

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

(3) If the individual requests review by the commission of a notice of debt accrued or seeks relief in a court of proper jurisdiction, and if the Department of Labor receives the request or service of pleadings within 21 days after service of the notice of debt, it shall stay the collection action. The Department of Labor shall accept ordinary mail service of copies of all pleadings, which must be addressed to the Department of Labor representative whose name appears on the face of the notice of debt. Service upon the Department of Labor must be in addition to any other service required under the Maine Rules of Civil Procedure.

(4) Upon receipt of an order to withhold issued by the Department of Labor, the employer or other payor shall immediately begin withholding from the income of the responsible individual 10% of gross wages, except that the amount withheld may not exceed an amount by which the individual's disposable earnings are reduced to a weekly equivalent of 40 times the federal hourly minimum wage prescribed by 29 United States Code, Section 206(a)(1). Sums withheld must be remitted to the Department of Labor within 10 days of the date the individual is paid. Any person who honors an order to withhold issued under this section is discharged from any liability or obligation to the individual for the amount of the wages withheld.

(5) The withholding may be terminated with regard to a current obligation only upon notification by the commissioner.

(6) An employer may not discharge an employee because a lien or order to withhold and deliver has been served against the employee's earnings. An aggrieved employee may maintain a civil action against that employee's employer for violation of this subparagraph.

Sec. 2. 26 MRSA §1051, sub-§8 is enacted to read:

8. Setoff of debts against lottery winnings. Lottery winnings may be offset for benefit payments owed to the commissioner in accordance with this subsection.

A. The commissioner shall periodically notify the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this paragraph as the "bureau," of all persons who owe the Department of Labor an unemployment compensa-

tion debt that has been liquidated by judicial or administrative action. Before paying any state lottery winnings that must be paid directly by the bureau, the bureau shall determine whether the lottery winner is on the list of persons who owe to the State an unemployment compensation debt that has been liquidated by judicial or administrative action. If the winner is on a list of persons who owe unemployment compensation debts, the bureau shall suspend payment of winnings and notify the winner of its intention to offset the winner's unemployment compensation debt against the winnings. The bureau shall notify the winner of the winner's right to appeal to the Commissioner of Labor pursuant to Title 5, chapter 375. The winner must appeal in writing within 15 days of receipt of that notice. The hearing is limited to the questions of whether the debt is liquidated and whether postliquidation events have affected the winner's liability. The decision of the Department of Labor as to the existence of a liquidated debt constitutes final agency action. If, within 90 days of the notice of intended setoff to the winner, the Department of Labor certifies to the bureau that the winner did not make a timely request for hearing or that a hearing was held and the debt was upheld, the bureau shall offset the liquidated debt against the winnings due to the winner. Any remaining winnings are paid to the winner. If the bureau does not hear from the Department of Labor within 90 days of the notice of intended setoff to the winner, the bureau shall release all winnings to the winner.

B. The commissioner shall periodically notify the Tri-state Lotto Commission of all persons who owe the Department of Labor an unemployment compensation debt that has been liquidated by judicial or administrative action.

See title page for effective date.

CHAPTER 435

H.P. 1260 - L.D. 1787

An Act to Authorize Captive Insurance Companies

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

Sec. 1. 24-A MRSA c. 83 is enacted to read:

CHAPTER 83

CAPTIVE INSURANCE COMPANIES

§6701. Definitions

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

1. Affiliated company. "Affiliated company" means any company in the same corporate system as a parent or a member organization by virtue of common ownership, control, operation or management.

2. Association. "Association" means any legal association of individuals, corporations, partnerships or associations, except labor organizations, the member organizations of which collectively:

A. Own, control or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; or

B. Have complete voting control over an association captive insurance company incorporated as a mutual insurer.

3. Association captive insurance company. "Association captive insurance company" means any company that insures risks of the member organizations of the association and their affiliated companies.

4. Captive insurance company. "Captive insurance company" means any pure captive insurance company, association captive insurance company or industrial insured captive insurance company formed or licensed under this chapter.

