LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

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September 29, 2021

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

Augusta, Maine
2022

A. "Dependent child" has the same meaning as in section 2833-B, subsection 1.

B. "Disability" means a physical, mental, intellectual or developmental disability that renders a person incapable of self-sustaining employment.

2. Offer of coverage. A group health insurance policy that offers coverage for a dependent child must offer such coverage, at the option of the parent, for a dependent child with a disability, regardless of age.

3. Proof of disability. A parent shall furnish proof of a dependent child's disability to the insurer within 31 days of the dependent child's attainment of the limiting age established in section 2833-B, subsection 2 and subsequently as may be required by the insurer, but the insurer may not require proof more frequently than annually after the 2-year period following the dependent child's attainment of the limiting age.

Sec. 5. 24-A MRSA §4233-B, sub-§2, as amended by PL 2019, c. 5, Pt. A, §18, is further amended to read:

2. Offer of coverage. An individual or group health maintenance organization contract that offers coverage for a dependent child must offer such coverage, at the option of the parent, until the dependent child attains 26 years of age. If the dependent child has a disability, the contract must offer coverage in accordance with section 4233-C.

Sec. 6. 24-A MRSA §4233-C is enacted to read:

§4233-C. Mandatory offer of coverage for certain adults with disabilities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dependent child" has the same meaning as in section 4233-B, subsection 1.

B. "Disability" means a physical, mental, intellectual or developmental disability that renders a person incapable of self-sustaining employment.

2. Offer of coverage. An individual or group health maintenance organization contract that offers coverage for a dependent child must offer such coverage, at the option of the parent, for a dependent child with a disability, regardless of age.

3. Proof of disability. A parent shall furnish proof of a dependent child's disability to the insurer within 31 days of the dependent child's attainment of the limiting age established in section 4233-B, subsection 2 and subsequently as may be required by the insurer, but the insurer may not require proof more frequently than annually after the 2-year period following the dependent child's attainment of the limiting age.

Sec. 7. 24-A MRSA §4320-B, as enacted by PL 2011, c. 364, §34, is amended to read:

§4320-B. Extension of dependent coverage

A carrier offering a health plan subject to the requirements of the federal Affordable Care Act that provides dependent coverage of children shall continue to make such coverage available for an adult child until the child turns 26 years of age, consistent with the federal Affordable Care Act, and offer coverage for a dependent child with a disability in accordance with section 4320-R.

Sec. 8. 24-A MRSA §4320-R is enacted to read:

§4320-R. Mandatory offer of coverage for certain adults with disabilities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dependent child" has the same meaning as in section 4233-B, subsection 1.

B. "Disability" means a physical, mental, intellectual or developmental disability that renders a person incapable of self-sustaining employment.

2. Offer of coverage. A health plan subject to the requirements of the federal Affordable Care Act that offers coverage for a dependent child must offer such coverage, at the option of the parent, for a dependent child with a disability, regardless of age.

3. Proof of disability. A parent shall furnish proof of a dependent child's disability to the carrier within 31 days of the dependent child's attainment of the limiting age established in section 4320-B and subsequently as may be required by the carrier, but the carrier may not require proof more frequently than annually after the 2-year period following the dependent child's attainment of the limiting age.

See title page for effective date.

CHAPTER 521

S.P. 642 - L.D. 1815

An Act To Revise Certain Financial Regulatory Provisions of the Maine Insurance Code To Be Consistent with Model Laws from the National Association of Insurance Commissioners

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation is immediately necessary so group capital standards adopted in Maine law apply to operations of insurance holding companies domiciled in this State that do business internationally rather than standards adopted by the European Union pursuant to bilateral agreements entered into by the United States with the European Union and the United Kingdom; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 24-A MRSA §15 is enacted to read:

§15. NAIC defined

As used in this Title, "NAIC" or "National Association of Insurance Commissioners" means the National Association of Insurance Commissioners or its successor organization of insurance regulators.

Sec. 2. 24-A MRSA §208, first ¶, as corrected by RR 2021, c. 1, Pt. B, §150, is amended to read:

The superintendent may from time to time contract for such additional actuarial, examination, rating and other technical and professional services as ~~the superintendent~~ may ~~require~~ be required for discharge of the superintendent's duties. If a contractor retained pursuant to this section has access to confidential information, the contract must require the contractor to comply with the requirements of section 216, subsection 5, paragraph B-1.

