

Maine Revised Statute Title 24-A, Chapter 27: THE INSURANCE CONTRACT

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24-A §2401. SCOPE OF CHAPTER

This chapter applies as to all insurance contracts and annuity contracts, other than: [1969, c. 132, §1 (NEW).]

1. Reinsurance.

[1969, c. 132, §1 (NEW) .]

2. Unless otherwise specifically indicated, policies or contracts not issued for delivery in this State nor delivered in this State; and

[1993, c. 171, Pt. C, §1 (AMD) .]

3. Wet marine and transportation insurance.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1993, c. 171, §C1 (AMD).

24-A §2402. "POLICY" DEFINED

"Policy" means the written contract of or written agreement for or effecting insurance, by whatever name called, and includes all clauses, riders, endorsements and papers which are a part thereof. [1969, c. 132, §1 (NEW).]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2403. "PREMIUM" DEFINED

"Premium" is the consideration for insurance, by whatever name called. Any "assessment", or any "membership", "policy", "survey", "inspection", "service" or similar fee or other charge in consideration for an insurance contract is deemed part of the premium. [1969, c. 132, §1 (NEW).]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2404. INSURABLE INTEREST -- PERSONAL INSURANCE

1. Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

[1969, c. 132, §1 (NEW) .]

2. If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

[1969, c. 132, §1 (NEW) .]

3. "Insurable interest" as to such personal insurance means that every individual has an insurable interest in the individual's own life, body, and health, and that a person has an insurable interest in other individuals as follows:

A. In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection; [1969, c. 132, §1 (NEW).]

B. In the case of other persons, a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured; [1989, c. 353, §1 (AMD).]

C. A party to a contract or option for the purchase or sale, including a redemption, of an interest in a business proprietorship, partnership or firm, or of shares of stock of a corporation or of an interest in these shares, has an insurable interest in the life, body and health of each individual party to that contract or option, and for the purposes of that contract or option only, in addition to any insurable interest that may otherwise exist as to that individual; [1993, c. 320, §1 (AMD); 1993, c. 320, §4 (AFF).]

D. A corporation has an insurable interest in the lives of its employees, former employees and retirees for the purpose of funding, in the aggregate, all or part of the corporation's cost for preretirement and postretirement medical, death, disability and pension benefits to its employees, former employees, retirees or their beneficiaries, provided that an insurance program used to finance these employee benefits includes former employees, retirees or a broad class of employees selected by objective standards related to age, service, sex or category of employment and that the proceeds created by that insurance program are used for the sole purpose of funding the corporations's preretirement or postretirement benefit programs covering at least a broad class of employees; and [2003, c. 173, §1 (AMD).]

E. Any revocable or irrevocable trust has an insurable interest, provided any settlor or any beneficiary of the trust has an insurable interest as provided in paragraph A, B, C or D. A partnership has an insurable interest provided any partner has an insurable interest. [2003, c. 173, §1 (AMD).]

[2003, c. 173, §1 (AMD) .]

4. An insurer shall be entitled to rely upon all statements, declarations and representations made by an applicant for insurance relative to the insurable interest of the applicant in the insured; and no insurer shall incur legal liability except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1989, c. 353, §§1,2 (AMD). 1991, c. 548, §§C1-3 (AMD). 1993, c. 320, §§1,2 (AMD). 1993, c. 320, §4 (AFF). 2003, c. 173, §1 (AMD).

24-A §2405. INSURABLE INTEREST -- EXCEPTION WHEN CERTAIN INSTITUTIONS DESIGNATED BENEFICIARY

1. Life insurance contracts may be entered into in which the person, trust or trustee paying the consideration for the insurance has no insurable interest in the life of the individual insured, where charitable, benevolent, educational or religious institutions, or their agencies, are designated irrevocably as the beneficiaries thereof.

[1993, c. 320, §3 (AMD); 1993, c. 320, §5 (AFF) .]

2. In making such contracts, the person paying the premium shall make and sign the application therefor as owner or as settlor of a trust, and shall designate a charitable, benevolent, educational or religious institution, or any agency thereof, irrevocably as the beneficiary or beneficiaries of such contract. The application must be signed also by the individual whose life is to be insured.

[1993, c. 320, §3 (AMD); 1993, c. 320, §5 (AFF) .]

3. Nothing in this section shall be deemed to prohibit any combination of the applicant, premium payer, owner, and beneficiary from being the same person.

[1969, c. 132, §1 (NEW) .]

4. Such a contract shall be valid and binding among the parties thereto, notwithstanding the absence otherwise of an insurable interest in the life of the individual insured.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1993, c. 320, §3 (AMD). 1993, c. 320, §5 (AFF).

24-A §2406. INSURABLE INTEREST, PROPERTY

1. No contract of insurance of property or of any interest in property or arising from property shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured as at the time of the loss.

[1969, c. 132, §1 (NEW) .]

2. "Insurable interest" as used in this section means any actual, lawful, and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage or impairment.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2407. POWER TO CONTRACT -- PURCHASE OF INSURANCE AND ANNUITIES BY MINORS

1. Any person of competent legal capacity may contract for insurance.

[1969, c. 132, §1 (NEW) .]

2. Any minor not less than 15 years of age, nearest birthday, may, notwithstanding his minority, contract for or own annuities, or insurance, or affirm by novation or otherwise preexisting contracts for annuities or insurance upon his own life, body, health, property, liabilities or other interests, or on the persons of another in whom the minor has an insurable interest. Such a minor shall, notwithstanding such minority, be deemed competent to exercise all rights and powers with respect to or under any contract for annuity or for insurance upon his own life, body or health, or any contract such minor effected upon his own property, liabilities or other interests, or any contract effected or owned by the minor on the person of another, as might be exercised by a person of full legal age, and may at any time surrender his interest in any such contracts and give valid discharge for any benefit accruing or money payable thereunder. Such a minor shall not, by reason of his minority, be entitled to rescind, avoid or repudiate the contract, nor to rescind, avoid or repudiate

any exercise of a right or privilege thereunder, except that such a minor not otherwise emancipated shall not be bound by any unperformed agreement to pay by promissory note or otherwise, any premium on any such annuity or insurance contract.

[1969, c. 132, §1 (NEW) .]

3. Any annuity contract or policy of life or health insurance procured by or for a minor under subsection 2 shall be made payable either to the minor or his estate or to a person having an insurable interest in the life of the minor.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2408. CONSENT OF INSURED FOR HEALTH AND LIFE INSURANCE

1. No life or health insurance contract upon an individual, including contracts which may arise under section 2404, subsection 3, paragraph D, may be made or effectuated, unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, applies for coverage or has provided written consent, except under the following circumstances.

A. A spouse may effectuate insurance upon the other spouse. [1989, c. 353, §3 (NEW) .]

B. Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of the minor. [1989, c. 353, §3 (NEW) .]