5. Controlled unaffiliated business. "Controlled unaffiliated business" means a company that:

A. Is not in the corporate system of a parent and affiliated companies;

B. Has an existing contractual relationship with a parent or affiliated company; and

C. Is subject to rules adopted by the superintendent concerning risk management by a parent or affiliated company; however, the superintendent may grant authority over risk management issues by temporary order until rules are adopted.

6. Industrial insured. "Industrial insured" means an insured:

A. Who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer;

B. Whose aggregate annual premium for insurance on all risks totals at least \$25,000; and

C. Who has at least 25 full-time employees.

7. Industrial insured captive insurance company. "Industrial insured captive insurance company" means any company that insures risks of the industrial insureds that comprise the industrial insured group and their affiliated companies.

8. Industrial insured group. "Industrial insured group" means any group that meets either of the following criteria:

A. A group of industrial insureds that collectively:

(1) Owns, controls or holds with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated as a stock insurer; or

(2) Has complete voting control over an industrial insured captive insurance company incorporated as a mutual insurer; or

B. Any group created under the Product Liability Risk Retention Act of 1981, 15 United States Code, Section 3901 et seq., as amended, as a corporation or other limited liability association taxable as a stock insurance company or a mutual insurer under the laws of the State.

9. Member organization. "Member organization" means any individual, corporation, partnership or association that belongs to an association.

10. Parent. "Parent" means a corporation, partnership or individual that directly or indirectly owns, controls or holds with power to vote more than 50% or the outstanding voting securities of a pure captive insurance company.

11. Pure captive insurance company. "Pure captive insurance company" means any company that insures risks of its parent, affiliated companies or controlled unaffiliated businesses, but does not include those insurers that otherwise qualify for a certificate of authority as an insurer.

12. Pure nonprofit captive insurance company. "Pure nonprofit captive insurance company" means a pure captive insurance company formed without capital stock as a nonprofit corporation, whose voting of membership interest is held by a parent organization formed under a nonprofit law or by a nonprofit parent, its or controlled unaffiliated business affiliated companies but does not include those insurers otherwise qualifying for a certificate of authority as an insurer.

§6702. Licensing

1. Authority. A captive insurance company may not engage in the business of insurance in this State unless the company:

A. Obtains a license from the superintendent authorizing the company to do insurance business in this State;

B. Holds at least one meeting of its board of directors each year in this State;

C. Maintains its principal place of business in this State; and

D. Appoints a resident agent to accept service of process and to otherwise act on its behalf in this State.

2. Charter and bylaws. In order to receive a license, a captive insurance company must file with the superintendent a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition and any other statements or documents required by the superintendent.

3. Information required. In addition to the information required by subsection 2, an applicant captive insurance company must file with the superintendent evidence of the following:

A. The amount and liquidity of its assets relative to the risks to be assumed;

B. The adequacy of the expertise, experience and character of the person or persons who will manage it;

C. The overall soundness of its plan of operation;

D. The adequacy of the loss prevention programs of its parent or member organizations, as applicable;

E. The character, reputation, financial standing and purposes of the incorporators;

F. The character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors; and

G. Any other factors determined relevant by the superintendent in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

4. License. If the superintendent is satisfied that the documents and statements filed by the captive insurance company under subsections 2 and 3 comply with this chapter, the superintendent may grant a license authorizing it to do insurance business.

5. Fees. A captive insurance company shall pay filing, issuance, annual continuation and reinstatement fees as provided for domestic insurers pursuant to section 601, subsection 1.

6. Activities. A captive insurance company may engage in the business of the following types of insurance:

A. Casualty insurance as defined by section 707, excluding the direct writing of workers' compensation insurance. Workers' compensation risks may be reinsured by a captive insurer only as provided in section 6711;

B. Marine and transportation insurance as defined by section 708, subsection 1;

C. Marine protection and indemnity insurance, as defined by section 708, subsection 1;

D. Wet marine and transportation insurance as defined by section 708, subsection 2;

E. Property insurance as defined by section 705;

F. Surety insurance as described in section 706;

G. Title insurance as defined by section 709; and

H. Credit life insurance and credit health insurance as defined by section 2853, relating to specific loans or other credit transactions between its parent or affiliated companies and any of their directors, officers and employees.

