

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

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 332

H.P. 1159 - L.D. 1700

An Act Concerning the Construction of the
Maine Revised Statutes

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

Sec. 1. 1 MRSA §71, sub-§8 is amended to read:

8. **Severability.** The provisions of the statutes are severable. The provisions of any session law are severable. If any provision of the statutes or of a session law is invalid, or if the application of either to any person or circumstance is invalid, such invalidity shall does not affect other provisions or applications which can be given effect without the invalid provision or application. The repeal of a severability clause located in and applicable to any title or a division of a title, chapter, section or Act, must be construed as the removal of surplus language unless the law indicates otherwise.

Sec. 2. 1 MRSA §71, sub-§9-A is enacted to read:

9-A. Shall; must; may. "Shall" and "must" are terms of equal weight that indicate a mandatory duty, action or requirement. "May" indicates authorization or permission to act. This subsection applies to laws enacted or language changed by amendment after December 1, 1989.

See title page for effective date.

CHAPTER 333

H.P. 230 - L.D. 321

An Act Regarding Health Insurance

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

Sec. 1. 24-A MRSA §2731-A is enacted to read:

§2731-A. "Medically necessary mastectomy surgery" defined

"Medically necessary mastectomy surgery" includes removal of breast tissue for medically necessary reasons and, when elected by the patient, the surgery to reconstruct the breast on which surgery has been performed. This medical definition applies to all contracts and policies for medical and health insurance issued under this Title and Title 24.

Sec. 2. 24-A MRSA §2751, sub-§1, as amended by PL 1989, c. 875, Pt. I, §4, is further amended by amending the first paragraph to read:

1. **Proposed mandatory health insurance benefits; impact assessment study.** Whenever a legislative measure containing a mandated health benefit is proposed, the joint standing committee having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among the members of the committee. If no member of the committee votes to support the mandate, the committee may not refer the proposed mandated health benefit to the Mandated Benefits Advisory Commission established by Title 5, section 12004-I, subsection 50. If one or more members of the committee vote for the proposal, the committee shall request that the Mandated Benefits Advisory Commission, established by Title 5, section 12004-I, subsection 50, commission prepare and forward to the Governor and the joint standing committee of the Legislature having jurisdiction over insurance matters, by a certain date, a study that assesses the social and financial effects and the medical efficacy of the proposed mandated benefit and a recommendation for legislative action on the proposal, based on the study. The study may be conducted by the commission or pursuant to a contract with the commission and must analyze information collected from a state data collection system, proponents of the new mandate, the Bureau of Insurance, health planning organizations and other appropriate data sources. For purposes of this section, a mandated health benefit proposal is one that mandates health insurance coverage for specific health services, specific diseases or for certain providers of health care services as part of individual or group health insurance policies. A mandated option is not a mandated benefit for purposes of this section.

See title page for effective date.

CHAPTER 334

H.P. 989 - L.D. 1434

An Act to Amend the Law Regarding Assessment of
Insurers and License Fees under the
Insurance Law

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

Sec. 1. 24 MRSA §2332, first ¶, as enacted by PL 1985, c. 446, §1, is amended to read:

~~There shall be an assessment levied annually by the~~ The Superintendent of Insurance shall levy an assessment annually upon nonprofit hospital or medical service organizations and nonprofit health care plans licensed to do business in this State in proportion to their

respective subscription income derived from business operations in this State during the year ending December 31st immediately preceding the fiscal year for which assessment is made. The annual assessment upon all hospital or medical service organizations and health care plans shall must be applied to the budget of the bureau for the fiscal year commencing July 1st. ~~The~~ For any biennial period, total assessment shall must be in an amount not exceeding .00015 of subscription income. When the superintendent calculates the amount of the annual assessment, ~~he~~ the superintendent shall consider, among other factors, the staffing level required to administer the nonprofit health care regulatory program of the bureau.

Sec. 2. 24 MRSA §2332, sub-§§4 and 5, as enacted by PL 1985, c. 446, §1, are amended to read:

4. Notification of assessment. On or before ~~April 30th~~ July 1st of each year, the superintendent shall notify each nonprofit hospital or medical service organization and health care plan of the assessment due.

