

CHAPTER 5

AUTHORIZATION OF INSURERS AND GENERAL REQUIREMENTS

SUBCHAPTER 1

AUTHORIZATION OF INSURERS AND GENERAL REQUIREMENTS

§400. "Stock" insurer defined

A "stock" insurer is an incorporated insurer with its capital divided into shares and owned by its stockholders. [PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW).

§401. "Mutual" insurer defined

A "mutual" insurer is an incorporated insurer without permanent capital stock, and the governing body of which is elected by its policyholders or those policyholders specified in its charter, or by any reasonable combination of its policyholders, guaranty fund stockholders, or guaranty fund certificate holders, or by other reasonable method. [PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW).

§402. "Reciprocal"; "Lloyd's" insurer defined

1. Reciprocal insurer. A "reciprocal" insurer is an unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact common to all such persons to provide reciprocal insurance among themselves. Any public self-funded pool operating under Title 30, chapter 203-B is not an insurance company or insurer under the laws of this State. The development, administration and provision of a public self-funded pool's programs and coverages do not constitute doing an insurance business.

[PL 1985, c. 713, §4 (AMD).]

2. Lloyd's insurer. A "Lloyd's" insurer is an unincorporated but formally organized association of individual underwriters, any one or more of whom underwrite and thereby assume as insurer such portion of the risk insured by them as shall be set forth in the contract of insurance issued by such an insurer.

[PL 1969, c. 177, §5 (RPR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §5 (RPR). PL 1985, c. 713, §4 (AMD).

§403. "Charter" defined

Except where context requires otherwise, "charter" means certificate of organization, certificate of incorporation, articles of incorporation, articles of agreement, articles of association, corporate charter granted by legislative act, or other basic constituent document of a corporation, or of a Lloyd's insurer, or the power of attorney of the attorney-in-fact of a reciprocal insurer. [PL 1969, c. 177, §6 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §6 (AMD).

§404. Certificate of authority required; enforcement; penalty

1. No person shall act as an insurer and no insurer shall transact insurance in this State by mail or otherwise, unless as authorized by a certificate of authority issued by the superintendent pursuant to this Title and then in full force and effect, except as to such transactions as are expressly otherwise provided in this Title.

[PL 1973, c. 585, §12 (AMD).]

2. No insurer formed under the laws of this State, and no foreign insurer from offices or by personnel or facilities located in this State, shall solicit insurance applications or otherwise transact insurance in another state or country unless it holds a subsisting certificate of authority granted to it by the superintendent authorizing it to transact the same kind or kinds of insurance in this State.

[PL 1973, c. 585, §12 (AMD).]

3. The superintendent shall enforce this section through any and all available and lawful means, including, but not limited to, the enjoining of any violation or threatened violation.

[PL 1973, c. 585, §12 (AMD).]

4. Any insurer and any officer, director, agent, representative or employee of any insurer, who willfully authorizes, negotiates, makes or issues any insurance contract in violation of this section, is upon conviction thereof subject to a fine not to exceed \$5,000 or imprisonment for not over 2 years, or to both.

[RR 2013, c. 2, §36 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2013, c. 2, §36 (COR).

§405. Exceptions to certificate of authority requirement

A certificate of authority shall not be required of an insurer with respect to any of the following:

[PL 1969, c. 132, §1 (NEW).]

1. Investigation, settlement or litigation of claims under its policies lawfully written in this State, or liquidation of assets and liabilities of the insurer, other than collection of new premiums, all as resulting from its former authorized operations in this State;

[PL 1969, c. 132, §1 (NEW).]

2. Except as provided in section 404, subsection 2, transactions thereunder subsequent to issuance of a policy covering only subjects of insurance not resident, located or expressly to be performed in this State at time of issuance, and lawfully solicited, written and delivered outside this State;

[PL 1969, c. 132, §1 (NEW).]

3. Transactions pursuant to surplus lines coverages lawfully written under chapter 19;

[PL 1969, c. 132, §1 (NEW).]

4. Reinsurance, except as to domestic reinsurers;

[PL 1969, c. 132, §1 (NEW).]

5. Transactions relative to its investments in this State;

[PL 1969, c. 132, §1 (NEW).]

6. Any suit or action by the duly constituted receiver, rehabilitator or liquidator of the insurer, or of the insurer's assignee or successor, under laws similar to those contained in chapter 57; or

[PL 2011, c. 90, Pt. C, §1 (AMD).]

7. Transactions pursuant to individual health insurance covering residents of this State written by a regional insurer or health maintenance organization, as defined in section 405-A, duly authorized or qualified to transact individual health insurance in the state or country of its domicile if the

superintendent certifies that the regional insurer or health maintenance organization meets the requirements of section 405-A.

[PL 2011, c. 90, Pt. C, §2 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 2011, c. 90, Pt. C, §§1, 2 (AMD).

§405-A. Certification of regional insurers or health maintenance organizations to transact individual health insurance

1. Regional insurer or health maintenance organization defined. As used in this section, "regional insurer or health maintenance organization" means an insurer or health maintenance organization that holds a valid certificate of authority to transact individual health insurance in Connecticut, Massachusetts, New Hampshire, Rhode Island or Vermont.

[PL 2013, c. 388, Pt. B, §1 (AMD).]

2. Certification of regional insurers or health maintenance organizations. A regional insurer or health maintenance organization may not transact individual health insurance in this State by mail, the Internet or otherwise unless the superintendent has issued a certification that the regional insurer or health maintenance organization has met the requirements of this subsection. The superintendent shall issue a certification or deny certification within 30 days of a request.

A. A policy, contract or certificate of individual health insurance offered for sale in this State by a regional insurer or health maintenance organization must comply with the applicable individual health insurance laws in the state of domicile of that regional insurer and must be actively marketed in that state. [PL 2011, c. 90, Pt. C, §3 (NEW).]

B. A regional insurer or health maintenance organization shall meet the requirements of section 4302 for reporting plan information with respect to individual health plans offered for sale in this State and disclose to prospective enrollees how the health plans differ from individual health plans offered by domestic insurers in a format approved by the superintendent. Health plan policies and applications for coverage must contain the following disclosure statement or a substantially similar statement on the face page of the policy or application in a type size of at least 14 points and font that is easily readable by a person with average eyesight: "This policy is issued by a regional insurer or health maintenance organization and is governed by the laws and rules of (regional insurer's or health maintenance organization's state of domicile). This policy may not be subject to all the insurance laws and rules of the State of Maine, including coverage of certain health care services or benefits mandated by Maine law. Before purchasing this policy, you should carefully review the terms and conditions of coverage under this policy, including any exclusions or limitations of coverage." [PL 2013, c. 388, Pt. B, §2 (AMD).]

C. A regional insurer or health maintenance organization shall meet the requirements of section 4303, subsection 4 for grievance procedures with respect to health plans offered for sale in this State. [PL 2011, c. 90, Pt. C, §3 (NEW).]