7. Exceptions. A captive insurance company, when permitted by its articles of association or charter, may apply to the superintendent for a license to provide any insurance described in subsection 6, except that:

A. A pure captive insurance company may not insure any risks other than those of its parent and affiliated companies or controlled unaffiliated businesses;

B. An association captive insurance company may not insure any risks other than those of the member organizations of its association and their affiliated companies;

C. An industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

D. A captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage or any component thereof; and

E. A captive insurance company may not accept or cede reinsurance except as provided in section 6711.

§6703. Names of companies

A captive insurance company may not adopt a name that is the same as, deceptively similar to or likely to be confused with or mistaken for any other existing business name registered in the State.

§6704. Minimum capital

1. Minimum capital. A pure captive insurance company, an association captive insurance company incorporated as a stock insurer or an industrial insured captive insurance company incorporated as a stock insurer may not be issued a license unless the company has and maintains unimpaired paid-in capital of:

A. In the case of a pure captive insurance company, not less than \$100,000;

B. In the case of an association captive insurance company incorporated as a stock insurer, not less than \$400,000; and

C. In the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than \$200,000.

The superintendent may prescribe additional capital based upon the type, volume and nature of insurance business transacted.

2. Letter of credit. The required capital may be in the form of cash, an irrevocable letter of credit issued by a bank chartered in this State or a member bank of the Federal Reserve System or any other security approved by the superintendent.

3. Dividends. A captive insurance company may not pay a dividend out or make any other distribution with respect to capital and surplus in excess of the limitations under section 222 without the prior approval of the superintendent. Approval of an ongoing plan for the payment of dividends or other distributions must be conditioned upon the retention, at the time of each payment, of capital and surplus in excess of amounts specified by, or determined in accordance with formulas approved by, the superintendent.

§6705. Minimum surplus

1. Minimum surplus. A captive insurance company may not be licensed unless the company has and maintains a free surplus of:

A. In the case of a pure captive insurance company, not less than \$150,000;

B. In the case of an association captive insurance company incorporated as a stock insurer, not less than \$350,000;

C. In the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than \$300,000;

D. In the case of an association captive insurance company incorporated as a mutual insurer, not less than \$750,000; and

E. In the case of an industrial insured captive insurance company incorporated as a mutual insurer, not less than \$500,000.

The superintendent may prescribe additional surplus based upon the type, volume and nature of insurance business transacted.

2. Letter of credit. The surplus may be in the form of cash, an irrevocable letter of credit issued by a bank chartered in this State or a member bank of the Federal Reserve System or any other security approved by the superintendent.

3. Dividends. A captive insurance company may not pay a dividend out or make any other distribution with respect to capital or surplus in excess of the limitations under section 222 without prior approval of the superintendent.

§6706. Formation of captive insurance companies in this State

1. Pure captive insurance company. A pure captive insurance company must be incorporated:

A. As a stock insurer with capital divided into shares and held by the stockholders; or

B. As a nonprofit corporation whose votes of membership interest are held by a parent organization formed under a nonprofit law or by such nonprofit parent and its affiliated companies.

2. Association captive insurance company. An association captive insurance company or an industrial insured captive insurance company may be incorporated:

A. As a stock insurer with its capital divided into shares and held by the stockholders; or

B. As a mutual insurer without capital stock, the governing body of which must be elected by the member organizations of its association.

3. Incorporators. A captive insurance company may not have fewer than 3 incorporators, and at least 2 incorporators must be residents of this State.

4. Applicability of chapter 47. To the extent not inconsistent with this chapter, a captive insurance company is subject to the procedures applicable to domestic insurers pursuant to chapter 47. With respect to mergers, consolidations, conversions and mutualizations, the superintendent, in the superintendent's discretion, may waive any public hearing requirement.

