

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

PUBLIC LAWS OF THE STATE OF MAINE
AS PASSED AT
THE FIRST SPECIAL SESSION OF THE
ONE HUNDRED AND TWENTY-SECOND
LEGISLATURE
2005

CHAPTER 41

S.P. 133 - L.D. 409

**An Act To Clarify the
Superintendent of Insurance's
Authority To Assess Civil Penalties**

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

Sec. 1. 24-A MRSA §12-A, sub-§1, as amended by PL 2001, c. 165, Pt. B, §1, is further amended to read:

1. Civil penalty. Civil penalties may be assessed against any person who:

A. Violates any provision of this Title, Title 24 or any other law enforced by the superintendent;

B. Violates any rule lawfully adopted by the superintendent; or

C. Violates any lawful order of the superintendent that has not been stayed by order of the superintendent or the Superior Court.

The Superior Court, upon an action brought by the Attorney General, may assess a civil penalty of not less than \$500 and not more than \$5,000 for each violation in the case of an individual and not less than \$2,000 and not more than \$15,000 for each violation in the case of a corporation or other entity other than an individual, unless the applicable law specifies a different civil penalty.

The superintendent, following an adjudicatory hearing, may assess a civil penalty of up to \$500 for each violation in the case of an individual and a civil penalty of up to \$10,000 for each violation in the case of a corporation or other entity other than an individual, unless the applicable law specifies a different civil penalty. The superintendent shall notify the Attorney General or the Attorney General's designee of any such adjudicatory hearing at the time that the notice of hearing is issued by the superintendent. The superintendent may not assess a civil penalty ~~only~~ if the Attorney General ~~elected not~~ notifies the superintendent that the Attorney General intends to pursue an action in Superior Court to seek civil penalties for the same conduct. ~~The Attorney General shall notify the~~

~~superintendent in writing whether or not the Attorney General elects to pursue an action in Superior Court within 90 days after receiving a request from the superintendent for such an action. If the Attorney General elects to pursue the noticed action in Superior Court, the Attorney General shall notify the superintendent of that decision no later than 7 days prior to the hearing.~~

See title page for effective date.

CHAPTER 42

S.P. 132 - L.D. 408

**An Act Limiting Recovery of
Disability Benefits Subject to Offsets**

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

Sec. 1. 24-A MRSA §2717-A, as enacted by PL 2003, c. 321, §1, is repealed and the following enacted in its place:

§2717-A. Disability benefit offsets

1. Disclosure to applicants. At or before the time of application for any policy subject to this chapter that provides disability income benefits, the insurer shall provide the applicant with a clear and conspicuous written notice, on the application form or in a separate document, that accurately explains to the applicant all types of other sources of income that may result in a reduction of the benefits payable under the policy.

2. Recovery of disability benefit overpayments. For claims filed after January 1, 2006, an insurer that is entitled to reduce disability income benefit payments when the insured receives income from other sources and that is entitled to recover overpayments through offsets against current payments to the insured may not recover such overpayments at a rate greater than 20% of the net benefit per benefit payment period unless:

A. For policies applied for after September 13, 2003, the insurer has complied with the requirements of subsection 1;

B. The insurer effects the offset of benefits within 60 days of notice to the insurer, or such later date as the insurer begins paying benefits to the insured, that the insured is receiving or is entitled to receive income that may result in a reduction of benefits payable under the policy;

C. The overpayment did not result from the insurer's miscalculation of benefit reductions or the insurer's miscalculation of benefits payable under the policy; and

D. The insurer provided the insured with clear and conspicuous written notice that accurately explains to the insured all types of other sources of income that may result in a reduction of the benefits payable under the policy within 30 days of the date a claim for disability benefits was filed.

Sec. 2. 24-A MRSA §2829-A, as enacted by PL 2003, c. 321, §2, is repealed and the following enacted in its place:

§2829-A. Disability benefit offsets

1. Disclosure to persons eligible for coverage.

For any policy or contract subject to this chapter that provides disability income benefits, if the benefits under that policy or contract are subject to reduction due to other sources of income, then the insurer shall include in any written enrollment material and certificate of coverage developed by the insurer that is intended to be distributed to persons eligible for coverage under the policy or contract a clear and conspicuous notice that accurately explains all types of other sources of income that may result in a reduction of the benefits payable under the policy or contract. The notice requirement under this section does not apply to an advertisement intended for the general public.

2. Recovery of disability benefit overpayments. For claims filed after January 1, 2006, an insurer that is entitled to reduce disability income benefit payments when the insured receives income from other sources and that is entitled to recover overpayments through offsets against current payments to the insured may not recover such overpayments at a rate greater than 20% of the net benefit per benefit payment period unless:

A. For policies applied for after September 13, 2003, the insurer has complied with the requirements of subsection 1;

B. The insurer effects the offset of benefits within 60 days of notice to the insurer, or such later date as the insurer begins paying benefits to the insured, that the insured is receiving or is en-

itled to receive income that may result in a reduction of benefits payable under the policy;

C. The overpayment did not result from the insurer's miscalculation of benefit reductions or the insurer's miscalculation of benefits payable under the policy; and

D. The insurer provided the insured with clear and conspicuous written notice that accurately explains to the insured all types of other sources of income that may result in a reduction of the benefits payable under the policy within 30 days of the date a claim for disability benefits was filed.

See title page for effective date.

CHAPTER 43

H.P. 278 - L.D. 376

An Act To Enhance Uniformity of Insurance Producer Licensing

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

Sec. 1. 24-A MRSA §1416-A, sub-§2, as enacted by PL 2001, c. 259, §18, is amended to read:

2. Biennial license continuation fees. Each nonresident adjuster and consultant must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by January 1st of even-numbered years. ~~Each nonresident producer with an independent producer authority must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by February 1st of odd-numbered years.~~ Each nonresident business entity must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by April 1st of odd-numbered years. Each resident adjuster, and consultant and ~~producer with independent producer authority~~ must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by October 1st of even-numbered years. Each resident business entity must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by December 1st of even-numbered years.

Sec. 2. 24-A MRSA §1420-F, sub-§1, ¶J, as enacted by PL 2001, c. 259, §24, is repealed.

Sec. 3. 24-A MRSA §1482, as amended by PL 1997, c. 592, §45, is further amended to read:

§1482. Educational requirements