LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
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OCTOBER 9, 2013

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

Augusta, Maine
2013

must permit the use of a crossbow during the spring open wild turkey hunting season.

See title page for effective date.

CHAPTER 237

S.P. 77 - L.D. 241

An Act To Amend Certain Laws Governing the Bureau of Maine Veterans' Services

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

Sec. 1. 37-B MRSA §505, sub-§2, ¶G, as enacted by PL 2001, c. 662, §66, is amended to read:

G. In order to be eligible for benefits under this subsection, a student must apply for a Federal Pell Grant under 20 United States Code, Section 1070a. The director shall estimate the number of students anticipated that will use this program and provide the estimate to state institutions upon request.

Sec. 2. 37-B MRSA §509, sub-§1, as enacted by PL 2003, c. 404, §7, is amended to read:

1. Certificate of release. A certificate of release or discharge ~~from~~, casualty report, death notice or other record pertaining to active duty service issued by the United States Government, classified by the United States Government as confidential and filed for safekeeping with any state, county or local government authority is confidential for a period of ~~75~~ 62 years following its ~~filing~~ date of issuance. During that ~~75-year~~ 62-year period, it is unlawful for a person to permit inspection of the record, to disclose information contained in the record or to issue a copy of all or any part of the record except as authorized by this section or by court order. Nothing is this section may be construed to make a record confidential that is not directed to be confidential by the United States Government.

See title page for effective date.

CHAPTER 238

S.P. 574 - L.D. 1519

An Act To Update the Maine Insurance Code To Maintain Conformance with Uniform National Standards

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

PART A

Sec. A-1. 24-A MRSA §216, sub-§5, as amended by PL 1999, c. 184, §19, is repealed and the following enacted in its place:

5. In order to assist the superintendent in the regulation of insurers in this State, it is the duty of the superintendent to maintain as confidential a document or information received from the National Association of Insurance Commissioners or International Association of Insurance Supervisors, public officials of other jurisdictions and members of supervisory colleges in which the superintendent participates pursuant to section 222, subsection 7-B, agencies of the Federal Government or political subdivisions or other agencies of this State, if the document or the information has been provided to the superintendent with notice that it is confidential under the laws of the jurisdiction that is the source of the document or information.

A. Any information furnished pursuant to this subsection by or to the superintendent that has been designated confidential by the official, agency or other entity furnishing the information remains the property of the agency furnishing the information and must be held as confidential by the recipient of the information, except as authorized by the official, agency or other entity furnishing the information to the superintendent, with prior notice to interested parties and consistent with other applicable laws. The authority of the superintendent, pursuant to paragraph B, to permit further disclosure to a 3rd party or to the public of information shared by the superintendent is subject to the same requirements and conditions that apply if the superintendent discloses the information directly to a 3rd party or to the public.

B. The superintendent may share information, including otherwise confidential information, with the National Association of Insurance Commissioners or International Association of Insurance Supervisors, public officials of other jurisdictions and members of supervisory colleges in which the superintendent participates pursuant to section 222, subsection 7-B, agencies of the Federal Government or political subdivisions or other agencies of this State, if the recipient of the information agrees to maintain the same level of confidentiality as is available under Maine law and has demonstrated that it has the legal authority to do so.

C. The superintendent may enter into one or more written agreements with the National Association of Insurance Commissioners governing sharing and using information under this subsection that:

(1) Specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and its affiliates

and subsidiaries pursuant to this paragraph, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal or international insurance regulators;

(2) Specify that ownership of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this paragraph remains with the superintendent and that the use of information by the National Association of Insurance Commissioners is subject to the direction of the superintendent;

(3) Require prompt notice to be given by the National Association of Insurance Commissioners to any insurer whose confidential information is in the possession of the National Association of Insurance Commissioners pursuant to this paragraph when that information is the subject of a request or subpoena for disclosure or production; and

(4) Require the National Association of Insurance Commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries pursuant to this paragraph.

D. This subsection does not alter prohibitions or restrictions applicable to ex parte contacts in the course of an adjudicatory proceeding in which a state agency is a party.

E. For purposes of this subsection, "other agencies of this State" includes bureau personnel and consultants designated as serving in an advocacy capacity in an adjudicatory proceeding before the superintendent.

Sec. A-2. 24-A MRSA §222, sub-§1, as repealed and replaced by PL 1975, c. 356, §1, is repealed.

Sec. A-3. 24-A MRSA §222, sub-§1-A is enacted to read:

1-A. Examination. For purposes of ascertaining compliance with law, or relationships and transactions between any person as defined hereafter and any insurer or proposed insurer subject to this section, the superintendent may as often as the superintendent determines to be advisable examine the accounts, records, documents and transactions pertaining to or affecting the insurance affairs or proposed insurance affairs, or transactions of the insurer or proposed insurer as may be in the possession of any holding company, its subsidiaries or affiliates as is necessary to ascertain the financial condition, including the enterprise risk to the insurer by the ultimate controlling party, or legality of conduct of the insurer or proposed insurer or the insurance holding company system as a whole or any combination of entities within the insurance holding company system and to verify the accuracy of any information provided or required to be provided to the superintendent pursuant to this section.

A. The superintendent's investigatory and examination authority under this subsection extends to the examination of:

(1) Any business entity structured to hold the stock of an insurance company, or person holding the shares of voting stock or policyholder proxies of an insurer as voting trustee or otherwise, for the purpose of controlling the management thereof;

(2) Any insurance producer, adjuster or consultant or other insurance or reinsurance representative or intermediary or any person acting as or purporting to be any of the foregoing;

(3) Any person having a contract giving that person by its terms or in fact the exclusive or dominant right to manage or control the insurer; and

(4) Any person in this State engaged in or proposing to be engaged in or acting as or purporting to be so engaged or proposing to be engaged in the business of insurance or in this State assisting in the promotion, formation or financing of an insurer or insurance holding corporation or corporation or other group financing an insurer or the production of its business.

B. Subject to the limitations contained in this subsection and in addition to the powers that the superintendent has under section 221 and sections 223 to 228 relating to the examination of insurers, the superintendent may order an insurer registered under subsection 8 to produce records, books or papers in the possession of the insurer or affiliates as may be necessary to verify the accuracy of the information required to be provided to the superintendent under this section and any additional information pertinent to transactions between the insurer and affiliates. The books, records, papers and information are subject to examination in the same manner as prescribed in this chapter for an examination conducted under section 221, except that expenses incurred by the superintendent in examining an affiliate that is not an insurer must be borne by the registered insurer subject to the limitations of section 228, subsection 1. The su-

perintendent may issue subpoenas, administer oaths and examine any person under oath for purposes of determining compliance with this subsection.

C. A member of an insurer's insurance holding company system shall comply fully and accurately with a request by the insurer to provide it with information necessary to respond to an examination request by the superintendent pursuant to this section.

D. The superintendent may order an insurer registered under subsection 8 to produce information not in the possession of the insurer if the insurer can obtain access to the information pursuant to contractual relationships, statutory obligations or any other lawful method. If the insurer cannot obtain the information requested by the superintendent, the insurer shall provide the superintendent a written objection with a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of the information. It is a violation of this section to submit an objection to production of information without a reasonable basis or to fail to produce information on the basis of an objection that the superintendent has denied after notice and opportunity for hearing.

Sec. A-4. 24-A MRSA §222, sub-§2, ¶B, as amended by PL 1999, c. 113, §8, is further amended to read:

B. Control.

(1) ~~'Control,' including 'controlling,' 'controlled by' and 'under common control with,'~~ "Control," including "controlling," "controlled by" and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is solely the result of an official position with or a corporate office held by the person. Control is presumed to exist if any person is the beneficial owner of 10% or more of the voting securities or guaranty capital shares, if applicable, or ~~voting rights in the case of mutual or reciprocal insurers, or guaranty capital shares if a mutual insurer has established a guaranty fund,~~ has the right to cast 10% or more of the votes in the election of directors or other governing body of any other person. A beneficial owner may rely in determining the amount of voting securities of any person outstanding upon information set forth in that person's most recent quarterly or annual report filed with the Securities and Exchange Commission pursuant to the Exchange Act unless the beneficial owner knows or has reason to believe that the information contained in the quarterly or annual report is inaccurate. Two or more domestic mutual insurance companies that have restricted their licensed territories to the State are not considered subject to this section merely because those insurance companies commonly share facilities, incurred expenses~~,~~ or personnel services~~,~~ or otherwise utilize cost allocations based on generally accepted accounting principles including pro rata sharing of assumed risks. A person may have more than one controlling person, even if those controlling persons are not acting in concert.

(2) Notwithstanding the presumption of control contained in subparagraph (1), the superintendent, upon application of the insurance company, may determine that the insurer is not controlled by the person presumed to control it. In addition, the superintendent, after notice and an opportunity to be heard, may determine, notwithstanding the absence of the presumption in subparagraph (1), that a person does control an insurance company or companies.

(3) The presumption of control contained in subparagraph (1) does not apply to a securities broker-dealer holding, in the usual and customary broker's function, less than 20% of the voting securities of another person.

Sec. A-5. 24-A MRSA §222, sub-§2, ¶B-1, as enacted by PL 1989, c. 385, §3, is repealed and the following enacted in its place:

B-1. Exchange Act. "Exchange Act" means the federal Securities Act of 1933, 15 United States Code, Chapter 2-A, Subchapter 1 and the federal Securities Exchange Act of 1934, 15 United States Code, Chapter 2-B.

Sec. A-6. 24-A MRSA §222, sub-§2, ¶B-2 is enacted to read:

B-2. Enterprise risk. "Enterprise risk" means an activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer, or of its insurance holding company system as a whole, including, but not limited to, anything that would cause or exacerbate a risk-based capital event as described in sections 6453 to 6456 or would cause the insurer to be in unsound or hazardous financial condition as determined by the superintendent.

Sec. A-7. 24-A MRSA §222, sub-§2, ¶D, as repealed and replaced by PL 1975, c. 356, §1, is amended to read:

D. Insurer. "Insurer" ~~shall have~~ has the same meaning ~~given it~~ as in section 4 and includes a fraternal benefit society required to be licensed under section 4124 or 4125.

Sec. A-8. 24-A MRSA §222, sub-§2, ¶¶D-3 to D-5 are enacted to read:

D-3. Own risk and solvency assessment or ORSA. "Own risk and solvency assessment" or "ORSA" means a confidential internal assessment that is conducted by an insurer or insurance holding company system of the material and relevant risks associated with its current business plan and the sufficiency of its capital resources to support those risks and that is appropriate to the nature, scale and complexity of the operations of the insurer or insurance holding company system.

D-4. ORSA guidance manual. "ORSA guidance manual" means the NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual, as amended from time to time. A change in the ORSA guidance manual is effective with regard to this State on January 1st following the calendar year in which the change has been adopted by the National Association of Insurance Commissioners.

D-5. ORSA summary report. "ORSA summary report" means a confidential high-level summary of an insurer's or insurance holding company system's own risk and solvency assessment and includes a combination of separate reports that collectively meet the requirements of the ORSA guidance manual.

Sec. A-9. 24-A MRSA §222, sub-§4-A, as enacted by PL 1989, c. 385, §5, is repealed.

Sec. A-10. 24-A MRSA §222, sub-§4-B, as enacted by PL 1989, c. 385, §5, is repealed.

