

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,
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J.S. McCarthy Company
Augusta, Maine
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PUBLIC LAWS
OF THE
STATE OF MAINE

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address of the office rendering the certification and be manually executed and dated. The statement must include the actuary's relevant experience, the absence in the engagement of any actual or potential conflict of interest and the actuary's subscription to the code of professional ethics of the Casualty Actuarial Society.

2. Statement content. The actuary's statement must outline the scope of work performed and set out qualifications or limitations respecting the opinion rendered. If the actuary has relied on other persons to test data underlying the actuary's calculations of required reserves, the actuary shall state the names of the persons performing those tests and include the extent of testing required by the actuary as necessary to express an opinion pursuant to subsection 3.

3. Opinion content. An opinion expressed must identify any material changes in assumptions or methods employed in any previous certification. Opinions must state that reserves are calculated in accordance with generally accepted actuarial loss-reserving standards and are stated fairly and in conformity with sound loss-reserving principles based upon policy provisions and that recorded reserves make good and sufficient provision for obligations of the insurer.

§944. Exceptions

Insurers otherwise subject to the requirements of this subchapter are excused from providing a certification of reserves when in any year:

1. Percentage of aggregate writings. Casualty insurance premiums are not more than 20% of annual aggregate writing of premiums subject to this subchapter; and

2. Gross direct premium limitation. Gross direct premiums subject to this subchapter do not exceed \$10,000,000.

§945. Transition period

The certifications required under this subchapter are due on April 1, 1992 and March 1st of each year thereafter.

§946. Required notice

If, subsequent to the date of the required certification, the certifying qualified actuary becomes aware of material facts that alter the report given, the actuary shall promptly notify the insurer, its board of directors and the superintendent.

§947. Rules authorized

The superintendent may adopt rules necessary to effectuate this subchapter.

See title page for effective date.

CHAPTER 129

H.P. 221 - L.D. 312

An Act to Clarify the Powers and Duties of the Department of Administration, through the Bureau of Purchases

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

5 MRSA §1811, sub-§5, as amended by PL 1985, c. 785, Pt. A, §71, is further amended to read:

5. Storerooms. To establish and operate, with the approval of the Commissioner of Administration, ~~such~~ storerooms which, in the judgment of the State Purchasing Agent, are ~~deemed~~ determined necessary for the storage and distribution of supplies, materials and equipment required for use by the State Government or any department or agency thereof, or any political subdivision or school administrative unit;

See title page for effective date.

CHAPTER 130

H.P. 158 - L.D. 243

An Act Regarding the Operation of the Superior Court

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

Whereas, there is a need for the qualifications of chairs of prelitigation screening panels to be broadened under limited circumstances; and

Whereas, a question has arisen regarding the involuntary dismissal of cases pending before prelitigation panels created by Public Law 1985, chapter 804; 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 MRSA §2852, sub-§1, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

1. Creation of panel lists. The Chief Justice of the Superior Court shall recommend to ~~the each~~ clerk of ~~each~~ judicial region of the Superior Court the names of retired justices and judges ~~and~~, persons with judicial experience ~~who~~

~~are residents of the region and other qualified persons to serve on screening panels under this subchapter. The clerk in each judicial region shall place these names on a list from which the Chief Justice of the Superior Court will choose a panel chairman chair under subsection 2.~~

~~The Each clerk of each judicial region of the Superior Court shall maintain lists of health care practitioners, health care providers and attorneys recommended by the professions involved to serve on screening panels under this subchapter.~~

Sec. 2. 24 MRSA §2852, sub-§2, ¶A, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

A. Upon receipt of a notice of claim under section 2853, the clerk of the Superior Court who receives the notice shall notify the Chief Justice of the Superior Court. The Chief Justice shall choose a retired justice or judge or, a person with judicial experience or other qualified person from the list maintained by the clerk to serve as ~~chairman chair~~ of the panel to screen the claim. ~~The Chief Justice shall attempt to choose a chairman who is a resident of the judicial region in which the notice of claim was filed. If no resident chairman is available or appropriate, the Chief Justice shall choose a chairman from the lists maintained by clerks of other judicial regions.~~ If at any time a ~~chairman chair~~ chosen under this paragraph is unable or unwilling to serve, the ~~chief justice~~ Chief Justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a ~~chairman chair~~. Persons other than retired justices and judges or those with judicial experience may be appointed as chair based on appropriate trial experience. In the event that the Chief Justice seeks to appoint as chair a person who is not a retired justice or judge or does not have judicial experience, each side is entitled to exercise one challenge to the appointment of a chair by the Chief Justice.

Sec. 3. 24 MRSA §2853, sub-§8, ¶B, as enacted by PL 1989, c. 827, §3, is repealed and the following enacted in its place:

B. Involuntary dismissal is governed as follows.

(1) On failure of the plaintiff to prosecute or to comply with rules or any order of the chair, and on motion by the chair or any party, after notice to all parties has been given and the party against whom sanctions are proposed has had the opportunity to be heard and show good cause, the chair may order appropriate sanctions, which may include dismissal of the case. If any sanctions are imposed, the chair shall state the sanctions in writing and include the grounds for the sanctions.

(2) Unless the chair or the panel in an order for dismissal specifies otherwise, a dismissal under this paragraph is with prejudice for purposes of proceedings before the panel. A dismissal with

prejudice is deemed to be the equivalent of a finding for the defendant on all issues before the panel.

Sec. 4. 24 MRSA §2853, sub-§9 is enacted to read:

9. Default. In addition to the sanctions set out in subsection 8, paragraph B, the following sanctions may be imposed against a defendant in a case pending before the panel.

A. On failure of a defendant to comply with the rules or any order of the chair, and on motion by the chair or any party, after notice to all parties has been given and the party against whom sanctions are proposed has had the opportunity to be heard and show good cause, the chair may order appropriate sanctions, which may include default. If any sanctions are imposed, the chair shall state the sanctions in writing and include the grounds for the sanctions.

B. Unless the chair or the panel in its order for default specifies otherwise, a default under this paragraph is deemed to be the equivalent of a finding against the defendant on all issues before the panel.

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

Effective May 9, 1991.

CHAPTER 131

S.P. 340 - L.D. 930

An Act to Clarify the Certification of Correspondence Schools

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

Sec. 1. 20-A MRSA §9201, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§9201. Certificate of approval; exemptions

1. Requirement for certificate of approval. Any privately owned post-secondary correspondence school located either within the State or outside the State ~~shall but~~ having a solicitor or agent in this State to recruit students or promote the school and its program must obtain a certificate of approval from the commissioner before soliciting or selling in ~~Maine this State~~ any correspondence course or collecting any tuition, fee or other charge. In addition, each correspondence school shall supply a listing of solicitors authorized by ~~it that school~~ to recruit in ~~Maine this State~~.

1-A. Residence component. A privately owned correspondence school offering courses or programs that require a residence component must be classified as a proprietary