5. Issuance of stock. The capital stock of a captive insurance company incorporated as a stock insurer may not be issued at less than par value.

6. Board of directors. At least one of the members of the board of directors of a captive insurance company incorporated in this State must be a resident of this State.

7. Captive insurance company. A captive insurance company formed under this chapter, except for a pure nonprofit captive insurance company, has the privileges granted by and is subject to Title 13-A and this chapter. In the event of conflict between Title 13-A and this chapter, this chapter controls.

8. Pure nonprofit captive insurance company. A pure nonprofit captive insurance company formed under this chapter has the privileges granted by and is subject to Title 13-B and this chapter. In the event of conflict between Title 13-B and this chapter, this chapter controls.

§6707. Financial statements and other reports

1. Financial statement. A captive insurance company shall submit an annual statement of financial condition written according to generally accepted accounting principles and audited by an independent certified public accountant to the superintendent on or before the last day of the 6th month following the end of the company's fiscal year.

2. Annual report. An association captive insurance company or risk retention captive insurance company shall file an annual statement in accordance with statutory accounting practices, which must be a true statement of its financial condition, transactions and affairs as of the immediately preceding December 31st, in general form and context as approved by the National Association of Insurance Commissioners, verified by oaths of at least 2 of the insurer's principal officers.

3. Reserves. The statements required under subsections 1 and 2 must include, but are not limited to, actuarially appropriate reserves for:

A. Known claims and associated expenses;

B. Claims incurred but not reported and associated expenses;

C. Unearned premiums; and

D. Bad debts, reserves for which must be shown as liabilities.

An actuarial opinion regarding reserves for known claims and claims incurred but not reported, and expenses associated with those claims, must be included in the audited statements. The actuarial opinion must be given by a member of the American Academy of Actuaries or other qualified loss reserve specialist as defined in the annual statement adopted by the National Association of Insurance Commissioners.

4. Other reports. The superintendent may prescribe the format and frequency of other reports, which may include, but are not limited to, summary loss reports and quarterly financial statements.

§6708. Examinations and investigations

1. Powers, authorities and duties of superintendent. The powers, authorities and duties relating to examinations and investigations vested in and imposed upon the superintendent pursuant to chapter 3 are extended to and imposed upon the superintendent in respect to examinations of captive insurance companies to the same extent they would otherwise be applicable with respect to domestic insurers.

2. Confidentiality of examinations documents. All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies of any of these produced by, obtained by or disclosed to the superintendent or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and may not be made public by the superintendent or any other person, except to the extent provided in this subsection. The superintendent may grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country or to law enforcement officers of this State or any other state or agency of the Federal Government at any time, as long as the officers receiving the information agree in writing to hold it in a manner consistent with this subsection.

§6709. Grounds and procedures for suspension and revocation of license

1. Grounds for suspension or revocation. The superintendent may suspend or revoke the license of a captive insurance company for any of the following reasons:

A. Insolvency or impairment of capital or surplus;

B. Failure to meet the requirements of section 6704 or 6705;

C. Refusal or failure to submit an annual report required by section 6707 or any other report or statement required by law or by lawful order of the superintendent;

D. Failure to comply with the provisions of the company's charter or bylaws;

E. Failure to submit to examination or any legal obligation as required by section 6708;

F. Refusal or failure to pay the cost of examination required by sections 228 and 6708;

G. Use of methods that, although not otherwise specifically prohibited by law, nevertheless render the company's operation detrimental or the company's condition unsound with respect to the public or to its policyholders;

H. Failure to maintain actuarially appropriate loss reserves as determined by the superintendent, except that the superintendent shall issue at least one warning to the captive insurance company requiring it to correct the problem prior to suspending or revoking the license; and

I. Failure otherwise to comply with the laws of this State.

2. Procedure. Notwithstanding any other law, if the superintendent, upon examination, hearing or other evidence, finds that a captive insurance company has committed any of the acts specified in subsection 1, the superintendent may suspend or revoke the license if the superintendent determines that it is in the best interest of the public and the policyholders of the captive insurance company.