Sec. A-11. 24-A MRSA §222, sub-§4-C is enacted to read:

4-C. Acquisitions; tender offers; divestitures. The following provisions apply to a transaction or proposed transaction that results or might result in the change of direct or indirect control of a domestic insurer.

A. Except as provided in paragraph B, a person other than the issuer may not make a tender offer for, or a request or invitation for tenders of, or an agreement to exchange securities for, or otherwise acquire any voting security, or any security convertible into a voting security, of a domestic insurer or of any person controlling a domestic insurer if, as a result of the consummation thereof, the person making the tender offer, request or agreement would, directly or indirectly, acquire actual or presumptive control of the insurer or controlling person, and a person may not enter into an agreement to merge with or otherwise acquire actual or presumptive control of a domestic insurer or its controlling person, unless:

(1) The person has filed with the superintendent and has sent the domestic insurer an application containing the information required by paragraph C;

(2) The offer, request, invitation, agreement or acquisition has been approved by the superintendent in the manner prescribed in subsection 7; and

(3) Ten days has elapsed from the date of approval by the superintendent and no injunction or other court order precludes consummation of the offer, request, invitation, agreement or acquisition.

B. A controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer in any manner, including any partial divestiture that would cause that person to cease to be a controlling person, shall file with the superintendent, with a copy to the insurer, confidential notice of its proposed divestiture at least 30 days before the cessation of control, unless the divestiture transaction consists of the transfer of the divesting person's interest to one or more acquiring persons, all of whom have reported their respective acquisitions pursuant to paragraph A. Unless the superintendent grants an exemption under paragraph D, the divesting person shall file an application substantially similar to the application required under paragraph C, with such modifications as the superintendent determines to be appropriate based on the nature of the transaction. The superintendent shall decide whether to approve the application using the criteria in subsection 7, paragraph A and may hold a public hearing if the superintendent determines that a hearing is in the interests of policyholders or the public. If 20 days has elapsed after the superintendent's receipt of a notice filed under this paragraph and the superintendent has not disapproved the proposed divestiture or postponed its effective date pending further review, the superintendent is deemed to have granted an exemption under paragraph D, subparagraph (2).

C. An application required by paragraph A must contain the following information as applicable, made under oath or affirmation, except that if the proposed transaction is subject to regulation under the Exchange Act or Title 32, chapter 135, the superintendent may accept the relevant documents filed with the United States Securities and Ex-

change Commission or the Department of Professional and Financial Regulation, Office of Securities in lieu of some or all of the documents required by this paragraph:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control is to be effected and:

(a) If the person acquiring control is an individual, the person's principal occupation and all offices and positions held during the past 5 years and any convictions for crimes other than minor traffic violations during the past 10 years; and

(b) If the person acquiring control is not an individual, a report of the nature of its business operations during the past 5 years or for a lesser period the person and any predecessors have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the person or who perform or will perform functions appropriate to such positions. The list must include the information required by division (a) for each individual listed;

(2) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction through which funds were or are to be obtained for any such purpose, including any pledge of the insurer's stock or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing consideration. If a source of consideration is a loan made in the lender's ordinary course of business, the identity of the lender is confidential if the person filing the application so requests;

(3) Fully audited financial information as to the earnings and financial condition of each acquiring person for the preceding 5 fiscal years, or for a lesser period if the acquiring person and any predecessors have been in existence for less than 5 years, and similar unaudited information as of a date not earlier than 90 days before the filing of the application;

(4) Any plans or proposals that each acquiring person may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person or to make any other material change in its business or corporate structure or management;

(5) The number of shares of any security referred to in paragraph A that each acquiring person proposes to acquire, the terms of the offer, request, invitation, agreement or acquisition referred to in paragraph A and a statement as to the method by which the fairness of the proposal was arrived at;

(6) The amount of each class of any security referred to in paragraph A that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring person;

(7) A full description of any contracts, arrangements or understandings with respect to any security referred to in paragraph A in which any acquiring person is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. The description must identify the persons with whom the contracts, arrangements or understandings have been entered into;

(8) A description of the purchase by any acquiring person of any security referred to in paragraph A during the 12 calendar months preceding the filing of the application, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid;

(9) A description of any recommendations to purchase any security referred to in paragraph A made during the 12 calendar months preceding the filing of the application by any acquiring person or by anyone based upon interviews with or at the suggestion of the acquiring person;

(10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities referred to in paragraph A and copies of any additional related soliciting material that has been distributed;

(11) The terms of any agreement, contract or understanding made or proposed to be made with any broker-dealer as to solicitation of securities referred to in paragraph A for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard to the solicitation of securities referred to in paragraph A;

(12) An agreement by the person required to file the application to provide the annual enterprise risk report required by subsection 8,

paragraph B-1 for as long as control by the person exists;

(13) An acknowledgement by the person required to file the application that the person and all subsidiaries within its control in the insurance holding company system will provide information to the superintendent upon request as necessary to evaluate enterprise risk to the insurer;

(14) A statement as to whether or not the proposed transaction will result in an increase in market share in this State in any line of insurance as specified in the annual statement required to be filed under section 423 for one or more insurers with combined market share greater than 5% and, if so, such further information on the competitive impact of the proposed transaction as the superintendent requires by rule or order; and

(15) Such additional information as the superintendent may prescribe by rule or order.

D. The superintendent may exempt a person otherwise subject to the requirements of this subsection and subsection 7 from some or all of those requirements if the person demonstrates to the satisfaction of the superintendent that an exemption will not be detrimental to the interests of policyholders in the State or the public and that the transaction satisfies at least one of the following criteria:

(1) The interests of the State in regulating the transaction are minimal relative to the interests of other jurisdictions or are minimal relative to the impact of the transaction as a whole;

(2) The person proposes a divestiture of control under paragraph B and the superintendent determines that the prior approval process is not necessary in the circumstances of the transaction;

(3) A party proposing to acquire presumed control submits a disclaimer fully disclosing all material relationships and bases for affiliation with the insurer and demonstrating to the satisfaction of the superintendent that the person will not be acquiring actual control. As a condition of granting an exemption under this subparagraph, the superintendent may require the person to agree to reasonable restrictions on the exercise of rights or powers that might otherwise tend to result in control;

(4) The superintendent elects to participate in a consolidated approval proceeding conducted under the laws of one or more other states pursuant to subsection 7-A, paragraph E; and

(5) The transaction involves the control of a person that is not primarily engaged in the business of insurance, directly or through its affiliates, and there will be no material impact on the management or operations of a domestic insurer.

A person requesting an exemption under this paragraph must agree to provide additional information if needed by the superintendent and to postpone the effective date of the transaction if ordered by the superintendent while the request for exemption is pending.

E. A broker-dealer that is exempt from the requirements of this section pursuant to subsection 2, paragraph B, subparagraph (3) shall disclose to the superintendent the identity of any person, or group of persons the broker-dealer knows or reasonably believes to be acting in concert, on whose behalf the broker-dealer knows or reasonably believes that the broker-dealer holds 5% or more of the voting securities of a domestic insurer or of any entity the broker-dealer knows or reasonably believes to be a controlling person of a domestic insurer. A broker-dealer shall disclose to the superintendent on request the beneficial owners of any securities held by the broker-dealer of any entity that is, or that the superintendent believes might be or might become, a member of the insurance holding company system of an insurer subject to registration under subsection 8.

Sec. A-12. 24-A MRSA §222, sub-§5, as amended by PL 1989, c. 385, §6, is further amended to read:

5. Tender offer material. All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such voting securities for control of a domestic insurer or its controlling person made by or on behalf of any such person ~~shall~~ must contain any information specified in subsection ~~4-B~~ 4-C as the superintendent may prescribe~~,~~ and ~~shall~~ must be filed with the superintendent at the time that material is first published or sent or given to security holders. Copies of any additional material soliciting or requesting such tender offers subsequent to the initial solicitation or request ~~shall~~ must contain the information that the superintendent may prescribe as necessary or appropriate in the public interest or for the protection of policyholders~~,~~ and ~~shall~~ must be filed with the superintendent at the time copies of that material are first published or sent or given to security holders.

Sec. A-13. 24-A MRSA §222, sub-§6, as amended by PL 2007, c. 466, Pt. D, §1, is further amended to read:

6. Information as to applicant. If ~~the~~ a person required to file ~~the statement referred to in subsection 4-A~~ an application under subsection 4-C is a partnership, limited partnership, syndicate or other group, the superintendent may require that the information called for by subsection ~~4-A~~ 4-C must be given with respect to each partner of ~~such~~ the partnership or limited partnership, each member of ~~such~~ the syndicate or group and each person who controls any such partner or member. If ~~the~~ a person required to file ~~the statement referred to in subsection 4-A~~ an application under subsection 4-C is a corporation, the superintendent may require that the information called for ~~thereby~~ by subsection 4-C must be given with respect to ~~such~~ the corporation and each officer and director thereof and each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding securities of ~~such~~ the corporation.

Sec. A-14. 24-A MRSA §222, sub-§7, as amended by PL 2007, c. 466, Pt. D, §2, is further amended to read:

7. Approval, disapproval of proposed change of control.

A. The superintendent shall hold a hearing in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter ~~IV~~ 4, within 30 days after the ~~statement~~ application required by subsection ~~4-A~~ 4-C has been filed with the superintendent. The superintendent shall make a determination within 30 days after the conclusion of that hearing. The superintendent shall approve any purchase, exchange, merger or other ~~acquisition~~ change of control referred to in subsection ~~4-A~~ 4-C unless the superintendent finds that:

(1) After the change of control, the domestic insurer could not satisfy the requirements for the issuance of a certificate of authority according to requirements in force at the time of the issuance~~,~~ or last renewal or continuation of its certificate of authority to do the insurance business ~~which~~ that it intends to transact in this State;

(2) The effect of the purchases, exchanges, merger of a controlling person of the insurer~~,~~ or other ~~acquisitions~~ changes of control may be substantially to lessen competition in insurance in this State or tend to create a monopoly ~~therein;~~ in this State or would violate the laws of this State or of the United States relating to monopolies or restraints of trade;

(3) The financial condition of an acquiring person ~~is such as~~ would jeopardize the financial stability of the insurer or prejudice the interest of its policyholders;

(4) The plans or proposals ~~which~~ that the acquiring or divesting person has to liquidate the insurer, to sell its assets or to merge it with any person, or to make any other major change in its business or corporate structure or management, are unfair or prejudicial to policyholders;

(5) The competence, experience and integrity of those persons who would control the operation of the insurer indicate that it would not be in the interest of policyholders or the public to permit them to do so;

(6) Any merger of a domestic insurer does not comply with section 3474; or

(7) The ~~acquisition~~ change of control would tend to affect adversely the contractual obligations of the domestic insurer or its ability and tendency to render service in the future to its policyholders and the public.

B. ~~Subparagraphs~~ Paragraph A, subparagraphs (3) to (7) do not apply to any change of control if and to the extent that the superintendent, by rule or by order, exempts the ~~same~~ change of control from the provisions of those subparagraphs as not ~~comprehended~~ included within the purpose of this subsection.

C. Merger, consolidation or bulk reinsurance as to a domestic insurer ~~shall~~ may be effectuated only pursuant to the applicable provisions of chapter 47, subchapter ~~IV,~~ 4 and sections 3875, 4108 and 4109, as related to organization and powers of insurers.