Sec. 3. 24-A MRSA §216, sub-§5, ¶B-1 is enacted to read:

B-1. The superintendent may authorize a contractor retained pursuant to section 208, or any other person outside the bureau that is otherwise designated to act on behalf of the superintendent, to receive confidential information. The recipient of confidential information is under the direction and control of the superintendent, is subject to the same confidentiality standards and requirements as the superintendent and shall act in a purely advisory capacity. The recipient of confidential information shall comply with the requirements of this paragraph.

(1) Access to confidential information may not be granted unless the recipient agrees in writing that:

(a) The recipient will maintain the confidentiality of any confidential information that the superintendent has authorized the recipient to access, and establish appropriate procedures to protect such information from unauthorized access or use;

(b) Ownership of any confidential information shared by the superintendent pursuant to this paragraph remains with the superintendent and that the use of such information by the recipient is subject to the direction of the superintendent;

(c) The recipient will not store confidential information obtained or created under the contract in a permanent file or database after the work involving the information is completed;

(d) The recipient will provide prompt notice to the superintendent of any subpoena, request for disclosure or request for production of confidential information; and

(e) The recipient will consent to intervention by an insurer in any judicial or administrative action in which the recipient may be required to disclose confidential information about the insurer that has been shared pursuant to this paragraph.

(2) The recipient of confidential information shall confirm in writing to the superintendent that the recipient is free from conflicts of interest and will conduct ongoing monitoring for conflicts of interest for the duration of the work involving the confidential information.

Sec. 4. 24-A MRSA §216, sub-§5, ¶C, as enacted by PL 2013, c. 238, Pt. A, §1 and affected by §34, is amended to read:

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;

(2-A) Prohibit the National Association of Insurance Commissioners from storing confidential information in a permanent file or database after the analysis of the confidential information is completed, other than liquidity stress test information obtained pursuant to section 222, subsection 8, paragraph B-1, subparagraph (3);

(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.

Sec. 5. 24-A MRSA §222, sub-§2, ¶B-4 is enacted to read:

B-4. "Group capital calculation" means a method for insurance groups to assess the financial condition of the group, including noninsurance entities within the group, in order to identify and quantify potential risks.

Sec. 6. 24-A MRSA §222, sub-§2, ¶B-5 is enacted to read:

B-5. "Group capital calculation instructions" means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

Sec. 7. 24-A MRSA §222, sub-§2, ¶D-7 is enacted to read:

D-7. "Liquidity stress test" means a method for insurance groups to assess the potential effects of liquidity risk to the insurer and to the financial markets.

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

D-8. "NAIC Liquidity Stress Test Framework" means the NAIC publication that includes the applicable scope criteria and liquidity stress test instructions and reporting templates, as adopted by the NAIC and amended from time to time in accordance with the procedures adopted by the NAIC.

Sec. 9. 24-A MRSA §222, sub-§2, ¶E-1 is enacted to read:

E-1. "Scope criteria" means the designated exposure bases and minimum magnitudes, as detailed in the NAIC Liquidity Stress Test Framework, used to establish a preliminary list of insurers that are presumptively within the scope of the NAIC Liquidity Stress Test Framework.

Sec. 10. 24-A MRSA §222, sub-§4-C, ¶C, as amended by PL 2017, c. 169, Pt. B, §5, is further amended by amending subparagraph (12) to read:

(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, subparagraph (1) for as long as control by the person exists;

Sec. 11. 24-A MRSA §222, sub-§8, ¶B-1, as enacted by PL 2013, c. 238, Pt. A, §18 and affected by §34, is amended 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~~ in accordance with subparagraph (1) and, if applicable, shall file any additional reports required by this paragraph. The ~~report~~ reports 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;~~ NAIC Financial Analysis Handbook or successor publication.

(1) The enterprise risk 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.

