

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

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Lewiston, Maine
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completed application stating that information contained in the application requires additional time for verification. All credentialing decisions must be made within 180 days of receipt of a completed application. For the purposes of this paragraph, an application is completed if the application includes all of the information required by the uniform credentialing application used by carriers and providers in this State, such attachments to that application as required by the carrier at the time of application and all corrections required by the carrier. A carrier shall review the entire application before returning it to the provider for corrections with a comprehensive list of all corrections needed at the time the application is first returned to the provider. A carrier may not require that a provider have a home address within the State before accepting an application.

Sec. 2. Rulemaking. The Department of Professional and Financial Regulation, Bureau of Insurance may amend Bureau of Insurance Rule Chapter 850, Health Plan Accountability, to conform to the requirements of this Act. Notwithstanding the Maine Revised Statutes, Title 24-A, section 4309, rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 109

S.P. 240 - L.D. 676

An Act Regarding Mortuary Trusts

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

Sec. 1. 24-A MRSA §2420, sub-§3-A is enacted to read:

3-A. Upon receiving notice of a revocation of an assignment of a life insurance policy pursuant to this section, an insurer shall notify the assignee of the policy that the insured or owner has revoked the assignment. The insurer shall also notify the assignee if any cash value of the policy has been distributed at the time of revocation. Notice must be sent to the assignee within 30 days. An insurer is deemed to have complied with this subsection if that insurer has mailed notice by first class mail to the last known mailing address of the assignee.

Sec. 2. 32 MRSA §1401, sub-§1, as amended by PL 1999, c. 590, §1, is further amended by amending the first paragraph to read:

1. Plan requirements. ~~Any~~ Except as provided in subsection 1-A, any prearranged funeral or burial plan contracted or undertaken within this State must comply with the following.

Sec. 3. 32 MRSA §1401, sub-§1-A is enacted to read:

1-A. Plan funded with proceeds of life insurance policy. A prearranged funeral or burial plan agreement may be funded with proceeds of a life insurance policy in accordance with this subsection.

A. During a person's lifetime, a person or that person's legal representative may enter into an agreement that services will be performed or personal property will be delivered in connection with the disposition of that person's body after death by:

(1) Assigning the mortuary trustee as owner and beneficiary of a life insurance policy payable to the mortuary trustee upon that person's death; or

(2) Designating the mortuary trustee as a beneficiary of a life insurance policy payable to the mortuary trustee upon that person's death.

B. An agreement under paragraph A must be in writing and a copy must be furnished to the person or the person's legal representative by the mortuary trustee when the agreement is executed. The agreement may be revocable or irrevocable; however, if the agreement is irrevocable, there must be a provision to allow for the transfer of the trust account by the appointment of successor trustees. The agreement must clearly state terms providing for disposition of excess funds after funeral goods and services have been provided. The agreement must clearly state any fees that may be charged against the trust account. Fees must be reasonable, as defined by the board, and may be charged only:

(1) Upon transfer of a trust account by the appointment of a successor trustee;

(2) Upon revocation of the agreement if the agreement is revocable; and

(3) For the actual financial and tax administration of the trust account.

C. The mortuary trustee shall maintain a complete record of a trust account established under this subsection. The record must be available for inspection by the person, the person's legal representative, the commissioner's designee or an inspector for the board.

This subsection may not be construed to alter the terms of a life insurance policy or supersede any law governing the regulation of life insurance policies.

See title page for effective date.

CHAPTER 110

H.P. 259 - L.D. 316

An Act To Prohibit Absolute Discretion Clauses in Health Carrier Contracts

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

Sec. 1. 24-A MRSA §4303, sub-§9 is enacted to read:

9. Absolute discretion clauses. The use and enforcement of an absolute discretion clause is governed by this subsection.

A. A policy, contract, certificate or agreement offered, delivered, issued or renewed for delivery in this State by a carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services may not contain a provision purporting to reserve sole or absolute discretion to the carrier to interpret the terms of the contract or to provide standards of interpretation or review that are inconsistent with the laws of this State.

B. A carrier may not enforce a provision in a policy, contract, certificate or agreement that was offered, delivered or issued for delivery in this State and has been continued or renewed by a group policy holder or individual enrollee in this State that purports to reserve sole or absolute discretion to the carrier to interpret the terms of the contract or to provide standards of interpretation or review that are inconsistent with the laws of this State.

See title page for effective date.

CHAPTER 111

S.P. 213 - L.D. 604

An Act To Allow the Maine Turnpike Authority To Benefit from Advantageous Interest Rates

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

Sec. 1. 23 MRSA §1983 is enacted to read:

§1983. Interest rate agreements

The authority is authorized to enter from time to time into agreements with another party, on terms and conditions that the authority determines are necessary or convenient, in which the authority agrees to make a payment to, or to receive a payment from, the other party based on a comparison at a future date between an interest rate specified on the date of the agreement and a rate derived on or about that future date from an interest rate index. The authority is authorized to enter into any credit enhancement or liquidity agreement on terms and conditions that the authority determines are necessary or convenient for carrying out this section.

See title page for effective date.

CHAPTER 112

S.P. 465 - L.D. 1409

An Act To Update the Process for the Allocation of the State Ceiling on Tax-exempt Bonds

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

Whereas, updates to the provisions concerning the allocation of the state ceiling for tax-exempt bonds are necessary to revive the secondary market for educational loans for Maine students; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 10 MRSA §363, sub-§1-A, as amended by PL 1999, c. 728, §1, is further amended to read:

1-A. Procedure. For each calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure supersedes the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the