

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

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

Penmor Lithographers
Lewiston, Maine
2006

performance standards in this article. Such rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. A variance application must include any fee applicable under section 490-EE. The department shall process the variance application according to chapter 2 and the rules adopted by the department for processing an application. An applicant for a variance under this article shall hold a public informational meeting as described in those rules.

Sec. 8. General permit for industrial facilities and report. By January 1, 2009, the Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on what, if any, standard industrial codes or activities not covered by a standard industrial code should be added to the industrial storm water program. The report must include the projected revenue from fees and the projected operating costs of extending the storm water program to address these activities through the multisector general permit in 2010.

Sec. 9. Rules regarding storage of petroleum products and externally drained pits. Notwithstanding the Maine Revised Statutes, Title 38, sections 490-E and 490-CC, amendments to rules regarding performance and design standards for the storage of petroleum products and variance requirements for externally drained pits are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A until March 1, 2007.

Sec. 10. Authority to report out legislation. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation relating to the report required pursuant to section 7 of this Act to the First Regular Session of the 124th Legislature.

Sec. 11. Application. The provisions of this Act that amend the Maine Revised Statutes, Title 38, section 420-D, subsection 5 and subsection 7, paragraph C do not apply to rules regarding storm water management and amendments to rules regarding storm water management that are adopted prior to the effective date of this Act.

See title page for effective date.

CHAPTER 603

H.P. 1463 - L.D. 2068

An Act Regarding the Maine Insurance Guaranty Association

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

Sec. 1. 24-A MRSA §4438, sub-§1, ¶A, as amended by PL 2001, c. 478, §8 and affected by §11, 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 must be satisfied by paying to the claimant:

- (1) Except as provided in this paragraph, the full amount of a covered claim for benefits, including interest and penalties, or unearned premium under workers' compensation insurance coverage;
- (2) An amount not exceeding \$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 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. 2. 24-A MRSA §4445, as amended by PL 1973, c. 585, §12, is further amended by adding at the end a new paragraph to read:

The association is also subject to audit, enforcement and monitoring by the Workers' Compensation Board with respect to workers' compensation claims as provided for in the Maine Workers' Compensation Act of 1992. Notwithstanding any other provision of law, the association is liable for the payment of any compensation, interest, penalty or other obligation determined to be due by the Workers' Compensation Board as provided for in the Maine Workers' Comp-

sation Act of 1992. The Workers' Compensation Board may not assess the association penalties for the acts or omissions of insolvent insurers.

Sec. 3. 39-A MRSA §153, sub-§9, as amended by PL 1999, c. 354, §2, is further amended to read:

9. Audit and enforcement. The executive director shall establish an audit, enforcement and monitoring program by July 1, 1998, to ensure that all obligations under this Act are met, including the requirements of section 359. The functions of the audit and enforcement program include, but are not limited to, auditing timeliness of payments and claims handling practices of insurers, self-insurers, the Maine Insurance Guaranty Association and 3rd-party administrators; determining whether insurers, self-insurers, the Maine Insurance Guaranty Association and 3rd-party administrators are unreasonably contesting claims; and ensuring that all reporting requirements to the board are met. When auditing the Maine Insurance Guaranty Association, the program shall consider when the Maine Insurance Guaranty Association obtained the records of an insolvent insurer. The program must be coordinated with the abuse investigation unit established by section 153, subsection 5 as appropriate. The program must monitor activity and conduct audits pursuant to a schedule developed by the deputy director of benefits administration. Audit working papers are confidential and may not be disclosed to any person outside of the board except the audited entity. For purposes of this subsection "audit working papers" means all documentary and other information acquired, prepared or maintained by the board during the conduct of an audit or investigation, including all intra-agency and interagency communications relating to an audit or investigation and draft reports or any portion of a draft report. The final audit report, including the underlying reconciled information, is not confidential. At the end of each calendar quarter, the executive director shall prepare a compliance report summarizing the results of the audits and reviews conducted pursuant to this subsection. The executive director shall submit the quarterly compliance reports to the board, the Bureau of Insurance and the Director of the Bureau of Labor Standards within the Department of Labor. An annual summary must be provided to the Governor and to the joint standing committees of the Legislature having jurisdiction over labor and banking and insurance matters by February 15th of each year. The quarterly compliance reports and the annual summaries must be made available to the public following distribution.

Sec. 4. 39-A MRSA §359, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Audits. The board shall audit claims, including insurer, self-insurer, Maine Insurance Guaranty Association and 3rd-party administrator claim files, on an ongoing basis to determine whether insurers, self-insured employers, the Maine Insurance Guaranty Association and 3rd-party administrators have met their obligations under this Act and to identify the disputes that arose, the reasons for the disputes, the method and manner of their resolution, the costs incurred, the reasons for attorney involvement and the services rendered by the attorneys.

If as a result of an examination and after providing the opportunity for a hearing the board determines that any compensation, interest, penalty or other obligation is due and unpaid to an employee, dependent or service provider, the board shall issue a notice of assessment detailing the amounts due and unpaid in each case and shall order the amounts paid to the unpaid party or parties.

See title page for effective date.

CHAPTER 604

H.P. 1469 - L.D. 2076

An Act Relating to Payday Loans

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

Sec. 1. 9-A MRSA §1-201, sub-§1, as amended by PL 2001, c. 371, §1, is further amended to read:

1. Except as otherwise provided in this section, this Act applies to consumer credit transactions and open-end credit plans made or entered into in this State. For purposes of this Act, a consumer credit transaction or open-end credit plan is made or entered into in this State if:

A. A signed writing evidencing the obligation or offer of the consumer is received by the creditor in this State; ~~or~~

B. The creditor, wherever located, induces the consumer who is a resident of this State to enter into the transaction or open-end credit plan by face-to-face, mail, telephone or electronic mail solicitation in this State; or

C. With respect to a payday loan, the lender, wherever located, enters into a payday loan transaction with a consumer who is located in this State.

Sec. 2. 9-A MRSA §1-301, sub-§28-A is enacted to read: