

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

3. Salaries of certain employees. The salaries of the following employees of the Public Advocate are within the following salary ranges:

- A. Deputy Public Advocate, salary range 53;
- B. Senior Counsel, salary range 36;
- C. Economic Analyst, salary range 36;
- D. Research Assistant, salary range 30;
- E. Business Services Manager, salary range 26; and
- F. Special Assistant to the Public Advocate, salary range 20.

The employees listed in this subsection serve at the pleasure of the Public Advocate and are confidential employees. All other employees of the Public Advocate are subject to the Civil Service Law.

The Public Advocate may, at the Public Advocate's discretion, substitute an Economic Analyst position at salary range 36 for any vacant Senior Counsel position. The Public Advocate also may compensate one or more Senior Counsels at salary range 37 if, in the judgment of the Public Advocate, an increase is necessary to provide competitive salary levels.

See title page for effective date.

CHAPTER 477

H.P. 1408 - L.D. 1846

An Act to Ensure Victim Safety

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

Sec. 1. 1 MRSA §402, sub-§3-A, ¶¶B and C, as enacted by PL 1997, c. 714, §1, are amended to read:

- B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, conviction data, address of residence and dates of supervision; and
- C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, conviction data and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a ~~prisoner~~ client to disclose the information.

Sec. 2. 34-A MRSA §1214, sub-§3, ¶¶E and F, as enacted by PL 2001, c. 439, Pt. G, §1, are amended to read:

- E. Assist victims who are being harassed by persons in the custody or under the supervision of the department with obtaining protection from that harassment; ~~and~~
- F. Assist victims with obtaining victim compensation, restitution and other benefits of restorative justice; ~~and~~

Sec. 3. 34-A MRSA §1214, sub-§3, ¶G is enacted to read:

G. Ensure the safety of clients who are also victims by advising the commissioner of information that may place a client at risk if disclosed pursuant to Title 1, section 402, subsection 3-A.

See title page for effective date.

CHAPTER 478

S.P. 268 - L.D. 915

An Act to Amend the Maine Insurance Guaranty Association Act

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

Sec. 1. 24-A MRSA §4433, sub-§2, ¶C, as amended by PL 1987, c. 707, §4, is further amended to read:

C. Credit insurance, vendors single-interest insurance, collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;

Sec. 2. 24-A MRSA §4433, sub-§2, ¶F, as amended by PL 1989, c. 67, §1, is further amended to read:

F. Financial guaranty insurance or other forms of insurance offering protection against investment risks; and

Sec. 3. 24-A MRSA §4433, sub-§2, ¶G, as amended by PL 1991, c. 885, Pt. E, §32 and affected by §47, is further amended to read:

G. Contracts of workers' compensation excess insurance issued to workers' compensation self-insurers approved under former Title 39, section 23 or under Title 39-A, section 403 by any insurer after the effective date of this paragraph, or in the case of a contract that automatically re-

news, not later than one year after the effective date of this paragraph;

Sec. 4. 24-A MRSA §4433, sub-§2, ¶¶H to K are enacted to read:

H. Life, annuity, health or disability insurance:

I. Insurance of warranties or service contracts, including insurance that provides for the repair, replacement or service of goods or property, or indemnification of repair, replacement or service, for the operational or structural failure of the goods or property due to a defect in materials, workmanship or normal wear and tear; or for reimbursement for the liability incurred by the issuer of agreements or service contracts that provide such benefits:

J. A transaction or combination of transactions between a person, including affiliates of that person, and an insurer, including affiliates of that insurer, that involves the transfer of investment or credit risk unaccompanied by transfer of insurance risk; and

K. Insurance provided by or guaranteed by a governmental entity.

Sec. 5. 24-A MRSA §4435, sub-§4, as amended by PL 1995, c. 289, §12, is further amended to read:

4. Covered claim. "Covered claim" means an unpaid claim, including one for unearned premiums but excluding one for punitive damages, arising under and within the coverage and applicable limits of a policy of a kind of insurance referred to in section 4433 to which this subchapter applies issued by an insurer that becomes an insolvent insurer after May 9, 1970, and where:

A. The claimant or insured is a resident of this State at the time of the insured event; or

B. The property from which the claim arises is permanently located in this State.

"Covered claim" does not include any amount due any insurer, reinsurer, affiliate, insurance pool or underwriting association, as subrogation recoveries or otherwise, except that any payment made to the workers' compensation residual market pool pursuant to section 4438, subsection 1, paragraph A-1 must be included as a covered claim. "Covered claim" does not include any first-party claims by an insured whose net worth exceeds \$25,000,000 on December 31st of the year prior to the year in which the member insurer becomes an insolvent insurer. An insured's net worth on that date is deemed to include the aggregate net

worth of the insured and all its subsidiaries as calculated on a consolidated basis.

Sec. 6. 24-A MRSA §4435, sub-§5, as amended by PL 1995, c. 289, §13, is further amended to read:

5. Insolvent insurer. "Insolvent insurer" means ~~an~~ a member insurer:

A. Authorized to transact insurance in this State either at the time the policy was issued or when the insured event occurred; and

B. ~~Determined to be insolvent~~ Against whom a final order of liquidation has been entered with a finding of insolvency by a court of competent jurisdiction.

Effective July 1, 1995, the workers' compensation residual market pool, as created by the Bureau of Insurance Rules, Chapter 440, is deemed an insolvent insurer.

Sec. 7. 24-A MRSA §4435, sub-§9-A is enacted to read:

9-A. Person. "Person" means an individual or legal entity, including a governmental entity.

Sec. 8. 24-A MRSA §4438, sub-§1, ¶A, as amended by PL 1989, c. 751, §4, is further amended to read:

A. Be obligated to pay covered claims existing prior to the determination of the insolvency or arising within 30 days after the determination of insolvency, or before the policy expiration date if less than 30 days after the determination of insolvency, or before the insured replaces the policy or causes its cancellation, if within 30 days of the determination. The obligation ~~shall~~ must be satisfied by paying to the claimant ~~an amount as follows:~~

(1) Except as provided in this paragraph, the full amount of a covered claim for benefits or unearned premium under workers' compensation insurance coverage;

(2) An amount not exceeding ~~\$100,000~~ \$25,000 per policy for a covered claim for the return of an unearned premium; or

(3) An amount not exceeding \$300,000 per claim for all other covered claims.

In no event is the association obligated to pay a claimant an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises. The association shall pay only that amount of unearned premium

in excess of \$50. Notwithstanding any other provisions of this subchapter, a covered claim ~~shall~~ does not include any claim filed with the association after the earlier of 24 months after the date of the order of liquidation or the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer. The association, in its discretion, may accept a late filed claim as a covered claim when the claimant demonstrates good cause. The demonstration of good cause by a claimant includes showing that the existence of the claim was not known to the claimant prior to the bar date and that the claimant filed the claim within 60 days of learning of the claim;

Sec. 9. 24-A MRSA §4438, sub-§2, ¶C, as enacted by PL 1969, c. 561, is amended to read:

C. Sue or be sued and may intervene as a party before any court in this State that has jurisdiction over an insolvent insurer as defined by this subchapter;

Sec. 10. 24-A MRSA §4441, sub-§2, ¶A, as enacted by PL 1969, c. 561, is amended to read:

A. Require that the association notify the insureds of the insolvent insurer and any other interested parties of the ~~determination~~ order of liquidation with a finding of insolvency and of their rights under this subchapter. Such notifications ~~shall~~ must be by mail at their last known addresses, where available, but if required information for notification by mail is not available, notice by publication in a newspaper of general circulation in this State ~~shall be~~ is sufficient. Any notification given under this paragraph must prominently display the date by which all claims must be filed with the association.

Sec. 11. Application. This Act applies to the obligations of the Maine Insurance Guaranty Association, established pursuant to the Maine Revised Statutes, Title 24-A, section 4436, under policies of insolvent insurers as these obligations exist on or after the effective date of this Act, except that the first-party exclusion contained in Title 24-A, section 4435, subsection 4; the unearned premium cap and the bar date contained in Title 24-A, section 4438, subsection 1, paragraph A; and the right of intervention contained in Title 24-A, section 4438, subsection 2, paragraph C apply only to new insolvencies occurring on or after the effective date of this Act.

See title page for effective date.

CHAPTER 479

S.P. 674 - L.D. 1877

An Act to Allow Pledging of Medical Education Loans to Secure Bonds to Finance Educational Loans

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

Sec. 1. 20-A MRSA §12105, sub-§1, as enacted by PL 1991, c. 830, §4 and c. 832, §10, is amended to read:

1. Fund created. A nonlapsing, interest-earning, revolving fund under the jurisdiction of the authority is created to carry out the purposes of this chapter. Any unexpended balance in the fund carries over for continued use under this chapter. The authority may receive, invest and expend, on behalf of the fund, money from gifts, grants, bequests and donations, or other sources in addition to money appropriated or allocated by the State. Loan repayments under this chapter or other repayments to the authority must be invested by the authority, as provided by law, with the earned income to be added to the fund. Money received by the authority on behalf of the fund, except interest income, must be used for ~~the designated purpose~~ such purposes; interest income may be used for ~~the designated purpose~~ such purposes or to pay student financial assistance administrative costs incurred by the authority.

Sec. 2. 20-A MRSA §12105, sub-§4, as enacted by PL 1993, c. 410, Pt. EEEE, §3, is amended to read:

4. Borrowing permitted. The authority may borrow funds pursuant to chapter 417-B for application to the fund established in subsection 1 and may pledge all or part of the fund or any assets or revenues of the fund in connection with any such borrowing.

Sec. 3. Compliance with United States Internal Revenue Code. The Finance Authority of Maine may purchase education loans from lenders to the extent necessary to ensure compliance with the United States Internal Revenue Code requirements regarding the timeliness of the use of proceeds of tax-exempt bonds.

See title page for effective date.

CHAPTER 480

S.P. 732 - L.D. 2042

An Act to Make Technical Changes to the Maine State Grant Program