

MAINE STATE LEGISLATURE

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STATE OF MAINE
115TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
BANKING AND INSURANCE

MAY 1992

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE
SECOND REGULAR SESSION**

**JOINT STANDING COMMITTEE
BILL SUMMARIES**

MAY 1992

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor for floor amendments. Final action on each bill is listed to the far right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX	Chapter # of enacted Public Law
P&S XXX	Chapter # of enacted Private & Special Law
RESOLVE XXX	Chapter # of enacted Resolve
CON RES XXX	Chapter # of Constitutional Resolution passed by both Houses
EMERGENCY	Enacted law takes effect sooner than 90 days
CARRIED OVER	Bill carried over to Special Session
ONTP	Ought Not to Pass report accepted
LVWD	Leave to Withdraw report accepted
INDEF PP	Bill Indefinitely Postponed
FAILED EMERGENCY ENACTMENT	Emergency bill failed to get 2/3 vote
DIED BETWEEN BODIES	House and Senate disagree; bill died
CONF CMTE UNABLE TO AGREE	Committee of Conference formed but unable to agree
VETO SUSTAINED	Legislature filed to override Governor's Veto
UNSIGNED	Not signed by Governor within 10 days
DIED ON ADJOURNMENT	Action incomplete when session ended; bill died

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

the vehicles are used exclusively within the State. Contract school buses are required to insure to \$500,000 and \$1,000,000. School buses owned by municipalities and school districts are exempt; and

7. Exempts vehicles for hire that are used to transport students from operating authority requirements.

Committee Amendment "A", H-1070, adds an emergency clause to bring immediate relief from the present insurance rates for operators of for-hire vehicles that work exclusively in the State. The amendment also provides for the marking of the registration of for-hire vehicles with a stamp if they carry the lower in-state insurance amount. It also clarifies the definition of taxicab, clarifies that parents and legal guardians are exempt from the combination plates requirements and repeals the cargo insurance requirements for intrastate operating authority.

House Amendment "A", H-1088, to Committee Amendment "A" repeals language governing the registration fees for electrically powered passenger vehicles.

Senate Amendment "A", S-623, to Committee Amendment "A" inserts a provision that amends the laws governing proof of insurance as a precondition to vehicle registration to specify that proof of a liability insurance policy is what is required.

House Amendment "B", H-1139, to Committee Amendment "A" is a technical amendment offered on behalf of the Committee on Engrossed Bills. The amendment corrects references to bill sections, as inserted by the committee amendment, in the effective date provision. Adoption of Senate Amendment "A" to Committee Amendment "A" (filing number S-623) added a new bill section that made those references in the effective date section erroneous.

**LD 2333 An Act Authorizing an Advisory Referendum on Whether the
Congress of the United States Should Establish a National
Health Insurance Program**

**DIED BETWEEN
BODIES**

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
PARADIS P	OTP-AM MAJ	H-1015 MAJ REP
MARTIN J	ONTP MIN	
MCCORMICK		
RYDELL		

SUMMARY

This bill directs the Secretary of State to hold an advisory referendum at the next general election to determine whether the voters of the State favor the Congress of the United States establishing a national health insurance program.

**LD 2425 An Act to Ensure Financial Solvency of Insurers through
Accreditation**

PUBLIC 828

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
BRAWN	OTP-AM	S-649
GARLAND		S-660 BRAWN
MITCHELL E		S-670 KANY
KANY		

SUMMARY

The provisions of the bill modify or add to the regulatory standards contained in the Maine Insurance

Code, the Maine Revised Statutes, Title 24-A. The changes proposed in this bill affect several sections of the insurance code, and are intended to conform insurance law in Maine to uniform standards prescribed on a national basis for accreditation by the National Association of Insurance Commissioners, or NAIC. That organization has mandated a legal framework for insurance departments in the several states sufficient to effectively regulate insurers doing business across those jurisdictions. This bill permits the Maine Bureau of Insurance to apply for such accreditation by the National Association of Insurance Commissioners. The bill accomplishes the following.