§6710. Legal investments

A captive insurance company is subject to the restrictions on allowable investments provided under chapter 13, except that a pure captive insurance company may petition the superintendent for approval of investments that are not specified in this Title.

§6711. Reinsurance

1. Reinsurance. A captive insurance company may provide reinsurance on risks ceded by any other insurer; however, the ceding of insurance by a domestic insurer may be done only pursuant to section 731-B.

2. Credit for reserves. A captive insurance company may take credit for reserves on risks ceded to a reinsurer, except that a captive insurance company

may not cede risks without the approval of the superintendent.

3. Credit for reserves on risks; adequate security. In addition to reinsurers complying with chapter 9, subchapter III, a captive insurance company may take credit for reserves on risks or portions of risks ceded to a pool, exchange or association acting as a reinsurer that has been authorized by the superintendent. The superintendent may require any other documents, financial information or other evidence that such a pool, exchange or association is able to provide adequate security for its financial obligations. The superintendent may deny authorization or impose any limitations on the activities of a reinsurance pool, exchange or association that, in the superintendent's judgment are necessary and proper to provide adequate security for the ceding captive insurance company and for the protection and benefit of the public.

4. Reinsurance of workers' compensation risks. A captive insurance company may reinsure workers' compensation risks of a qualified self-insured plan of its parent and affiliated companies to the extent that these risks are insured by an insurance company that meets the standards for acceptance of reinsurance of workers' compensation self-insurance.

§6712. Rating organizations

A captive insurance company is not required to become a member of a rating organization.

§6713. Exemption from compulsory associations

A captive insurance company may not join or contribute financially to any plan, pool, association or guaranty or insolvency fund in this State, and a captive insurance company and its insureds, its parent or any affiliated company or member organization of its association may not receive any benefit from the plan, pool, association or guaranty or insolvency fund for claims arising out of the operations of the captive insurance company.

§6714. Delinquent captive insurers

The provisions of chapter 47 apply to captive insurers.

§6715. Confidential information

All information submitted to the superintendent pursuant to section 6702, subsection 4 is confidential and is not a public record within the meaning of Title 1, chapter 13, subchapter I. Each report or statement filed with the superintendent pursuant to section 6707, except those filed by or with respect to industrial insured groups as defined in section 6701, subsection 8, is confidential and is not a public record within the

meaning of Title 1, chapter 13, subchapter I. The confidential nature of this information does not limit the ability of the superintendent, in the superintendent's discretion, to disclose such information to a public official in another state, as long as the public official agrees in writing to maintain the confidentiality of such information and the laws of the state in which the public official serves designate such information as confidential.

§6716. Redomestication; approval as a domestic captive insurer

1. Procedure. A foreign or alien captive insurance company may become a domestic captive insurance company by:

A. Complying with all of the requirements relating to the organization and licensing of a domestic captive insurance company of the same type and any requirements that the superintendent may adopt by rule;

B. Amending the articles of incorporation or other organizational document to comply with the laws of this State. The document must be restated in its entirety before its submission to the superintendent. Before the amended and restated articles of incorporation or other organizational document is transmitted to the Secretary of State, the foreign or alien captive insurance company shall petition the superintendent to issue a certificate setting forth the superintendent's finding that the redomestication and maintenance of the corporation satisfies paragraph A and will promote the general good of the State. The company's petition must be accompanied by a redomestication fee of \$500. In arriving at the finding, the superintendent shall consider:

(1) The character, reputation, financial standing and purposes of the foreign or alien captive insurance company;

(2) The character, reputation, financial responsibility, insurance experience and business qualifications of the officers and directors; and

(3) Any other aspects the superintendent determines advisable;

C. Transmitting the following to the Secretary of State for filing:

(1) The articles of redomestication including the filing fee as provided by either Title 13-A, section 1401, subsection 16 or Title 13-B, section 1401, subsection 13 and this information required by a new domestic or

domestic nonprofit corporation on a form prescribed by the Secretary of State;