D. A regional insurer or health maintenance organization shall meet the requirements of chapter 56-A for provider network adequacy with respect to health plans offered for sale in this State. [PL 2011, c. 90, Pt. C, §3 (NEW).]

E. A regional insurer or health maintenance organization shall meet the requirements of chapter 33 with respect to rates for individual health plans offered for sale in this State. [PL 2011, c. 90, Pt. C, §3 (NEW).]

F. A regional insurer or health maintenance organization shall designate an agent for receiving service of legal documents or process in the manner provided in this Title. [PL 2011, c. 90, Pt. C, §3 (NEW).]

G. A regional insurer or health maintenance organization shall meet the requirements of this Title with respect to allowing the superintendent access to records of the regional insurer or health maintenance organization. [PL 2011, c. 90, Pt. C, §3 (NEW).]
[PL 2013, c. 388, Pt. B, §2 (AMD).]

3. Unfair trade practices. The provisions of chapter 23 apply to a regional insurer or health maintenance organization permitted to transact individual health insurance under this section or section 405.
[PL 2011, c. 90, Pt. C, §3 (NEW).]

4. Taxes; assessments. A regional insurer or health maintenance organization transacting individual health insurance in this State under this section is subject to applicable taxes or assessments imposed on insurers transacting individual health insurance in this State pursuant to this Title and Title 36.
[PL 2011, c. 90, Pt. C, §3 (NEW).]

5. Compliance with court orders. A regional insurer or health maintenance organization transacting individual health insurance in this State under this section shall comply with lawful orders from courts of competent jurisdiction issued in a voluntary dissolution proceeding or in response to a petition for an injunction by the superintendent asserting that the regional insurer or health maintenance organization is in a hazardous financial condition.
[PL 2011, c. 90, Pt. C, §3 (NEW).]

6. Exemption from other requirements. Except as expressly provided in this section, the requirements of this Title do not apply to a regional insurer or health maintenance organization permitted to transact individual health insurance under this section.
[PL 2011, c. 90, Pt. C, §3 (NEW).]

7. Agreement with insurance regulators in other state. The superintendent shall enter into a memorandum of understanding or other agreement with the insurance department of the state of domicile of a regional insurer or health maintenance organization permitted to transact individual health insurance in this State under this section with respect to enforcement of the provisions of this section.
[PL 2011, c. 90, Pt. C, §3 (NEW).]

8. Sale of policies. An individual health insurance policy, contract or certificate may not be offered for sale in this State pursuant to this section before January 1, 2014.
[PL 2011, c. 90, Pt. C, §3 (NEW).]

SECTION HISTORY

PL 2011, c. 90, Pt. C, §3 (NEW). PL 2013, c. 388, Pt. B, §§1, 2 (AMD).

§405-B. Domestic insurers or licensed health maintenance organization; individual health insurance approved in other states

Notwithstanding any other provision of this Title, a domestic insurer or licensed health maintenance organization authorized to transact individual health insurance in this State may offer for sale in this State an individual health plan duly authorized for sale in Connecticut, Massachusetts, New Hampshire, Rhode Island or Vermont by a parent or corporate affiliate of the domestic insurer or licensed health maintenance organization if the following requirements are met. [PL 2013, c. 388, Pt. B, §3 (AMD).]

1. Certificate of authority from state of domicile. The parent or corporate affiliate of the domestic insurer or licensed health maintenance organization must hold a valid certificate of authority to transact individual health insurance in the state of domicile of the parent or corporate affiliate.
[PL 2011, c. 90, Pt. C, §4 (NEW).]

2. Compliance with laws of state of domicile. A policy, contract or certificate of individual health insurance offered for sale in this State by the domestic insurer or licensed health maintenance

organization must comply with the applicable individual health insurance laws in the state of domicile of the parent or corporate affiliate and must be actively marketed in that state.

[PL 2011, c. 90, Pt. C, §4 (NEW).]

3. Disclosure and reporting. The domestic insurer or licensed health maintenance organization shall meet the requirements of section 4302 for reporting plan information with respect to individual health plans offered for sale in this State and disclose to prospective enrollees how the individual health plans of the parent or corporate affiliate differ from individual health plans offered by other domestic insurers or licensed health maintenance organizations in a format approved by the superintendent. Health plan policies and applications for coverage must contain the following disclosure statement or a substantially similar statement on the face page of the policy or application in a type size of at least 14 points and font that is easily readable by a person with average eyesight: "This policy is issued by a domestic insurer or licensed health maintenance organization but is governed by the laws and rules of (state of domicile of parent or corporate affiliate of domestic insurer or licensed health maintenance organization), which is the state of domicile of the parent or corporate affiliate of the domestic insurer or licensed health maintenance organization. This policy may not be subject to all the insurance laws and rules of the State of Maine, including coverage of certain health care services or benefits mandated by Maine law. Before purchasing this policy, you should carefully review the terms and conditions of coverage under this policy, including any exclusions or limitations of coverage."

[PL 2013, c. 388, Pt. B, §4 (AMD).]

4. Grievance procedures. The domestic insurer or licensed health maintenance organization shall meet the requirements of section 4303, subsection 4 for grievance procedures with respect to health plans offered for sale in this State.

[PL 2011, c. 90, Pt. C, §4 (NEW).]

5. Sale of policies. A domestic insurer or licensed health maintenance organization may not offer an individual health plan for sale in this State pursuant to this section before January 1, 2014.

[PL 2011, c. 90, Pt. C, §4 (NEW).]

SECTION HISTORY

PL 2011, c. 90, Pt. C, §4 (NEW). PL 2013, c. 388, Pt. B, §§3, 4 (AMD).

§405-C. Domestic insurers or licensed health maintenance organizations; parity with regional insurers

Notwithstanding any other provision of this Title, a domestic insurer or licensed health maintenance organization authorized to transact individual health insurance in this State may offer for sale in this State an individual health plan equivalent to any plan offered for sale in this State by a regional insurer or health maintenance organization pursuant to section 405-A. An individual health plan may not be offered for sale pursuant to this section before January 1, 2014. [PL 2011, c. 90, Pt. C, §5 (NEW).]

SECTION HISTORY

PL 2011, c. 90, Pt. C, §5 (NEW).

§406. General eligibility for certificate of authority

To qualify for and hold authority to transact insurance in this State, an insurer must be otherwise in compliance with this Title and with its charter powers, and must be an incorporated stock or mutual insurer, or a reciprocal or Lloyd's insurer; of the same general type as may be formed as a domestic insurer under this Title; except that: [PL 1969, c. 132, §1 (NEW).]

1. No foreign insurer shall be authorized to transact insurance in this State unless as to insurance written in this State it maintains reserve as required by chapter 11 (assets and liabilities); or which, if other than a property or casualty insurer, transacts business anywhere in the United States on the assessment plan, or stipulated premium plan, or any similar plan;

[PL 1969, c. 132, §1 (NEW).]

2. No insurer shall be authorized to transact a kind of insurance in this State unless duly authorized or qualified to transact such insurance in the state or country of its domicile;

[PL 1969, c. 132, §1 (NEW).]

3. No insurer shall be authorized to transact in this State any kind of insurance which is not within the definitions as set forth in chapter 9 (kinds of insurance);

[PL 1969, c. 132, §1 (NEW).]

4. No such authority shall be granted or continued as to any insurer while in arrears to the State for fees, licenses, taxes, assessments, fines or penalties accrued on business previously transacted in this State;

[PL 1969, c. 132, §1 (NEW).]

5. A Lloyd's insurer shall be treated as a stock insurer for the purposes of this Title, with net assets over all liabilities to be not less than the capital funds required of a foreign stock insurer transacting the same kinds of insurance.

[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW).

§407. Same; ownership, management

1. No foreign insurer which is directly or indirectly owned or controlled in whole or substantial part by any government or governmental agency, other than of the Government of the United States of America, shall be authorized to transact insurance in Maine. Membership in a mutual insurer, or subscribership in a reciprocal insurer, or ownership of stock of an insurer by the alien property custodian or similar official of the United States, or ownership of stock or other security which does not have voting rights with respect to the management of the insurer, or supervision of an insurer by public authority, shall not be deemed to be an ownership or control of the insurer for the purposes of this provision.

[PL 1969, c. 132, §1 (NEW).]

2. The superintendent may not grant or continue authority to transact insurance in this State as to any insurer or proposed insurer, any director, officer or other individual materially part of the management of which is found by the superintendent after investigation or upon reliable information to be incompetent, or dishonest, or untrustworthy, or of unfavorable business repute, or the managers of which are so lacking in insurance company managerial experience in operations of the kind proposed in this State as to make such operation, currently or prospectively, hazardous to, or contrary to the best interests of, the insurance-buying or investing public of this State; or which the superintendent has good reason to believe is affiliated directly or indirectly through ownership, control, management, reinsurance transactions or other business relations, with any person or persons of unfavorable business repute, or whose business operations in this State or elsewhere are or have been marked, to the injury of insurers, stockholders, policyholders, creditors or the public, by illegality, or by manipulation of assets, or of accounts, or of reinsurance or by bad faith.

[RR 2021, c. 1, Pt. B, §177 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §177 (COR).

§408. Name of insurer

1. No insurer shall be formed or authorized to transact insurance in this State which has or uses a name which is the same as or deceptively similar to that of another insurer already so authorized.

[PL 1969, c. 132, §1 (NEW).]

2. No life insurer shall be so authorized which has or uses a name deceptively similar to that of another insurer, other than a predecessor in interest, authorized to transact insurance in this State within the preceding 10 years, if life insurance policies originally issued by such other insurer are still outstanding in this State.

[PL 1969, c. 132, §1 (NEW).]

3. No insurer shall be formed or authorized to transact insurance which has or uses a name the same as or deceptively similar to that of any foreign insurer not so authorized if such foreign insurer has within the next preceding 12 months signified its intention to secure an incorporation in this State under such name, or to do business as a foreign insurer in this State under such name, by filing notice of such intention with the superintendent, unless the written consent to the use of such name or deceptively similar name has been given by such foreign insurer.

[PL 1973, c. 585, §12 (AMD).]

4. No insurer shall be so authorized which has or uses a name which tends to deceive or mislead as to the type of organization of the insurer.

[PL 1969, c. 132, §1 (NEW).]

5. In case of conflict of names between 2 insurers, or a conflict otherwise prohibited under this section, the superintendent may permit, or shall require as a condition to the issuance of an original certificate of authority to an applicant insurer, the insurer to use in this State such supplementation or modification of its name or such business name as may reasonably be necessary to avoid the conflict.

[PL 1973, c. 585, §12 (AMD).]

6. Except as provided in subsection 5, an insurer shall conduct its business in this State in its own corporate, if incorporated, or proper, if a reciprocal, name.

[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

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

§409. Insurance lines combinations

An insurer may be authorized to transact such kinds of insurance as it is qualified for under this Title, except that a reciprocal insurer may not transact life insurance. Qualified insurers may transact combinations of business as follows. [PL 1991, c. 385, §1 (AMD).]

1. **Multiple lines insurer.** A multiple lines insurer is authorized to transact more than one kind of coverage if all kinds of coverage fall within the categories listed in sections 704 to 708.

[PL 1991, c. 385, §1 (NEW).]

2. **All lines insurer.** An all lines insurer is authorized to transact life insurance and one or more of the kinds of coverage, other than health insurance, that may be transacted by a multiple lines insurer.

[PL 1991, c. 385, §1 (NEW).]

3. **Life or health insurer.** A life or health insurer is authorized to transact life insurance, life and annuity insurance or health insurance as defined in sections 702 to 704-A. A life insurer, health insurer or a life and health insurer does not become an all lines insurer merely by transacting specific lines of casualty insurance that life or health insurers are expressly authorized by law to transact.

[PL 2007, c. 199, Pt. E, §1 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1991, c. 385, §1 (AMD). PL 2007, c. 199, Pt. E, §1 (AMD).

§410. Minimum paid-in capital and surplus requirements

1. To qualify for authority to transact any one kind of insurance, as defined in chapter 9, or combination of kinds of insurance as shown below, an insurer must possess and thereafter maintain

unimpaired paid-in capital stock, if a stock insurer, or unimpaired basic surplus, if a foreign mutual or a reciprocal insurer, and when first so authorized must possess initial free surplus, all in amounts not less than as determined from the following table.

A health, life and health or multiple line (as described in section 409) insurer may qualify for a certificate of authority to transact a legal services insurance business, as described in chapter 38, if it is otherwise qualified therefor and possesses and thereafter maintains, in addition to the amounts described in the following table, an additional amount of unimpaired paid-in capital stock, if a stock insurer, or unimpaired basic surplus, if a foreign mutual or reciprocal insurer, of not less than \$500,000.

An insurer may qualify for a certificate of authority to transact solely financial guaranty insurance as defined in section 709-A, if it is otherwise qualified therefor and possesses and thereafter maintains paid-in capital stock in the amount of \$2,500,000 and initial free surplus in an amount of \$47,500,000 or, if the insurer is a foreign mutual or reciprocal insurer, minimum required basic surplus in an amount of \$2,500,000 and initial free surplus in an amount of \$47,500,000.

Kind or Kinds of Insurance	Stock Insurers		Foreign mutual, Reciprocal Insurers	
	Minimum Required Capital Stock	Initial Free Surplus	Minimum Required Basic Surplus	Initial Free Surplus
Life	\$1,500,000	\$1,500,000	\$1,500,000*	\$1,500,000*
Health	1,000,000	1,000,000	1,000,000	1,000,000
Life and Health	2,500,000	2,500,000	2,500,000*	2,500,000*
Casualty	1,500,000	1,500,000	1,500,000	1,500,000
Marine and Transportation	1,500,000	1,500,000	1,500,000	1,500,000
Property	1,000,000	1,000,000	1,000,000	1,000,000
Surety	1,500,000	1,500,000	1,500,000	1,500,000
Title	500,000	500,000	500,000	500,000
Multiple line (as defined in section 409)	2,500,000	2,500,000	2,500,000	2,500,000
All Line (as defined in section 409)	5,000,000	5,000,000	5,000,000*	5,000,000*

* Does not apply as to a reciprocal insurer.

Except:

A. An insurer holding a valid certificate of authority to transact insurance in this State on January 1, 1970 may, if otherwise qualified therefor until January 1, 1989, continue to be so authorized while possessing paid-in capital stock, if a stock insurer, or surplus, if a mutual or reciprocal insurer, as required for such authority immediately prior to January 1, 1970. [PL 1991, c. 385, §2 (AMD).]

B. Prior to January 1, 1989, the superintendent may not authorize such an insurer to transact any other kinds of insurance unless it complies with the requirements as to capital stock, if a stock

insurer, or basic surplus, if a mutual or reciprocal insurer, as applied to all kinds of insurance it proposes to transact, as provided in the table contained in this paragraph.

A health, life and health or multiple line (as described in section 409) insurer may qualify for a certificate of authority to transact a legal services insurance business, as described in chapter 38, if it is otherwise qualified therefor and possesses and thereafter maintains, in addition to the amounts described in the following table, an additional amount of unimpaired paid-in capital stock, if a stock insurer, or unimpaired basic surplus, if a foreign mutual or reciprocal insurer, of not less than \$500,000.

Kind or Kinds of Insurance	Stock Insurers		Foreign mutual, Reciprocal Insurers	
	Minimum Required Capital Stock	Initial Free Surplus	Minimum Required Basic Surplus	Initial Free Surplus
Life	\$500,000	\$1,000,000	\$1,000,000*	\$1,000,000*
Health	250,000	250,000	250,000	250,000
Life and Health	500,000	1,000,000	1,000,000*	1,000,000*
Casualty	500,000	500,000	500,000	500,000
Marine and Transportation	500,000	500,000	500,000	500,000
Property	500,000	500,000	500,000	500,000
Surety	500,000	500,000	500,000	500,000
Title	150,000	150,000	150,000	150,000
Multiple line (as defined in section 409)	1,000,000	1,000,000	1,000,000	1,000,000
All Line (as defined in section 409)	2,000,000	2,000,000	2,000,000*	2,000,000*

*Does not apply as to a reciprocal insurer. [PL 1991, c. 385, §2 (AMD).]

C. Until January 1, 1989, a domestic mutual insurer formed prior to January 1, 1968, and while possessing surplus of not less than \$200,000 may be authorized to transact, in addition to the types of insurance it was transacting prior to July 24, 1984, any other additional kinds of insurance authorized by its charter; subject to those minimum required basic surplus amounts applicable as to foreign mutual insurers as contained in the table in paragraph B, if the insurer is to transact life insurance together with any one or more of property, casualty, surety or marine and transportation insurances. [PL 1987, c. 78, §1 (AMD).]

D. Domestic mutual insurers holding a certificate of authority upon January 1, 1989, if otherwise qualified, and possessed of basic surplus in minimum required amounts as contained in the table in this paragraph may continue to be so authorized, provided those insurers continue to possess and maintain unimpaired basic surplus funds as determined in this paragraph and applicable to those

lines or kinds of insurance permitted by its certificate of authority immediately prior to January 1, 1989. Upon application by any such insurer and written approval by the superintendent, the insurer's certificate of authority may be extended to permit the writing of other kinds or lines of insurance if the insurer is qualified and possessed of basic surplus funds in amounts contained in the table in this paragraph. A domestic mutual insurer holding a certificate of authority prior to January 1, 1989, but which does not possess and maintain basic surplus in the minimum required amounts contained in the table in this paragraph, may continue to be authorized to transact insurance in this State and to write other kinds or lines of insurance, subject to the approval of the superintendent, as long as it maintains 100% reinsurance and has no liabilities.

For the purposes of this paragraph, any assuming reinsurer must be a corporation which possesses the ability to exercise control of the ceding insurer, must be an insurance company possessed of a certificate of authority to transact the same kinds of insurance in this State as those assumed and shall file a consolidated annual statement as required by section 423.

A health, life and health or multiple line (as described in section 409) insurer may qualify for a certificate of authority to transact a legal services insurance business, as described in chapter 38, if it is otherwise qualified therefor and possesses and thereafter maintains, in addition to the amounts described in the following table, an additional amount of unimpaired paid-in capital stock, if a stock insurer, or unimpaired basic surplus, if a foreign mutual or reciprocal insurer, of not less than \$500,000.

Kind or Kinds of Insurance	Domestic Mutual Insurers
Life	\$1,000,000
Health	500,000
Life and Health	1,250,000
Casualty	750,000
Marine and Transportation	1,000,000
Property	500,000
Surety	1,000,000
Title	350,000
Multiple Line (as defined in section 409)	1,250,000
All line (as defined in section 409)	2,500,000

E. An insurer that otherwise possesses funds as required under this subsection shall at all times maintain policyholders' surplus, combined paid-in capital stock, if any, and surplus, reasonable in amount, as determined by the superintendent, in relation to the kinds and amount of insurance it has in force, or being written and retained by it, net of applicable reinsurance. In making any such determination, the superintendent shall give due consideration to any applicable standards approved or adopted by the National Association of Insurance Commissioners and to the desirability of substantial uniformity as to such requirements among the respective states. [PL 1991, c. 385, §2 (AMD).]

F. A health maintenance organization as a division or line of business is subject to this paragraph.

(1) An insurer that operates a health maintenance organization as a division or a line of business shall possess and maintain policyholder's surplus, including paid-in capital stock if any, as otherwise required by this section and in addition shall meet the surplus requirements of section 4204-A.

(2) A nonprofit hospital or medical service organization that operates a health maintenance organization as a division or as a line of business shall possess and maintain subscriber reserves as defined in section 2301, subsection 9-A, paragraph H, subparagraph (2) and in an amount

required by the superintendent and in addition shall meet the surplus requirements of section 4204-A. [PL 1993, c. 702, Pt. A, §7 (NEW).]

[PL 1993, c. 702, Pt. A, §7 (AMD).]

2. Capital and surplus requirements are based upon all the kinds of insurance transacted by the insurer in any and all areas in which it operates or proposes to operate, whether or not only a portion of such kinds are to be transacted in this State.

[PL 1969, c. 132, §1 (NEW).]

3. As to surplus required for authority to transact one or more kinds of insurance and thereafter to be maintained, domestic mutual legal reserve insurers hereafter formed are governed by chapter 47.

[PL 1991, c. 385, §2 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §§7,8 (AMD). PL 1973, c. 585, §12 (AMD). PL 1973, c. 625, §134 (AMD). PL 1983, c. 709, §1 (AMD). PL 1987, c. 78, §§1,2 (AMD). PL 1987, c. 707, §1 (AMD). PL 1991, c. 385, §2 (AMD). PL 1993, c. 702, §A7 (AMD).

§411. Insuring combinations without additional capital funds

Without additional paid-in capital stock or additional surplus, an authorized insurer may also be authorized: [PL 1969, c. 132, §1 (NEW).]

1. If a life insurer, to grant annuities;

[PL 1969, c. 132, §1 (NEW).]

2. If a health insurer, to insure against congenital defects, as defined in section 707;

[PL 1969, c. 132, §1 (NEW).]

3. If a casualty insurer or multiple line insurer, to transact health insurance; except that this provision does not apply to a domestic insurer authorized to transact casualty insurance only, pursuant to section 410, subsection 1, paragraph A; or

[PL 1991, c. 385, §3 (AMD).]

4. To transact employee benefit excess insurance to the extent authorized pursuant to section 707, subsection 3.

[PL 1991, c. 385, §4 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1991, c. 385, §§3,4 (AMD).

§412. Deposits

1. No insurance company other than a domestic real estate title insurance company or a domestic mutual fire insurance company that is transacting only the business of fire, marine or glass on the assessment plan may do so in this State unless it makes and maintains a deposit with the Superintendent of Insurance, as security for all its policyholders, of securities that are determined eligible for deposit under section 1253. The deposit must be maintained in a minimum actual market value that, exclusive of interest, may never be less than \$100,000. The deposit must be retained by the superintendent and disposed of as directed by section 1263.

[PL 1999, c. 113, §16 (AMD).]

2. Any admitted foreign insurance company may file with the superintendent a certificate of the insurance supervisory official of such other jurisdiction that the supervisory official holds in trust and on deposit for benefit of all the policyholders of the company a deposit of not less than \$100,000 in such securities as are required or permitted to be deposited with that supervisory official by the laws of that jurisdiction. These securities are to be of a character consistent with investment authority in such jurisdiction. Such certificate must contain a statement by the supervisory official that the supervisory

official is satisfied that the actual market value of these securities is of minimum value of \$100,000. A deposit may not be required to be maintained in this State while such a deposit, if so certified, is retained by the supervisory official.

[RR 2021, c. 1, Pt. B, §178 (COR).]

3. The superintendent shall receive and hold in trust deposits made under this section by any domestic insurance company in compliance with the laws of this or any other state, to enable it to do business in this or any other state, and in like manner shall hold deposits made by a foreign company under the laws of this State. The company making such deposit shall be entitled to any investment income thereon and with the superintendent's consent, if not inconsistent with the laws under which such deposit was made, may exchange in whole or in part such securities comprising the deposit for other approved securities of equal value.

[PL 1975, c. 77 (RPR).]

4. The superintendent shall not authorize an alien insurer to transact insurance in this State unless it makes in this State through the superintendent and thereafter continuously maintains a deposit, representing funds in excess of all the insurer's liabilities under insurance contracts in force in the United States of America, of a fair market value in amount not less than the minimum paid-in capital stock required under this Title of a foreign stock insurer authorized to transact like kinds of insurance in this State. The superintendent may require additional trustee surplus funds in reasonable amount to secure the interest of beneficiaries under policies insured by the alien insurer. In addition to the foregoing trustee surplus account, an alien insurer authorized pursuant to this Title shall establish and maintain in one or more states of the United States a deposit or deposits of trust assets of a kind and quality as generally required by this section. The value of the deposit or deposits shall be at least equal to those obligations resulting from insurance in force in the United States. The deposit or deposits shall, if located outside the State, be subject to administration standards comparable to those contained in this Title. The deposit shall be held in trust for the exclusive benefit of the insurer's policyholders and creditors in the United States of America.

A. In lieu of such a deposit made or maintained in this State, the superintendent shall accept the certificate in proper form of the insurance supervisory official having general supervision of insurers in any other state to the effect that a deposit of like quality and amount, or part thereof, by such insurer is being maintained for like purposes in public custody or control pursuant to the laws of such state. [PL 1975, c. 77 (NEW).]

[PL 1985, c. 330, §2 (AMD).]

5. All such deposits in this State are subject to the provisions of chapter 15 (Administration of Deposits).

[PL 1975, c. 77 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1975, c. 77 (RPR). PL 1985, c. 330, §2 (AMD). PL 1999, c. 113, §16 (AMD). RR 2021, c. 1, Pt. B, §178 (COR).

§413. Application for certificate of authority

To apply for an original certificate of authority an insurer shall file with the superintendent its written application therefor on forms as prescribed and furnished by the superintendent, accompanied by the applicable fees specified in section 601 (fee schedule), stating under the oath of the president or vice-president or other chief officer and the secretary of the insurer, or of the attorney-in-fact, if a reciprocal insurer, the insurer's name, location of its home office or principal office in the United States, if an alien insurer, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, state or country of domicile, and such additional information as the superintendent may reasonably require, together with the following documents, as applicable: [PL 1973, c. 585, §12 (AMD).]

1. If a corporation, or a Lloyd's, a copy of its charter, together with all amendments thereto, or as restated and amended under the laws of its state or country of domicile, currently certified by the public official with whom the originals are on file in such state or country;
[PL 1969, c. 177, §9 (AMD).]

2. If a domestic incorporated insurer or a mutual insurer, a copy of its bylaws, certified by the insurer's corporate secretary;
[PL 1969, c. 132, §1 (NEW).]

3. If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, certified by the attorney-in-fact; and if a domestic reciprocal insurer, the declaration provided for in section 3856;
[PL 1969, c. 132, §1 (NEW).]

4. A complete copy of its financial statement as of not earlier than the December 31st next preceding in form as customarily used in the United States by like insurers, sworn to by at least 2 executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state of domicile, or of entry into the United States, if an alien insurer;
[PL 1969, c. 132, §1 (NEW).]

5.
[PL 1985, c. 330, §3 (RP).]

5-A. A copy of a current report of examination of the insurer certified by the public insurance supervisory official of the insurer's state of domicile, or of entry into the United States, if an alien insurer. For purposes of this requirement, a report of examination is deemed "current" only if its date of account is within 36 months of filing of the application, except that the superintendent may, in the superintendent's discretion, accept a report of examination within a period reasonably proximate to 36 months from its date of account that is filed by the applicant promptly upon its receipt when issuance of the report by the domiciliary regulator has been delayed for reasons beyond the control of the applicant and that are unrelated to the applicant's financial condition or its compliance with applicable laws;
[PL 1995, c. 570, §1 (AMD).]

6. Appointment of an agent pursuant to section 421 to receive service of legal process;
[PL 1997, c. 592, §10 (AMD).]

7. If a foreign or alien insurer, a certificate of the public insurance supervisory official of its state or country of domicile showing that it is authorized or qualified for authority to transact in such state or country the kinds of insurance proposed to be transacted in this State;
[PL 1969, c. 132, §1 (NEW).]

8. If an alien insurer, certificate as to deposit, if to be tendered pursuant to section 412, and a copy of the trust deed pertaining to such deposit, certified by the trustee;
[PL 1969, c. 132, §1 (NEW).]

9. If a life or health insurer, a copy of the insurer's rate book and of each form of policy currently proposed to be issued in this State, and of the form of application therefor; or
[PL 1993, c. 637, §1 (AMD).]

10. If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.
[PL 1993, c. 637, §1 (AMD).]

11.
[PL 1993, c. 637, §2 (RP).]

12.
[PL 1993, c. 637, §2 (RP).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §9 (AMD). PL 1973, c. 585, §12 (AMD). PL 1985, c. 330, §§3,4 (AMD). PL 1993, c. 637, §§1,2 (AMD). PL 1995, c. 570, §1 (AMD). PL 1997, c. 592, §10 (AMD).

§413-A. Alien insurer; port of entry

1. Port of entry. An alien insurer that has been authorized by the superintendent to use the State as its port of entry for the transaction of business in the United States is considered a domestic insurer to the extent provided in this section. An alien insurer that has been approved by another state to use that state as its port of entry is considered to be domiciled in that state in the same manner, if there is a valid reciprocity agreement between that state and this State or if the superintendent has determined that the applicable laws of that state are substantially similar to this section and its implementing rules. [PL 1999, c. 113, §17 (AMD).]

2. Rules. The superintendent shall adopt rules establishing the terms and conditions of port of entry authorization, which include without limitation:

A. The requirements an alien insurer must satisfy to qualify for port of entry authorization. These requirements must include, at a minimum:

- (1) Agreement to adhere to all laws applicable to domestic insurers;
- (2) Maintenance of appropriate trust surplus or other adequate security within the State;
- (3) Maintenance of records of all United States operations within the State; and
- (4) Maintenance of a separate financial reporting system for United States operations; [PL 1995, c. 375, Pt. D, §1 (NEW).]

B. The procedures for obtaining, maintaining and terminating port of entry authorization; and [PL 1995, c. 375, Pt. D, §1 (NEW).]

C. Modifications of the provisions of this Title, and of the rules adopted by the superintendent that apply to domestic insurers, as the superintendent determines necessary for the appropriate regulation of alien insurers with port of entry authorization. [PL 1995, c. 375, Pt. D, §1 (NEW).]
[PL 1995, c. 375, Pt. D, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 375, §D1 (NEW). PL 1999, c. 113, §17 (AMD).

§414. Issuance, refusal of authority, ownership of certificate

1. If upon completion of its application, the superintendent finds that the insurer has met the requirements therefor under this Title, and that the insurer has furnished evidence satisfactory to the superintendent that its methods of operation are not such as would render its proposed operation hazardous to the public or its policyholders in this State, the superintendent shall issue to the insurer a proper certificate of authority; otherwise, the superintendent shall issue an order refusing such certificate.

[RR 2021, c. 1, Pt. B, §179 (COR).]

2. The certificate of authority, if issued, shall state the insurer's name, home office address, state or country of organization, and the kinds of insurance the insurer is authorized to transact throughout this State. At the insurer's request, the superintendent may issue a certificate of authority limited to particular types of insurance or coverages within a kind of insurance as defined in chapter 9. [PL 1973, c. 585, §12 (AMD).]

3. Although issued and delivered to the insurer, the certificate of authority at all times shall be the property of the State of Maine. Upon any expiration, suspension or termination thereof, the insurer shall promptly deliver the certificate to the superintendent.
[PL 1973, c. 585, §12 (AMD).]

4. Insurers required to file an annual statement must, as a condition to the issuance or continuance of a certificate of authority, provide the National Association of Insurance Commissioners with all information required for participation in the Insurance Regulatory Information System. This filing must contain the insurer's current annual statement convention blank and, if requested by the superintendent or the National Association of Insurance Commissioners, publicly available financial reports of any affiliated insurers or other entities necessary for analyzing any insurer licensed in this State. Each statement furnished by an insurer must be manually executed by those persons who are required by section 423 to verify an annual statement utilizing the prescribed jurat. Any amendments and addendums to the annual statement subsequently filed with the superintendent must also be filed with the National Association of Insurance Commissioners. Insurers shall provide written certification to the superintendent that they have complied with this subsection when they file their annual statements. This subsection does not apply to any insurer doing business under chapter 51.

In the absence of bad faith, fraud or intentional act, an officer or an employee of the National Association of Insurance Commissioners may not be subject to civil liability for libel, slander or any other cause of action in tort as a result of processing data or other information filed by insurers under this subsection or distribution of reports prepared on the basis of that information to insurance regulatory officials of any state that has subscribed to and used the Insurance Regulatory Information System through the National Association of Insurance Commissioners. Information provided to the superintendent that is held confidential by the National Association of Insurance Commissioners must be held confidential by the superintendent unless that information is relevant to any hearing conducted by the superintendent pursuant to section 229 or an order requiring disclosure is issued by the Superior Court.

[PL 1991, c. 828, §13 (AMD).]

5. The superintendent may require insurers subject to this section to make available any accountant's work papers created during an audit.

A. The superintendent may review the accountant's work papers upon timely notice to the insurer. The superintendent may photocopy or otherwise record the contents of work papers during the review. [PL 1989, c. 846, Pt. C, §3 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. Any work papers or copies of work papers under the superintendent's custody or control are confidential and are not subject to public inspection. [PL 1989, c. 846, Pt. C, §3 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

C. The work papers of an insurer's subsidiaries, parent or other corporate affiliates are deemed to be the insurer's work papers to the extent that the work papers reference transactions between the insurer and the subsidiary, parent or corporate affiliate and affect the insurer's final equity determination. [PL 1989, c. 846, Pt. C, §3 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

D. The insurer shall, as a condition of the accountant's engagement, require accountants:

(1) To retain any work papers prepared in connection with an audit of the insurer for at least 6 years after the close of a reporting period; and

(2) To provide the work papers, or a copy, to the insurer at the insurer's request. [PL 1989, c. 846, Pt. C, §3 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

E. For purposes of this subsection, the term "work papers" includes, but is not limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of company records or other documents prepared or obtained by the accountant and the accountant's employees in

conducting the examination of the insurer. [PL 1989, c. 846, Pt. C, §3 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

[PL 1989, c. 846, Pt. C, §3 (NEW); PL 1989, c. 846, Pt. E, §4 (AFF).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1989, c. 846, §§A,C3,E4 (AMD).

PL 1991, c. 828, §13 (AMD). RR 2021, c. 1, Pt. B, §179 (COR).

§415. Continuation of certificate of authority

1. A certificate of authority continues in force as long as the insurer is entitled under this Title and until suspended or revoked by the superintendent or terminated at the insurer's request.

A. [PL 1995, c. 544, §3 (RP).]

B. [PL 1995, c. 544, §3 (RP).]

C. [PL 1995, c. 544, §3 (RP).]

[PL 1995, c. 544, §3 (AMD).]

2.

[PL 1995, c. 544, §4 (RP).]

3. The superintendent may, upon the insurer's request made within 3 months after suspension, reinstate a certificate of authority that the superintendent suspended due to the insurer's failure to pay the annual fee upon payment by the insurer of the fee for reinstatement specified in section 601. Otherwise the insurer may be granted another certificate of authority only after filing application therefor and meeting all other requirements as for an original certificate of authority in this State.

[PL 1997, c. 592, §11 (AMD).]

4.

[PL 1997, c. 592, §11 (RP).]

5.

[PL 1997, c. 592, §11 (RP).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1975, c. 767, §§10,11 (AMD).

PL 1977, c. 222, §1 (AMD). PL 1977, c. 694, §398 (AMD). PL 1981, c. 501, §§39,40 (AMD).

PL 1995, c. 544, §§3,4 (AMD). PL 1997, c. 592, §11 (AMD).

§415-A. Termination of certificate of authority

An authorized insurer which elects to terminate its license authority in this State, in whole or in part, shall submit a withdrawal plan designed to protect policyholders and claimants which is subject to approval by the superintendent. The insurer shall submit its plan at least 60 days prior to its proposed date of withdrawal. The plan shall include, but not be limited to, requirements and procedures for meeting the insurer's existing contractual obligations, providing security in the event of a subsequent insolvency and meeting any applicable statutory obligations. The plan shall also comply with any further terms and conditions which are prescribed by rules adopted by the superintendent. In order to protect the interest of the people of this State, the superintendent may require the insurer to make a deposit of securities of a nature and type eligible under section 1253, to be held in trust by the treasurer in the name of the superintendent. [PL 1985, c. 330, §5 (NEW).]

If an insurer's license authority is revoked, suspended or otherwise terminated in a manner other than by its election, the superintendent shall issue an order which prescribes terms and conditions related to the license termination which shall, to the extent practicable, conform to the requirements governing withdrawal plans as prescribed by this section and rules promulgated under this section. In

the event that an insurer attempts to terminate its license authority in this State without filing a withdrawal plan acceptable to the superintendent, the superintendent shall issue an order prescribing the terms and conditions of the termination. Any order issued pursuant to this section, including an order directing an insurer to produce relevant information, may be enforced as provided by section 214. [PL 1985, c. 330, §5 (NEW).]

SECTION HISTORY

PL 1985, c. 330, §5 (NEW).

§416. Petition for suspension or revocation of certificate of authority; mandatory grounds

1. Notwithstanding Title 4, chapter 5, and Title 5, section 10051, the superintendent shall refuse to continue or shall suspend or revoke an insurer's certificate of authority:

A. If such action is required by any provision of this Title; [PL 1983, c. 419, §1 (AMD).]

B. If a foreign insurer and it no longer meets the requirements for a certificate of authority, on account of deficiency of capital or surplus or otherwise; [PL 1983, c. 419, §1 (AMD).]

C. If a domestic insurer and it has failed to cure an impairment of capital or surplus within the time allowed therefor by the superintendent under this Title or is otherwise no longer qualified for the certificate of authority; [PL 1983, c. 419, §1 (AMD).]

D. If the insurer's certificate of authority to transact insurance therein is suspended or revoked by its state of domicile, or state of entry into the United States, if an alien insurer; or [PL 1969, c. 132, §1 (NEW).]

E. For failure of the insurer to pay taxes on its premiums as required by law. [PL 1969, c. 132, §1 (NEW).]

[PL 1999, c. 547, Pt. B, §44 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

2. Except in case of insolvency or impairment of required capital or surplus, or suspension or revocation by another state as referred to in subsection 1, paragraph D, the superintendent shall give the insurer at least 20 days notice in advance of any such refusal, suspension or revocation under this section and of the particulars of the reasons therefor. If the insurer requests a hearing thereon within the 20 days, the request automatically stays the superintendent's proposed action until the superintendent's order is made on that hearing. Hearings held pursuant to this subsection must be held in conformity with Title 5, chapter 375, subchapter 4.

[RR 2021, c. 1, Pt. B, §180 (COR).]

3. If an action initiated by the superintendent to suspend or revoke an insurer's certificate of authority is based on subsection 1, paragraphs B or C, a sworn statement of financial condition of the insurer signed by an officer of the insurer which indicates that the insurer no longer meets the requirements for a certificate of authority shall be prima facie proof that the requirements for a certificate of authority are not met.

[PL 1983, c. 419, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1971, c. 544, §83 (AMD). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §§399,400 (AMD). PL 1983, c. 419, §1 (AMD). PL 1999, c. 547, §B44 (AMD). PL 1999, c. 547, §B80 (AFF). RR 2021, c. 1, Pt. B, §180 (COR).

§417. Suspension or revocation of certificate of authority; discretionary and special grounds

1. Notwithstanding Title 4, chapter 5 and Title 5, section 10051, the superintendent may refuse to continue or may suspend or revoke an insurer's certificate of authority if the superintendent finds, after a hearing thereon or upon waiver of hearing by the insurer, that the insurer has violated or failed to comply with any lawful order of the superintendent, or has willfully violated or willfully failed to

comply with any lawful rule of the superintendent, or has violated any provision of this Title other than those for violation of which suspension or revocation is mandatory.

[PL 1999, c. 547, Pt. B, §45 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

2. The superintendent shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if the superintendent finds after a hearing held in conformity with Title 5, chapter 375, subchapter 4 that the insurer:

A. Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this State currently or prospectively hazardous or injurious to policyholders or to the public; [PL 1983, c. 419, §2 (AMD).]

B. With such frequency as to indicate its general business practice in this State, has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a 3rd person; or, with like frequency, without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or an insured to secure full payment or settlement of such claims; [RR 2021, c. 1, Pt. B, §181 (COR).]

C. Refuses to be examined, or if its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the superintendent when required, or refuse to perform any legal obligation relative to the examination; or [PL 1973, c. 585, §12 (AMD).]

D. Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within 30 days after the judgment became final or within 30 days after dismissal of an appeal before final determination, whichever date is the later. [PL 1969, c. 132, §1 (NEW).]

[RR 2021, c. 1, Pt. B, §181 (COR).]

3. Notwithstanding Title 4, chapter 5 and Title 5, section 10051, the superintendent may, without notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced against the insurer in any state by the public official charged with supervising the insurance industry in that state. Upon suspending a certificate of authority under this subsection, the superintendent shall promptly schedule a hearing on the matter, to be held within 30 days of the suspension. The superintendent shall make a determination within 30 days after the conclusion of that hearing.

