

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

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

cause of action accrues. This subsection applies to all deeds and other instruments for the conveyance of real property executed on or after October 7, 1967.

2. Vested interest in 6-year statute of limitations; notice, right of action; trial. A person who is a party to an instrument conveying real property that was not executed under seal and for which the 6-year statute of limitations on causes of action for breach of covenants expired before the effective date of this section and who claims the benefit of the 6-year statute of limitations may record within 12 months of the effective date of this section in the registry of deeds where the instrument is recorded or the property is located a conformed copy of the notice set forth in this subsection.

A. The notice must include the names of the current record owner of the real property that was the subject of the instrument and the mortgagees of record. Within 20 days of recording the notice, the person shall give a copy of the notice to the current record owners and the mortgagees by mailing by the United States Postal Service, postage prepaid. The notice must be substantially as follows.

"NOTICE

By virtue of the Maine Revised Statutes, Title 14, section 817, subsection 2, the following instrument that was not executed under seal is deemed to be subject to a 20-year limitations period for breach of covenants if no claim of a vested right to assert the 6-year statute of limitations for breach of covenants is timely made:

(list here the instrument by grantor name, grantee name, date of execution and recording information, if any)

This instrument affects real estate located at (identify here street location, municipality and county where the real estate is located).

Pursuant to the Maine Revised Statutes, Title 14, section 817, the undersigned hereby claims a vested right to assert the defense of statute of limitations for any cause of action asserting a breach of covenants in the above described instrument that is not commenced within 6 years of the date the cause of action accrued."

B. A person receiving a notice under paragraph A is barred from maintaining an action for breach of covenants under the identified instrument by the 6-year limitations period unless within one year from the date of the recording of the notice the person files in the registry of deeds where the notice was recorded a statement under oath claiming

application of the 20-year statute of limitations. The claim to applicability of the 20-year statute of limitations is barred unless, within 180 days of the recording of the statement, the claimant or a person on behalf of the claimant commences a declaratory judgment action under Title 14, chapter 707.

C. Upon trial of an action initiated under paragraph B, the court shall declare the 20-year limitations period applicable if the court finds that:

(1) The grantee of the instrument did not, at the time of delivery of the instrument, intend for the 6-year statute of limitations to apply; or

(2) The grantor executed the instrument fraudulently or in bad faith.

See title page for effective date.

CHAPTER 125

H.P. 514 - L.D. 718

An Act Regarding the Milk Handling Fee

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

Sec. 1. 36 MRSA §4901, sub-§3, as enacted by PL 2005, c. 396, §8, is amended to read:

3. Handler. "Handler," with respect to a particular container of packaged milk, means the wholesale handler or, if none, the producer-handler or the retail handler. If more than one wholesale handler handles a particular container of packaged milk in this State, "handler" means the wholesale handler that first handles a particular container of packaged milk.

Sec. 2. 36 MRSA §4902, sub-§1, as amended by PL 2007, c. 240, Pt. PPP, §1 and c. 269, §1, is further amended to read:

1. Fee. Upon notification by the Maine Milk Commission in accordance with Title 7, section 2954, subsection 16, the assessor shall levy and impose a fee at the rate established in subsection 2-A on the handling in this State of packaged milk for sale in this State. With respect to the handling in this State of a particular container of packaged milk for sale in this State, the fee must be paid by the handler, but in no event may a container of packaged milk for sale in this State be subject to more than one handling fee. There is no fee on the handling in this State of packaged milk for sale in containers of less than one quart or ~~more than 20 or more~~ quarts in volume, or packaged milk that is sold to an institution that is owned and operated by the State or the Federal Government.