected by §4, is amended to read:

C. Maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest.

(1) The assuming insurer shall report annually to the superintendent information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by licensed insurers to enable the superintendent to determine the sufficiency of the trust fund.

(2) In the case of a single assuming insurer, the trust must consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trustee surplus of at least \$20,000,000.

(3) In the case of a group of incorporated insurers under common administration that is under the supervision of the Department of Trade and Industry of the United Kingdom, the group must have aggregate policyholders' surplus of \$10,000,000,000 and the trust must be in an amount equal to the group's several liabilities attributable to business written in the United States. In addition, the group shall maintain a joint trustee surplus of which \$100,000,000 is held jointly for the benefit of the United States ceding insurers of any member of the group. Each member of the group shall make available to the superintendent an annual certification of the member's solvency by that member's domiciliary regulator and the member's independent public accountant. Each group member shall comply with the filing requirements of subparagraph 1, submit to the State's authority to examine the member's books and records, and bear the expense of the examination.

~~(3)~~ (4) In the case of a group of individuals that constitutes a syndicate of unincorporated alien underwriters, the trust must consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, include a trustee surplus of at least \$100,000,000, which must be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall make available to the superintendent an annual certification by the group's domiciliary regulator and ~~is~~ the independent public accountants of the solvency of each underwriter.

~~(4)~~ (5) The trust must be established in a form approved by the superintendent. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the

assuming insurer are subject to examination as determined by the superintendent. The trust must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(5) (6) The trustees of the trust shall report to the superintendent in writing by February 28th of each year, setting forth the balance of the trust and listing the trust's investments at the end of the preceding year and certifying the date of termination of the trust, if so planned, or certifying that the trust does not expire before December 31st of the current year.

(6) (7) The corpus of the trust is to be valued as any other admitted asset or assets; or

See title page for effective date.

CHAPTER 39

H.P. 264 - L.D. 384

An Act to Amend the Juvenile Code Regarding Detention in Homicide Cases

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

15 MRSA §3203-A, sub-§1, ¶C, as enacted by PL 1985, c. 439, §9, is amended to read:

C. In cases under Title 5, section 200-A, the law enforcement officer shall immediately notify the juvenile caseworker and the Department of the Attorney General. The Attorney General or any of his deputies or assistants shall act as and shall possess all the powers and responsibilities of a If the juvenile caseworker specified in this section determines not to order the detention or continued detention of the juvenile in a case under Title 5, section 200-A, the caseworker shall inform the law enforcement officer and the attorney for the State prior to the juvenile's release. The Attorney General or deputy or assistant attorney general, with or without a request from a law enforcement officer, shall consider the facts of the case and consult with the juvenile caseworker who made the initial determination and may order detention or continued detention of the juvenile under the same or any authorized conditions pending the juvenile's initial appearance before the court.

See title page for effective date.

CHAPTER 40

H.P. 322 - L.D. 452

An Act to Amend the Law Regarding the Display of Legislative Plates

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

Whereas, currently, it is unclear whether state officials may combine regular registration plates and special registration plates on the same vehicle; and

Whereas, unless this ambiguity is clarified, certain state officials may be perceived to be in contravention of the law; 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:

29 MRSA §193, first ¶, as amended by PL 1977, c. 78, §166, is further amended to read:

The Secretary of State shall, upon payment of the fees required in sections 109 and 242, subsection 1, paragraph A and application therefor, by Maine Members of the United States Senate, Maine Members of the United States House of Representatives, Members of the Legislature, Representatives of the Indian Tribes at the Legislature, President of the Senate, Speaker of the House, Secretary of the Senate and Clerk of the House, issue one pair of specially designed number plates for one designated motor vehicle owned or controlled by each of the officials named. Upon request by a Maine Member of the United States Senate or by a Maine Member of the United States House of Representatives, the Secretary of State shall issue an additional pair of specially designed number plates for a 2nd designated motor vehicle owned or controlled by that member. ~~Such~~ The Secretary of State shall issue these specially designed plates and their accompanying registration certificate shall be issued to, and used by, the named officials in lieu of the regular plates and registration provided for in section 110 at the option of the named officials. If any of the named officials ~~shall choose~~ chooses to apply for a motor vehicle registration and plates as prescribed in section 110, and also ~~request~~ requests, in addition to the regular registration and plates, ~~that he or she be issued~~ an additional set of specially designed plates together with their accompanying certificates of registration, the Secretary of State shall upon receipt of application and the payment of a fee of \$2 issue ~~such~~ the special plates and registration certificate for ~~such~~