1. The bill requires that the Superintendent of Insurance examine insurers domiciled in Maine, not less frequently than once every 3 years. The superintendent, however, may defer such an examination for up to 5 years for good cause.
2. The bill adjusts existing language in the Maine Insurance Code to make it gender neutral.
3. The bill defines an insurer's net gain from operations or its net operating loss. This definition is applied elsewhere in the bill to determine that level of earnings, both current and retained, that may be declared for distribution through dividends or otherwise to shareholders of a domestic insurance company.
4. The bill establishes a reporting standard whereby a domestic insurer must notify the superintendent within 30 days after investing in a corporation if, directly or indirectly, the insurer will hold through its holding company affiliates, 10% or more of the other entity's voting securities.
5. The bill sets standards that will set limitations upon transactions between insurers operating in Maine and their closely aligned affiliates to assure that insurers are not disadvantaged by unreasonable or unscrupulous dealings among closely affiliated insurers and other such entities.
6. The bill conforms existing language of the Maine Insurance Code to the new definition of net gain from operations contained in the bill.
7. The bill permits the superintendent to utilize expert consultants in the examination of insurance companies. It also sets standards defining conflicts of interest in order to preclude an examiner from participating in an examination if the examiner is not disinterested in the outcome of the examination.
8. The bill provides a penalty applicable to any insurer that refuses to submit its records for examination by the State. An insurer may be subject to revocation of its license for such refusal.
9. The bill permits the superintendent to appoint disinterested consultants when it is necessary to seek an appraisal to determine the value of realty held by an insurer.
10. The bill permits the superintendent to review working papers of an insurer's outside auditors and to treat such matters confidentially. The superintendent may release information from those records to the NAIC if the matter is accorded confidential treatment by that organization. This will facilitate computer-assisted financial analyses by that organization. Analyses then will be made available to regulators in the states in which the insurer operates.
11. The bill expands upon the treatment to be given to sensitive information stemming from an examination conducted by the bureau. It allows the superintendent, subject to a protection order deeming the information to be confidential, to share information with commissioners in other states so that effective coordination of examinations will occur. This will inform regulators in the several States of nonconforming conduct or activities of insurers from other domiciles operating within their borders.

12. The bill permits the reports of examination generated by employees and consultants of the bureau to be made public provided that no court has taken an action to stay publication of the information.
13. The bill requires insurers doing business in Maine to file their annual statements with the NAIC to facilitate computer-assisted financial analyses by that organization. These reports are to be sworn statements of the insurer.
14. The bill provides immunity for officers and employees of the NAIC regarding compilation of information and its distribution to insurance commissioners where an insurance company operates, provided that the NAIC conducts itself in good faith and limits the distribution of its financial analyses to commissioners whose interest relates to the virtue of the insurer's operations in those underwriting territories.
15. The bill authorizes the superintendent to adopt rules that prescribe accounting precepts governing the form and content of financial statements required to be filed with the bureau by insurers operating in Maine. The superintendent may rely upon standards of accounting practice adopted by the NAIC to guide in the format and extent of disclosure of information.
16. The bill sets a license fee for reinsurance intermediaries. The charge for the new class of licensees will be \$50 for a 2-year period of licensure.
17. The bill conforms the required level of surplus to be maintained by an insurer accepting reinsurance from domestic insurers to uniform standards prescribed by the NAIC. The change permits the superintendent to require an adequate surplus overlay based upon the kinds and amounts of reinsurance assumed.
18. The bill defines performance standards applicable to banks that act as fiduciaries in the holding of deposit funds for the benefit of insurance companies that transfer risks to reinsurers located outside the United States.
19. The bill sets reporting standards under which insurance companies transferring risks to reinsurers must inform the superintendent as to the deposits held in trust for the benefit of the insurer's policyholders or claimants. It also authorizes the superintendent to examine reinsurance agreements or deposit arrangements regarding insurers and reinsurers as necessary. This section additionally requires a domestic property or casualty insurer to maintain not less than \$10,000,000 in surplus to assume reinsurance from other insurers or reinsurers. No reinsurance contract in force upon the effective date of this change would be voided; the law would apply to reinsurance arrangements executed after the effective date of the bill.
20. The bill enacts a new subchapter to regulate reinsurance intermediaries. Reinsurance intermediaries are brokers that facilitate reinsurance transactions between insurers and reinsurance companies. This provision requires that reinsurance brokers and managers perform with fiduciary responsibilities, mandates deposit funds must be held by bank trustees when appropriate and establishes relationships with insurers and reinsurers pursuant to contractual terms that limit the underwriting authority of the intermediary. Reinsurance intermediaries must be licensed and are subject to civil penalties of up to \$100,000 if their conduct results in significant damage to insurers, reinsurers or the public. When the superintendent is required under the Insurance Rehabilitation and Liquidation Law to assume the role of the receiver of an insolvent insurance company, a reinsurance intermediary may be subject to a civil action brought by the superintendent to seek restitution for losses suffered by insurers, reinsurers and claimants. Civil action may be initiated by the superintendent to seek restitution for the losses suffered by insurers and reinsurers.

