

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Augusta, Maine
2001

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

Sec. 1. 35-A MRSA §3203, sub-§6, as enacted by PL 1997, c. 316, §3, is amended to read:

6. Consumer protection standards; rules. The commission shall establish by rule consumer protection standards and standards to protect and promote market competition in order to protect retail consumers of electricity from fraud and other unfair and deceptive business practices. Notwithstanding Title 32, chapter 69, subchapter V or Title 32, section 4690-A, the commission may provide by rule that a competitive electricity provider may satisfy the requirements of subsection 4-A, paragraph A by obtaining from the customer oral authorization obtained by an independent 3rd party.

Sec. 2. 35-A MRSA §7106, sub-§1, ¶A, as enacted by PL 1997, c. 702, §1, is amended to read:

A. ~~Except~~ Notwithstanding Title 32, chapter 69, subchapter V or Title 32, section 4690-A, subsection 4, and except as otherwise provided by the commission by rule adopted pursuant to subsection 3, ~~no~~ a local or intrastate interexchange carrier may not initiate the change of a customer's local or intrastate carrier unless the change is verified by one of the following methods:

- (1) Written authorization from the customer;
- (2) Toll-free electronic authorization placed from the telephone number that is the subject of the change order; or
- (3) Oral authorization obtained by an independent 3rd party.

Sec. 3. 35-A MRSA §7107, sub-§6, as enacted by PL 1999, c. 59, §1 and affected by §3, is amended to read:

6. Rulemaking. The commission shall adopt rules to implement this section. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. Rules adopted by the commission must at least:

- A. Establish clear standards for interpreting and applying the state-of-mind standard applicable to billing agents who bill on behalf of service providers not properly registered with the commission;
- B. Define types of evidence that constitute sufficient evidence of customer authorization in a manner that imposes the least economic and

technical burdens on customers and service providers; and

C. With regard to direct-dialed telecommunications services, provide that evidence that a call was dialed from the number that is the subject of the charge is sufficient evidence of authorization for the charge for that call.

Notwithstanding Title 32, chapter 69, subchapter V or Title 32, section 4690-A, subsection 4, rules adopted by the commission pursuant to paragraph B may define "sufficient evidence of customer authorization" to include oral authorization obtained by an independent 3rd party.

See title page for effective date.

CHAPTER 72

H.P. 654 - L.D. 854

An Act to Amend the Maine Insurance Code to Adopt Statutory Insurance Accounting Principles

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

Sec. 1. 24 MRSA §2301, sub-§9-A, ¶A, as enacted by PL 1993, c. 702, Pt. A, §1, is amended to read:

A. A corporation subject to this chapter may invest funds in the same manner and to the same extent as domestic mutual insurers under the provisions of Title 24-A, chapter 13-A, ~~except that such a corporation~~ and shall maintain reserves for possible losses or fluctuation in the value of investments as contemplated in Title 24-A, section ~~924~~ 901-A, subsection ~~6~~ 2. Those reserves must comprehend, at a minimum, an asset valuation reserve and an income maintenance reserve calculated by methods that are consistent with standards that have been adopted by the superintendent for management of investment risk by life and health insurers.

Sec. 2. 24 MRSA §2301, sub-§9-A, ¶H, as enacted by PL 1993, c. 702, Pt. A, §1, is amended to read:

H. For corporations subject to this subsection, the following terms have the following meanings.

- (1) "Admitted assets" means those assets owned by the corporation, ~~as defined in~~ recognized pursuant to Title 24-A, section ~~904~~ 901-A, reduced in amount by any ap-

licable provision of this Title or Title 24-A. For purposes of applying the investment limitations of Title 24-A, chapter 13-A, the asset value must be that contained in the annual statement of the corporation as of December 31st of the year next preceding the making of the investment or contained in an audited financial report, as defined in Title 24-A, section 221-A, of more current origin prepared on the basis of statutory accounting principles.