5. Time of payment. Payment shall must be made on or before ~~June 1st~~ August 10th.

Sec. 3. 24-A MRSA §237, first ¶, as enacted by PL 1985, c. 446, §2, is amended to read:

The expense of maintaining the Bureau of Insurance shall must be assessed annually by the Superintendent of Insurance against all insurers licensed to do business in this State in proportion to their respective direct gross premium written on business in this State during the year ending December 31st immediately preceding the fiscal year for which assessment is made. The annual assessment upon all insurers shall must be applied to the budget of the bureau for the fiscal year commencing July 1st. ~~The~~ For any biennial period, total assessment shall must be in an amount not exceeding .0015 of total direct premiums written. When the superintendent calculates the amount of the annual assessment, ~~he shall~~ the superintendent must consider, among other factors, the staffing level required to administer the responsibilities of the bureau.

Sec. 4. 24-A MRSA §237, sub-§§4 and 5, as enacted by PL 1985, c. 446, §2, are amended to read:

4. Notification of assessment. On or before ~~April 20th~~ July 1st of each year, the superintendent shall notify each insurer of the assessment due. When an extension of the time of filing an annual statement is granted for good cause by the superintendent pursuant to section 423, subsection 1, the insurer shall must be assessed a provisional amount of \$100. Upon receipt of the insurer's annual statement, the provisional assessment shall must be adjusted to effect a final assessment for the fiscal year at the same rate utilized by the superintendent and which was levied upon all insurers by the general assessment of ~~April 20th~~ July 1st.

5. Time of payment. Payment shall must be made on or before ~~June 1st~~ August 10th.

Sec. 5. 24-A MRSA §601, as amended by PL 1989, c. 846, Pt. D, §1, and affected by Pt. E, §4, is further amended to read:

§601. Fee schedule

The superintendent shall collect in advance, and persons so served shall pay to the superintendent, fees, licenses and miscellaneous charges as follows: .

1. Certificate of authority. Insurer's certificate of authority: fees are:

A. For filing application for initial certificate of authority, including all documents submitted as part of the application. If an applicant requests deferral and new data filings respecting the application are required, a fee in equal amount shall ~~be~~ is required upon the filing of the new information ~~\$750~~ \$1,000;

B. Issuance, and each biennial continuation \$200; and

C. Reinstatement, under section 415 \$350.

2. Charter documents, other than those filed with application for certificate of authority. ~~Charter documents, other than those filed with application for certificate of authority.~~ Filing amendments to certificate of organization, articles or certificate of incorporation, charter, bylaws, power of attorney, as to reciprocal insurers, and other constituent documents of the insurer, each document \$5 ~~\$25~~;

3. Annual statement. Filing annual statement of insurer, payable annually: \$50 ~~\$100~~;

4. Process. Service of process fees are:
Acceptance of service of process \$5 ~~\$25~~;

5. Agents. Agents' licenses and appointments: fees are:

A. Issuance fee for original resident agent license \$20 ~~\$30~~;

B. Appointment of resident agent, each insurer \$20 ~~\$30~~;

Biennial continuation of appointment

Each domestic mutual nonlife insurer \$12 ~~\$16~~;

Each other insurer \$20 ~~\$30~~;

C. Temporary license \$5;
 D. Limited license (section 1531) ~~\$20~~ \$30;
 E. Issuance fee for original nonresident agent license ~~\$40~~ \$50;
 Appointment of such agent, each insurer ~~\$40~~ \$50; and

Biennial continuation of appointment, each insurer ~~\$40~~ \$50.

6. Brokers. Broker licenses: fees are:

A. Issuance fee for original resident broker license \$70;
 Biennial continuation \$70;

B. Issuance fee for original nonresident broker license \$150;
 Biennial continuation \$150;

C. Issuance fee for original surplus lines broker license ~~\$100~~ \$150; and
 Biennial continuation ~~\$100~~ \$150.

7. Consultants. Consultant license fees are:

A. Resident consultant, application for original license and issuance, if issued \$50;
 Biennial continuation \$50;

B. Nonresident consultant, application for original license and issuance, if issued ~~\$100~~ and
 Biennial continuation \$100.

8. Adjusters. Adjuster license: fees are:

A. Issuance fee for original resident adjuster license \$20;
 Biennial continuation \$20;

B. Issuance fee for original nonresident adjuster license \$40;
 Biennial continuation ~~\$40~~ and

C. Temporary license \$5.

9. Examination. Examination for license fees are:

Filing application for each examination, other than consultants \$15; and

Consultants, filing application, each examination \$25.

10. Vending machines. Insurance vending machines fees are:

Filing application for license and issuance, if issued, each machine \$100; and

Biennial continuation of license, each machine \$100.

11. Rating organizations. Rating organizations fees are:

License fee ~~\$50~~ \$100; and

Biennial continuation of license ~~\$100~~ \$200.