(2) The certificate of general good issued by the superintendent;

(3) The certificate of good standing duly authenticated by the proper officer of the state or country under the laws of which the foreign or alien captive insurance company is incorporated. The certificate may not be dated earlier than 30 days prior to the filing of the articles of redomestication. If the certificate of good standing is in a foreign language, a translation under oath of the translator must accompany the certificate;

(4) Amendments to the articles of incorporation or other organizational document in compliance with the laws of this State; and

(5) The restatement of the articles of incorporation or other organizational document in its entirety; and

D. Stating in the articles of redomestication:

(1) The name of the corporation;

(2) The date of incorporation and state or country of incorporation;

(3) The street address of the principal office in this State;

(4) The names and titles of the officers and directors of the corporation;

(5) A statement that the corporation is moving its domicile from its present state or country to this State;

(6) A statement that redomestication will occur upon filing the articles of redomestication and that the corporation is subject to the laws of this State; and

(7) A statement that copies of the articles of incorporation or other organizational document and any amendments certified by the proper officer of the state or country under the laws of which the corporation is incorporated are attached. If any of these documents are in a foreign language, a translation under oath of the translator must accompany these documents.

2. Licensure. Upon payment to the superintendent of the issuance fee set forth in section 601, subsection 1, the domestic captive insurance company is entitled to the necessary or appropriate certificates and licenses to do business in this State and is subject

to the authority and jurisdiction of this State. A captive insurance company redomesticating into this State need not merge, consolidate, transfer assets or otherwise engage in any other reorganization other than as specified in this section.

3. Rights and privileges; liabilities. Upon redomestication in accordance with this section, the foreign or alien captive insurance company becomes a domestic captive insurance company organized under the laws of this State and has all the rights, privileges, immunities and powers and is subject to all applicable laws, duties and liabilities of a domestic captive insurance company of the same type. The domestic captive insurance company possesses all rights that it had prior to the redomestication to the extent permitted by the laws of this State and is responsible and liable for all the liabilities and obligations that it was subject to prior to the redomestication. All outstanding policies of the captive insurance company remain in full force and effect.

§6717. Redomestication; conversion to foreign insurer

1. Transfer of domicile. A domestic captive insurance company, upon approval by the superintendent, may transfer its domicile to any other jurisdiction in accordance with the laws of that jurisdiction.

2. Notice of intent to transfer required. Before transferring its domicile to any other jurisdiction and before the notice of change in domicile is transmitted to the Secretary of State, the domestic captive insurance company shall deliver to the superintendent a notice of intent to transfer, along with payment of a transfer fee of \$500, and shall petition the superintendent to issue a certificate of transfer.

3. Contents of notice. The notice of change in domicile, the certificate of transfer issued by the superintendent, the proof of redomestication and the filing fee of either \$35 in the case of a company governed by Title 13-A or \$5 in the case of a company governed by Title 13-B must be transmitted to the Secretary of State. The notice of the change in domicile must contain the following:

A. Name of the corporation;

B. Dates that notice of the corporation's intent to transfer domicile from this State was published, once in each of 4 successive weeks in 4 publications in a newspaper of general circulation published in this State;

C. Date of the transfer of its domicile; and

D. State or country to which its domicile will be transferred.

4. Effect of transfer. Upon any transfer authorized pursuant to this section, the captive insurance company ceases to be domiciled in this State, and its corporate or other legal existence in this State ceases upon the issuance of a certificate of discontinuance by the Secretary of State.

§6718. Rules

The superintendent may adopt rules to implement this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

§6719. Laws applicable

An insurance law of this State, other than described or referenced in this chapter, does not apply to a captive insurance company.

§6720. Fees, taxes and assessments

Except as otherwise specified in this chapter, all fees, taxes and assessments as set out in sections 237, 601 and 602 apply to captive insurers in the same manner as they apply to other insurers.