(2) Except as otherwise provided in this subparagraph, the ultimate controlling person of an insurer subject to registration shall file an annual group capital calculation concurrently with the registration required by paragraph A. The report must be completed as directed by the lead state regulator in accordance with the group capital calculation instructions, which

may permit the lead state regulator to allow a controlling person that is not the ultimate controlling person to file the group capital calculation.

(a) An insurance holding company is exempt from filing the group capital calculation if it has only one insurer within its holding company structure and that insurer is not licensed outside this State to transact insurance, does not write business outside this State and does not assume reinsurance from any other insurer.

(b) An insurance holding company is exempt from filing the group capital calculation if it is required to perform a group capital calculation specified by the Board of Governors of the Federal Reserve System and the lead state regulator has obtained the current group capital calculation from the board of governors. If this State is the insurance holding company system's lead state, the superintendent shall request the calculation from the board of governors under the terms of information sharing agreements in effect.

(c) An insurance holding company is exempt from filing the group capital calculation if its groupwide supervisor is located within a non-United States jurisdiction that the superintendent has designated as a reciprocal jurisdiction pursuant to section 731-B, subsection 1, paragraph B-3, subparagraph (1), division (b) and that recognizes the United States system of group supervision and group capital regulation.

(d) An insurance holding company is exempt from filing the group capital calculation if its groupwide supervisor is located in a non-United States jurisdiction and:

(i) The lead state regulator meets the requirements for accreditation under the NAIC financial standards and accreditation program and the insurance holding company system provides information to the lead state regulator, either directly or indirectly through the groupwide supervisor, that the lead state regulator has determined to be satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook or successor publication; and

(ii) The groupwide supervisor recognizes and accepts the group capital calculation as the worldwide group capital assessment for United States insurance groups that operate in that non-United States jurisdiction, consistent with criteria specified by the superintendent by rule.

(e) Notwithstanding divisions (c) and (d), a non-United States-based insurance holding company system shall file a group capital calculation limited to its United States operations if its lead state regulator determines, after any necessary consultation with other supervisors or officials, that requiring a United States group capital calculation is appropriate for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(f) If this State is an insurance holding company system's lead state, the superintendent may exempt the ultimate controlling person from filing an annual group capital calculation or may accept a limited group capital filing or report in accordance with criteria specified by the superintendent by rule. An exemption or modification granted under a substantially similar law of another jurisdiction that is the lead state of an insurance holding company system that includes a domestic insurer applies to a filing otherwise required by this subparagraph.

(g) If the lead state regulator determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this subparagraph, the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state regulator based on reasonable grounds shown.

(3) The ultimate controlling person of an insurer subject to registration shall file the results of a liquidity stress test for each data year for which the insurer's insurance holding company system is within the scope of that year's NAIC Liquidity Stress Test Framework, as determined by the lead state regulator.

(a) If this State is the lead state, the determination that an insurer is within scope or out of scope must be based on whether the insurer or its insurance holding company system meets at least one threshold in the

applicable scope criteria, unless the superintendent determines, in consultation with the NAIC Financial Stability Task Force or its successor organization, that there is good cause to exclude an insurer or insurance holding company system that meets one or more thresholds or to include an insurer or insurance holding company system that does not meet any of the thresholds. In making that determination, the superintendent shall consider the goal of providing a stable experience base and avoiding insurers moving in and out of scope frequently.

(b) A liquidity stress test under this subparagraph must be performed, and its results must be filed, in accordance with the NAIC Liquidity Stress Test Framework's instructions and reporting templates for that data year.

(c) For the purposes of this subparagraph, any change to the NAIC Liquidity Stress Test Framework, including the data to be used in applying the scope criteria, is effective on January 1st of the year following the calendar year when the change is adopted by the NAIC.

Sec. 12. 24-A MRSA §222, sub-§8, ¶B-3, as amended by PL 2021, c. 16, §5, is further amended by amending subparagraph (5), division (a) to read:

(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~~ the NAIC Financial Analysis Handbook or successor publication. 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.