D. Violation.

(1) Failure to file the ~~statement~~ application required under subsection ~~4-A~~ 4-C constitutes a violation of this ~~chapter~~ section.

(2) Effectuation of or any attempt to effectuate an acquisition of~~,~~ control of, divestiture of control of or merger with a domestic insurer ~~within~~ earlier than 30 days ~~of~~ after the filing of the ~~statement~~ application required by subsection ~~4-A, prior to~~ 4-C, before the superintendent's decision if a hearing is held or after disapproval ~~of such acquisition of control or merger~~ by the superintendent of the acquisition, divestiture or merger, constitutes a violation of this ~~chapter~~ section.

Sec. A-15. 24-A MRSA §222, sub-§§7-A and 7-B are enacted to read:

7-A. Consolidated proceedings. If a proposed change of control requires, or is part of a series of related transactions that require, the approval of the insurance regulators of more than one state, a person filing an application under subsection 4-C with respect

to the change of control may file a request for a consolidated approval proceeding with the National Association of Insurance Commissioners.

A. The applicant shall file a copy of the application made under subsection 4-C with the National Association of Insurance Commissioners within 5 days after making the request for a consolidated approval proceeding.

B. Within 10 days after receiving notice from the National Association of Insurance Commissioners of a request for a consolidated approval proceeding, the superintendent shall issue an order, with notice to the applicant and to the National Association of Insurance Commissioners, specifying whether the superintendent elects to participate in the consolidated proceeding or to opt out of the consolidated proceeding.

C. If the superintendent opts out of the consolidated approval proceeding pursuant to paragraph B, the superintendent shall hold a public hearing under subsection 7 unless the superintendent grants an exemption under subsection 4-C, paragraph D. Opting out of the consolidated proceeding does not preclude or limit the superintendent's authority to coordinate a proceeding conducted under subsection 7 with the consolidated proceeding or with other parallel proceedings in other states.

D. With the agreement of the other participating insurance regulators, the superintendent may initiate a consolidated approval proceeding under this paragraph to render decisions on all applications within the scope of the order of consolidation issued by the superintendent. A consolidated approval proceeding convened under this paragraph is a public adjudicatory proceeding. Except as provided in this paragraph, the proceeding must be conducted in the same manner as a proceeding under subsection 7.

(1) A person who would have the right to participate in a proceeding on any of the consolidated applications held under subsection 7 or substantially similar laws of other states has the right to participate in the proceeding.

(2) The chief insurance regulator of a participating state has the right to participate in making the decision or in designating a decision-making panel.

(3) The proceeding is public, except that deliberations of a decision-making panel are not public proceedings and communications in the course of those deliberations among panel members and their advisers, other than the decision itself, are not public records.

(4) The proceeding may be held in any state with a significant connection to the subject transactions or in a nearby location in an adjacent state. Sessions may be held in different states. Provision must be made for parties, witnesses, insurance regulators and members of the public to attend and participate in the proceeding by telecommunication.

(5) The superintendent, decision-making panel or presiding officer may vary the applicable procedural requirements under this Title and Title 5 to the extent the superintendent, panel or presiding officer determines to be reasonably necessary for the fair and effective administration of a consolidated multistate proceeding.

(6) The decision is subject to judicial review in the same manner as a final agency action of the superintendent.

E. The superintendent may participate, including serving as a decision maker or member of a decision-making panel, in a consolidated approval proceeding conducted under the laws of one or more other states if the consolidated proceeding provides for a public hearing with substantially similar rights of participation and judicial review as a proceeding conducted pursuant to paragraph D. If the superintendent elects under this paragraph to participate in a consolidated proceeding that is conducted under the laws of one or more other states, the application is exempt from further review under this section pursuant to subsection 4-C, paragraph D, subparagraph (4) and the consolidated proceeding, notwithstanding the superintendent's participation, is not subject to any provisions of the law of this State governing adjudicatory proceedings, judicial review, public records or public meetings.

7-B. Supervisory colleges. In order to assess the business strategy, financial position, legal and regulatory position, risk exposure including enterprise risk, risk management and governance processes of a domestic insurer that is part of an insurance holding company system with international operations, the superintendent may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal and international regulatory agencies. A supervisory college may be convened as either a temporary or permanent forum for communication and cooperation among the regulators charged with the supervision of the insurer or its affiliates.

A. The superintendent's powers with respect to supervisory colleges include, but are not limited to:

(1) Initiating the establishment of a supervisory college or participating in a supervisory college initiated by one or more other regulators;

(2) Entering into agreements providing the basis for cooperation between the superintendent and the other participating regulators and for the activities of the supervisory college, including but not limited to agreements for sharing confidential information under section 216, subsection 5;

(3) Obtaining and providing assistance in examinations conducted under subsection 1-A or under the examination authority of other participating jurisdictions;

(4) Clarifying the membership and participation of other regulators in the supervisory college;

(5) Clarifying the functions of the supervisory college and the role of other regulators, including the designation of the superintendent or another member of the supervisory college as a group-wide supervisor;

(6) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities and processes for information sharing; and

(7) Establishing a crisis management plan.

B. A domestic insurer whose activities are subject to this subsection is liable for and shall pay the reasonable expenses of the superintendent's participation in a supervisory college, including reasonable travel expenses. The superintendent may establish a regular assessment to the insurer for the payment of these expenses.

C. This section may not be construed to delegate to a supervisory college the authority of the superintendent to regulate or supervise an insurer or its affiliates within this State.

Sec. A-16. 24-A MRSA §222, sub-§8, ¶A, as amended by PL 1999, c. 113, §11, is further amended to read:

A. ~~Every~~ An insurer that is authorized to do business in this State and that is a member of an insurance holding company system shall register with the superintendent, except that these requirements do not apply to a foreign insurer domiciled in a jurisdiction that in the opinion of the superintendent has adopted by statute or regulation disclosure statements and standards substantially similar to those contained in this ~~chapter~~ section. An insurer domiciled in a jurisdiction that has not adopted by statute or regulation disclosure requirements and standards substantially similar to those contained in this section may be treated as a domestic insurer for purposes of this section. Each insurer that is subject to registration under this subsection shall register within 15 days after it becomes subject to registration, and annually thereafter by May 1st, unless the superintendent, for good cause shown, extends the time for registration and then an insurer ~~must file~~ shall register within that extended time. ~~Nothing in this~~ This section ~~may be construed to~~ does not prohibit the superintendent from requesting any authorized insurer that is a member of ~~a~~ an insurance holding company system and not subject to registration under this section ~~for~~ to provide a copy of the registration statement or other information filed by such insurer with the insurance regulatory authority of its state of domicile. Upon request of the insurer or of the insurance regulatory authority of another jurisdiction in which the insurer is authorized to transact insurance, the superintendent at the insurer's expense shall furnish a copy of the registration statement or other information filed by a domestic insurer with the superintendent pursuant to this ~~chapter~~ section;

Sec. A-17. 24-A MRSA §222, sub-§8, ¶B, as amended by PL 2001, c. 72, §5, is further amended to read:

B. ~~Every~~ An insurer subject to registration shall file a registration statement ~~on a form provided by~~ with the superintendent~~, which~~ on a form and in a format prescribed by the National Association of Insurance Commissioners. The registration statement must contain current information about:

(1) The capital structure, general financial condition, ownership and management of the insurer and of any person controlling the insurer;

(1-A) The identity and relationship of every member of the insurance holding company system;

(2) The following transactions currently outstanding between the insurer and its affiliates:

(a) Loans and other investments, and purchases, sales or exchanges of securities of the affiliate by the insurer or of the insurer by its affiliates;

(b) Purchases, sales or exchanges of assets;

(c) Transactions not in the ordinary course of business;

(d) Guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance

contracts entered into in the ordinary course of the insurer's business;

(e) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles;

(f) Reinsurance agreements; ~~and~~

(g) Dividends and other distributions to shareholders; and

(h) Consolidated tax allocation agreements;

(2-A) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(2-B) If requested by the superintendent, financial statements of or within the insurance holding company system, including all affiliates. The required financial statements may include but are not limited to annual audited financial statements filed with the United States Securities and Exchange Commission pursuant to the Exchange Act. An insurer required to file financial statements pursuant to this subparagraph may satisfy the request by providing the superintendent with the most recently filed parent corporation financial statements that have been filed with the United States Securities and Exchange Commission;

(3) Other matters concerning transactions between the insurer and any affiliate as may be required by the superintendent; and

(4) Any other information required by the superintendent by rule;

Sec. A-18. 24-A MRSA §222, sub-§8, ¶¶B-1 to B-3 are enacted to read:

B-1. The controlling person with ultimate control of an insurer subject to registration shall also file an annual enterprise risk report. The report must be appropriate to the nature, scale and complexity of the operations of the insurance holding company system and must, to the best of the controlling person's knowledge and belief, identify the material risks within the insurance holding company system, if any, that could pose enterprise risk to the insurer. The report must be filed with the lead state regulator of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the National Association of Insurance Commissioners;

B-2. An insurer subject to registration shall file statements confirming that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved and implemented and continue to maintain and monitor corporate governance and internal control procedures;

B-3. A domestic insurer that is subject to registration, and has annual premium of $500,000,000 or more or is a member of an insurance holding company system with annual premium of $1,000,000,000 or more, shall conduct an own risk and solvency assessment in accordance with the requirements of this paragraph at least annually, and also at any time when there are significant changes to the risk profile of the insurer or its insurance holding company system, except as otherwise provided in subparagraph (1). For purposes of this paragraph, "premium" means direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation within the United States Department of Agriculture, Risk Management Agency and with the National Flood Insurance Program within the United States Department of Homeland Security, Federal Emergency Management Agency.

(1) This paragraph does not apply if:

(a) The insurer is an agency, authority or instrumentality of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state;

(b) The insurer and its insurance holding company system did not meet either of the minimum premium criteria of this paragraph in the financial statements immediately preceding their most recent financial statements and the superintendent has not required compliance with this paragraph under subparagraph (2); or

(c) The superintendent has granted a waiver from the requirements of this paragraph based upon unique circumstances. In deciding whether to grant a waiver, the superintendent may consider the type and volume of business written by the insurer, the ownership and organizational structure of the insurer and its insurance holding company system and any other factor the superintendent considers relevant to the insurer or the insurer's insurance holding company system. If the insurer's insurance holding

company system includes insurers domiciled in more than one state, the superintendent shall coordinate with the lead regulator and with other domiciliary regulators in considering whether to grant the insurer's request for a waiver.

(2) The superintendent may require an insurer that does not meet either of the minimum premium criteria of this paragraph to comply with the requirements of this paragraph if:

(a) The superintendent determines that the insurer should be subject to this paragraph due to unique circumstances, including, but not limited to, the type and volume of business written by the insurer, the ownership and organizational structure of the insurer and its insurance holding company system, federal agency requests and international supervisor requests;

(b) The insurer is subject to a corrective order or required to adopt a risk-based capital plan under sections 6453 to 6456;

(c) The superintendent has determined in accordance with rules adopted by the superintendent that the insurer is in hazardous financial condition; or

(d) The superintendent has determined that the insurer otherwise exhibits qualities of a troubled insurer.

(3) If an insurer's insurance holding company system has annual premium of $1,000,000,000 or more, the assessment and reporting required by this paragraph must be conducted for each insurer within the insurance holding company system, either on a systemwide basis or separately for insurers or combinations of insurers within the insurance holding company system.

(4) An insurer subject to this paragraph shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material and relevant risks. An insurer may satisfy this requirement by participating in an applicable risk management framework maintained by the insurance holding company system of which the insurer is a member.

(5) An insurer subject to this paragraph shall prepare and submit regular ORSA summary reports that satisfy the requirements of this subparagraph and shall provide additional information to the superintendent upon request.

(a) Beginning no later than 2015, the ORSA summary report must be prepared at least annually, on a timetable consistent with the insurer's internal strategic planning processes, and submitted to the lead regulator of the insurer's insurance holding company system, as determined by the procedures within a financial analysis handbook adopted by the National Association of Insurance Commissioners. If the superintendent is not the lead regulator, the insurer shall submit the insurer's or insurance holding company system's most recent ORSA summary report to the superintendent on request.

(b) The ORSA summary report must be prepared consistent with the ORSA guidance manual. Documentation and supporting information must be maintained and made available upon examination by or upon request of the superintendent.

(c) The insurer's or insurance holding company system's chief risk officer, or other executive having responsibility for the oversight of the insurer's enterprise risk management process, shall sign the ORSA summary report attesting to the best of the signer's belief and knowledge that the insurer applies the enterprise risk management process described in the ORSA summary report and that a copy of the report has been provided to the insurer's board of directors or the appropriate committee of the board.

(d) An insurer may comply with this paragraph by providing the most recent ORSA summary report and a report or reports that are substantially similar to the ORSA summary report that are provided by the insurer or another member of its insurance holding company system to the insurance commissioner of another state or to an insurance supervisor or regulator of a foreign jurisdiction if that report provides information that is comparable to the information described in the ORSA guidance manual. Any report in a language other than English must be accompanied by an English translation.

(6) The superintendent's review of the ORSA summary report, and any additional requests for information, must be consistent with accepted regulatory procedures for the analysis and examination of multistate or global insurers and insurance groups.

Sec. A-19. 24-A MRSA §222, sub-§8, ¶C, as enacted by PL 1975, c. 356, §1, is amended to read:

C. ~~No information need be disclosed~~ An insurer does not need to disclose on the registration statement filed pursuant to this subsection ~~if such~~ information that is not material to the purposes of this ~~chapter~~ section. Unless the superintendent by rule~~, regulation~~ or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit or investments~~,~~ involving 1/2 of 1% or less of an insurer's admitted assets as of December 31st immediately preceding ~~shall~~ are not ~~be deemed~~ material for purposes of this section;

Sec. A-20. 24-A MRSA §222, sub-§8, ¶I, as enacted by PL 1975, c. 356, §1, is amended to read:

I. Any person may file with the superintendent a disclaimer of affiliation with any authorized insurer ~~or such a~~. A disclaimer of affiliation may be filed by the insurer or any member of an insurance holding company system. The disclaimer ~~shall~~ must fully disclose all material relationships and bases for affiliation between ~~such~~ the disclaiming person and the insurer as well as the bases for disclaiming ~~such~~ affiliation. ~~After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the superintendent disallows the disclaimer. The superintendent shall disallow a disclaimer only after a hearing thereon with notice to all parties in interest, and after making specific findings of fact to support such disallowance.~~

(1) An approved disclaimer relieves the disclaiming person of the duty to register under this section.

(2) A disclaimer is deemed approved unless the superintendent, within 30 days after receipt of a complete disclaimer, including any additional information required by the superintendent, either disallows the disclaimer or notifies the disclaiming person that a hearing will be held on the disclaimer.

(3) The superintendent may condition the approval of a disclaimer on terms and conditions reasonably designed to ensure that the disclaiming person will not exercise actual control or acquire the right to actual control over the insurer without triggering the prior approval process under subsections 4-C and 7.

(4) If the superintendent takes action on a disclaimer without hearing, including the imposition of conditions not agreed to by the disclaiming person, an aggrieved person has the right to a hearing.

(5) The superintendent may rescind the approval of a disclaimer, after notice and opportunity for hearing, on the basis of new information or changed circumstances demonstrating the existence of control over the insurer.

Sec. A-21. 24-A MRSA §222, sub-§9, as amended by PL 1991, c. 828, §5, is further amended to read:

9. Transactions with affiliates; standards. Transactions by insurers subject to registration with their affiliates ~~that occur after the effective date of this chapter~~ are subject to the following standards.

A. The terms, including any charges or fees for services performed, must be fair and reasonable.

A-1. Agreements for cost-sharing services and management must include any provisions required by the superintendent by rule.

B. The books, accounts and records of each party must be so maintained as to disclose clearly and accurately the nature and details of the transaction, including all accounting information necessary to support the reasonableness of any charges or fees.

C. The insurer's surplus to policyholders following any dividends or distributions to stockholder affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

D. Expenses incurred and payment received must be allocated to the insurer in conformity with customary insurance accounting practices consistently applied.

E. A domestic insurer ~~must~~ shall notify the superintendent in writing at least 30 days in advance, unless the superintendent authorizes a shorter period, before entering into or materially amending or modifying any of the following kinds of transactions with any member of its holding company system:

(1) Sales, purchases, exchanges, loans or extensions of credit, guarantees or investments that are equal to or exceed:

(a) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted assets as of December 31st of the ~~preceeding~~ preceding year ~~or~~ and 25% of surplus to policyholders;

(b) With respect to life insurers, 3% of the insurer's admitted assets as of December 31st of the preceding year; or

(c) With respect to nonprofit hospital and medical service organizations and their 100% controlled affiliates that op-

erate as monoline health insurers or health maintenance organizations, the lesser of 5% of the entity's admitted assets as of December 31st of the preceding year ~~or~~ and 25% of surplus to policyholders;

(2) Loans or extensions of credit to any person who is not an affiliate, if the insurer makes the loan or extension of credit with the agreement or understanding that the proceeds in whole or in substantial part~~,~~ are to be used to make loans or extensions of credit to, purchase assets of or make investments in any affiliate of the insurer if the loan, extension of credit, purchase or investment is equal to or exceeds:

(a) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted assets as of December 31st of the preceding year ~~or~~ and 25% of surplus to policyholders;

(b) With respect to life insurers, 3% of the insurer's admitted assets as of December 31st of the preceding year; or

(c) With respect to nonprofit hospital and medical service organizations and their 100% controlled affiliates that operate as monoline health insurers or health maintenance organizations, the lesser of 5% of the entity's admitted assets as of December 31st of the preceding year ~~or~~ and 25% of surplus to policyholders;

(3) ~~Reinsurance~~ All reinsurance pooling agreements ~~or modifications to the~~, and all reinsurance agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a projected change in the insurer's liabilities in any of the next 3 years, equals or exceeds 5% of the insurer's surplus to policyholders, as of December 31st of the preceding year, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;

(4) ~~Management~~ All management agreements, cost-sharing arrangements ~~and~~, tax allocation agreements, service contracts ~~that:~~ and guaranties, with the exception of guaranties that are quantifiable in amount and do not exceed, in the aggregate, the lesser of 0.5% of admitted assets and 10% of surplus as regards policyholders as of December 31st of the preceding year;

~~(a) Delegate authority to effectuate reinsurance;~~

~~(b) Provide for delegated corporate governance;~~

~~(c) Provide for servicing of claims liabilities; or~~

~~(d) In any other way contribute an element of expense that is material when related to operations of the insurer;~~

(5) Any transactions that are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the superintendent determines that those separate transactions were entered into over any 12-month period for such a purpose, the superintendent may exercise authority under this subsection; and

(6) Any other material transactions specified by rule that the superintendent has determined may adversely affect the interests of the insurer's policyholders.

A notice of amendment or modification of a transaction must include the reasons for the change and the financial impact on the domestic insurer. The insurer shall notify the superintendent within 30 days after terminating an agreement previously reported under this paragraph.

The superintendent shall disapprove ~~any such~~ a transaction that is subject to this paragraph if ~~it~~ the transaction violates the standards of this section or other applicable law or adversely affects the interests of policyholders. The superintendent's failure to make a determination on a proposed transaction within 30 days after it has been submitted for review has the effect of an approval, unless the superintendent has issued a notice of adjudicatory hearing on the proposal in accordance with section 230.

Any violation of this subsection, in addition to the penalties contained in subsection 14, renders the transactions voidable at the initiative of the superintendent or otherwise under applicable law. The superintendent's approval of a transaction in accordance with this section, whether actual or by acquiescence, may not override any applicable law and does not operate to authorize any transaction that would be contrary to law if it involved an insurer not a member of the same holding company system.

Sec. A-22. 24-A MRSA §222, sub-§10, as amended by PL 1993, c. 313, §10, is further amended to read:

10. Insurer's surplus; adequacy factors. For the purposes of this ~~chapter~~ section, in determining whether an insurer's surplus to policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, may be considered:

A. The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

B. The extent to which the insurer's business is diversified among the several lines of insurance;

C. The number and size of the risks insured in each line of business;

D. The extent of the geographical dispersion of the insurer's insured risks;

E. The nature and extent of the insurer's reinsurance program;

F. The quality, diversification and liquidity of the insurer's investment portfolio;

G. The recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

H. The quality and liquidity of investments in subsidiaries or affiliates. The department may discount any such investment or treat any investment as a nonadmitted asset for purposes of determining the adequacy of surplus as regards policyholders whenever the investment so warrants;

I. The adequacy of the insurer's reserves;

J. The surplus as regards policyholders maintained by other comparable insurers in respect of the factors set out in this subsection; and

K. The quality of the company's earnings and the extent to which the reported earnings include extraordinary items.

Sec. A-23. 24-A MRSA §222, sub-§11-C, ¶B, as enacted by PL 2009, c. 511, Pt. A, §5, is amended to read:

B. The superintendent shall issue an order restricting or disallowing the payment of dividends and distributions if the superintendent determines that the insurer's surplus would not be reasonable in relation to the insurance company's outstanding liabilities, that the insurer's surplus would be inadequate to that company's financial needs ~~or~~, that the insurer's financial condition would constitute a condition hazardous to policyholders, claimants or the public or that a violation of subsection 4-C prevents the superintendent from sufficiently understanding the enterprise risk to the insurer posed by its affiliates or by its insurance holding company system.

Sec. A-24. 24-A MRSA §222, sub-§12, as amended by PL 1999, c. 113, §13, is repealed.

Sec. A-25. 24-A MRSA §222, sub-§13, as amended by PL 1989, c. 385, §9, is repealed.

Sec. A-26. 24-A MRSA §222, sub-§13-A is enacted to read:

13-A. Confidential information. This section applies to holding company information that is in the possession or control of the superintendent or that is in the possession or control of the National Association of Insurance Commissioners as a result of a filing under this section or as a result of information sharing by the superintendent as authorized by this section.