Sec. 2. 36 MRSA §2513-B is enacted to read:

§2513-B. Tax on premiums collected by captive insurers; rate of tax

1. Generally. A captive insurance company shall pay to the State Tax Assessor a tax at a rate of .375 of 1% on the first \$20,000,000, .30 of 1% on the next \$20,000,000, .20 of 1% on the next \$20,000,000 and .075 of 1% of each \$1 thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31st next preceding.

2. Reinsurance. A captive insurance company shall pay to the State Tax Assessor a tax at the rate of .225 of 1% on the first \$20,000,000 of assumed reinsurance premium, .150 of 1% on the next \$20,000,000, .50 of 1% on the next \$20,000,000 and .25 of 1% of each \$1 thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection 1. No reinsurance premium tax is payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if that transaction is part of a plan to discontinue the operations of another insurer and if part of the intent of the parties to that transaction is to renew or maintain that business with the captive insurance company.

3. Maine corporations. When a corporation whose corporate domicile is located in this State forms

a captive insurance company, that captive insurance company shall pay a tax at the rate of 2% on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31st next preceding.

4. Alternative minimum tax. If the aggregate taxes to be paid by a captive insurance company calculated under subsections 1 and 2 amount to less than \$4,000 in any year, that captive insurance company shall pay a tax of \$4,000 for that year.

5. Common ownership. Two or more captive insurance companies under common ownership and control are taxed as though they were a single captive insurance company. For purposes of this subsection, "common ownership and control" means:

A. In the case of stock corporations, the direct or indirect ownership of 80% or more of the outstanding voting stock of 2 or more corporations by the same shareholder or shareholders; and

B. In the case of mutual corporations, the direct or indirect ownership of 80% or more of the surplus and the voting power of 2 or more corporations by the same member or members.

6. Premium tax in lieu of other taxes. Payment by a captive insurance company of the tax imposed by this section is in lieu of all taxes imposed by this Title upon the captive insurance company or upon any subsidiary of that captive insurance company, upon premiums or upon income and in lieu of any franchise, privilege or other taxes measured by income of the captive insurance company or subsidiary.

Sec. 3. 36 MRSA §2515, as amended by PL 1985, c. 783, §13, is further amended to read:

§2515. Amount of tax

In determining the amount of tax due under section 2513 or 2513-B, there shall be deducted by each company shall deduct from the full amount of gross direct premiums; the amount of all direct return premiums thereon, on the gross direct premiums and all dividends paid to policyholders on direct premiums, and the tax shall must be computed by said those companies or their agents.

Sec. 4. 36 MRSA §2518, as amended by PL 1979, c. 378, §19, is further amended to read:

§2518. Neglect to make return; assessment; failure to pay

If any insurance company, captive insurance company or association fails to pay on demand a tax assessed under section 141, subsection 2, paragraph C,

the State Tax Assessor shall certify that failure to the Superintendent of Insurance who shall give notice to the company or association that it ~~shall~~ may not do ~~no~~ any more business in the State. Whoever, after such notice, does business for such company or association ~~shall be~~ is guilty of a Class E crime.

Sec. 5. 36 MRSA §2521-A, as amended by PL 1993, c. 410, Pt. OO, §1, is further amended to read:

§2521-A. Returns; payment of tax

Every insurance company, captive insurance company, association or attorney-in-fact of a reciprocal insurer subject to tax as imposed by this chapter shall on or before the last day of each April, the 25th day of each June and the last day of each October file with the State Tax Assessor on forms prescribed by the State Tax Assessor a return for the quarter ending the last day of the preceding month, except for the month of June, which is for the quarter ending June 30th. These returns may be on an estimated basis, ~~provided that as long as~~ each April and June installment equals at least 35% of the total tax paid for the preceding calendar year or 35% of the total tax to be paid for the current calendar year. The remaining installments must equal 15% of the total tax to be paid for the preceding calendar year or 15% of the total tax to be paid for the current year. An authorized company official shall affirm which elective is selected. Such elective can not be changed during the current calendar year. The final return must be filed on or before March 15th covering the prior calendar year.