C. Family policies may be issued insuring 2 or more members of a family on an application signed by either parent, a stepparent or a spouse. [1989, c. 353, §3 (NEW) .]

[1989, c. 353, §3 (RPR) .]

2. This section does not apply to:

A. Group life insurance contracts other than group contracts which may arise under section 2404, subsection 3, paragraph D; [1989, c. 353, §3 (NEW) .]

B. Group annuity contracts; or [1989, c. 353, §3 (NEW) .]

C. Group or blanket health insurance contracts. [1989, c. 353, §3 (NEW) .]

[1989, c. 353, §3 (RPR) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1989, c. 353, §3 (RPR).

24-A §2409. ALTERATION OF APPLICATION, LIFE AND HEALTH INSURANCE

No alteration of any written application for any life or health insurance policy or annuity contract shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not be ascribed to the applicant. [1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2410. APPLICATION; STATEMENTS; AS EVIDENCE

1. The insured shall not be bound by any statement made in an application for an individual life or health insurance policy or annuity contract, and the application shall not be admissible in evidence in any action relative to such policy or contract, unless a true copy of the application was attached to or endorsed on the policy or contract when issued as a part thereof. This provision shall not apply to industrial life insurance policies or to group life or group health insurance policies.

[1969, c. 132, §1 (NEW) .]

2. If any policy of life or health insurance delivered in this State is reinstated or renewed, and the insured or the beneficiary or assignee of the policy makes written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within 30 days after receipt of such request at its home office, or branch office, deliver or mail to the person making such request a copy of such application reproduced by any legible means. If such copy is not so delivered or mailed after having been so requested, the insurer shall be precluded from introducing the application in evidence in any action or proceeding based upon or involving the policy or its reinstatement or renewal. In the case of such a request from a beneficiary or assignee, the time within which the insurer is required to furnish a copy of such application shall not begin to run until after receipt of evidence satisfactory to the insurer of the beneficiary's or assignee's vested interest in the policy or contract.

[1969, c. 132, §1 (NEW) .]

3. As to kinds of insurance other than individual life or health insurance, no application for insurance signed by or on behalf of the insured shall be admissible in evidence in any action between the insured and the insurer arising out of the policy so applied for, if the insurer has failed, at the expiration of 30 days after receipt by the insurer of written demand therefor by or on behalf of the insured, to furnish to the insured a copy of such application reproduced by any legible means.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW) .

24-A §2411. REPRESENTATIONS IN APPLICATIONS

All statements and descriptions in any application for insurance or for an annuity contract, by or in behalf of the insured or annuitant, are deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts and incorrect statements may not prevent a recovery under the policy or contract unless either: [1999, c. 223, §1 (AMD) .]

1. Fraudulent; or

[1969, c. 132, §1 (NEW) .]

2. Material either to the acceptance of the risk, or to the hazard assumed by the insurer, such that the insurer in good faith would either not have issued the insurance or contract, or would not have issued it at the same premium rate, or would not have issued insurance in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or contract or otherwise.

[1999, c. 223, §1 (AMD) .]

3.

[1999, c. 223, §1 (RP) .]

To prevent a recovery under this section for any application for life, credit life, disability, long-term care, accidental injury, specified disease, hospital indemnity or credit or accident insurance, an insurer need only prove one of the acts described in this section, not an act under subsections 1 and 2. [1999, c. 223, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1999, c. 223, §1 (AMD).

24-A §2411-A. PAYMENT OF FEES FOR FILINGS

The superintendent may require insurers to pay filing fees for form and rate approval on a quarterly, biannual or annual basis. [1997, c. 457, §42 (NEW) .]

SECTION HISTORY

1997, c. 457, §42 (NEW) .

24-A §2412. FILING, APPROVAL OF FORMS

1. An insurance policy or annuity contract form may not be delivered or issued for delivery in this State unless the form has been filed with and approved by the superintendent in accordance with the following.

A. For purposes of this section, "form" includes:

- (1) The basic form and any printed rider, endorsement or renewal form;
- (2) An application form if a written application is required and is made a part of the policy or contract; and
- (3) A certificate of coverage under a group policy or contract that is delivered or issued for delivery in this State. [1997, c. 370, Pt. G, §1 (NEW) .]

B. This section does not apply to surety bonds or to specially rated inland marine risks, or to policies, riders, endorsements or forms of unique character designed for and used with relation to insurance upon a particular subject or that relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policy holder, contract holder or certificate holder. [1997, c. 370, Pt. G, §1 (NEW) .]

C. An advisory organization licensed pursuant to section 2321-A may file forms pursuant to this section on behalf of its members and subscribers. The approval of such a filing does not restrict the right of an insurer authorized to use an advisory organization form to develop and file forms on its behalf in addition to or instead of the advisory organization form. [1997, c. 370, Pt. G, §1 (NEW) .]

[1997, c. 370, Pt. G, §1 (RPR) .]

1-A. An insurer may not provide coverage to a resident of this State under a group or blanket policy or contract issued and delivered outside this State unless the following requirements of this subsection are met.

A. For "other group" insurance policies as defined in sections 2612-A and 2808, all forms must be filed with and approved by the superintendent. [1997, c. 370, Pt. G, §2 (NEW) .]

B. For trustee group policies as defined in sections 2606-A and 2806 and association group policies as defined in sections 2607-A and 2805-A, certificates of coverage to be delivered or issued for delivery in this State:

(1) Must be filed with the superintendent at least 60 days before any solicitation in this State, with sufficient information concerning the nature of the group, including any trust agreements or association bylaws, to enable the superintendent to determine whether the group satisfies the statutory requirements for a trustee or association group; and

(2) May not have been disapproved. [1997, c. 370, Pt. G, §2 (NEW).]

C. For group or blanket policies other than those specified in paragraphs A and B and in section 2858, the group certificates to be delivered or issued for delivery in this State must be filed with the superintendent at the superintendent's request and may not have been disapproved. [2001, c. 258, Pt. H, §1 (AMD).]

D. The superintendent may disapprove a form filed pursuant to this subsection only if:

(1) The policy or form is not in compliance with the laws of the state in which it was issued or delivered;

(2) The policy or form is not in compliance with the laws of this State that apply when the policy is issued outside this State, such as chapter 36 or section 2843; or

(3) The superintendent determines that the form is deceptive or misleading. [1997, c. 370, Pt. G, §2 (NEW).]

[2001, c. 258, Pt. H, §1 (AMD) .]

2. Every filing must be made not less than 30 days in advance of any delivery. At the expiration of the 30 days, the form so filed is deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the superintendent. Approval of the form by the superintendent constitutes a waiver of any unexpired portion of the waiting period. The superintendent shall act on a filing no later than 30 days from receipt unless an extension is requested by the filer. A filing required under this section must be made electronically in a format required by the superintendent unless exempted by rule adopted by the superintendent. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. At the expiration of the period so extended, and in the absence of prior affirmative approval or disapproval, any form is deemed approved. The superintendent may at any time, after hearing and for cause shown, withdraw any approval.