(2) "Subscriber reserves" means those reserves held by the corporation for the protection of subscribers that are the excess of the corporation's assets over its liabilities as set forth in the annual statement of the corporation as of December 31st of the year next preceding the making of the investment or contained in an audited financial report, as defined in Title 24-A, section 221-A, of more current origin prepared on the basis of statutory accounting principles;

Sec. 3. 24 MRSA §2301, sub-§9-C, as enacted by PL 1993, c. 702, Pt. A, §1, is amended to read:

9-C. Health maintenance organizations. A corporation subject to this chapter is not required to maintain separate reserves or surplus with respect to the operations of a health maintenance organization that is not a separate legal entity. All assets of the corporation must be available to pay claims arising from corporate operations, other than with the exception of assets supporting reserves set aside in accordance with a plan for the continuation of benefits to health maintenance organization members under Title 24-A, section 4204, subsection 7 and assets supporting additional reserves as defined in Title 24-A, section 921, must be available to pay claims arising from corporate operations to the extent required by rules adopted by the superintendent pursuant to Title 24-A, section 901-A. A hospital or medical service corporation that establishes and maintains a health maintenance organization not organized as a separate legal entity shall maintain separate accounting for the health maintenance organization;

Sec. 4. 24-A MRSA §222, sub-§2, ¶F, as amended by PL 1999, c. 113, §9, is further amended to read:

F. "Subsidiary" of a specified person means an affiliate controlled by that person, directly or ~~indirectly~~, through one or more intermediaries.

Sec. 5. 24-A MRSA §222, sub-§8, ¶B, as enacted by PL 1975, c. 356, §1, is amended to read:

B. Every insurer subject to registration shall file a registration statement on a form provided by the superintendent, which ~~shall~~ must contain current information about:

- (1) The capital structure, general financial condition, ownership and management of the insurer and of any person controlling the insurer;
- (2) The following transactions currently outstanding between the insurer and its affiliates:

(a) Loans and other investments, and purchases, sales or exchanges of securities of the affiliate by the insurer or of the insurer by its affiliates;

(b) Purchases, sales or exchanges of assets;

(c) Transactions not in the ordinary course of business;

(d) Guarantees or undertakings for the benefit of an affiliate ~~which that~~ result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(e) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles;

(f) Reinsurance agreements ~~covering all or substantially all of one or more lines of insurance of the ceding insurer~~; and

- (3) Other matters concerning transactions between the insurer and any affiliate as may be required by the superintendent;

Sec. 6. 24-A MRSA §901, as amended by PL 1991, c. 828, §21, is repealed.

Sec. 7. 24-A MRSA §901-A is enacted to read:

§901-A. Statutory accounting principles; reserves

1. Principles; admitted assets. In evaluating the financial condition of an insurer, the superintendent shall determine which assets may be recognized as admitted assets, and shall value the insurer's admitted assets and the insurer's liabilities in accordance with recognized statutory accounting principles

as codified by the National Association of Insurance Commissioners or its successor organization and reflected in the association's accounting practices and procedures manual and its successor publications and in any permitted accounting practices approved by the superintendent.

2. Reserve required. If the superintendent finds, in view of the character of investments held by a domestic insurer, that it would be prudent for the insurer to establish a special reserve for possible losses or fluctuations in the value of its investments, including realty holdings acquired by mortgage loan default, the superintendent may permit or require the insurer to establish such a reserve, reasonable in amount, and may require that the reserve be maintained and reported in any statement or report of the financial condition of the insurer.

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

Sec. 8. 24-A MRSA §902, as amended by PL 1987, c. 399, §2, is repealed.

Sec. 9. 24-A MRSA c. 11, sub-c. II, as amended, is repealed.

Sec. 10. 24-A MRSA c. 11, sub-c. IV, as amended, is repealed.

Sec. 11. 24-A MRSA §1110, sub-§1-A, ¶¶A and B, as enacted by PL 1999, c. 715, §4, are amended to read:

A. "Admitted assets" has the same meaning as "assets" as defined in section 901 means assets recognized by the superintendent pursuant to section 901-A.

B. "Aggregate amount of investments" means the aggregate value of those investments as determined under sections 981 to 984, except as provided in section 1157, subsection 5 in accordance with statutory accounting principles pursuant to section 901-A and any rules adopted under that section.