A. For purposes of this subsection, "holding company information" means any of the following documents, materials and other information if the document, material or other information has not specifically and expressly been designated as a public record by other applicable law:

(1) Information obtained by the superintendent pursuant to an examination or investigation pursuant to subsection 1-A to the same extent as the information would have been confidential if obtained in an examination or investigation conducted under section 220 or 221;

(2) A registration statement or report filed under subsection 8, including all supporting information;

(3) A report filed under subsection 9, including all supporting information;

(4) A notice of proposed divestiture filed under subsection 4-C, paragraph B, until the divestiture transaction has occurred;

(5) A disclosure of the beneficial owner of securities made by a broker-dealer pursuant to subsection 4-C, paragraph E;

(6) The identity of a lender that is to finance a proposed transaction if declared confidential under subsection 4-C, paragraph C, subparagraph (2);

(7) Information filed in support of any required attestation of risk management or internal controls under subsection 4-C, paragraph C, subparagraph (12) or (13);

(8) A competitive impact statement filed under subsection 4-C, paragraph C, subparagraph (14), including all supporting information;

(9) Information obtained under an information-sharing agreement entered into pursuant to this section to the extent that it is protected by the confidentiality provisions of the agreement;

(10) Information obtained pursuant to this section from a jurisdiction other than this State to the extent that it is confidential under the laws of the jurisdiction in which it is normally maintained; and

(11) Information obtained under this section to the extent that it is confidential under other applicable law, including, but not limited to, section 216, section 225 and Title 1, section 402, subsection 3.

B. Except as otherwise provided by paragraphs D and E or specifically and expressly provided by other applicable law, holding company information is confidential, is not a public record, is not subject to a subpoena, is not subject to discovery or admissible as evidence in any private civil action and may not be made public by the superintendent without prior written consent of the relevant insurer. The privilege provided under this paragraph does not supersede any other applicable privilege or confidentiality protection, nor does disclosure of confidential holding company information to the superintendent constitute a waiver of any such privilege or protection. Neither the superintendent nor any person who received holding company information from or under the authority of the superintendent under this section may be permitted or required to testify in any private civil action concerning holding company information that is confidential under this subsection.

C. The superintendent may share holding company information that is confidential under this subsection only in accordance with the requirements of section 216, subsection 5 and the following additional requirements.

(1) The recipient of the information must agree in writing to maintain the same level of confidentiality as is available under Maine law. This requirement may be satisfied through a multilateral confidentiality agreement to which both the superintendent and the recipient are parties.

(2) The superintendent may not share confidential holding company information with or through the National Association of Insurance Commissioners except in accordance with an information-sharing agreement entered into in accordance with section 216, subsection 5, paragraph C.

(3) If the recipient of the information is in the United States, the recipient's state must have statutes or rules that expressly protect holding company information at a level at least equivalent to the protections provided by this subsection and section 216, subsection 5.

(4) ORSA-related information subject to subsection 8, paragraph B-3 may, with the written consent of the insurer, be shared with a 3rd-party consultant under an agreement containing the conditions specified in section 216, subsection 5, paragraph C. In addition, any agreement for sharing ORSA-related information with the National Association of Insurance Commissioners or a 3rd-party consultant must further provide that:

(a) The recipient of the information agrees in writing to maintain the confidentiality and privileged status of the ORSA-related information and has verified in writing the legal authority to maintain confidentiality;

(b) Any preauthorization granted under the agreement for further sharing of information provided by the superintendent must be limited to only the domiciliary regulators of other insurers in the same insurance holding company system; and

(c) The National Association of Insurance Commissioners or a 3rd-party consultant may not store ORSA-related information shared pursuant to this subparagraph in a permanent database after the underlying analysis is completed.

D. This subsection does not prohibit the superintendent from using holding company information in the furtherance of any regulatory or legal action brought as a part of the superintendent's official duties.

E. Unless otherwise provided by applicable law, the superintendent may, after giving notice and opportunity for hearing to the insurer and any affiliates, controlling person or other persons that would be affected, order one or more items of holding company information, other than ORSA-related information, to be made a public record in its entirety or in redacted form if the superintendent determines that public disclosure will be in the interest of policyholders, shareholders or the public.

Sec. A-27. 24-A MRSA §222, sub-§14, ¶A, as amended by PL 2007, c. 466, Pt. D, §3, is further amended to read:

A. Any person who willfully violates any of the provisions of this section, or the rules and regulations promulgated by the superintendent under authority thereof, or any person who willfully, in a filing pursuant to subsection ~~4-A~~ 4-C or a registration pursuant to subsection 8, paragraph B, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, must upon conviction be fined not more than $1,000 or imprisoned not more than 3 years, or both;

Sec. A-28. 24-A MRSA §222, sub-§18, as amended by PL 1999, c. 113, §14, is further amended to read:

18. Rules. The superintendent may~~, upon notice and opportunity for all interested persons to be heard,~~ adopt reasonable rules ~~as necessary~~ to carry out ~~and effectuate~~ provisions of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-29. 24-A MRSA §222, sub-§19, as enacted by PL 1975, c. 356, §1, is amended to read:

19. Supplemental to existing provisions. This section, as to insurance holding company systems, supplements in particular those provisions contained in sections 407, subsection 2; 410, subsection 1, paragraph B; 413; 423-C; 425; 1115; 1136; 3414; 3474; 3475; 3476; 3483; 3875 and 4407; and the provisions of this section ~~shall be~~ are deemed to supersede or modify any such provisions or any other provisions of ~~the Maine Insurance Code, as it may be amended, only~~ this Title to the extent inconsistent therewith.

Sec. A-30. 24-A MRSA §423-F is enacted to read:

§423-F. Own risk and solvency assessment

1. General requirement. A domestic insurer that is not subject to registration under section 222, subsection 8 shall comply with the requirements of section 222, subsection 8, paragraph B-3 if the requirements of that paragraph would apply if the insurer were subject to registration. The superintendent is considered the insurer's lead regulator for purposes of this section.

2. Confidentiality. All documents prepared or filed pursuant to this section are confidential to the same extent and subject to the same terms and procedures as if they were prepared or filed pursuant to section 222, subsection 8, paragraph B-3.

Sec. A-31. 24-A MRSA §1157, sub-§5, ¶D, as amended by PL 2001, c. 72, §15, is further amended to read:

D. Investments made or acquired by subsidiaries referred to in paragraph B, subparagraph (1)~~,~~ are considered to be made or acquired directly by the insurer, pro rata, in the case of a subsidiary not wholly owned~~,~~ and, to such extent, are subject to all the provisions and limitations on the making of investments specified in this chapter with respect to investments by the insurer; must be valued in accordance with the provisions of section 901-A and any other applicable provisions of this Title and any applicable rules adopted by the superintendent; and must be located pursuant to section 3408. Those subsidiaries are subject to examination by the superintendent under section 221, subsection 1~~,~~ and section 222, subsection ~~1~~ 1-A.

Sec. A-32. 24-A MRSA §4356, sub-§§12 and 13, as enacted by PL 1969, c. 132, §1, are amended to read:

12. If the insurer has requested or consented to rehabilitation by vote or written authorization of a majority of its directors or stockholders, or members, as to mutual insurers; ~~or~~

13. If the insurer has failed to pay any valid judgment against it within 30 days after the same became final~~.~~; or

Sec. A-33. 24-A MRSA §4356, sub-§14 is enacted to read:

14. If a violation of section 222, subsection 4-C prevents the superintendent from sufficiently understanding the enterprise risk to the insurer posed by its affiliates or by its insurance holding company system.

Sec. A-34. Effective date. This Part takes effect January 1, 2014.

PART B

Sec. B-1. 24-A MRSA §601, sub-§26, as amended by PL 2003, c. 203, §1, is further amended to read:

26. Accredited reinsurers. Application ~~fee~~ fees for accreditation ~~as reinsurer~~ of reinsurers may not exceed $500.

Sec. B-2. 24-A MRSA §601, sub-§26-A is enacted to read:

26-A. Certified reinsurers. Application fees for certification of reinsurers may not exceed $1,000.

Sec. B-3. 24-A MRSA §731-B, sub-§1, ¶B-1, as enacted by PL 2001, c. 47, §2, is amended to read:

B-1. Is accredited as a reinsurer in this State, in accordance with the following standards.

(1) To apply for accreditation, a reinsurer shall file with the superintendent a written application on a form prescribed by the superintendent, accompanied by the fee prescribed in section 601, subsection 26 and an agree-

ment to submit to the jurisdiction of the courts of this State and to the authority of the superintendent to examine the reinsurer's books and records.

(2) An accredited reinsurer must be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien reinsurer, that reinsurer must be entered through and licensed to transact insurance or reinsurance in at least one state.

(3) An accredited reinsurer shall file with the superintendent, as part of its application and annually thereafter, a copy of its annual statement filed with the insurance department of its state of domicile or United States port of entry and a copy of its most recent audited financial statement.

(4) A reinsurer applying for accreditation that maintains a surplus as regards to policyholders in an amount not less than $20,000,000 is deemed to be accredited if the reinsurer's application is not denied by the superintendent within 90 days after submission of the application. The superintendent has the discretion to grant accreditation to an applicant with a surplus less than $20,000,000 subject to such terms and conditions as the superintendent determines to be necessary and appropriate for the protection of domestic ceding insurers and their policyholders.

~~The superintendent may deny, suspend, revoke or place restrictions upon a reinsurer's accreditation, after notice and opportunity for hearing, for failure to comply with the requirements of this paragraph or for any grounds that would warrant similar action against the certificate of authority of an authorized insurer.~~

Sec. B-4. 24-A MRSA §731-B, sub-§1, ¶B-2 is enacted to read:

B-2. Is certified as a reinsurer in this State and secures its obligations in accordance with this paragraph.

(1) To be eligible for certification, the assuming insurer must meet the following requirements:

(a) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a jurisdiction determined by the superintendent to be a qualified jurisdiction pursuant to subparagraph (3);

(b) The assuming insurer must maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the superintendent pursuant to rules adopted under subsection 7;

(c) The assuming insurer must maintain financial strength ratings from 2 or more rating agencies determined by the superintendent to be acceptable pursuant to rules adopted under subsection 7;

(d) The assuming insurer must agree to submit to the jurisdiction of this State and to appoint an agent for service of process in the same manner as provided for authorized insurers under section 421 and agree to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment;

(e) The assuming insurer must agree to meet applicable information filing requirements as determined by the superintendent, both with respect to an initial application for certification and on an ongoing basis;

(f) The assuming insurer must pay the application fee prescribed in section 601, subsection 26-A and, to the extent provided in rules adopted under subsection 7, must agree to pay reasonable costs of review; and

(g) The assuming insurer must satisfy any other requirements for certification established by the superintendent.

(2) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying the requirements of subparagraph (1):

(a) The association may satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, which must include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the superintendent to provide adequate protection;

(b) The incorporated members of the association may not be engaged in any business other than underwriting as a member of the association and must be subject to the same level of regulation and solvency control by the association's

domiciliary regulator as are the unincorporated members; and

(c) Within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the superintendent an annual certification by the association's domiciliary regulator of the solvency of each underwriter member of the association or, if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(3) The superintendent shall create and publish a list of jurisdictions that are qualified to serve as the domiciliary regulators of certified reinsurers.

(a) In order to determine whether the domiciliary jurisdiction of an alien assuming insurer is eligible to be recognized as a qualified jurisdiction, the superintendent shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the jurisdiction to reinsurers licensed and domiciled in the United States. To be recognized as qualified, a jurisdiction must agree to share information and cooperate with the superintendent with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the superintendent has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. The superintendent may consider additional factors.