[2009, c. 14, §3 (AMD) .]

3. Any order of the superintendent disapproving any such form or withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than 30 days after the giving of the order of withdrawal, as the superintendent shall in such order prescribe.

[1973, c. 585, §12 (AMD) .]

4. The superintendent may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

[1973, c. 585, §12 (AMD) .]

5. Appeals from orders of the superintendent disapproving any such form or withdrawing a previous approval may be taken as provided in sections 229 to 236.

[1973, c. 585, §12 (AMD) .]

6. Motor vehicle insurance identification cards.

[1989, c. 824, §2 (AMD); T. 24-A, §2412, sub-§6 (RP) .]

7. Motor vehicle insurance identification cards. Pursuant to this section, the superintendent, with the advice of the Secretary of State, shall prescribe a uniform motor vehicle insurance identification card form. The superintendent shall require all insurance companies transacting business within this State to provide with each motor vehicle liability insurance policy an insurance identification card for each vehicle, describing the vehicle covered. When an insured has 5 or more motor vehicles registered in this State, the insurer may use the designation "all owned vehicles" on each card in lieu of a specific description.

[1991, c. 715, §1 (NEW) .]

8. Confidentiality of form filings. Forms filed as required by this section and any supporting information are confidential until the filing is approved.

[2005, c. 121, Pt. C, §2 (AMD) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 585, §12 (AMD). 1987, c. 341, §§1,7 (AMD). 1987, c. 476, §1 (AMD). 1989, c. 797, §§35,37,38 (AMD). 1989, c. 824, §2 (AMD). 1991, c. 715, §1 (AMD). 1997, c. 126, §4 (AMD). 1997, c. 370, §§G1,2 (AMD). 2001, c. 258, §H1 (AMD). 2003, c. 671, §A2 (AMD). 2005, c. 121, §C2 (AMD). 2009, c. 14, §3 (AMD). MRSA T. 24-A, §2412, sub-§6 (AMD).

24-A §2412-A. LARGE COMMERCIAL CONTRACTS

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

A. "Contract of insurance" means a contract of insurance, as defined in section 3, that provides for property or casualty insurance coverages or a combination of property or casualty insurance, excluding workers' compensation, medical malpractice, life, health and disability insurance. [1999, c. 328, §1 (NEW) .]

B. "Large commercial policyholder" means an insurance contract holder that is a corporation, partnership, trust, sole proprietorship or other business or public entity and that has certified that it meets:

(1) At least 2 of the following 3 criteria:

- (a) A net worth of \$10,000,000 as certified by a certified public accountant or public accountant authorized to do business in this State;
- (b) Net revenue or sales of \$5,000,000 as certified by a certified public accountant or public accountant authorized to do business in this State; or
- (c) A total of more than 25 employees per individual company or more than 50 employees per holding company; and

(2) The following criteria:

- (a) The use of an employed or retained risk manager to procure insurance. For purposes of this division, "risk manager" means a chartered property and casualty underwriter, a certified insurance counselor, an associate in risk management, a certified risk manager or a licensed insurance consultant; and

(b) Aggregate property and casualty insurance premiums, excluding workers' compensation, medical malpractice, life, health and disability insurance premiums as follows:

- (i) Until December 31, 2000, \$90,000;
- (ii) From January 1, 2001 until December 31, 2001, \$75,000;
- (iii) From January 1, 2002 until December 31, 2002, \$60,000; and
- (iv) After January 1, 2003, \$50,000.

"Large commercial policyholder" also includes a nonprofit or public entity with an annual budget or assets of \$25,000,000 or more that meets the criteria listed in subparagraph (2) and a municipality with a population of 20,000 or more that meets the premium criteria listed in subparagraph (2), division (b).

A commercial policyholder that meets the premium criteria listed in subparagraph (2), division (b) but that does not meet 3 of the qualifying criteria listed in either subparagraph (1) or subparagraph (2), division (a) may petition the superintendent for a waiver of the remaining criteria. The superintendent may grant a waiver if the superintendent determines that the applicant for a waiver is sufficiently qualified to act as a large commercial policyholder. [2001, c. 3, §1 (AMD) .]

[2001, c. 3, §1 (AMD) .]

2. Regulation of policy; establishing rates. The provisions of section 2412, subsections 1 to 5 and subsection 8; sections 2413, 2418, 2421 and 2438 to 2445; and chapter 25, subchapter 1, except for section 2303, subsection 1, paragraph B, as the provisions relate to the filing, approval and fixing of or establishing rates, do not apply to any contract of insurance issued to a large commercial policyholder pursuant to this section. Section 2004, subsection 4 also does not apply to any contract of insurance issued pursuant to this section to a large commercial policyholder.

[1999, c. 538, §2 (AMD); 1999, c. 538, §3 (AFF) .]

3. Underwriting files. Notwithstanding subsection 2, an insurer issuing contracts of insurance to large commercial policyholders shall maintain underwriting files; premium, loss and expense statistics; claims files and records; written certification from the large commercial policyholder that it meets the criteria for a large commercial policyholder under subsection 1, paragraph B; and financial and other records with regard to such contracts that are subject to examination by the superintendent. A large commercial policyholder shall annually file a certification as a large commercial policyholder with the insurer.

[1999, c. 328, §1 (NEW) .]

4. Disclaimer required. Each policy issued to a large commercial policyholder pursuant to this section must include a disclaimer with language similar to the following:

"The contract provisions, rates and rating plans provided for in this policy are exempt from the filing and approval requirements of the Bureau of Insurance."

5. Suspension of program by superintendent. If the superintendent finds at any time that a sufficient degree of competition does not exist for a particular line, class or type of insurance, then the superintendent may deem the provisions of this section waived for so long as a sufficient degree of competition does not exist. After waiver by the superintendent, upon the request of 5 or more interested parties, the superintendent, within 45 days of the request, shall hold a hearing at which interested parties may present evidence as to whether a sufficient degree of competition exists for the particular line, class or type of insurance.

[1999, c. 328, §1 (NEW) .]

6. Annual report. An insurer that issues policies pursuant to this section shall report annually to the superintendent beginning on February 1, 2001 and continuing until February 1, 2005. The report must be made on a form prescribed by the superintendent and must include information relating to the number of policies issued each year sorted by line of insurance; the number of policies renewed each year sorted by line of insurance; and any other pertinent information required by the superintendent.

[1999, c. 328, §1 (NEW) .]

7. Bureau report. On or before March 1, 2005, the superintendent shall report to the joint standing committee of the Legislature have jurisdiction over insurance matters on the effects of this section. The report must contain the superintendent's recommendations as to any changes in the criteria established in this section to qualify as a large commercial policyholder.

[1999, c. 328, §1 (NEW) .]