Sec. 12. 24-A MRSA §1131, sub-§1, ¶¶A and B, as repealed and replaced by PL 1987, c. 399, §12, are amended to read:

A. The loan or investment ~~shall~~ must fulfill the requirements of section 1103 and otherwise qualify as a sound investment.

B. No such loan or investment may be represented by:

(1) ~~Any item described in section 902 asset determined to be nonadmitted pursuant to section 901-A or rules adopted under that section;~~

(2) Any loan or investment expressly prohibited under section 1136; or

(3) Agents' balances, or amounts advanced to or owing by agents, except as to mortgage loans and collateral loans to those agents otherwise authorized under this chapter.

Sec. 13. 24-A MRSA §1151-A, sub-§§2 and 3, as enacted by PL 1999, c. 715, §8, are amended to read:

2. Admitted assets. "Admitted assets" means assets that may be allowed in determining the financial condition of an insurer pursuant to sections 901 and 902 recognized by the superintendent pursuant to section 901-A.

3. Aggregate amount of investments. "Aggregate amount of investments" means the aggregate value of those investments, as determined under sections 981 to 984 in accordance with statutory accounting principles pursuant to section 901-A and any rules adopted under that section, except as provided in section 1157, subsection 5.

Sec. 14. 24-A MRSA §1156, sub-§2, ¶H, as amended by PL 1993, c. 313, §27, is further amended to read:

H. Investments that do not qualify or are not permitted under any other paragraph of this subsection; as long as:

(1) After giving effect to any investment made under this paragraph, the aggregate amount of those investments does not exceed 14% of total admitted assets, except that investments made under this paragraph in institutions or property not located within the State may not exceed 10% of total admitted assets; and, if the insurer makes investments described in paragraphs A to G and elects to charge those investments against the quantitative limits in this paragraph instead of the quantitative limits in paragraphs A to G, then the aggregate amount invested under this paragraph in those types of investments may not exceed 5% of total admitted assets for any one of those types of investments;

(2) Investments that are neither interest bearing nor income entitled, including the cost of outstanding bona fide hedging

transactions made under section 1153, subsection 2, are subject to all of the provisions of this paragraph; and the aggregate amount of those investments held at any one time may not exceed 3% of total admitted assets;

(3) The investment limitations contained in this chapter, qualitative or otherwise, ~~may~~ do not apply to loans or investments made or acquired under this paragraph, provided that no loan or investment made or acquired under this paragraph may be represented by any ~~item described in section 902~~ asset determined to be nonadmitted pursuant to section 901-A or rules adopted under that section; any loan or investment expressly prohibited under section 1160; or agents' balances, or amounts advanced to or owing by agents, except as to policy loans, mortgage loans and collateral loans to those agents otherwise authorized under this chapter; or

(4) The insurer shall keep a separate record of all loans and investments made or acquired under this paragraph. Any such loan or investment that, subsequent to the date of making or acquisition, has attained the standard of eligibility and qualifies under any other provision of this chapter may be considered to have been made or acquired under and in compliance with that provision and may no longer be considered to have been made or acquired under this paragraph.

Sec. 15. 24-A MRSA §1157, sub-§5, ¶D, as enacted by PL 1987, c. 399, §14, is amended to read:

D. Investments made or acquired by subsidiaries referred to in paragraph B, subparagraph (1), ~~shall be~~ are considered to be made or acquired directly by the insurer, pro rata, in the case of a subsidiary not wholly owned, and ~~shall~~, to such extent, ~~be~~ are subject to all the provisions and limitations on the making of investments specified in this chapter with respect to investments by the insurer; ~~shall~~ must be valued in accordance with the provisions of ~~sections 981 to 984~~ section 901-A and any other applicable provisions of this Title and any applicable rules adopted by the superintendent; and ~~shall~~ must be located pursuant to section 3408. Those subsidiaries ~~shall be~~ are subject to examination by the superintendent under section 221, subsection 1, and section 222, subsection 1.

Sec. 16. 24-A MRSA §1157, sub-§6, as enacted by PL 1987, c. 399, §14, is amended to read:

6. Valuation of subsidiary stock. In determining the financial condition of an insurer, all investments made directly or indirectly in the stock of its subsidiaries ~~shall~~ must be valued in accordance with section ~~982, subsection 3, and regulations promulgated 901-A and any rules adopted~~ under that section.

Sec. 17. 24-A MRSA §3629, sub-§6, as enacted by PL 1969, c. 132, §1, is repealed.

Sec. 18. 24-A MRSA §3629, sub-§6-A is enacted to read:

6-A. Section 901-A (statutory accounting principles):

Sec. 19. 24-A MRSA §4204, sub-§2-A, ¶D, as corrected by RR 1993, c. 1, §67, is amended to read:

D. The health maintenance organization is financially responsible, complies with the minimum surplus requirements of this section and, among other factors, can reasonably be expected to meet its obligations to enrollees and prospective enrollees.

(1) In a determination of minimum surplus requirements, the following terms have the following meanings.

(a) "Admitted assets" means assets ~~as defined in section 901~~ recognized by the superintendent pursuant to section 901-A. For purposes of this chapter, the asset value is that contained in the annual statement of the corporation as of December 31st of the year preceding the making of the investment or contained in any audited financial report, as defined in section 221-A, of more current origin.

(b) "Reserves" means those reserves held by corporations subject to this chapter for the protection of subscribers. For purposes of this chapter, the reserve value is that contained in the annual statement of the corporation as of December 31st of the preceding year or any audited financial report, as defined in section 221-A, of more current origin.

(2) In making the determination whether the health maintenance organization is financially responsible, the superintendent may also consider:

- (a) The financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used;
- (b) The adequacy of working capital;
- (c) Any agreement with an insurer, a nonprofit hospital or medical service corporation, a government or any other organization for insuring or providing the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the plan;
- (d) Any agreement with providers for the provision of health care services that contains a covenant consistent with subsection 6; and
- (e) Any arrangements for insurance coverage or an adequate plan for self-insurance to respond to claims for injuries arising out of the furnishing of health care services.

See title page for effective date.

CHAPTER 73

S.P. 153 - L.D. 497

An Act to Reduce Noise Pollution

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

Sec. 1. 29-A MRSA §2079-A is enacted to read:

§2079-A. Excessive sound system noise

1. Prohibition. A person may not operate a sound system in a vehicle on a public way at a volume that is audible at a distance of greater than 25 feet and that exceeds 85 decibels or that is greater than is reasonable with due regard to the location of the vehicle and the effect on persons in proximity to the vehicle. It is a prima facie violation of this section if the vehicle is located near buildings and the buildings or windows in the buildings are shaken or rattled by the sound of the sound system.

2. Penalty. Violation of subsection 1 is a traffic infraction for which the following forfeitures must be assessed:

- A. For a first offense, \$50;

- B. For a 2nd offense, \$100; and

- C. For a 3rd or subsequent offense, \$150.

See title page for effective date.

CHAPTER 74

S.P. 140 - L.D. 463

An Act to Authorize the Department of Transportation to Locate and Construct Railroad Lines

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

Sec. 1. 23 MRSA §5071, as enacted by PL 1987, c. 141, Pt. A, §4, is amended by inserting at the end a new paragraph to read:

To carry out its directive to ensure the development and maintenance of safe, efficient and reliable rail transportation, the Department of Transportation may locate and construct railroad lines. The department shall give notice of the location of each such railroad line by publishing a description of the location in a newspaper of general circulation in each county through which the line passes. Before commencing construction, the department shall set a day and time for hearing so that all interested persons have an opportunity to appear. If the department, after hearing, determines to proceed with the construction of the railroad line, the department shall file with the registry of deeds of each affected county a plan of the location of the line defining its course, distance and boundaries. This plan must be kept on file and available to the public at the department's office in Augusta. For the purpose of locating and constructing railroad lines, the department may acquire all necessary property interests through purchase, lease, or condemnation pursuant to section 154.

See title page for effective date.

CHAPTER 75

H.P. 310 - L.D. 388

An Act to Amend Disclosure Reporting Requirements

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

Sec. 1. 1 MRSA §1016-A, first ¶, as amended by PL 1989, c. 734, is further amended to read: