

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 TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

provided by the applicant and approved by the Department of Environmental Protection that the system constitutes a best practicable treatment under section 414-A, subsection 1-B. If an alternative to the overboard discharge is identified, the alternative system must be installed within ~~90~~ 180 days of property transfer or significant action, except that, if soil conditions are poor due to seasonal weather, the alternative may be installed as soon as soil conditions permit. The installation of an alternative to the overboard discharge may be eligible for funding under section 411-A. On a property transfer, a commercial establishment may request an extension of the ~~90-day~~ 180-day period based on information that an extension is necessary due to technical, economic or environmental considerations. The department may authorize an extension for a commercial establishment for as short an additional period as the department considers reasonable but in no case may an extension be authorized to continue beyond the expiration of the current waste discharge license or 2 years from the property transfer, whichever is later. Within 10 business days of receipt of a complete extension request, the department shall issue a written decision approving or denying the extension.

(4) When the ownership of a property containing an overboard discharge has been transferred, the transferee may request from the department a waiver from the requirement in subparagraph (3) to install an alternative system. The department shall grant the waiver upon demonstration by the transferee that the transferee's annual income as defined in section 411-A, subsection 2-A is less than \$25,000. A request for a waiver must be submitted with an application for transfer of the overboard discharge license in accordance with paragraph A.

Nothing in this paragraph requires a municipality to withhold a local permit or approval associated with a significant action until the provisions of this paragraph have been met.

See title page for effective date.

CHAPTER 122

H.P. 742 - L.D. 1006

An Act To Provide a Remedy to Property Owners When a Tenant Defaults on a Lease

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

Sec. 1. 14 MRSA §6001, sub-§1-B is enacted to read:

1-B. Lease without termination or notice language. If a written lease or contract does not include a provision to terminate the tenancy or does not provide for any written notice of termination in the event of a material breach of a provision of the written lease or contract, either the landlord or the tenant may terminate the written lease or contract pursuant to this subsection.

A. A landlord may terminate the tenancy in accordance with section 6002, subsections 1 and 2. After a landlord has provided notice and service as provided in section 6002, including language advising the tenant that the tenant has the right to contest the termination in court, the landlord may commence a forcible entry and detainer action as provided in this section.

B. A tenant may terminate the tenancy by providing the landlord with 7 days' written notice of the termination if the landlord has substantially breached a provision of the written lease or contract. In the event that the tenant or the tenant's agent has made at least 3 good faith efforts to personally serve the landlord in-hand, that service may be accomplished by both mailing the notice by first-class mail to the landlord's last known address and by leaving the notice at the landlord's last and usual place of abode.

See title page for effective date.

CHAPTER 123

S.P. 93 - L.D. 313

An Act To Permit Insured Persons To Designate a 3rd Party To Receive Notice of Cancellation of Medicare Supplement Policies and To Restrict the Cancellation of Certain Insurance Policies for Nonpayment of Premium Due to Cognitive Impairment or Functional Incapacity

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

Sec. 1. 24-A MRSA §2556, sub-§§2 and 3, as enacted by PL 2007, c. 40, §1, are amended to read:

2. Restrictions on lapse or termination; cognitive impairment or functional incapacity. Notwithstanding any other provision of this chapter, ~~the bu-~~

~~reau shall adopt rules to~~ an insurer shall provide restrictions on cancellation, termination or lapse of individual life insurance policies in accordance with this subsection to reduce the danger that a life insurance policyholder will lose life insurance coverage due to organic brain disease when the policyholder suffers from cognitive impairment or functional incapacity and the loss of coverage is due to that cognitive impairment or functional incapacity. Within 90 days after cancellation, termination or lapse of coverage due to nonpayment of premium, a policyholder, a person authorized to act on behalf of the policyholder or a dependent of the policyholder covered under a life insurance policy may request reinstatement on the basis that the loss of coverage was a result of the policyholder's cognitive impairment or functional incapacity. An insurer may request a medical demonstration that the policyholder suffered from cognitive impairment or functional incapacity at the time of cancellation, termination or lapse. The medical demonstration may be at the expense of the policyholder. A policy reinstated pursuant to this subsection must cover any loss or claim occurring from the date of the termination, cancellation or lapse and must be issued without any evidence of insurability. Within 15 days after request from an insurer, a policyholder of a policy reinstated pursuant to this subsection shall pay any unpaid premium from the date of the last premium payment at the rate that would have been in effect had the policy remained in force. If the premium is not paid as required, the policy may not be reinstated and the insurer is not responsible for claims incurred after the initial date of cancellation, termination or lapse of coverage. If an insurer denies a request for reinstatement, the insurer shall notify the policyholder that the policyholder may request a hearing before the superintendent.

3. Rulemaking. The bureau may adopt rules to implement the requirements of this section. The rules adopted pursuant to this section subsection apply to all life insurance policies and riders delivered or issued for delivery, continued or renewed in this State. Rules adopted pursuant to this section subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 24-A MRSA §2707-A, as enacted by PL 1989, c. 835, §2, is amended to read:

§2707-A. Notification prior to cancellation; restrictions on lapse or termination due to cognitive impairment or functional incapacity

~~The superintendent shall, by January 1, 1991, adopt rules to~~ An insurer shall provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance policy for nonpayment of premiums, and to provide restrictions on cancellation when an insured person suffers from organic brain disease premium.