SECTION HISTORY

1999, c. 328, §1 (NEW). 1999, c. 328, §1 (NEW). 1999, c. 538, §§1,2 (AMD). 1999, c. 538, §3 (AFF). 2001, c. 3, §1 (AMD).

24-A §2413. GROUNDS FOR DISAPPROVAL

1. The superintendent shall disapprove any form filed under section 2412, or withdraw any previous approval thereof, only on one or more of the following grounds:

A. If it is in any respect in violation of or does not comply with this Title; [1969, c. 132, §1 (NEW) .]

B. If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract; [1969, c. 132, §1 (NEW) .]

C. If it has any title, heading or other indication of its provisions which is misleading; [1969, c. 132, §1 (NEW) .]

D. As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged; or, as to any health insurance contract, if it contains any unjust, unfair or inequitable provision or provisions; [1969, c. 132, §1 (NEW) .]

E. As to a life insurance or health insurance policy, if it contains a provision or provisions such as to encourage misrepresentation; [1991, c. 211, §1 (AMD) .]

F. As to Medicare supplement policies or contracts, as defined in chapter 67, if the policy cannot be anticipated, as estimated for the entire period for which rates are to be computed to provide coverage, on the basis of incurred claims experience and earned premiums for that period and in accordance with accepted actuarial principles and practices, to return to policyholders in the form of aggregate benefits provided under the policy at least 65% of the aggregate amount of premiums collected in the case of individual policies and at least 75% of the aggregate amount of premiums collected in the case of group policies; or [1991, c. 211, §2 (AMD) .]

G. As to an individual health insurance policy, contract or rider, if it insures against a specific disease and does not meet the minimum loss ratio standards specified in subparagraph (2).

(1) As used in this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Conditionally renewable" means renewal may be declined by the insurer by class, geographic area or for stated reasons other than health.

(b) "Guaranteed renewable" means renewal may be declined by the insurer only for nonpayment of premium but rates may be revised on a class basis.

(c) "Noncancelable" means renewal may not be declined by the insurer and rates may not be revised.

(d) "Optionally renewable" means renewal is at the option of the insurer.

(2) The loss ratio standards for each type of renewal clause are:

(a) Optionally renewable insurance, 60%;

(b) Conditionally renewable insurance, 55%; and

(c) Guaranteed renewable and noncancelable insurance, 50%. [1991, c. 211, §3 (NEW).]

[1991, c. 211, §§1-3 (AMD) .]

2. The insurer shall not use in this State any such form after disapproval or withdrawal of approval.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 585, §12 (AMD). 1981, c. 234, §§2,3 (AMD). 1989, c. 27, §1 (AMD). 1991, c. 211, §§1-3 (AMD).

24-A §2414. STANDARD PROVISIONS, IN GENERAL

1. Insurance contracts shall contain such standard or uniform provisions as are required by the applicable provisions of this Title pertaining to contracts of particular kinds of insurance. The superintendent may waive the required use of a particular provision in a particular insurance policy form if:

A. He finds such provision unnecessary for or unrelated to the protection of the insured and inconsistent with the purposes of the policy, and [1969, c. 132, §1 (NEW).]

B. The policy is otherwise approved by him. [1969, c. 132, §1 (NEW).]

[1973, c. 585, §12 (AMD) .]

2. No policy shall contain any provision inconsistent with or contradictory to any standard or uniform provision used or required to be used, but the superintendent may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.

[1973, c. 585, §12 (AMD) .]

3. In lieu of the provisions required by this Title for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the superintendent.

[1973, c. 585, §12 (AMD) .]

4. A policy issued by a domestic insurer for delivery in another jurisdiction may contain or omit any provisions as required or permitted by the laws of such jurisdiction.

[1969, c. 132, §1 (NEW) .]

5. This section does not apply as to the standard fire policy.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 585, §12 (AMD).

24-A §2415. CHARTER, BYLAW PROVISIONS

No policy shall contain any provision purporting to make any portion of the charter, bylaws or other constituent document of the insurer (other than the subscriber's agreement or power of attorney of a reciprocal insurer) a part of the contract unless such portion is set forth in full in the policy. Any policy provision in violation of this section shall be invalid. [1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW) .

24-A §2416. EXECUTION OF POLICIES

1. Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney in fact, employee, or representative duly authorized by the insurer.

[1969, c. 132, §1 (NEW) .]

2. A facsimile signature of any such executing individual may be used in lieu of an original signature.

[1969, c. 132, §1 (NEW) .]

3. No insurance contract heretofore or hereafter issued and which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the insurer by the imprinted facsimile signature of an individual not authorized so to execute as of the date of the policy.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 585, §12 (AMD).

24-A §2417. UNDERWRITERS' AND COMBINATION POLICIES

1. Two or more authorized insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department and such policy shall plainly show the true name of the insurer.

[1969, c. 132, §1 (NEW) .]

2. Two or more insurers may, with the approval of the superintendent, issue a combination policy which shall contain provisions substantially as follows:

A. That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of insurance under the policy, and [1969, c. 132, §1 (NEW) .]

B. That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers. [1969, c. 132, §1 (NEW) .]

[1973, c. 585, §12 (AMD).]

3. This section shall not apply to cosurety obligations.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1973, c. 585, §12 (AMD).

24-A §2418. VALIDITY AND CONSTRUCTION OF NONCOMPLYING FORMS

1. A policy hereafter delivered or issued for delivery to any person in this State in violation of this Title but otherwise binding on the insurer, shall be held valid, but shall be construed as provided in this Title.

[1969, c. 132, §1 (NEW) .]

2. Any condition, omission or provision not in compliance with the requirements of this Title and contained in any policy, rider, or endorsement hereafter issued and otherwise valid, shall not thereby be rendered invalid but shall be construed and applied in accordance with such condition, omission or provision as would have applied had the same been in full compliance with this Title.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2419. DELIVERY OF POLICY AS TO MOTOR VEHICLE INSURANCE

In event the original policy is delivered or is so required to be delivered to or for deposit with any vendor, mortgagee, or pledgee of any motor vehicle, and in which policy any interest of the vendee, mortgagor, or pledgor in or with reference to such vehicle is insured, a duplicate of such policy setting forth the name and address of the insurer, insurance classification of vehicle, type of coverage, limits of liability, premiums for the respective coverages, and duration of the policy, or memorandum thereof containing the same such information, shall be delivered by the vendor, mortgagee, or pledgee to each such vendee, mortgagor, or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written, or stamped conspicuously on the face of such duplicate policy or memorandum. This section does not apply to inland marine floater policies.

[1969, c. 132, §1 (NEW).]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2420. ASSIGNABILITY; RIGHTS OF INSURER, ASSIGNEE

1. A policy may be assignable or not assignable, as provided or permitted by its terms.

[1969, c. 132, §1 (NEW) .]

2. Subject to its terms relating to assignability, a life or health insurance policy, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the insured or owner, may be assigned either by pledge or transfer of title, by an assignment executed by the insured or owner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer.

[1969, c. 132, §1 (NEW) .]

3. Any assignment of a policy which is otherwise lawful and of which the insurer has received notice, shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

[1969, c. 132, §1 (NEW) .]

3-A. Upon receiving notice of a revocation of an assignment of a life insurance policy pursuant to this section, an insurer shall notify the assignee of the policy that the insured or owner has revoked the assignment. The insurer shall also notify the assignee if any cash value of the policy has been distributed at the time of revocation. Notice must be sent to the assignee within 30 days. An insurer is deemed to have complied with this subsection if that insurer has mailed notice by first class mail to the last known mailing address of the assignee.

[2003, c. 109, §1 (NEW) .]

4. Any individual insured under a group insurance policy or group annuity contract shall have the right, unless expressly prohibited under the terms of the policy or contract, to assign to any other person his rights and benefits under the policy or contract, including, but not limited to, the right to designate the beneficiary or beneficiaries and the rights as to conversion provided for in sections 2621 to 2625, and, subject to the terms of the policy relating to assignments thereunder, any such assignment, made either before or after January 2, 1970, shall be valid for the purpose of vesting in the assignee all such rights and benefits so assigned. While the assignment is in effect, and whether heretofore or hereafter made, the insurer shall be entitled to deal with the assignee as the owner of such rights and benefits in accordance with the terms of the assignment; but without prejudice to the insurer on account of any lawful action taken or payment made by it prior to receipt by it at its home office of written notice of the assignment or of the termination thereof.

[1973, c. 625, §143 (AMD) .]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1969, c. 177, §39 (AMD). 1973, c. 625, §143 (AMD). 2003, c. 109, §1 (AMD).

24-A §2421. RENEWAL OF POLICY

Any policy terminating by its terms at a specified expiration date and not otherwise renewable, may be renewed or extended at the option of the insurer and upon a currently authorized policy form and at the premium rate then required therefor for a specified additional period or periods by a certificate or other endorsement of the policy, and without requiring issuance of a new policy. [1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2422. NOTICE TO, KNOWLEDGE OF AGENT BINDING ON INSURER

1. An agent authorized by an insurer, if the name of such agent is borne on the policy, is the insurer's agent in all matters of insurance. Any notice required to be given by the insured to the insurer or any of its officers may be given in writing to such agent.

[1969, c. 132, §1 (NEW) .]

2. The authorized agent of an insurer shall be regarded as in the place of the insurer in all respects regarding any insurance effected by him. The insurer is bound by his knowledge of the risk and all matters connected therewith. Omissions and misdescriptions known to the agent shall be regarded as known to the insurer and waived by it as if noted in the policy.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2423. FORMS FOR PROOF OF LOSS TO BE FURNISHED

An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued by such insurer, forms of proof of loss for completion by such person, but such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion. [1969, c. 132, §1 (NEW).]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2424. CLAIMS ADMINISTRATION NOT WAIVER

Without limitation of any right or defense of an insurer otherwise, none of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder: [1969, c. 132, §1 (NEW).]

1. Acknowledgement of the receipt of notice of loss or claim under the policy.

[1969, c. 132, §1 (NEW) .]

2. Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.

[1969, c. 132, §1 (NEW) .]

3. Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2425. PAYMENT DISCHARGES INSURER

Whenever the proceeds of or payments under an insurance policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance therewith or in accordance with any written assignment thereof, the person then designated as being entitled thereto shall be entitled to receive such proceeds or payments and to give full acquittance therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract. [1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW) .

24-A §2426. ADVANCE PAYMENTS

1. No payment or payments made by any person, or by his insurer by virtue of an insurance policy, on account of bodily injury or death or damage to or loss of property of another, shall constitute an admission of liability or waiver of defense as to such injury, death, loss or damage, or be admissible in evidence in any action brought against the insured person or his insurer for damages, indemnity or benefits arising out of such injury, death, loss or damage unless pleaded as a defense to the action.

[1969, c. 132, §1 (NEW) .]

2. All such payments shall be credited upon any settlement with respect to the same damage, expense, or loss made by, or upon any judgment rendered therefor in such an action against, the payor or his insurer, and in favor of any person to whom or on whose account payment was made.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW) .

24-A §2427. MINOR MAY GIVE ACQUITTANCE

(REPEALED)

SECTION HISTORY

1969, c. 132, §1 (NEW) . 1979, c. 663, §144 (RP) .

24-A §2428. EXEMPTION OF PROCEEDS -- LIFE, ENDOWMENT, ANNUITY, ACCIDENT CONTRACTS

1. Certain policies of insurance shall be exempt from claims of creditors, and the rights of beneficiaries and assignees thereof shall be protected, as set forth.

[1969, c. 132, §1 (NEW) .]

2. Except in cases of transfers with intent to defraud creditors, if a contract of life, endowment, annuity or accident insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself or is assigned or in any way made payable to any other person, the lawful beneficiary or assignee thereof, other than the insured or the person so effecting such contract of insurance or executors or administrators of such insured or of the person so effecting such contract of insurance, shall be entitled to its proceeds and avails against the creditors and representatives of

the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted and whether or not the contract of insurance is made payable to the person whose life is insured or to the executor or administrator of such person if the beneficiary or assignee shall predecease such person, and such proceeds and avails shall be exempt from all liability for any debt of the beneficiary existing at the time the proceeds and avails is made available for his use. Subject to the statutes of limitations, the amount of any premiums for such contract of insurance paid with intent to defraud creditors, with interest thereon, shall inure to the benefit of the creditors from the proceeds of the contract of insurance; but the insurer issuing the contract shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms, unless before such payment the insurer shall have received written notice, by or in behalf of a creditor with specifications of the amount claimed along with such facts as will assist the insurer to ascertain the particular policy, of a claim to recover for transfer made or premiums paid with intent to defraud creditors, and unless such insurer shall have been served with trustee process for the cash surrender value of any such contract of insurance as required by law prior to making payment of the proceeds in accordance with the terms of the contract of insurance.

[1969, c. 132, §1 (NEW) .]

3. For the purpose of subsection 2, a contract of insurance shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the contract permits the insurer to discharge its obligation after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2429. EXEMPTION OF PROCEEDS, HEALTH INSURANCE

Except as may otherwise be expressly provided by the policy or contract, the proceeds or avails of all contracts of health insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts heretofore or hereafter effected shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use. [1969, c. 132, §1 (NEW).]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2430. EXEMPTION OF PROCEEDS, GROUP INSURANCE

1. A policy of group life insurance or group health insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any debt or liability of such insured individual or his beneficiary or of any other person having a right under the policy.

[1969, c. 132, §1 (NEW) .]

2. This section shall not apply to group insurance issued pursuant to this Title to a creditor covering his debtors, to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2431. EXEMPTION OF PROCEEDS, INDIVIDUAL ANNUITY CONTRACTS; ASSIGNABILITY OF RIGHTS

1. The benefits, rights, privileges and options which under any individual annuity contract heretofore or hereafter issued are due or prospectively due the annuitant, shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers, or options, nor shall creditors be allowed to interfere with or terminate the contract, except:

A. As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice received at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud. [1969, c. 132, §1 (NEW).]

B. The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant, shall not at any time exceed \$450 per month for the length of time represented by such installments, and that such periodic payments in excess of \$450 per month shall be subject to garnishee execution to the same extent as are wages and salaries. [1969, c. 132, §1 (NEW).]

C. If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, shall at any time exceed payment at the rate of \$450 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders. [1969, c. 132, §1 (NEW).]

2. If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained herein for the annuitant, shall apply with respect to such beneficiary or assignee.

[1969, c. 132, §1 (NEW) .]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2432. EXEMPTION OF EMPLOYEE'S INTEREST -- GROUP ANNUITIES, PENSION TRUSTS

If any group annuity contract or pension trust, whether heretofore or hereafter issued, is effected by an employer for the benefit of his employees, whether or not requiring any contribution toward the cost thereof by such employees, the interest of any employee, beneficiary or joint or contingent annuitant in any policy, certificate or fund in connection therewith and his interest in any payments or proceeds thereof and in any optional or death benefits shall not in any way be subject to execution, levy, attachment, garnishment, trustee process or any other legal or equitable process. [1969, c. 132, §1 (NEW).]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2433. JURISDICTION OF COURTS, LIMITATION OF ACTIONS

No conditions, stipulations or agreements in a contract of insurance shall deprive the courts of this State of jurisdiction of actions against foreign insurers, or limit the time for commencing actions against such insurers to a period of less than 2 years from the time when the cause of action accrues. [1969, c. 132, §1 (NEW).]

SECTION HISTORY

1969, c. 132, §1 (NEW).

24-A §2434. SUITS AGAINST FOREIGN INSURERS

Any person having a claim against any foreign insurer may bring a trustee action or any other appropriate action therefor in the courts of this State. Service of process upon such an insurer must be made as provided in section 421. [1997, c. 457, §43 (AMD).]

SECTION HISTORY

1969, c. 132, §1 (NEW). 1997, c. 457, §43 (AMD).

24-A §2436. INTEREST ON OVERDUE PAYMENTS

1. A claim for payment of benefits under a policy or certificate of insurance delivered or issued for delivery in this State is payable within 30 days after proof of loss is received by the insurer and ascertainment of the loss is made either by written agreement between the insurer and the insured or beneficiary or by filing with the insured or beneficiary of an award by arbitrators as provided for in the policy. For purposes of this section, "insured or beneficiary" includes a person to whom benefits have been assigned. A claim that is neither disputed nor paid within 30 days is overdue. If, during the 30 days, the insurer, in writing, notifies the insured or beneficiary that reasonable additional information is required, the undisputed claim is not overdue until 30 days following receipt by the insurer of the additional required information; except that :

A. The time period applicable to a standard fire policy and to that portion of a policy providing a combination of coverages, as described in section 3003, insuring against the peril of fire must be 60 days, as provided in section 3002; and [2009, c. 244, Pt. H, §1 (NEW).]

B. The time period applicable to individual life insurance must be 2 months as provided in section 2513. [2009, c. 244, Pt. H, §1 (NEW).]

[2009, c. 244, Pt. H, §1 (AMD) .]

1-A. A claimant, including a health care provider, may submit simultaneously a claim for payment with all carriers potentially liable for payment of the claim whether primary or secondary. Payment or denial of a claim by each carrier must be made within 30 calendar days after the carrier has received all information needed to pay or deny the claim whether or not another carrier with which it is attempting to coordinate has acted on the claim. Any payment made must be in accordance with rules adopted by the superintendent relative to coordination of benefits.

[2005, c. 58, §1 (NEW) .]

2. An insurer may dispute a claim by furnishing to the insured or beneficiary, or a representative of the insured or beneficiary, a written statement that the claim is disputed with a statement of the grounds upon which it is disputed. The statement must be based upon a reasonable investigation of the claim and must include sufficient detail to permit the insured or beneficiary to understand and respond to the insurer's

position. For purposes of this subsection, a claim for payments under a policy or certificate providing health care coverage is disputed if the insurer has denied the claim or has requested further information that is consistent with Bureau of Insurance Rule Chapter 850.

[1999, c. 256, Pt. I, §1 (AMD) .]

2-A. Except as provided in this subsection, for purposes of this section, an "undisputed claim" means a timely claim for payment of covered health care expenses under a policy or certificate providing health care coverage that is submitted to an insurer on the insurer's standard claim form using the most current published procedural codes with all the required fields completed with correct and complete information in accordance with the insurer's published claims filing requirements. After October 16, 2003 and until October 16, 2005, for a provider with 10 or more full-time-equivalent employees, an "undisputed claim" means a timely claim for payment of covered health care expenses under a policy or certificate providing health care coverage that is submitted to an insurer in the insurer's standard electronic data format using the most current published procedural codes with all the required fields completed with correct and complete information in accordance with the insurer's published claims filing requirements. This subsection applies only to a policy or certificate of a health plan as defined in section 4301-A, subsection 7.

[2003, c. 469, Pt. D, §4 (AMD); 2003, c. 469, Pt. D, §9 (AFF) .]

3. If an insurer fails to pay an undisputed claim or any undisputed part of the claim when due, the amount of the overdue claim or part of the claim bears interest at the rate of 1 1/2% per month after the due date. Notwithstanding this subsection, the superintendent shall adopt rules that establish a minimum amount of interest payable on an overdue undisputed claim to a health care provider before a payment must be issued. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2005, c. 50, §1 (AMD) .]

4. A reasonable attorney's fee for advising and representing a claimant on an overdue claim or action for an overdue claim must be paid by the insurer if overdue benefits are recovered in an action against the insurer or if overdue benefits are paid after receipt of notice of the attorney's representation.

[1999, c. 256, Pt. I, §1 (AMD) .]

5. Nothing in this section prohibits or limits any claim or action for a claim that the claimant has against the insurer.

[1999, c. 256, Pt. I, §1 (AMD) .]

SECTION HISTORY

1973, c. 480, (NEW). 1975, c. 157, (AMD). 1975, c. 321, (AMD). 1977, c. 357, (RPR). 1987, c. 344, (RPR). 1999, c. 256, §11 (AMD). 2001, c. 569, §1 (AMD). 2003, c. 218, §§3,4 (AMD). 2003, c. 469, §D4 (AMD). 2003, c. 469, §D9 (AFF). 2005, c. 50, §1 (AMD). 2005, c. 58, §1 (AMD). 2009, c. 244, Pt. H, §1 (AMD).

24-A §2436-A. UNFAIR CLAIMS SETTLEMENT PRACTICES

1. Civil actions. A person injured by any of the following actions taken by that person's own insurer may bring a civil action and recover damages, together with costs and disbursements, reasonable attorney's fees and interest on damages at the rate of 1 1/2% per month:

A. Knowingly misrepresenting to an insured pertinent facts or policy provisions relating to coverage at issue; [1997, c. 621, §1 (RPR).]

B. Failing to acknowledge and review claims, which may include payment or denial of a claim, within a reasonable time following receipt of written notice by the insurer of a claim by an insured arising under a policy; [1997, c. 621, §1 (RPR).]

C. Threatening to appeal from an arbitration award in favor of an insured for the sole purpose of compelling the insured to accept a settlement less than the arbitration award; [1997, c. 621, §1 (RPR).]

D. Failing to affirm or deny coverage, reserving any appropriate defenses, within a reasonable time after having completed its investigation related to a claim; or [1997, c. 621, §1 (RPR).]

E. Without just cause, failing to effectuate prompt, fair and equitable settlement of claims submitted in which liability has become reasonably clear. [1997, c. 621, §1 (NEW).]

[1997, c. 621, §1 (RPR) .]

2. Without just cause. For the purposes of this section, an insurer acts without just cause if it refuses to settle claims without a reasonable basis to contest liability, the amount of any damages or the extent of any injuries claimed.

[1997, c. 621, §1 (RPR) .]

3. No limitation on other cause of action. Nothing in this section prohibits any other claim or cause of action a person has against an insurer.

[1997, c. 621, §1 (NEW) .]

4. Application. This section does not apply to workers' compensation claims.

[1997, c. 621, §1 (NEW) .]

SECTION HISTORY

1987, c. 291, §2 (NEW). 1997, c. 621, §1 (RPR).

24-A §2436-B. DECLARATORY JUDGMENT ACTIONS INVOLVING INSURANCE POLICIES

1. Definition. For purposes of this section, "insured" means a natural person and does not include a corporation, trust, partnership, incorporated or unincorporated association or any other legal entity.

[2001, c. 126, §1 (NEW) .]

2. Costs and attorney's fees. In an action pursuant to Title 14, chapter 707 to determine an insurer's contractual duty to defend an insured under an insurance policy, if the insured prevails in such action, the insurer shall pay court costs and reasonable attorney's fees.

[2001, c. 126, §1 (NEW) .]

3. Application. This section does not apply to workers' compensation, disability, life, health, accidental injury, specified disease, hospital indemnity, Medicare supplement, long-term care or other limited benefit health insurance.

[2001, c. 126, §1 (NEW) .]

4. Construction. This section may not be construed to permit any assignment of rights by an insured to any other person or to create or extend any right or cause of action for a 3rd-party claimant under an insurance policy.

[2001, c. 126, §1 (NEW) .]

SECTION HISTORY

2001, c. 126, §1 (NEW).

24-A §2437. PROCEDURES COVERED BY HEALTH INSURANCE POLICIES WHETHER PERFORMED BY PHYSICIAN OR DENTIST

Whenever the terms "physician" or "doctor" are used in any policy of health or accident insurance issued in this State, these terms shall include within their meaning those persons licensed under and in accordance with the laws relating to the practice of dentistry, Title 32, chapter 16, in respect to any care, services, procedures or benefits covered by that policy of insurance which those persons are licensed to perform, any provisions in any such policy of insurance to the contrary notwithstanding. [1975, c. 345, §2 (NEW) .]

SECTION HISTORY

1975, c. 345, §2 (NEW).

24-A §2438. SHORT TITLE

This section and sections 2439 to 2445 shall be known as the "Insurance Policy Language Simplification Act." [1979, c. 267, §2 (NEW) .]

SECTION HISTORY

1979, c. 267, §2 (NEW).

24-A §2439. DEFINITIONS

As used in sections 2438 to 2445, unless the context otherwise indicates, the following terms shall have the following meanings. [1979, c. 267, §2 (NEW) .]

1. Insurer. "Insurer" means any life, health, casualty or property insurance company, fraternal benefit society, nonprofit health service corporation, nonprofit hospital service corporation, nonprofit medical service corporation, prepaid health plan, dental care plan, vision care plan, pharmaceutical plan, health maintenance organization and all similar type organizations.

[1979, c. 267, §2 (NEW) .]

2. Policy or policy form. "Policy" or "policy form" means any policy, contract, plan or agreement of life or health insurance or casualty or property insurance subject to chapter 39, subchapter II, or chapter 41, subchapter V, including credit life insurance and credit health insurance.

[1979, c. 267, §2 (NEW) .]

3. Superintendent. "Superintendent" means the Superintendent of Insurance.

[1979, c. 267, §2 (NEW) .]

SECTION HISTORY

1979, c. 267, §2 (NEW).

24-A §2440. APPLICABILITY

1. Application. This Act shall apply to all policies delivered or issued for delivery in this State by an insurer on or after the date the forms must be approved under this Act, but nothing in this Act shall apply to:

- A. Any policy which is a security subject to federal jurisdiction; [1979, c. 267, §2 (NEW).]
- B. Any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit life or health insurance policy; this shall not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this State; [1979, c. 267, §2 (NEW).]
- C. Any group annuity contract which serves as a funding vehicle for pension, profit-sharing or deferred compensation plans; [1979, c. 267, §2 (NEW).]
- D. Any form used in connection with, as a conversion from, as an addition to, or in exchange pursuant to a contractual provision for, a policy delivered or issued for delivery on a form approved or permitted to be issued prior to the dates the forms must be approved under this section; [1979, c. 267, §2 (NEW).]
- E. The renewal of a policy delivered or issued for delivery prior to the dates the forms must be approved under this Act. [1979, c. 267, §2 (NEW).]

2. Exception. No other statute of this State setting language simplification standards shall apply to any policy forms.

[1979, c. 267, §2 (NEW) .]

SECTION HISTORY

1979, c. 267, §2 (NEW).

24-A §2441. MINIMUM POLICY LANGUAGE SIMPLIFICATION STANDARDS

1. Delivery. In addition to any other requirements of law, no policy forms, except as stated in section 2440, shall be delivered or issued for delivery in this State on or after the dates the forms must be approved under this Act unless:

- A. The text achieves a minimum score of 50 on the Flesch reading ease test or an equivalent score on any other comparable test as provided in subsection 3; [1979, c. 267, §2 (NEW).]
- B. It is printed, except for specification pages, schedules and tables, in not less than 10-point type, one-point leaded; [1979, c. 267, §2 (NEW).]
- C. The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text of the policy or to any endorsements or riders; and [1979, c. 267, §2 (NEW).]
- D. It contains a table of contents or an index of the principal sections of the policy, if the policy has more than 3,000 words printed on 3 or fewer pages of text, or if the policy has more than 3 pages regardless of the number of words. [1979, c. 267, §2 (NEW).]

2. Test score measured. For the purposes of this section, a Flesch reading ease test score shall be measured by the following method:

- A. For policy forms containing 10,000 words or less of text, the entire form shall be analyzed. For policy forms containing more than 10,000 words, the readability of two 200-word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines; [1979, c. 267, §2 (NEW).]
- B. The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015; [1979, c. 267, §2 (NEW).]

C. The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6; [1979, c. 267, §2 (NEW).]

D. The sum of the figures computed under paragraphs B and C subtracted from 206.835 equals the Flesch reading ease score for the policy form; [1979, c. 267, §2 (NEW).]

E. For purposes of this subsection, paragraphs B, C and D, the following procedures shall be used:

- (1) A contraction, hyphenated word or numbers and letters, when separated by space, shall be counted as one word;
- (2) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and
- (3) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows 2 or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used; and [1979, c. 267, §2 (NEW).]

F. The term "text" as used in this subsection shall include all printed matter except the following:

- (1) The name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and
- (2) Any policy language which is drafted to conform to the requirements of any federal law, regulation or agency interpretation; any policy language required by any collectively bargained agreement; any medical terminology; any words which are defined in the policy; and any policy language required by law or regulation; provided, the insurer identifies the language or terminology excepted by this paragraph and certifies, in writing, that the language or terminology is entitled to be excepted by this subparagraph. [1979, c. 267, §2 (NEW).]

3. Test approval. Any other reading test may be approved by the superintendent for use as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.

[1979, c. 267, §2 (NEW) .]

4. Filings. Filings subject to this Act shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required but should be approved in accordance with section 2443. To confirm the accuracy of any certification, the superintendent may require the submission of further information to verify the certification in question.

Notwithstanding any other provision of this Act, rating organizations may act on behalf of their members and subscribers in complying with the requirements of this subsection. A member or subscriber shall be responsible for the actions of a rating organization on behalf of that member or subscriber under this subsection in the same manner as if the member or subscriber had acted on its own behalf.

[1979, c. 267, §2 (NEW) .]

5. Scoring. At the option of the insurer, riders, endorsements, applications and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.

[1979, c. 267, §2 (NEW) .]

SECTION HISTORY

1979, c. 267, §2 (NEW).

24-A §2442. CONSTRUCTION

Nothing in this Act shall be construed to negate any law of this State permitting the issuance of any policy form after it has been on file for the time period specified. [1979, c. 267, §2 (NEW).]

SECTION HISTORY

1979, c. 267, §2 (NEW).

24-A §2443. POWERS OF THE SUPERINTENDENT

The superintendent may authorize a lower score than the Flesch reading ease score required in section 2441, subsection 1, paragraph A, whenever, in his sole discretion, he finds that a lower score will provide a more accurate reflection of the readability of a policy form, or is warranted by the nature of a particular policy form or type or class of policy forms, or is caused by certain policy language which is drafted to conform to the requirements of any state law, regulation or agency interpretation. [1979, c. 267, §2 (NEW).]

SECTION HISTORY

1979, c. 267, §2 (NEW).

24-A §2444. APPROVAL OF FORMS

A policy form meeting the requirements of section 2441, subsection 1 shall be approved notwithstanding the provisions of any other laws which specify the content of policies, if the policy form provides the policyholders and claimants protection not less favorable than they would be entitled to under such laws. [1979, c. 267, §2 (NEW).]

SECTION HISTORY

1979, c. 267, §2 (NEW).

24-A §2445. EFFECTIVE DATES

1. Policy form delivered. No policy form shall be delivered or issued for delivery in this State on or after June 1, 1984, unless approved by the superintendent or permitted to be issued under this Act. Any policy form which has been approved or permitted to be issued prior to June 1, 1984, and which meets the standards set by this Act need not be refiled for approval, but may continue to be lawfully delivered or issued for delivery in this State upon the filing with the superintendent of a list of forms identified by form number and accompanied by a certificate as to each form in the manner provided in section 2441, subsection 4.

[1979, c. 267, §2 (NEW) .]

2. Dates extended. The superintendent may, in his sole discretion, extend the dates in subsection 1.

[1979, c. 267, §2 (NEW) .]

SECTION HISTORY

1979, c. 267, §2 (NEW).

24-A §2450. ELIGIBILITY FOR HEALTH INSURANCE IN CERTAIN CASES

No policy of accident or health insurance, or group or blanket accident or health insurance or renewals thereof, shall be denied or not renewed by the insurer, solely because the mother of the insured has taken or is discovered to have taken diethylstilbestrol, commonly referred to as DES. [1979, c. 415, §3 (NEW).]

SECTION HISTORY

1979, c. 415, §3 (NEW).

24-A §2451. MINIMUM 3-MONTH POLICY FOR MOTOR VEHICLE LIABILITY INSURANCE

(REPEALED)

SECTION HISTORY

1987, c. 341, §§2,7 (NEW).

24-A §2452. EMPLOYEE BENEFIT EXCESS INSURANCE; NONDISCRIMINATION; PROHIBITED CLAUSES

1. Discrimination prohibited. A policy of employee benefit excess insurance may not discriminate unfairly among or against beneficiaries of the underlying benefit plan, or treat conditions related to the Human Immunodeficiency Virus, or HIV, more restrictively than other sicknesses or disabling conditions.

[1991, c. 385, §11 (NEW) .]

2. Commutation clause. A policy of employee benefit excess insurance may not contain a commutation clause that extinguishes the excess carrier's gross claims liability to the insured person through the recapture of loss reserves, unless the policy contains a provision giving the insured the option of requiring that the funds transferred in support of such a commutation have been evaluated by a qualified health actuary who is a member of the American Academy of Actuaries and has certified that the aggregate value of reserves to be recaptured are reasonably adequate to discharge the insured's expected liability for future costs of the health benefits covered by the excess policy.

[1991, c. 385, §11 (NEW) .]

3. Review. An employee benefit excess insurance form is not exempt from the review provisions otherwise applicable under section 2412 on the ground that the form is designed for insurance on a particular subject.

[1991, c. 385, §11 (NEW) .]

SECTION HISTORY

1991, c. 385, §11 (NEW).

24-A §2453. EFFECTIVE DATE OF CANCELLATION

Life and health insurance policies that do not provide for any refund of premium when a policyholder requests cancellation prior to the end of the period for which premiums have been paid must state that no refund is payable and that the cancellation will take effect at the end of the period for which premiums have been paid unless the policyholder requests an earlier cancellation date. If a policyholder requests cancellation of a contract before the end of the period for which premiums have been paid, then the insurer must inform the policyholder in writing that no refund is payable and give the policyholder an opportunity to amend the cancellation request to take effect at the end of the period for which premiums have been paid. [1997, c. 604, Pt. F, §2 (NEW) .]

SECTION HISTORY

1997, c. 604, §F2 (NEW).

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