At the time of filing such returns, each insurance company, captive insurance company, association or attorney-in-fact of a reciprocal insurer shall pay to the State Tax Assessor the amount of tax shown due.

Insurance companies, captive insurance companies, associations or attorneys-in-fact of a reciprocal insurer with annual tax liability not exceeding \$500 may with approval of the State Tax Assessor file an annual return with payment on the last day of January each year covering the prior calendar year.

Sec. 6. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1997-98	1998-99
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Bureau of Insurance		
Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$42,795	\$54,150
All Other	4,150	5,000

Capital Expenditures	3,000	
TOTAL	\$49,945	\$59,150

Allocates funds for one additional Managing Insurance Examiner position and operating costs necessary to administer regulatory requirements for captive insurance companies.

See title page for effective date.

CHAPTER 436

S.P. 574 - L.D. 1731

An Act to Amend the Election Laws

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

Sec. 1. 21-A MRSA §1, sub-§1, as amended by PL 1995, c. 459, §1, is further amended to read:

1. Absentee voter. "Absentee voter" means a person who qualifies under section ~~751-A~~ 751 to cast an absentee ballot.

Sec. 2. 21-A MRSA §1, sub-§14, as enacted by PL 1985, c. 161, §6, is amended to read:

14. Election official. "Election official" means a warden, ward clerk, deputy warden or election clerk.

Sec. 3. 21-A MRSA §1, sub-§20, as amended by PL 1993, c. 447, §1, is further amended to read:

20. Immediate family. "Immediate family" means a person's spouse, parent, child, sister, brother, steparent, stepchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian or former guardian.

Sec. 4. 21-A MRSA §1, sub-§38, as enacted by PL 1985, c. 161, §6, is amended to read:

38. Registrar. "Registrar" means the registrar, or deputy registrar ~~or the board of registration~~ of voters of a municipality.

Sec. 5. 21-A MRSA §1, sub-§40, as enacted by PL 1985, c. 161, §6, is amended to read:

40. Residence. "Residence" means that place ~~in which a person's habitation is fixed and to which that person, whenever absent, has the intention to return~~

where the person has established a fixed and principal home to which the person, whenever temporarily absent, intends to return.

Sec. 6. 21-A MRSA §1, sub-§48, as enacted by PL 1985, c. 161, §6, is amended to read:

48. Voting district. "Voting district" means an area set off from another in the same municipality for voting purposes. It includes wards and precincts. In a municipality ~~which that~~ has only one voting ~~place~~ district, it means the entire municipality. The first breakdown of a municipality is a ward. Further breakdowns of a municipality are precincts.

Sec. 7. 21-A MRSA §1, sub-§52 is enacted to read:

52. Write-in indicator. "Write-in indicator" means the space provided, in accordance with a particular type of ballot, for marking a write-in vote.

Sec. 8. 21-A MRSA §3, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Immaterial irregularities. Immaterial irregularities include, but are not limited to, misspelling, inclusion or omission of initials and substitution of initials or nicknames for given names.

Sec. 9. 21-A MRSA §4, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 10. 21-A MRSA §23, sub-§1, as amended by PL 1995, c. 459, §2, is further amended to read:

1. Registration and enrollment applications. The registrar shall keep registration, enrollment and changes of enrollment applications and requests in the registrar's office permanently, except that those records must be kept only ~~40~~ 5 years for a voter whose name has been removed from the voting lists of the municipality under sections 161 and 162-A.

Sec. 11. 21-A MRSA §23, sub-§14, as enacted by PL 1985, c. 161, §6, is amended to read:

14. Destruction of records. After the records and other materials have been kept for the required period, they may be destroyed. Posted notices, ~~specimen~~ sample ballots and instruction posters may be destroyed as soon as the election to which they pertain is past.

Sec. 12. 21-A MRSA c. 3, sub-c. I, as amended, is further amended to read:

SUBCHAPTER I

REGISTRAR OF VOTERS