12. Road or tourist service. Road or tourist service license fees are:

Issuance fee for original certificate of authority \$300;

Biennial continuation ~~\$40~~ \$70; and

Agent license, biennial continuation 4 \$10.

13. Copies of certificates. Certified copy of insurer certificate of authority or other license issued under this Title ~~2~~ \$10.

14. Copies of other documents. Copies of other documents on file in the bureau: ~~Reasonable~~ reasonable charge as fixed by the superintendent; and for certifying and fixing official seal ~~±~~ \$10

16. Self-insurance authorization. Fees applicable to each self-insurer, individual or group, seeking authorization or authorized to operate a workers' compensation self-insurance plan: ;

A. For filing application for initial authorization, including all documents submitted as part of the application ~~\$300~~ \$1,000;

B. Authorization and each annual continuation ~~100~~ \$300; and

C. Filing yearly report of self-insurer ~~50~~ \$100.

If a self-insurer terminates ~~the~~ the plan or otherwise does not continue to self-insure, the fee applicable to filing of yearly reports ~~shall~~ must apply to that period in which the making of these reports is mandated.

17. Rules, rates and forms filings. Rate filings, rating rules filings, insurance policy, forms, riders, endorsements and certificate filings ~~\$40~~ \$20.

18. Third-party administrators. Third-party administrators license- fees are:

- A. Application fee \$45 ~~\$50~~; and
B. Annual fee \$50 ~~\$100~~.

19. Purchasing group registrations. Purchasing group registration fees are:

- A. Registration fee \$50; and
B. Annual fee \$100.

20. Preferred provider organization. Preferred provider organization fees are:

- A. Application fee \$50; and
B. Annual fee \$100.

Sec. 6. 39 MRSA §29, sub-§§4 to 7, as enacted by PL 1985, c. 446, §5, are amended to read:

4. Notification of assessment. On or before ~~April 1st~~ July 1st, next following receipt of the report from the Maine Self-Insurance Guarantee Association, the Superintendent of Insurance shall notify each self-insurer of the assessment due.

5. Time of payment. Payment ~~shall~~ must be made on or before ~~June 1st~~ August 10th.

6. Revocation or termination. If the assessment is not paid on or before ~~June 1st~~ the prescribed date, the right of any individual or group to continue the option of self-insurance may be revoked or terminated by the Superintendent of Insurance.

7. Recalculation of assessment. Immediately following the close of the fiscal year ending June 30, 1987, and at the close of each 2nd succeeding fiscal year ~~thereafter~~, the Superintendent of Insurance shall recalculate the assessment upon each self-insurer subject to this section. If, in any instance, any assessment paid under this section is based in whole or in part upon annual standard premium estimated in the calendar year utilized for assessment purposes, the recalculation ~~shall~~ must recognize actual audited annual standard premium, as available, for each affected self-insurer. Actual expenditures of the Bureau of Insurance during the preceding fiscal year ~~shall~~ must also be recognized. On or before October 1st, the Superintendent of Insurance shall render to each self-insurer a statement showing the difference between ~~their~~ the self-insurer's respective recalculated assessment and the amount ~~they~~ paid during the preceding ~~fiscal year~~ biennium. Any overpayment of annual assessment resulting from complying with the requirements of this section ~~shall~~ must be refunded or, at the option of the assessed party, applied as a credit against

the assessment for the succeeding fiscal year. Any overpayment of \$100 or less ~~shall~~ must be applied as a credit against the assessment for the succeeding fiscal year.

See title page for effective date.

CHAPTER 335

H.P. 934 - L.D. 1354

An Act Relating to Personal Automobile Insurance

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

24-A MRSA c. 39, sub-c. III is enacted to read:

SUBCHAPTER III

PERSONAL AUTOMOBILE INSURANCE AND RENTAL VEHICLE COVERAGE

§2927. Personal automobile insurance; rental vehicle coverage

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorized driver" means:

(1) The renter;

(2) The renter's spouse, if that person is a licensed driver meeting the rental company's minimum age requirement;

(3) The renter's employer or coworker, if that person is engaged in business activity with the renter and is a licensed driver meeting the rental company's minimum age requirement;

(4) A person who operates the vehicle during an emergency or while parking the vehicle in the course of that person's employment at a commercial establishment; or

(5) A person listed by the rental company on the rental agreement as an authorized driver.

B. "Covered rental agreement" means a written agreement with a term of 45 continuous days or fewer setting forth the terms and conditions governing the use of a covered rental vehicle provided by a rental company.

C. "Covered rental vehicle" means a private passenger motor vehicle rented pursuant to a covered rental agreement, regardless of where that rental vehicle is registered, rented or operated.