

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

tive Council. The report must identify for the immediately preceding month:

- A. Revenues of the department;
- B. Expenditures of the department; and
- C. The difference between the projected revenues and expenditures of the department and the actual revenues and expenditures.

See title page for effective date.

CHAPTER 313

H.P. 1301 - L.D. 1844

An Act to Amend the Professional Service Corporation Act As It Relates to Eye Care Providers

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

Sec. 1. 13 MRSA §705, as amended by PL 1989, c. 613, is further amended to read:

§705. Corporate organization

An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional service within this State may organize and become a shareholder or shareholders of a professional corporation under the corporation laws for the sole and specific purpose of rendering the same and specific professional service. Notwithstanding any other provisions of law, for the purposes of this chapter, osteopathic physicians licensed under Title 32, chapter 36; and physicians and surgeons licensed under Title 32, chapter 48; are considered to render the same professional service. Notwithstanding any other provision of law, for the purposes of this chapter, optometrists licensed under Title 32, chapter 34-A and ophthalmologists licensed under Title 32, chapter 36 or 48 may organize and become the sole shareholders of the same professional corporation under the corporation laws for the sole and specific purpose of rendering their respective professional services that are considered to be complementary to one another.

See title page for effective date.

CHAPTER 314

S.P. 657 - L.D. 1879

An Act Authorizing the Bureau of Insurance to Release Aggregate Ratios of Consumer Complaints to the Public

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

Sec. 1. 24-A MRSA §216, sub-§2, as amended by PL 1989, c. 269, §5, is further amended to read:

2. All records of the bureau ~~shall be~~ are subject to public inspection, except as otherwise expressly provided by law as to particular matters; and except that records, correspondence and reports of investigation in connection with actual or claimed violations of this Title or prosecution or disciplinary action ~~therefor shall be for those violations are~~ confidential. The confidential nature of any such record, correspondence or report ~~shall may~~ not limit or affect use of the same by the superintendent in any such prosecution or action. This subsection ~~shall does~~ not preclude participation by the superintendent in the establishment of an interstate complaint handling system ~~which that~~ may involve the sharing of information with insurance regulatory officials in other jurisdictions and with the National Association of Insurance Commissioners, ~~provided that as long as~~ as long as the names of the complainant and insured remain confidential. This subsection does not preclude the dissemination of aggregate ratios of substantiated consumer complaints to the public by the superintendent. Only complaints received in writing are included in the calculation of the complaint ratio. A complaint received by electronic means is considered a written complaint. A substantiated consumer complaint includes any matter in which the resolution results in a favorable outcome to the consumer, including, but not limited to, the recovery of premium refunds, additional amounts paid on claims or policy reinstatements. A matter in which the actions of an insurer are in violation of this Title is deemed a substantiated complaint. The superintendent shall adopt rules necessary to define the method for calculating complaint ratios. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 2. Rule-making authority. The Superintendent of Insurance has authority to adopt rules in accordance with the Maine Revised Statutes, Title 5, chapter 375 to implement Title 24-A, section 216, subsection 2, as amended by this Act. Such rules must be provisionally adopted and submitted to the Legislature for review as major substantive rules

pursuant to Title 5, chapter 375, subchapter II-A no later than January 1, 1998.

See title page for effective date.

CHAPTER 315

S.P. 439 - L.D. 1385

An Act to Promote Parity in the Regulation of Insurance Sales by Federally and State-chartered Financial Institutions

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

Whereas, state law currently prohibits financial institutions from selling most types of insurance; and

Whereas, this prohibition may not apply to federally chartered financial institutions in light of the unanimous decision of the United States Supreme Court in a March 1996 case entitled Barnett Bank, N.A. v. Nelson; and

Whereas, if the State does not immediately permit state-chartered financial institutions to sell insurance, these banks will be encouraged to convert to federally chartered banks, thereby lessening state oversight and revenues. The lack of parity may also discourage financial institutions from benefiting in the State's economy by locating in this State; and

Whereas, if banks are permitted to sell insurance in the State, those sales should be in accordance with reasonable market regulations in order to protect the consumer; 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. 9-A MRSA §4-102, sub-§§1 and 2, as enacted by PL 1973, c. 762, §1, are amended to read:

1. Except as provided in subsection 2, Parts 1, 2 and 3 of this Article applies apply to insurance provided or to be provided in relation to a consumer credit transaction.

2. The provision on cancellation by a creditor, section 4-304, applies to loans, the primary purpose of

which is the financing of insurance. No other provision of Parts 1, 2 and 3 of this Article applies to insurance so financed.

Sec. 2. 9-A MRSA §4-104, sub-§§1 and 2, as enacted by PL 1973, c. 762, §1, are amended to read:

1. Except as otherwise provided in Parts 1, 2 and 3 of this Article and subject to the provisions on additional charges, section 2-501, and maximum finance charges, Parts 2 and 4 of Article II, a creditor may agree to provide insurance, and may contract for and receive a charge for insurance separate from and in addition to other charges. A creditor need not make a separate charge for insurance provided or required by ~~him~~ that creditor. This Act does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing the business of insurance.

2. The excess amount of a charge for insurance provided for in agreements in violation of Parts 1, 2 and 3 of this Article is an excess charge for the purposes of the provisions of the Article on Remedies and Penalties, Article V, as to effect of violations on rights of parties, section 5-201, and of the provisions of the Article on Administration, Article VI, as to civil actions by the administrator, section 6-113.

Sec. 3. 9-A MRSA §4-106, sub-§2, as enacted by PL 1973, c. 762, §1, is amended to read:

2. If consumer credit insurance otherwise complies with Parts 1, 2 and 3 of this Article and other applicable law, neither the amount nor the term of the insurance nor the amount of a charge therefor is in and of itself unconscionable in the absence of other practices and circumstances.

Sec. 4. 9-A MRSA §4-111, as enacted by PL 1973, c. 762, §1, is amended to read:

§4-111. Cooperation between administrator and Superintendent of Insurance

The administrator and the Superintendent of Insurance are authorized and directed to consult and assist one another in maintaining compliance with Parts 1, 2 and 3 of this Article. They may jointly pursue investigations, prosecute suits and take other official action as may seem to them appropriate, if either of them is otherwise empowered to take the action. If the administrator is informed of a violation or suspected violation by an insurer of Parts 1, 2 and 3 of this Article, or of the insurance laws, rules and regulations of this State, ~~he~~ the administrator shall advise the Superintendent of Insurance of the circumstances.