21. The bill permits the superintendent to prescribe appropriate standards in valuing certain assets of an insurance company. The superintendent may require insurers to value such assets pursuant to standards promulgated by the NAIC.
22. The bill authorizes the superintendent to require the use of standards of valuation published by the NAIC in determining the value of securities of insurers and other regulated parties in which insurers invest.
23. The bill establishes limitations upon the activities of managing general agents, or MGA's, sets the terms for mandated contract provisions between insurers and managing general agents, and requires managing general agents to ensure that loss reserves are appropriately valued so that insurers represented by the MGA are fully aware of the risk being undertaken by the MGA in the name of the insurer. A managing general agent conducting the activities of a portion or all of an insurer's business must demonstrate that the MGA is qualified to undertake those duties. All managing general agents are required to register with the bureau and be qualified as insurance agents by background and experience.
24. Sections 24 to 31 of the bill amend the Insurance Rehabilitation and Liquidation Law regarding transfers between insurers and closely affiliated parties prior to a petition being filed with the court for an order of supervision of a financially distressed insurer. The bill sharpens and expands upon the focus of voidable transfers now in the law. These changes strengthen the rights and legal recourse of policyholders and creditors when an insurer has become financially distressed, but that, prior to its assets passing to a receiver, has transferred funds to a closely affiliated person to avoid legitimate creditors obtaining satisfaction from the bankrupt insurer's estate upon liquidation. Technical changes in the bill flesh out regulatory adjustments necessary to modify the Uniform Liquidation Act to identify voidable transfers and to strengthen rights of policyholders and creditors in claiming against a bankrupt insurer's estate to recover the value of losses covered by insurance policies issued by the insolvent carrier.
25. The bill proposes standards that apply to property and casualty insurers controlled by a broker. When an insurance broker, through an ownership interest or otherwise, strongly influences operations of an insurance company licensed to do business in Maine, the broker must meet standards set by contract that limit the insurer's transfer of responsibilities for conduct of operation to the broker. If the insurer is financially defrauded and is ordered liquidated, the superintendent acting as the receiver may maintain a civil action for restitution of the value of damages for the benefit of the insurer, its policyholders and claimants. A controlling broker is charged with fiduciary responsibilities and must maintain bank trust accounts in account with each insurer it controls.

Committee Amendment "A", S-649, changes the standards for notification to the Superintendent of Insurance as they pertain to transactions between a nonprofit hospital and medical service organization and their affiliates. It also narrows the definition of "underwriting manager" in the section defining managing general agents.

Senate Amendment "A", S-660, to Committee Amendment "A" adds health maintenance organizations to the type of affiliates for which transactions between the parent company and the affiliate trigger notification to the Superintendent of Insurance.

Senate Amendment "B", S-670, to Committee Amendment "A" clarifies that the tier rating provisions applicable to group health insurance for groups with fewer than 25 members and to subgroups do not apply to new policies. It extends the rating prohibitions to duration of coverage under the policy.