[PL 1999, c. 547, Pt. B, §45 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §§401-403 (AMD). PL 1983, c. 419, §2 (AMD). PL 1999, c. 547, §B45 (AMD). PL 1999, c. 547, §B80 (AFF). RR 2021, c. 1, Pt. B, §181 (COR).

§418. Power to amend, modify or refuse to renew certificates of authority

Notwithstanding the authority of the District Court, the superintendent may amend, modify or refuse to renew any insurer's certificate of authority for cause pursuant to procedures in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. [PL 1983, c. 419, §3 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §10 (AMD). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §404 (RPR). PL 1983, c. 419, §3 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF).

§418-A. Order, notice of suspension or, revocation; publication; effect upon agents' authority

1. All suspensions or revocations of, or refusals to continue, an insurer's certificate of authority shall be by the superintendent's order, given to the insurer by personal delivery or by certified or registered mail, addressed to the insurer at its last address of record with the superintendent. Notice by mail shall be deemed given when so mailed.

[PL 1983, c. 419, §4 (NEW).]

2. Upon issuance of the order, the superintendent shall forthwith give notice thereof to the insurer's agents in this State of record in the bureau, and shall likewise suspend or revoke the authority of those agents to represent the insurer.

[PL 1983, c. 419, §4 (NEW).]

SECTION HISTORY

PL 1983, c. 419, §4 (NEW).

§419. Duration of suspension; insurer's obligation during suspension period; reinstatement

1. The suspension of an insurer's certificate of authority must be for such period as the superintendent specifies in the order of suspension. During the suspension period, the superintendent may rescind or shorten the suspension period by further order. The superintendent may reinstate the insurer's certificate of authority upon written request of the insurer if the superintendent finds that the causes of the suspension are no longer continuing and that the insurer is otherwise in compliance with the requirements of this Title.

[PL 1995, c. 570, §2 (AMD).]

2. During the suspension period, the insurer shall not solicit or write any new business in this State, but shall file its annual statement, pay fees, licenses and taxes as required under this Title, and may service its business already in force in this State, as if the certificate of authority had continued in full force.

[PL 1983, c. 419, §5 (AMD).]

3. Upon expiration of the suspension period, if within that period the certificate of authority has not terminated, the insurer's certificate of authority shall reinstate unless the superintendent finds that the causes of the suspension are continuing, or that the insurer is otherwise not in compliance with the requirements of this Title.

[PL 1983, c. 419, §5 (AMD).]

4. Upon reinstatement of the insurer's certificate of authority, the authority of its agents in this State to represent the insurer shall likewise reinstate. The superintendent shall promptly notify the insurer and its agents in this State, of record in the bureau, of that reinstatement.

[PL 1983, c. 419, §5 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §§405,406 (AMD). PL 1983, c. 419, §5 (AMD). PL 1995, c. 570, §2 (AMD).

§420. General corporation laws inapplicable to foreign insurers

The general corporation laws of this State shall not apply as to foreign insurers holding certificates of authority to transact insurance in this State. [PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW).

§421. Superintendent process agent for insurers

1. Before the superintendent authorizes it to transact insurance in this State, each insurer shall appoint an agent to receive service of legal process issued against the insurer in this State. The insurer shall file with the superintendent a copy of the appointment. The notice to the superintendent must be accompanied by a copy of a resolution of the board of directors or like governing body of the insurer, if an incorporated insurer, showing that those officers who executed the appointment were duly authorized to do so on behalf of the insurer. The registered agent must consent to the appointment. [PL 1997, c. 592, §12 (AMD).]

1-A.

[MRSA T. 24-A §421, sub-§1-A (RP).]

2.

[PL 1997, c. 457, §12 (RP).]

3. Service of process against a foreign or alien insurer may be made only by service thereof upon the attorney appointed by the insurer.

[PL 1997, c. 457, §13 (AMD).]

4. Service of such process against a domestic insurer may be made as provided hereunder, or in any other manner provided by law.

[PL 1969, c. 132, §1 (NEW).]

5. At the time of application for a certificate of authority the insurer shall file the appointment with the superintendent, together with designation of the person to whom process against it served upon the appointed agent is to be forwarded. The insurer may change such designation by a new filing.

[PL 1997, c. 592, §13 (AMD).]

6. A copy of such appointment, certified by the superintendent, shall be received in evidence in all courts of this State.

[PL 1973, c. 585, §12 (AMD).]

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

[PL 2013, c. 238, Pt. E, §1 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1997, c. 457, §§10-14 (AMD). PL 1997, c. 592, §§12, 13 (AMD). PL 1999, c. 113, §18 (AMD). PL 2013, c. 238, Pt. E, §1 (AMD).

§422. Serving process

(REPEALED)

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1997, c. 457, §15 (RP).

§423. Annual statement

1. Each authorized insurer shall annually on or before March 1st, or within any reasonable extension of time that the superintendent for good cause may have granted on or before such March 1st, file with the superintendent a full and true statement of its financial condition, transactions and affairs as of December 31st preceding. The statement must be on an annual statement blank of the National Association of Insurance Commissioners, be prepared in accordance with the association's annual statement instructions, and follow practices and procedures prescribed by the association's accounting practices and procedures manual, with any useful or necessary modification or adaptation thereof and as supplemented by additional information required by the superintendent. The statement must be verified by the oath of the insurer's president or vice-president, and secretary or actuary as applicable, or in the absence of the foregoing, by 2 other principal officers; or if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation.

[PL 1993, c. 313, §16 (AMD).]

2. The statement of an alien insurer shall be verified by its United States manager or other officer duly authorized, and shall relate only to the insurer's transactions and affairs in the United States unless the superintendent requires otherwise. If the superintendent requires a statement as to such an insurer's affairs throughout the world, the insurer shall file such statement with the superintendent as soon as reasonably possible.

[PL 1973, c. 585, §12 (AMD).]

3. The superintendent may refuse to continue, or may suspend or revoke, the certificate of authority of any insurer failing to file its annual statement when due.

[PL 1973, c. 585, §12 (AMD).]

4. Before August 10th, and at the same time the insurer makes payment for its annual assessment, the insurer shall pay the fee for filing its annual statement as prescribed by section 601 (fee schedule).

[PL 1995, c. 544, §5 (AMD).]

5. The superintendent may adopt rules that prescribe accounting standards applicable to statements filed pursuant to this section. These rules may permit or require any class or classes of insurers domiciled or authorized to do business in this State to conform its financial presentations to the standards of preparation prescribed in the accounting practices and procedures manual of the National Association of Insurance Commissioners.

[PL 1991, c. 828, §14 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1991, c. 828, §14 (AMD). PL 1993, c. 313, §16 (AMD). PL 1995, c. 544, §5 (AMD).

§423-A. Interim financial reporting requirements

1. Quarterly statement. No later than the 15th day of the 2nd month following the close of any calendar quarter, except the 4th quarter, an authorized insurer that is subject to the requirements of section 423 shall file a quarterly statement of financial condition with the superintendent.

[PL 2017, c. 169, