

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**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**  
**2001**

**5. Telephone exemptions.** The commission's activities undertaken pursuant to its authority to grant exemptions to telephone utilities from certain portions of this Title.

**Sec. 3. 35-A MRSA §307-A, first ¶,** as enacted by PL 1997, c. 276, §1 and affected by §4, is amended to read:

The commission may adopt by rule standards and procedures for granting exemptions from all or specified portions of ~~section~~ sections 304 and 307 and for suspending its powers of suspension and investigation under section 310 with respect to a telephone utility, a specified group of telephone utilities or specified services offered by one or a group of telephone utilities. Any determination granting an exemption or suspension pursuant to the rule must be accompanied by a finding that the exemption or suspension will not have a negative impact on competitive markets for the specified services, that the utility or group of utilities does not exercise significant power over pricing in the markets for the specified services and that the determination will not result in unjust or unreasonable rates for any customers in the markets for those services. The commission may limit its determination to specific geographic areas. A utility whose rates or terms and conditions are subject to a determination made pursuant to a rule adopted under this section remains subject to other applicable provisions of this Title and commission rules.

**Sec. 4. 35-A MRSA §507** is enacted to read:

**§507. Exemption for certain telephone utilities**

The commission may adopt by rule standards and procedures for granting exemptions to a telephone utility or a specified group of telephone utilities from all or specified portions of section 504. Any exemption granted pursuant to the rule must be accompanied by a finding that the exemption is in the public interest and will not have a negative impact on competitive markets for telephone services. The commission may limit an exemption to specific geographic areas. A utility granted an exemption pursuant to a rule adopted under this section remains subject to other applicable provisions of this Title and commission rules.

For good cause, as defined by the commission by rule, the commission may revoke any exemption granted pursuant to this section. A revocation may be in whole or in part and may be specific to a single telephone utility or a single utility service.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 5. 35-A MRSA §912, first ¶,** as enacted by PL 1997, c. 276, §2 and affected by §4, is amended to read:

The commission may adopt by rule standards and procedures for granting exemptions to a telephone utility or a specified group of telephone utilities from all or specified portions of this chapter. Any exemption granted pursuant to the rule must be accompanied by a finding that ~~the application of this chapter or portions of this chapter to the telephone utility or group of telephone utilities will not further exemption is in the public interest and will not have a negative impact on competitive markets for telephone services.~~ The commission may limit an exemption to specific geographic areas. A utility granted an exemption pursuant to a rule adopted under this section remains subject to other applicable provisions of this Title and commission rules.

**Sec. 6. 35-A MRSA §1105, first ¶,** as enacted by PL 1997, c. 276, §3 and affected by §4, is amended to read:

The commission may adopt by rule standards and procedures for granting exemptions to a telephone utility or a specified group of telephone utilities from all or specified portions of this chapter. Any exemption granted pursuant to the rule must be accompanied by a finding that ~~the application of this chapter or portions of this chapter to the telephone utility or group of telephone utilities will not further exemption is in the public interest and will not have a negative impact on competitive markets for telephone services.~~ The commission may limit an exemption to specific geographic areas. A utility granted an exemption pursuant to a rule adopted under this section remains subject to other applicable provisions of this Title and commission rules.

See title page for effective date.

---



---

**CHAPTER 138**

**S.P. 511 - L.D. 1630**

**An Act to Permit the Issuance of  
Certain Types of Consumer Credit  
Insurance**

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

**Sec. 1. 9-A MRSA §4-103, sub-§2,** as enacted by PL 1973, c. 762, §1, is amended to read:

**2. "Credit Insurance Act" means ~~the Revised Statutes, Title 24-A, chapter 37.~~**

**Sec. 2. 24-A MRSA §707, sub-§1, ¶N-1** is enacted to read:

N-1. Involuntary unemployment. Insurance against the loss of income due to a permanent or temporary job loss or job change. Involuntary unemployment insurance may include labor dispute coverage. Governmental benefit programs are not considered involuntary unemployment insurance for purposes of this Title; and

**Sec. 3. 24-A MRSA c. 37** is amended by repealing the chapter headnote and enacting the following in its place:

### **CHAPTER 37**

#### **CONSUMER CREDIT INSURANCE**

**Sec. 4. 24-A MRSA §2851**, as repealed and replaced by PL 1999, c. 256, Pt. H, §1, is amended to read:

#### **§2851. Scope of provisions**

All life insurance and all health insurance in connection with loans or other credit transactions are subject to this chapter, except:

**1. Long-term loan.** Insurance in connection with a loan or other credit transaction of more than 15 years' duration;

**2. Isolated transactions.** Insurance issued in an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor; or

**3. Real estate loan.** Insurance in connection with real estate loans when the charge, if any, to the debtor is periodic and not financed;

**4. Casualty insurance.** Insurance issued pursuant to section 707, subsection 1, paragraph I against loss or damage resulting from failure of debtors to pay their obligations to the insured; or

**5. Debt cancellation agreements.** Debt cancellation agreements entered into between financial institutions or credit unions and their debtors.

**Sec. 5. 24-A MRSA §2851-A** is enacted to read:

#### **§2851-A. Short title**

This chapter may be known and cited as the "Consumer Credit Insurance Act."

**Sec. 6. 24-A MRSA §2852**, as enacted by PL 1969, c. 132, §1, is amended to read:

#### **§2852. Purpose; construction**

The purpose of this chapter is to promote the public welfare by regulating consumer credit life insurance and credit health insurance. Nothing in this chapter is intended to prohibit or discourage reasonable competition. This chapter ~~shall~~ must be liberally construed.

**Sec. 7. 24-A MRSA §2853, sub-§§2-A to 2-C** are enacted to read:

**2-A.** "Credit involuntary unemployment insurance" means involuntary unemployment insurance insuring a debtor pursuant to or in connection with a specific loan or other credit transaction.

**2-B.** "Credit property insurance" means property insurance on property that is purchased on credit or pledged as collateral on a loan when the insurance is purchased by or issued to the debtor in connection with that loan or credit transaction.

**2-C.** "Consumer credit insurance" means insurance subject to this chapter under section 2851.

**Sec. 8. 24-A MRSA §2854**, as enacted by PL 1969, c. 132, §1, is amended to read:

#### **§2854. Forms available**

~~Credit life insurance and credit health~~ Consumer credit insurance shall may be issued only in the following forms:

**1. Individual life.** Individual policies of life insurance issued to debtors on the term plan;

**2. Individual accident and health.** Individual policies of health insurance issued to debtors on a term plan, or disability benefit provisions in individual policies of credit life insurance;

**3. Group life.** Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;

**4. Group accident and health.** Group policies of health insurance issued to creditors on a term plan insuring debtors, or disability benefit provisions in group credit life insurance policies to provide such coverage;

**4-A. Individual credit property insurance.** Individual policies of property insurance on property that is purchased on credit or pledged as collateral on a loan when the insurance is purchased by or issued to the debtor in connection with that loan or credit transaction;

**4-B. Group credit property insurance.** Group policies of property insurance on property that is purchased on credit or pledged as collateral on a loan when the insurance is purchased by or issued to the

debtor in connection with that loan or credit transaction;

**4-C. Individual credit involuntary unemployment insurance.** Individual involuntary unemployment policies insuring a debtor pursuant to or in connection with a specific loan or other credit transaction but not including disability insurance policies;

**4-D. Group credit involuntary unemployment insurance.** Group involuntary unemployment policies insuring a debtor pursuant to or in connection with a specific loan or other credit transaction but not including disability insurance policies; or

**5. Combination.** A combination under subsections 1 and 2, or under 3 and 4.

The superintendent may by rules adopted pursuant to section 2865 or chapter 40-A designate other permissible types of consumer credit insurance.

**Sec. 9. 24-A MRSA §2856, sub-§5** is enacted to read:

**5.** For credit involuntary unemployment insurance, benefits must start after a waiting period of not longer than 30 days but need not be retroactive to the first day of unemployment and must have a maximum benefit period of at least 6 months.

**Sec. 10. 24-A MRSA §2857**, as amended by PL 1995, c. 238, §1, is further amended to read:

**§2857. Policy provisions; delivery or disclosure to debtors**

**1. Policy or certificate delivered.** All consumer credit life insurance and credit health insurance shall must be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall must be delivered to the debtor.

**2. Content of policy or certificate.** Each individual policy or group certificate of consumer credit life insurance or credit health insurance must, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor, or, in the case of a certificate under a group policy, the identity by name or otherwise of the debtor; the premium or amount of payment, if a separate identifiable charge is paid by the debtor separately for consumer credit life insurance and credit health insurance; a description of the coverage, including the amount and term of the coverage, and any exceptions, limitations and restrictions, including conditions under which the policy may be terminated, which must be highlighted in bold print; and must state that the benefit is paid to

the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any excess is payable to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate. During the 30 days immediately following the commencement date, the debtor may cancel the insurance and request in writing a full refund of premium for any reason.

**3. When delivered.** The individual policy or group certificate of insurance shall must be delivered to the insured debtor at the time the indebtedness is incurred, except as otherwise provided.

**4. Notice of proposed insurance.** If the individual policy or group certificate of insurance is not delivered to the debtor at the time indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the premium or amount of payment by the debtor, if a separate identifiable charge is made separately for consumer credit life insurance and credit health insurance, the amount, term and a brief description of the coverage provided, shall must be delivered to the debtor at the time such indebtedness is incurred. Failure to comply with the foregoing requirement shall preclude precludes the use of such application as evidence in any action brought against the insured. The copy of the application for, or notice of proposed insurance, shall must refer exclusively to insurance coverage, and shall must be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. The application or notice of proposed insurance shall must state that upon acceptance by the insurer the insurance shall become becomes effective as provided in section 2856.

**5. Risk not accepted.** If the named insurer does not accept the risk, the debtor shall must receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance, an appropriate refund shall must be made.

**Sec. 11. 24-A MRSA §2858, sub-§5**, as amended by PL 1973, c. 585, §12, is further amended to read:

**5. Group certificate filing.** If a group policy of consumer credit life insurance or credit health

insurance has been delivered in this State before September 16, 1961, or has been or is delivered in another state before or after such date, the insurer shall ~~be required to~~ file only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in section 2857, subsections 2 and 4, and such forms shall must be approved by the superintendent, if they conform with the requirements specified in such subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the superintendent.

**Sec. 12. 24-A MRSA §2859**, as amended by PL 1993, c. 149, §§1 to 3, is further amended to read:

**§2859. Premium rates; refunds; accounts credited when insurance not issued**

**1. Rates filed; life and health.** Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the superintendent; however, no upward revision in insurance charges to debtors may be made in connection with closed-end credit ~~which that~~ would apply to debtors whose credit insurance is already in force. In the case of open-end credit, the debtor must be given a 31-day notice prior to an upward revision unless a waiver of that notice is obtained from the superintendent, in which case the notice of the upward revision must be given at the next regular billing cycle. ~~No~~ An insurer ~~shall may not~~ issue any credit life insurance policy or credit health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the superintendent.

**1-A. Rates filed; property and casualty.** All rates charged in connection with credit property insurance or credit involuntary unemployment insurance must be filed in accordance with section 2304-A. An insurer may not issue any credit property insurance or credit involuntary unemployment insurance policy for which the premium rate exceeds those rates then on file with the superintendent.

**1-B. Rating standards.** The superintendent may by rules adopted pursuant to section 2865 or chapter 40-A establish specific rating standards for particular types of consumer credit insurance.

**2. Refund.** Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall must be paid or credited promptly to the debtor. The superintendent shall prescribe a minimum refund and no refund ~~which that~~ would be less than such minimum need be made. The

formula to be used in computing such refund shall must be filed with and approved by the superintendent.

**3. Accounts credited where insurance not issued.** If a creditor requires a debtor to make any payment for consumer credit life insurance or credit health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

**4. Termination.** Any policy for consumer credit insurance issued subsequent to the enactment of this section shall must contain a provision that the insurance provided for may ~~only~~ be terminated under only the following conditions:

A. The date the indebtedness is discharged, renewed or refinanced;

B. Upon written request of a debtor;

C. When a debtor is insured under an individual or group policy, nonpayment by such a debtor of any required premium over 31 days past due, provided that at least 10 days prior to termination the debtor has been given a notice of the right to cure in substantially the same form required by Title 9-A, section 5-110, subsection 3;

D. In the case where debtors are insured under group policies, the group policy may be terminated after 31 days prior notice to the debtor from the creditor;

(1) In a noncontributory policy, at the option of the creditor;

(2) At the time the insurance risk is transferred to a succeeding insurance carrier; or

(3) If the group policyholder fails to pay the premium; ~~or~~

E. In the case where credit is extended on open-ended basis:

(1) At attainment by the debtor of an age determined in advance by the contract of insurance; or

(2) If the creditor elects to terminate all insurance on credit extended on an open-ended basis;

F. If credit is extended on a closed-end basis, coverage for an individual insured under the policy may be terminated upon expiration of the term of the loan or term for which a charge was paid; or

G. When consumer credit insurance is paid for by the debtor in a single premium at the inception of the debt, if the debt is placed in charged-off status by the creditor because the debt is uncollectible, the insurance coverage may be terminated by the creditor and any refund of premium must be applied against any outstanding indebtedness. The creditor shall give notice of the termination of insurance coverage to the debtor at the debtor's last known address.

**Sec. 13. 24-A MRSA §2860**, as amended by PL 1973, c. 585, §12, is further amended to read:

**§2860. Authorized insurer, agent required**

All policies of consumer credit life insurance and credit health insurance shall ~~may~~ be delivered or issued for delivery in this State only by an insurer authorized to transact such insurance therein, and shall ~~may~~ be issued only through holders of licenses or authorizations issued by the superintendent.

**Sec. 14. 24-A MRSA §2861, sub-§2**, as enacted by PL 1969, c. 132, §1, is amended to read:

2. The amount charged to a debtor for any consumer credit life or credit health insurance shall ~~may~~ not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.

**Sec. 15. 24-A MRSA §2865** is enacted to read:

**§2865. Rulemaking**

The superintendent may adopt rules establishing specific requirements and procedures for consumer credit insurance policies, certificates of coverage and rates, consistent with the purposes of this chapter. These rules may specify additional types of consumer credit insurance that may be issued on an individual basis or, pursuant to chapter 40-A, on a group basis. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

**Sec. 16. 24-A MRSA c. 40-A** is enacted to read:

**CHAPTER 40-A**

**GROUP PROPERTY AND CASUALTY INSURANCE**

**§2951. Group property and casualty insurance**

**1. Group coverage permitted.** The following lines of property and casualty insurance may be written on a group basis, subject to the requirements of this section and other applicable law:

A. Liability insurance issued to a risk purchasing group in compliance with chapter 72-A;

B. Credit involuntary unemployment insurance issued to a debtor group in compliance with chapter 37; and

C. Other lines of insurance designated by the superintendent in compliance with rules adopted pursuant to section 2953.

**2. Terms of coverage.** A policy must provide insured group members with terms of coverage that are no less favorable to the insured than would be required for comparable nongroup policies, at rates consistent with the requirements of this Title.

**3. Certificate of coverage.** An insured group member must be issued a certificate of coverage adequately describing that insured's rights and responsibilities under the group policy in a manner satisfactory to the superintendent, delivered in the same time and manner as is required for the delivery of comparable nongroup policies.

**§2952. Termination of coverage**

Cancellation and nonrenewal of group policies and of coverage of group members under group policies are governed by this section.

**1. Involuntary termination.** Involuntary termination of the group policy is governed by section 2908. Individual insureds do not have standing to contest cancellation or nonrenewal of the group policy unless they have the right to represent the group policyholder.

**2. Prior notice of involuntary termination of coverage.** Except as otherwise provided in this section, individual insureds have the same rights to prior notice before involuntary termination of coverage and opportunity for hearing before the superintendent to contest the termination as would be available under the cancellation control laws applicable to comparable nongroup policies.

**3. Termination of group policy.** Termination of the group policy, whether voluntary or involuntary, is a valid ground for termination of coverage for all group members, if adequate notice to group members has been given in accordance with subsection 2.

**4. Termination of group membership.** Termination of group membership is a valid ground for termination of the member's coverage under a group policy, if the certificate of coverage so provides. If the certificate of coverage gives adequate notice that coverage ceases immediately upon voluntary withdrawal from the group, no further advance notice is

required as a condition precedent to the termination of coverage.

**5. Continued coverage.** An insurer's obligation to issue or offer continued coverage to a group member under this chapter may be satisfied by the issuance or offer of a comparable nongroup policy.

### **§2953. Rulemaking**

The superintendent may adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A, establishing specific requirements and procedures for group property and casualty policies, certificates of coverage and rates, consistent with the purposes of this chapter. These rules may specify additional types of insurance that may be issued on a group basis and the types of groups that may be policyholders, if the superintendent determines that the issuance of multiple individual policies to group members in accordance with chapter 40 does not adequately address the needs of the market.

See title page for effective date.

## **CHAPTER 139**

**H.P. 703 - L.D. 918**

### **An Act to Amend the Public Drinking Law**

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

**Sec. 1. 17 MRSA §2003-A, sub-§2,** as amended by PL 1991, c. 157, is repealed and the following enacted in its place:

**2. Crime.** A person is guilty of public drinking if the person drinks liquor in any public place within 200 feet of a notice posted conspicuously in the public place by the owner or authorized person that forbids drinking in the public place or after being forbidden to do so personally by a law enforcement officer, unless the person has been given permission to do so by the owner or authorized person.

See title page for effective date.

## **CHAPTER 140**

**S.P. 211 - L.D. 776**

### **An Act to Authorize the Department of Transportation to Use the Design-Build Method of Project Delivery**

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

**Sec. 1. 23 MRSA §753-A** is enacted to read:

### **§753-A. Design-build contracts**

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

**A. "Best value"** means the highest overall value to the State, considering quality and cost.

**B. "Department"** means the Department of Transportation.

**C. "Design-build contracting"** means a method of project delivery whereby a single firm is contractually responsible to perform design, construction and related services.

**D. "Major participant"** means any firm that would have a major role in the design or construction of the project as specified by the department in the request for proposals.

**E. "Project"** means the highway, bridge, railroad, pier, airport, trail, ferry vessel, building or other improvement being constructed or rehabilitated, including all professional services, labor, equipment, materials, tools, supplies, warranties and incidentals needed for a complete and functioning product.

**F. "Proposal"** means an offer by the proposer to design and construct the project in accordance with all request-for-proposals provisions for the price contained in the proposal.

**G. "Proposer"** means an individual, firm, corporation, limited liability company, partnership, joint venture, sole proprietorship or other entity that submits a proposal. After contract execution, the successful proposer is the design-builder.

**H. "Quality"** means those features that the department determines are most important to the project. Quality criteria may include quality of design, constructability, long-term maintenance costs, aesthetics, local impacts, traveler and other user costs, service life, time to construct and other factors that the department considers to be in the best interest of the State.

**2. Authorization.** Notwithstanding section 753 or any other provision of law, the department may use design-build contracting to deliver projects. The department may evaluate and select proposals on either a best-value or low-bid basis. If the scope of work requires substantial engineering judgment, the