Within 90 days after cancellation due to nonpayment of premium, a policyholder, a person authorized to act on behalf of the policyholder or a dependent of the policyholder covered under a health insurance policy or certificate may request reinstatement on the basis that the loss of coverage was the result of the policyholder's cognitive impairment or functional incapacity. An insurer may require a medical demonstration that the policyholder suffered from cognitive impairment or functional incapacity at the time of cancellation. If the medical demonstration is waived or substantiates the existence of a cognitive impairment or functional incapacity at the time of policy cancellation to the satisfaction of the insurer, the policy must be reinstated. The medical demonstration may be at the expense of the policyholder.

A policy reinstated pursuant to this section must cover any loss or claim occurring from the date of the cancellation. Within 15 days after request from an insurer, a policyholder of a policy reinstated pursuant to this section shall pay any unpaid premium from the date of the last premium payment at the rate that would have been in effect had the policy remained in force. If the premium is not paid as required, the policy may not be reinstated and the insurer is not responsible for claims incurred after the initial date of cancellation. If an insurer denies a request for reinstatement, the insurer shall notify the policyholder that the policyholder may request a hearing before the superintendent.

The superintendent may adopt rules to implement the requirements of this section. The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and ~~cancellation restrictions~~ the right of reinstatement. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 24-A MRSA §2847-C, as enacted by PL 1991, c. 695, §5 and c. 824, Pt. A, §51, is amended to read:

§2847-C. Notification prior to cancellation; restrictions on cancellation, termination or lapse due to cognitive impairment or functional incapacity

~~The superintendent shall, by January 1, 1991, adopt rules to~~ An insurer shall provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance certificate for nonpayment of premiums, and to provide restrictions on cancellation when an insured person suffers from organic brain disease premium.

Within 90 days after cancellation due to nonpayment of premium, a policyholder, a person authorized to act on behalf of the policyholder or a dependent of the policyholder covered under a health insurance pol-

icy or certificate may request reinstatement on the basis that the loss of coverage was a result of the policyholder's cognitive impairment or functional incapacity. An insurer may require a medical demonstration that the policyholder suffered from cognitive impairment or functional incapacity at the time of cancellation. If the medical demonstration is waived or substantiates the existence of a cognitive impairment or functional incapacity at the time of policy cancellation to the satisfaction of the insurer, the policy must be reinstated. The medical demonstration may be at the expense of the policyholder.

A policy reinstated pursuant to this section must cover any loss or claim occurring from the date of the cancellation. Within 15 days after request from an insurer, a policyholder of a policy reinstated pursuant to this section shall pay any unpaid premium from the date of the last premium payment at the rate that would have been in effect had the policy remained in force. If the premium is not paid as required, the policy may not be reinstated and the insurer is not responsible for claims incurred after the initial date of cancellation. If an insurer denies a request for reinstatement, the insurer shall notify the policyholder that the policyholder may request a hearing before the superintendent.

The superintendent may adopt rules to implement the requirements of this section. The rules may include, but are not limited to, definitions, minimum disclosure requirements, notice provisions and cancellation restrictions the right of reinstatement. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

The requirements of this section apply to all policies and certificates executed, delivered, issued for delivery, continued or renewed in this State.

Sec. 4. 24-A MRSA §5016 is enacted to read:

§5016. Notification prior to cancellation; restrictions on lapse or termination due to cognitive impairment or functional incapacity

1. Notice of cancellation. An insurer that issues Medicare supplement policies shall provide notification to the insured person and another person, if designated by the insured, prior to cancellation of a Medicare supplement policy for nonpayment of premiums.

2. Right to reinstatement. Within 90 days after cancellation, termination or lapse of coverage due to nonpayment of premium, a policyholder, a person authorized to act on behalf of the policyholder or a dependent of the policyholder covered under the policy may request reinstatement of the policy on the basis that the loss of coverage was a result of the policyholder's cognitive impairment or functional incapacity. An insurer may require a medical demonstration that the policyholder suffered from cognitive impairment

or functional incapacity at the time of cancellation, termination or lapse. If the medical demonstration is waived or substantiates the existence of a cognitive impairment or functional incapacity at the time of policy cancellation to the satisfaction of the insurer, the policy must be reinstated. The medical demonstration may be at the expense of the policyholder.

A policy reinstated pursuant to this subsection must cover any loss or claim occurring from the date of the termination, cancellation or lapse and must be issued without any evidence of insurability. Within 15 days after request from an insurer, a policyholder of a policy reinstated pursuant to this subsection shall pay any unpaid premium from the date of the last premium payment at the rate that would have been in effect had the policy remained in force. If the premium is not paid as required, the policy may not be reinstated and the insurer is not responsible for claims incurred after the initial date of cancellation. If an insurer denies a request for reinstatement, the insurer shall notify the policyholder that the policyholder may request a hearing before the superintendent.

3. Rules. The superintendent may adopt rules to implement the requirements of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The requirements of this section apply to all policies and certificates executed, delivered, issued for delivery, continued or renewed in this State.

Sec. 5. Application. The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2012. For purposes of this Act, all policies, contracts and certificates are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

CHAPTER 124

H.P. 375 - L.D. 482

**An Act To Amend the Laws
Dealing with Limitation of
Actions**

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

Sec. 1. 14 MRSA §817 is enacted to read:

**§817. Limitation of actions for breach of cove-
nants; vested interest in 6-year limitations
period**

1. Twenty years. An action on a breach of cove-
nants in any deed or other instrument for the convey-
ance of real property in this State or any interest
therein must be commenced within 20 years after the