Sec. 13. 24-A MRSA §222, sub-§8, ¶C, as amended by PL 2013, c. 238, Pt. A, §19 and affected by §34, is further amended to read:

C. An insurer does not need to disclose on the registration statement filed pursuant to this subsection information that is not material to the purposes of this section. ~~Unless the superintendent by rule or order provides otherwise, sales,~~ 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 are not material for purposes of this section~~;~~, except:

(1) For purposes of the group capital calculation and liquidity stress test in accordance with paragraph B-1, subparagraphs (2) and (3);

(2) When the instructions for a specific filing specify a different materiality threshold or specify that no materiality threshold applies; or

(3) As the superintendent otherwise provides by rule or order.

Sec. 14. 24-A MRSA §222, sub-§9, ¶D-1 is enacted to read:

D-1. If an insurer subject to this Title is determined by the superintendent to be in hazardous financial condition as defined by rule or a condition that would be grounds for a delinquency proceeding under chapter 57, the superintendent may require the insurer to secure and maintain either a deposit, held by the Treasurer of State on behalf of the superintendent, or a bond, as determined by the insurer at the insurer's discretion, for the protection of the insurer for the duration of a contract or agreement or the duration of the condition for which the superintendent required the deposit or the bond. In determining whether a deposit or a bond is required, the superintendent shall consider whether concerns exist with respect to the affiliated person's ability to fulfill all of its contracts or agreements if the insurer were to be put into liquidation. If the insurer is determined to be in hazardous financial condition or in a condition that would be grounds for a delinquency proceeding, and a deposit or bond is required, the superintendent has discretion to determine the amount of the deposit or bond, not to exceed the aggregate value in any one year of all contracts or agreements secured by the deposit or bond, and whether the deposit or bond should be required for a single contract, multiple contracts or a contract with a specific person.

Sec. 15. 24-A MRSA §222, sub-§9, ¶D-2 is enacted to read:

D-2. All records and data of the insurer held by an affiliate are and remain the property of the insurer, must be subject to control of the insurer, must be identifiable and must be segregated or readily capable of segregation, at no additional cost to the insurer, from all other persons' records and data. This includes all records and data that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, lit-

igation files, premium records, rate books, underwriting manuals, personnel records, financial records and similar records within the possession, custody or control of the affiliate. At the request of the insurer or its receiver, the affiliate shall allow the insurer or receiver to obtain a complete set of all records of any type that pertain to the insurer's business and obtain access to the electronic operating systems on which the data is maintained or software that runs those systems either through assumption of licensing agreements or otherwise and shall restrict the use of the data by the affiliate if it is not operating the insurer's business. The affiliate shall provide a waiver of any landlord lien or other encumbrance to give the insurer access to all records and data in the event of the affiliate's default under a lease or other agreement.

Sec. 16. 24-A MRSA §222, sub-§9, ¶D-3 is enacted to read:

D-3. Premiums or other funds belonging to the insurer that are collected by or held by an affiliate are the exclusive property of the insurer and are subject to the control of the insurer. Any offset in the event that an insurer is placed into receivership is subject to section 4381.

Sec. 17. 24-A MRSA §222, sub-§13-A, ¶A, as amended by PL 2017, c. 169, Pt. B, §10, is further amended by enacting a new subparagraph (2-A) to read:

(2-A) Any group capital calculation or liquidity stress test, including all supporting information, conducted under the authority of a non-United States financial supervisor or the Board of Governors of the Federal Reserve System;

Sec. 18. 24-A MRSA §222, sub-§13-A, ¶C, as enacted by PL 2013, c. 238, Pt. A, §26 and affected by §34, is amended by amending subparagraph (4) to read:

(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~~ person under contract with the superintendent pursuant to section 208. In addition, any agreement for sharing ORSA-related information with the person under the contract with the superintendent or 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; and

(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.~~

Sec. 19. 24-A MRSA §222, sub-§13-A, ¶C, as enacted by PL 2013, c. 238, Pt. A, §26 and affected by §34, is amended by enacting a new subparagraph (5) to read:

(5) If the superintendent authorizes a contractor to have access to liquidity stress test information provided pursuant to subsection 8, paragraph B-1, subparagraph (3), the superintendent shall disclose the identity of the contractor to the applicable insurers.

Sec. 20. 24-A MRSA §222, sub-§13-A, ¶F is enacted to read:

F. Except as otherwise required under this section, directly or indirectly publicly disseminating a statement in print or electronically regarding a group capital calculation required under subsection 8, paragraph B-1, subparagraph (2) or its resulting group capital ratio, a liquidity stress test required under subsection 8, paragraph B-1, subparagraph (3) or its results or supporting disclosures of any insurer or any insurance group or of any component derived in the calculation by any insurer, producer or other person engaged in any manner in the insurance business is prohibited. The insurer may publish in a written publication an announcement the sole purpose of which is to rebut any materially false statement or inappropriate comparison if the materially false statement or inappropriate comparison relating to a group capital calculation, group capital ratio, liquidity stress test or test results or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the superintendent with substantial proof the falsity of that statement or the inappropriateness, as the case may be.

Sec. 21. 24-A MRSA §222, sub-§13-A, ¶G is enacted to read:

G. A group capital calculation required under subsection 8, paragraph B-1, subparagraph (2) or its resulting group capital ratio or a liquidity stress test

required under subsection 8, paragraph B-1, subparagraph (3) or its results and supporting disclosures is not a means to rank any insurers or insurance holding company systems.

Sec. 22. 24-A MRSA §222, sub-§14-B is enacted to read:

14-B. Supervision, seizure, conservatorship or receivership proceedings. This subsection governs an affiliate's obligations under supervision, seizure, conservatorship or receivership proceedings against an insurer.

A. An affiliate that is party to an agreement or contract with a domestic insurer that is subject to subsection 9, paragraph E, subparagraph (4) is subject to the jurisdiction of a supervision, seizure, conservatorship or receivership proceeding against the insurer and to the authority of a supervisor, rehabilitator or liquidator for the insurer appointed pursuant to chapter 57 for the purpose of interpreting, enforcing and overseeing the affiliate's obligations under the agreement or contract to perform services for the insurer that are:

(1) An integral part of the insurer's operations, including, but not limited to, management, administrative, accounting, data processing, marketing, underwriting, claims handling and investment functions and any other similar functions; or

(2) Essential to the insurer's ability to fulfill its obligations under insurance policies.

B. The superintendent may require that an agreement or contract subject to subsection 9, paragraph E, subparagraph (4) for the provision of services described in paragraph A, subparagraph (1) or (2) specify that the affiliate consents to jurisdiction as set forth in this subsection.

Sec. 23. 24-A MRSA §423-G, sub-§1, ¶E, as enacted by PL 2017, c. 169, Pt. A, §5, is repealed.

Sec. 24. 24-A MRSA §423-G, sub-§4-A is enacted to read:

4-A. Sharing CGAD information with the NAIC. The superintendent may share confidential information provided or obtained under this section with the NAIC only in accordance with a written agreement that contains the provisions specified in section 216, subsection 5, paragraph C and the following additional provisions:

A. Procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurance group has domiciled insurance carriers. The agreement must provide that the recipient agrees to maintain the confidentiality and privileged status of the CGAD-related documents, materials or other information and must document the NAIC's legal authority to maintain confidentiality;

B. A provision requiring the NAIC to provide prompt notice to the superintendent, in addition to the notice to the domestic insurance carrier or insurance group required by section 216, regarding any subpoena, request for disclosure or request for production of the domestic insurance carrier's or insurance group's CGAD-related information; and

C. A provision expressly requiring the written consent of the domestic insurance carrier before any information shared pursuant to this section may be made public.

Sec. 25. 24-A MRSA §423-G, sub-§5, as enacted by PL 2017, c. 169, Pt. A, §5, is amended to read:

5. ~~NAIC and independent~~ Independent consultants. This subsection governs independent consultants retained to review corporate governance annual disclosure and compliance with this section.

A. The superintendent may retain, at the domestic insurance carrier's expense, independent consultants as provided in section 208, including attorneys, actuaries, accountants and other experts as may be reasonably necessary to assist the superintendent in reviewing the CGAD and related information or the domestic insurance carrier's compliance with this section.

B. Any persons retained under paragraph A ~~must be under the direction and control of the superintendent, are subject to the same confidentiality standards and requirements as the superintendent and must act in a purely advisory capacity~~ are subject to the requirements of section 216, subsection 5, paragraph B-1.