(b) If the National Association of Insurance Commissioners has published a list of recommended qualified jurisdictions, the superintendent shall consider that list in determining qualified jurisdictions. If the superintendent recognizes a jurisdiction as qualified that does not appear on the list published by the National Association of Insurance Commissioners, the superintendent shall make detailed findings of fact supporting the recognition in accordance with criteria to be developed in rules adopted under subsection 7.

(c) United States jurisdictions that are accredited by the National Association of Insurance Commissioners must be recognized as qualified jurisdictions.

(d) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the superintendent may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(4) The superintendent shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies determined to be acceptable pursuant to rules adopted under subsection 7. The superintendent shall publish a list of all certified reinsurers and their ratings.

(5) A certified reinsurer shall secure all obligations assumed from United States ceding insurers under this subsection, and under comparable laws of other states, at a level consistent with its rating and in a form acceptable to the superintendent, in compliance with rules adopted under subsection 7.

(a) If the security is insufficient, the superintendent shall reduce the allowable credit by an amount proportionate to the deficiency and may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(b) The reinsurer may secure its obligations as a certified reinsurer through a multibeneficiary trust that meets the requirements of paragraph C and subsection 2-A, with the following modifications.

(i) The maximum credit allowable may exceed the value of the qualifying security to the extent provided in this subparagraph.

(ii) The minimum trusteed surplus is $10,000,000, rather than the amount specified in paragraph C.

(iii) If the certified reinsurer also maintains a multibeneficiary trust for obligations required to be fully secured under paragraph C or comparable laws of other states, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed with reduced security as permitted by this paragraph or comparable laws of other United States jurisdictions and

for its obligations that are required to be fully secured. The trust accounts may not be approved as qualifying security unless the reinsurer has bound itself, by the language of the trust and by agreement with the insurance regulator with principal oversight of each such trust account, to apply, upon termination of any such trust account, the remaining surplus of that trust to the extent necessary to fund any deficiency of any other such trust account.

(c) If a certified reinsurer does not secure its obligations through a qualifying multibeneficiary trust, it must secure its obligations to the ceding insurer consistent with the requirements of subsection 3, except that the maximum credit allowable may exceed the value of the qualifying security to the extent provided in this subparagraph.

(d) For purposes of this subparagraph, a certified reinsurer whose certification has been terminated for any reason must be treated as a certified reinsurer required to secure 100% of its obligations, unless the superintendent has continued to assign a higher rating, as permitted by other provisions of this section, to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(6) If an applicant for certification has been certified as a reinsurer in a jurisdiction accredited by the National Association of Insurance Commissioners, the superintendent may defer to that jurisdiction's certification to grant certification in this State and may defer to the rating assigned by that jurisdiction.

(7) A certified reinsurer that ceases to assume new business in this State may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the superintendent shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

Sec. B-5. 24-A MRSA §731-B, sub-§1, ¶C, as amended by PL 2001, c. 47, §3, is further amended to read:

C. Maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest.

(1) The assuming insurer shall report annually to the superintendent information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by licensed insurers to enable the superintendent to determine the sufficiency of the trust fund.

(2) In the case of a single assuming insurer, the trust must consist of a trusteed account representing the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers and, in addition, unless the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years, must include a trusteed surplus of at least $20,000,000. The trust must provide that after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least 3 full years, the insurance regulator with principal oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(3-A) A group including incorporated and individual unincorporated underwriters may secure its obligations with funds held in trust in compliance with the following standards.

(a) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after ~~August 1, 1995~~ January 1, 1993, the trust must consist of a trusteed account in an amount at least equal to the ~~group's~~ respective underwriters' several liabilities attributable to reinsurance ceded by United States domiciled ceding insurers

to any ~~member~~ underwriter that is a member of the group.

(b) Notwithstanding the other provisions of this section, for reinsurance ceded under reinsurance agreements with an inception date on or before ~~July 31, 1995~~ December 31, 1992 and not amended or renewed after that date, the trust must consist of a trusteed account in an amount not less than the ~~group's~~ respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States.

(c) In addition, the group shall maintain a trusteed surplus of at least $100,000,000 held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

An incorporated member of the group may not be engaged in any business other than underwriting as a member of the group and is subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. Within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the superintendent an annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group or, if a certification is unavailable, financial statements prepared by independent public accountants.

(4-A) The superintendent in rules adopted pursuant to subsection 7 may establish alternative criteria for approval of a reinsurance trust if the superintendent determines that the criteria provide adequate protection to policyholders of United States ceding insurers and are in substantial conformance with standards approved by the National Association of Insurance Commissioners.

(5) The trust must be established in a form approved by the superintendent and consistent with any rules adopted by the superintendent pursuant to this section. The form of the trust and any amendments to the trust must also have been approved by the insurance regulatory official of the state where the trust is domiciled or of another state that, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in the trustees of the trust for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer are subject to examination, as determined by the superintendent, at the assuming insurer's expense. The trust must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(6) The trustees of the trust shall report to the superintendent in writing by February 28th of each year, setting forth the balance of the trust and listing the trust's investments at the end of the preceding year and certifying the date of termination of the trust, if so planned, or certifying that the trust does not expire before December 31st of the current year.

(7) The corpus of the trust is to be valued as any other admitted asset or assets;

Sec. B-6. 24-A MRSA §731-B, sub-§1, ¶D, as amended by PL 2001, c. 47, §4, is further amended to read:

D. Does not meet the requirements of paragraph A, B, B-1, B-2 or C, but only with respect to risks located in a jurisdiction where that reinsurance is required by law. The superintendent for good cause after notice and opportunity for hearing may disallow or reduce the credit otherwise permitted under this paragraph.

Sec. B-7. 24-A MRSA §731-B, sub-§1-A is enacted to read:

1-A. The superintendent may suspend or revoke a reinsurer's accreditation or certification under subsection 1, after notice and opportunity for hearing, for failure to meet the applicable requirements of subsection 1 or on any ground that would warrant similar action against the certificate of authority of an authorized insurer.

A. A suspension or revocation under this subsection may not take effect until after the superintendent's order following a hearing, unless:

(1) The reinsurer waives its right to a hearing;

(2) The superintendent's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subsection 1, paragraph B-2, subparagraph (6); or

(3) The superintendent finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the superintendent's action.

B. While a reinsurer's accreditation or certification is suspended pursuant to this subsection, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit under subsection 1 except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection 3. If a reinsurer's accreditation or certification is revoked pursuant to this subsection, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection 1, paragraph B-2, subparagraph (5) or subsection 3.

C. The superintendent may deny an application for accreditation or certification under subsection 1, or may impose conditions or restrictions on a reinsurer's accreditation or certification, on any ground for which accreditation or certification may be suspended or revoked.

Sec. B-8. 24-A MRSA §731-B, sub-§3, ¶B, as enacted by PL 1989, c. 846, Pt. E, §2 and affected by §4, is amended to read:

B. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those designated as exempt from filing in the purposes and procedures manual of the Securities Valuation Office, and qualifying as admitted assets; or

Sec. B-9. 24-A MRSA §731-D, as enacted by PL 1989, c. 846, Pt. E, §2 and affected by §4, is amended to read:

§731-D. Notification of reinsurance changes

~~Upon request of the~~ The superintendent~~, an~~ may by rule or order require an insurer ~~shall~~ to promptly inform the superintendent in writing of the cancellation or any other material change of any of the insurer's reinsurance treaties or arrangements. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. B-10. 24-A MRSA §731-E is enacted to read:

§731-E. Reinsurance concentration risk

1. Reinsurance claim exposure. An insurer shall manage its reinsurance recoverables proportionate to its own book of business. A domestic insurer shall notify the superintendent within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceed 50% of the insurer's last reported surplus to policyholders or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, are likely to exceed this limit.

2. Diversification. An insurer shall diversify its reinsurance program to the extent reasonably necessary to avoid imprudent concentrations of risk. A domestic insurer shall notify the superintendent within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20% of the insurer's gross written premium in the prior calendar year or after the insurer has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit.

3. Risk management. A notice provided by an insurer under subsection 1 or 2 must include a demonstration that the insurer is safely managing the exposure.

PART C

Sec. C-1. 24-A MRSA §951, as amended by PL 1983, c. 346, §1, is repealed and the following enacted in its place:

§951. Short title

This subchapter may be known and cited as "the Standard Valuation Law."

Sec. C-2. 24-A MRSA §951-A is enacted to read:

§951-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Appointed actuary. "Appointed actuary" means the actuary appointed by an insurer pursuant to section 952-A, subsection 1.

2. NAIC. "NAIC" means the National Association of Insurance Commissioners or its successor organization.

3. Operative date. "Operative date," with respect to the initial adoption of the valuation manual, means January 1st of the first calendar year beginning at least 6 months after all of the following events have occurred:

A. The valuation manual has been adopted by the NAIC by an affirmative vote of at least 42 members or 3/4 of the members voting, whichever is greater;

B. The NAIC's model standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions has been enacted by states representing greater

than 75% of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements; and

C. The NAIC's model standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions has been enacted by at least 42 of the following 55 jurisdictions: the 50 states of the United States, American Samoa, the District of Columbia, Guam, the Commonwealth of Puerto Rico and the United States Virgin Islands.

4. Policyholder behavior. "Policyholder behavior" means any action a policyholder, contract holder or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this subchapter, including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization or benefit elections prescribed by the policy or contract, but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

5. Principle-based valuation. "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is subject to section 960.

6. Qualified actuary. "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets all applicable requirements specified in the valuation manual or by rule adopted by the superintendent.

7. Subject lines of insurance. "Subject lines of insurance" means life insurance, accident and health insurance and deposit-type contracts, as those terms are defined in the valuation manual.

8. Tail risk. "Tail risk" means a risk for which the frequency of low-probability events is higher than expected under a normal probability distribution or the risk of events of very significant magnitude.

9. Valuation manual. "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in section 959.

Sec. C-3. 24-A MRSA §952, sub-§1, as amended by PL 1973, c. 585, §12, is further amended to read:

1. The superintendent shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer transacting business in this State in accordance with this subchapter, except that in the case of an alien insurer, such valuation ~~shall~~ must be limited to its United States business; and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods, net level premium method or other, used in the calculation of such reserves. In calculating such reserves, ~~he~~ the superintendent may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required of any foreign or alien insurer, ~~he~~ the superintendent may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided ~~and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the superintendent when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by law of that state or jurisdiction~~. For policies and contracts issued before the operative date of the valuation manual or not addressed by the valuation manual, reserves must be determined according to sections 953 to 958-A. For policies and contracts issued after the operative date of the valuation manual, reserves must be determined according to sections 959 and 960 and as specified by the valuation manual.

Sec. C-4. 24-A MRSA §952, sub-§3 is enacted to read:

3. Beginning on the operative date of the valuation manual, a life or health insurer and a casualty or multiple lines insurer transacting health insurance shall comply with the applicable requirements of this subchapter if the insurer is required to hold a certificate of authority to write one or more subject lines of insurance in this State or if the insurer has written, issued or reinsured contracts of one or more subject lines of insurance in this State and has at least one such policy in force or on claim.

Sec. C-5. 24-A MRSA §952-A, as amended by PL 2011, c. 320, Pt. A, §6, is further amended to read:

§952-A. Actuarial opinion of reserves

1. General. ~~A life~~ An insurer doing business in this State subject to this subchapter shall ~~annually~~ appoint a qualified actuary, in accordance with any applicable requirements of the valuation manual or rules adopted by the superintendent, and annually submit the opinion of ~~a qualified~~ the appointed actuary as to whether the reserves and related actuarial items of that ~~life~~ insurer held in support of the policies and contracts specified by the superintendent by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior

reported amounts and comply with applicable laws of this State. ~~The~~ Before the operative date of the valuation manual, the superintendent by rule shall define the specifics of ~~this~~ the opinion ~~and~~. On and after the operative date of the valuation manual, if the valuation manual has prescribed specific requirements applicable to the opinion, the opinion must comply with those requirements. The superintendent by rule may add any other items considered necessary to ~~its~~ the scope of the opinion.

2. Actuarial analysis of reserves and assets supporting those reserves. ~~A life~~ Except as otherwise authorized or required in accordance with rules adopted by the superintendent or applicable provisions of the valuation manual, an insurer~~, except as exempted by or pursuant to rule~~, subject to this subchapter shall include in the opinion required by subsection 1 an opinion of the ~~same qualified~~ appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the superintendent by rule, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, adequately provide for the insurer's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

The superintendent may provide by rule for a transition period for establishing any higher reserves that the ~~qualified~~ appointed actuary may consider necessary in the opinion required by this subsection.

3. Requirement for opinion under subsection 2. An opinion required by subsection 2 is governed by the following provisions.

A. A memorandum, in form and substance acceptable to the superintendent as specified in the valuation manual or by rule, must be prepared to support the actuarial opinion.

B. If the insurer fails to provide a supporting memorandum at the request of the superintendent within a period specified in the valuation manual or by rule or the superintendent determines that the supporting memorandum provided by the insurer fails to meet the prescribed standards ~~prescribed by the rules~~ or is otherwise unacceptable to the superintendent, the superintendent may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare a supporting memorandum as required by the superintendent.

4. Requirement for all opinions. An opinion required pursuant to subsection 1 or 2 is governed by the following provisions.

A. The opinion must be submitted with the annual statement reflecting the valuation of reserve liabilities for each year ending on or after December 31, 1995.

B. The opinion must apply to all business in force, including individual and group health insurance plans, in a form and substance acceptable to the superintendent ~~as specified by rule~~.

B-1. The opinion must comply with the requirements of any applicable rules and, on and after the operative date of the valuation manual, must comply with all applicable requirements of the valuation manual.

C. The opinion must be based on standards adopted by the ~~actuarial standards board~~ Actuarial Standards Board or its successor and, to the extent applicable, on ~~those~~ any additional standards ~~as~~ prescribed by the valuation manual or prescribed by the superintendent by rule ~~prescribes~~.

D. In the case of an opinion required to be submitted by a foreign or alien insurer, the superintendent may accept the opinion filed by that insurer with the insurance supervisory official of another state if the superintendent determines that the opinion reasonably meets the requirements applicable to an insurer domiciled in this State.

~~E. For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in the rules of the American Academy of Actuaries.~~

F. Except in cases of fraud or willful misconduct, ~~a qualified~~ the appointed actuary is not liable for damages to any person, other than the insurer and the superintendent, for any act, error, omission, decision or conduct with respect to the ~~qualified~~ appointed actuary's opinion.

G. ~~Disciplinary action by the~~ The superintendent may take disciplinary action against the insurer or the ~~qualified~~ appointed actuary ~~must be defined in rules established by the superintendent~~ pursuant to section 12-A for knowing violations of this section and may establish additional grounds for disciplinary action by rule.

~~H. Except as provided in paragraphs K, L and M, any memorandum in support of the opinion and any other documents, materials or other information provided by the insurer to the superintendent in connection with the memorandum are confidential, must be kept confidential by the superintendent and are not subject to subpoena or discovery, nor admissible in evidence in any private civil action. The superintendent is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action~~

~~brought as a part of the superintendent's official duties.~~

~~I. Neither the superintendent nor any person who received documents, materials or other information while acting under the authority of the superintendent is permitted or required to testify in any private civil action concerning any confidential documents, materials or information pursuant to paragraph H.~~

~~J. Disclosure to the superintendent under this section or as a result of sharing of documents, materials or other information pursuant to section 216 does not constitute a waiver of any applicable privileges or claim of confidentiality in the documents, materials or other information.~~

~~K. A memorandum in support of the opinion, and any other documents, materials or other information provided by the life insurer to the superintendent in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action pursuant to this section or by rule adopted pursuant to this section.~~

~~L. The memorandum or other documents, materials or other information may otherwise be released by the superintendent with the written consent of the life insurer or upon a written request by the American Academy of Actuaries stating that the memorandum or other documents, materials or other information is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the superintendent for preserving the confidentiality of the memorandum or other documents, materials or other information.~~

~~M. Once any portion of a memorandum is cited by the life insurer in its marketing or is cited by the life insurer before a governmental agency other than a state insurance agency or is released by the life insurer to the news media, all portions of the memorandum become public records.~~

5. Applicability to health carriers. A health carrier not otherwise subject to this section or section 993 shall file an actuarial opinion in accordance with the applicable National Association of Insurance Commissioners annual statement instructions. For purposes of this section, "health carrier" means an insurer, health maintenance organization, nonprofit corporation subject to Title 24 or fraternal benefit society that provides health insurance or comparable health benefits. This section and rules adopted pursuant to this section apply to health carriers to the extent provided in the valuation manual. Before the operative date of the valuation manual, this section and rules adopted pursuant to this section apply to health carriers to the extent that they specifically refer to health carriers or impose requirements that are consistent with and no more stringent than the annual statement instructions.

Sec. C-6. 24-A MRSA §952-B is enacted to read:

§952-B. Applicability of reserving methodologies

Sections 953 to 958-A do not apply to a policy or contract that is issued on or after the operative date of the valuation manual and is subject to section 959, unless those sections are made applicable by reference in whole or part in the valuation manual.

Sec. C-7. 24-A MRSA §955, sub-§2, as enacted by PL 1993, c. 634, Pt. B, §2, is amended to read:

2. Minimum aggregate reserves for all policies. The aggregate reserves for all policies, contracts and benefits may not be less than the aggregate reserves determined necessary by the ~~qualified~~ appointed actuary in the opinion required by section 952-A.

Sec. C-8. 24-A MRSA §956, sub-§2, as enacted by PL 1993, c. 634, Pt. B, §3, is amended to read:

2. Lower standard of valuation. Any insurer that adopts any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in section 955 may adopt, with the approval of the superintendent, any lower standards of valuation, but not lower than the minimum required, ~~provided, however,~~ except that for the purposes of this section the holding of additional reserves previously determined necessary by ~~a qualified~~ the appointed actuary in the opinion required by section 952-A may not be determined to be the adoption of a higher standard of valuation.

Sec. C-9. 24-A MRSA §§959 to 962 are enacted to read:

§959. Reserves subject to valuation manual

1. General requirement. On and after the operative date of the valuation manual, reserves on policies and contracts of subject lines of insurance must be valued as follows, except as otherwise specifically provided in this section or in rules adopted by the superintendent:

A. For policies and contracts issued on and after the operative date of the valuation manual, in accordance with the valuation manual;

B. For policies and contracts described in sections 953 to 958-A and issued before the operative date of the valuation manual, in accordance with those sections; and

C. For health insurance policies and contracts issued before the operative date of the valuation

manual, and any other policies and contracts outside the scope of paragraphs A and B, in accordance with rules adopted by the superintendent.

2. Necessary provisions. The valuation manual must specify all of the following:

A. Definitions of the policies and contracts subject to this section;

B. The following minimum valuation standards for all policies and contracts subject to this section:

(1) The commissioners reserve valuation method for life insurance contracts, other than annuity contracts;

(2) The commissioners annuity reserve valuation method for annuity contracts; and

(3) Minimum reserves for all other policies or contracts;

C. Provisions specifying which policies and contracts or types of policies and contracts are subject to section 960 and specifying the minimum valuation standards consistent with those provisions;

D. For policies and contracts subject to section 960:

(1) Requirements for the format of reports to the superintendent under section 960, subsection 3, paragraph C, which must include information necessary to determine whether the valuation is appropriate and in compliance with this subchapter;

(2) Assumptions to be prescribed for risks over which the insurer does not have significant control or influence; and

(3) Procedures for corporate governance and oversight of the actuarial function and a process for appropriate waiver or modification of such procedures;

E. For policies and contracts not subject to section 960, a minimum valuation standard that either:

(1) Is consistent with the minimum standard of valuation for policies and contracts issued before the operative date of the valuation manual; or

(2) Develops reserves that quantify the benefits and guarantees, and the funding, associated with the policies and contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;

F. Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of insurer experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memoranda, transition rules and internal controls; and

G. The data and form of the data required under section 961. The requirements must specify to whom the data must be submitted and may specify other requirements, including requirements with respect to data analyses and reporting of analyses.

3. Supplementation and resolution of conflicts. In the absence of a specific valuation requirement or if the superintendent determines that a specific valuation requirement in the valuation manual is not consistent with the requirements or purposes of this subchapter, an insurer shall comply with minimum valuation standards prescribed by the superintendent by rule or order.

4. Examination. For an insurer subject to this section, the superintendent may hire, contract with or otherwise engage a qualified actuary, at the insurer's expense, to perform an actuarial examination of the insurer and provide an opinion on the appropriateness of any reserve assumption or method used by the insurer or to review and provide an opinion on the insurer's compliance with any requirement of this subchapter. The superintendent may rely on any actuarial opinion issued on behalf of another insurance regulator in the United States that is relevant to an insurer's compliance with this subchapter.

5. Corrections. The superintendent may require an insurer to change any assumption or method as determined necessary by the superintendent to comply with the requirements of the valuation manual or this subchapter, and the insurer shall adjust the reserves as required by the superintendent.

6. Violations. Violations of this subchapter are subject to all remedies specified in section 12-A or otherwise available by law.

7. Changes to valuation manual. Unless a later effective date is specified or the superintendent has disapproved the change by rule, a change to the valuation manual is effective on January 1st following the adoption of the change by an affirmative vote of the NAIC representing:

A. At least 3/4 of the NAIC members voting;

B. At least a majority of the total NAIC membership; and

C. Jurisdictions totaling greater than 75% of the aggregate written direct premiums reported in the most recently available life, accident and health annual statements; health annual statements; and fraternal annual statements.

§960. Requirements for principle-based reserves

1. Scope. This section applies to all policies and contracts for which principle-based reserving is required by the valuation manual, unless exempted by the superintendent in accordance with the following standards:

A. An exemption under this subsection may not be granted unless the insurer is licensed and doing business exclusively in this State;

B. The exemption must be in writing;

C. The superintendent may rescind or modify the exemption in writing at any time, with reasonable notice to the insurer;

D. The exemption may apply to all business written by the insurer or to specific policy or contract forms or product lines; and

E. An insurer granted an exemption under this subsection shall value its reserves using the assumptions and methods used before the operative date of the valuation manual, in addition to any requirements established by the superintendent by rule or by the terms of the order granting the exemption.

2. Standards. An insurer shall establish reserves for policies and contracts subject to this section using a valuation methodology that meets all applicable requirements of the valuation manual and that:

A. Quantifies the benefits and guarantees, and the funding, associated with the policies and contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the policies and contracts. For polices and contracts with significant tail risk, the methodology must reflect conditions appropriately adverse to quantify the tail risk;

B. Incorporates assumptions, risk analysis methods and financial models and management techniques that are consistent with, but not necessarily identical to, those used within the insurer's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;

C. Incorporates assumptions that are derived in one of the following manners:

(1) The assumption is prescribed in the valuation manual; or

(2) For assumptions that are not prescribed in the valuation manual, the assumptions are:

(a) Established using the insurer's available experience, to the extent that it is relevant and statistically credible; or

(b) To the extent that insurer-specific data is not available, relevant or statistically credible, established using other relevant, statistically credible experience; and

D. Provides margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

3. Oversight and controls. An insurer using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:

A. Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;

B. Provide to the superintendent and the insurer's board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls must be designed to ensure that all material risks inherent in the liabilities and associated assets subject to principle-based valuation are included in the valuation and that valuations are made in accordance with the valuation manual. The certification must be based on the controls in place as of the end of the preceding calendar year; and

C. Develop, and file with the superintendent upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

4. Formulaic components. A principle-based valuation may include a formulaic reserve component and must do so when prescribed by the valuation manual or required by the superintendent.

5. Applicability of rules. Rules adopted by the superintendent pursuant to this subchapter before January 1, 2014 do not apply to policies, contracts or actuarial opinions issued on or after the operative date of the valuation manual unless expressly made applicable by rule or order of the superintendent.

§961. Experience reporting

For all policies and contracts in force on or after the operative date of the valuation manual, an insurer shall submit mortality, morbidity, policyholder behavior and expense experience data, as applicable, and other data as prescribed in the valuation manual.

§962. Confidentiality

1. Information subject to this section. For purposes of this section, "protected valuation information" means:

A. A memorandum in support of an opinion submitted under section 952-A and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in connection with the memorandum;

B. All documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in the course of an examination made under section 959, subsection 4 that would be confidential under section 225, subsection 3 if they had been prepared or obtained under section 221;

C. Any reports, documents, materials and other information developed by an insurer in support of, or in connection with, an annual certification of internal controls under section 960, subsection 3, paragraph B and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in connection with such reports, documents, materials and other information;

D. Any principle-based valuation report developed under section 960, subsection 3, paragraph C and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in connection with such a report;

E. Any documents, materials, data and other information submitted by an insurer under section 961, referred to in this paragraph as "experience data," and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data that include any potentially insurer-identifying or personally identifiable information and that are provided to or obtained by the superintendent or any other person and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the superintendent or any other person in connection with such experience data and materials; and

F. Any information received by the superintendent from the Actuarial Board for Counseling and Discipline or its successor related to a memorandum or report described in paragraph A or D, if the information has been provided with notice or the understanding that it is confidential or privileged under applicable law.

2. Confidentiality of information subject to this section. Except as provided in this subsection, all protected valuation information is confidential, must be kept confidential by the superintendent, is not a public record and is not subject to subpoena or discovery or admissible in evidence in any private civil action. The superintendent may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the superintendent's official duties, including sharing the information on a confidential basis under section 216, subsection 5.

A. Neither the superintendent nor any person who receives documents, materials or other information while acting under the authority of the superintendent is permitted or required to testify in any private civil action concerning any protected valuation information.

B. Disclosure to the superintendent under this section or as a result of sharing of documents, materials or other information pursuant to section 216 does not constitute a waiver of any applicable privilege or claim of confidentiality with regard to the documents, materials or other information.

C. The superintendent may share protected valuation information described in subsection 1, paragraphs A and D with the Actuarial Board for Counseling and Discipline or its successor upon a request stating that the information is required for the purpose of professional disciplinary proceedings and that the disciplinary entity agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of the information in the same manner and to the same extent as required for the superintendent. The superintendent may request and receive confidential information described in subsection 1, paragraph F from the Actuarial Board for Counseling and Discipline or its successor. The superintendent may enter into information-sharing agreements to facilitate the exchange of information under this paragraph.

D. For protected valuation information described in subsection 1, paragraphs A and D, the confidentiality provided by this subsection may be limited or terminated as follows:

(1) The information may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the actuarial memorandum or principle-based valuation report;

(2) The information may be released with the written consent of the insurer; and

(3) If any portion of an actuarial memorandum or principle-based valuation report is cited by the insurer in its marketing or is publicly volunteered by the insurer before a governmental agency other than a state insurance agency or is released by the insurer to the news media, all portions of the memorandum or report become public records.

Sec. C-10. 24-A MRSA §992, sub-§1, as enacted by PL 2007, c. 281, §2 and affected by §3, is repealed and the following enacted in its place:

1. Covered kinds of insurance. "Covered kinds of insurance" means property insurance as defined in section 705 and casualty insurance as defined in section 707 and does not include health insurance as defined in section 704, unless required by the applicable NAIC annual statement instructions to be included in the property and casualty actuarial opinion of a casualty insurer or multiple lines insurer, or property insurance written by domestic mutual assessment insurers pursuant to chapter 51.

Sec. C-11. 24-A MRSA §2532-A, sub-§8, ¶¶F and G, as enacted by PL 1983, c. 346, §13, are amended to read:

F. Any approved commissioners standard ordinary mortality tables, adopted ~~after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the superintendent for use in determining the minimum nonforfeiture standard~~ in accordance with paragraph H, may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without 10-year select mortality factors or for the Commissioners 1980 Extended Term Insurance Table; ~~and~~

G. Any approved commissioners standard industrial mortality tables, adopted ~~after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the superintendent for use in determining the minimum nonforfeiture standard~~ in accordance with paragraph H, may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table~~.~~; and

Sec. C-12. 24-A MRSA §2532-A, sub-§8, ¶H is enacted to read:

H. For policies issued before the operative date of the valuation manual, as defined in section 951-A, subsection 3, the superintendent may adopt rules approving commissioners standard mortality tables for use in determining the minimum nonforfeiture standard. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. For policies issued on or after the operative date of the valuation manual, the applicable commissioners standard mortality tables specified in the valuation manual are approved for use in determining the minimum nonforfeiture standard unless superseded by rule adopted by the superintendent.

Sec. C-13. 24-A MRSA §2532-A, sub-§9, as enacted by PL 1983, c. 346, §13, is amended to read:

9. The nonforfeiture interest rate per annum for any policy issued in a particular calendar year ~~shall~~ must be equal to 125% of the calendar year statutory valuation interest rate for that policy as defined in the Standard Valuation Law, rounded to the nearer 1/4 of 1%, except as otherwise provided in the valuation manual for policies issued on and after the operative date of the valuation manual, as defined in section 951-A, subsection 3.

PART D

Sec. D-1. 24-A MRSA §6451, sub-§6, as amended by PL 1997, c. 81, §3, is repealed and the following enacted in its place:

6. Negative trend. "Negative trend" means:

A. With respect to a life or health insurer, a negative trend over a period of time, as determined in accordance with the trend test calculation included in the risk-based capital instructions; and

B. With respect to a property and casualty insurer, a trend that meets the triggering criteria, as determined in accordance with the trend test calculation included in the risk-based capital instructions.

Sec. D-2. 24-A MRSA §6453, sub-§1, ¶A, as amended by PL 2009, c. 511, Pt. E, §2, is further amended to read:

A. The filing of a risk-based capital report by an insurer that indicates that:

(1) The insurer's total adjusted capital is greater than or equal to its regulatory action level risk-based capital but less than its company action level risk-based capital; or

(2) The insurer has total adjusted capital that is greater than or equal to its company action level risk-based capital but has a negative trend, if its total adjusted capital is less than the product of its authorized control level risk-based capital and~~:~~ 3.0.

~~(a) If the insurer is a life or health insurer, 2.5; or~~

~~(b) If the insurer is a health organization as described in section 6451-A, subsection 2, 3.0;~~

PART E

Sec. E-1. 24-A MRSA §421, sub-§7, as enacted by PL 1999, c. 113, §18, is amended to read:

7. Any person or entity required by Title 24 or this Title to appoint an agent for service of process who does not have a valid appointment on file with the superintendent or required by applicable law to appoint the superintendent as agent for service of process is deemed to have appointed the superintendent as agent for service of process, and process may be served within this State in the same manner as provided in section 2105. This subsection does not relieve that person or entity from ~~the~~ any requirement to appoint an agent for service of process or from the applicable penalties for failure to comply with that requirement.

Sec. E-2. 24-A MRSA §4435, sub-§6, as amended by PL 1989, c. 67, §2, is further amended to read:

6. Member insurer. "Member insurer" means any authorized insurer ~~which~~ that writes any kind of insurance to which this subchapter applies and that is not a risk retention group as defined in section 6093, subsection 13. If an insurer is authorized at the time of an insolvency and subsequently is approved to withdraw its license authority for the kinds of insurance covered by any account to which claims relating to the insolvency are allocated, the withdrawn insurer shall continue to be a member of each account solely for purposes of assessments relating to claims resulting from the insolvency until these claims are paid or otherwise extinguished.

Sec. E-3. 24-A MRSA §6095, sub-§1, ¶C, as amended by PL 1997, c. 592, §73, is further amended to read:

C. A designation of an agent for the purpose of receiving service of legal documents or process. That designation is subject to the provisions of section 421, except that the appointment of a private agent is optional. A risk retention group that does not elect to designate an agent in accordance with section 421, subsection 1 shall appoint the superintendent as its agent.

Sec. E-4. 24-A MRSA §6098, sub-§2, as amended by PL 1997, c. 592, §74, is further amended to read:

2. Registration. The purchasing group shall register with the superintendent and designate ~~an~~ the superintendent as its agent solely for the purpose of receiving service of legal documents or process, except that the requirements do not apply in the case of a purchasing group:

A. That in any state of the United States:

(1) Was domiciled before April 2, 1986; and

(2) Is domiciled on and after October 27, 1986;

B. That:

(1) Before October 27, 1986, purchased insurance from an insurance carrier licensed in any state; and

(2) Since October 27, 1986, purchased its insurance from an insurance carrier licensed in any state;

C. That was a purchasing group under the requirements of the Product Liability Retention Act of 1981 before October 27, 1986; and

D. That does not purchase insurance that was not authorized for purposes of an exemption under that Act, as in effect before October 27, 1986. That designation shall be subject to section 421.

Sec. E-5. 24-A MRSA §6718, as amended by PL 2011, c. 90, Pt. I, §7, is repealed and the following enacted in its place:

§6718. Rules

1. Authority. The superintendent may adopt rules to implement this chapter. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Risk retention groups. Notwithstanding section 6719, the superintendent shall adopt rules establishing financial standards and corporate governance standards for captive insurance companies that are risk retention groups as defined in section 6093, subsection 13. Such rules may include, but are not limited to, rules making specified provisions of this Title applicable to captive insurance companies that are risk retention groups, subject to any modifications that the superintendent determines to be appropriate to the nature of a risk retention group's business. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 239

H.P. 1113 - L.D. 1544

An Act To Expand the Authority of Lobster Management Policy Councils To Address Entry into Lobster Management Zones and To Create a Temporary Medical Allowance

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until