C. The superintendent may not retain an independent consultant that has not verified to the superintendent, with notice to the domestic insurance carrier, that it is free of a conflict of interest and that it has internal procedures in place to monitor ongoing freedom from conflicts and to comply with the confidentiality standards and requirements of this section.

~~D. The superintendent may share confidential information provided or obtained under this section with the NAIC only in accordance with a written agreement that contains the provisions specified in section 216, subsection 5, paragraph C and the following additional provisions:~~

~~(1) Procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurance group has domiciled insurance carriers. The agreement must provide that the recipient agrees to maintain the confidentiality and privileged status of the CGAD-related documents, materials or other~~

~~information and must document the NAIC's legal authority to maintain confidentiality;~~

~~(2) A provision that prohibits the NAIC from storing the information shared pursuant to this section in a permanent database after the underlying analysis is completed;~~

~~(3) A provision requiring the NAIC to provide prompt notice to the superintendent, in addition to the notice to the domestic insurance carrier or insurance group required by section 216, regarding any subpoena, request for disclosure or request for production of the domestic insurance carrier's or insurance group's CGAD related information; and~~

~~(4) A provision expressly requiring the written consent of the domestic insurance carrier before any information shared pursuant to this section may be made public.~~

E. The superintendent may share confidential information provided or obtained under this section with an independent consultant only in accordance with a written agreement that makes compliance with the confidentiality requirements of this section one of the consultant's duties as a state contractor and includes all protections that the NAIC is required to provide in an agreement entered into under ~~paragraph D~~ subsection 4-A.

Sec. 26. 24-A MRSA §951-A, sub-§2, as enacted by PL 2013, c. 238, Pt. C, §2, is repealed.

Sec. 27. 24-A MRSA §992, sub-§2, as enacted by PL 2007, c. 281, §2 and affected by §3, is repealed.

Sec. 28. 24-A MRSA §6451, sub-§5, as enacted by PL 1993, c. 634, Pt. A, §1, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 29, 2022.

CHAPTER 522

H.P. 1359 - L.D. 1826

An Act To Require Reporting by the Interagency Task Force on Invasive Aquatic Plants and Nuisance Species Regarding Recommendations To Reduce the Threat of Further Infestations

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

Sec. 1. 38 MRSA §1871, first ¶, as amended by PL 2013, c. 300, §16, is further amended to read:

The Interagency Task Force on Invasive Aquatic Plants and Nuisance Species, as established by Title 5, section 12004-D, subsection 6 and referred to in this chapter as "the ~~"~~task force," is established to advise the department, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Legislature on matters pertaining to research, control and eradication of invasive aquatic plants and nuisance species.

Sec. 2. 38 MRSA §1871, sub-§4, as amended by PL 2013, c. 300, §17, is further amended to read:

4. Duties. The task force ~~may make~~ shall develop findings and recommendations ~~to the department~~, including any suggested legislation, on any of the following matters and, pursuant to subsection 4-A, submit a report that includes those findings and recommendations to the department, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Legislature:

A. The importation and transportation of invasive aquatic plants and nuisance species;

B. Monitoring and educational programs aimed at the control of invasive aquatic plants and nuisance species;

C. A comprehensive state invasive aquatic plants and nuisance species management plan that meets the requirements of the National Invasive Species Act of 1996, 16 United States Code, Section 4722;

D. A statewide inventory of invasive aquatic plants and nuisance species;

E. Methods to improve cooperation of state, provincial, federal and nongovernmental agencies in the area of invasive aquatic plants and nuisance species prevention and control;

F. Recommendations on the feasibility of implementing lake protection assessment districts that allow residents and owners of land within 250 feet of inland waters to assess themselves to raise funds to assist in the prevention and control of invasive aquatic plants; and

G. Other recommendations as necessary to control the introduction of invasive aquatic plants and nuisance species in the State.

In developing findings and recommendations under this subsection, the task force shall convene a stakeholder group that includes, but is not limited to, task force members, state natural resources agency staff and other persons with relevant experience or expertise including representatives of local and regional lake associations and representatives of lake protection organizations.

Sec. 3. 38 MRSA §1871, sub-§4-A is enacted to read: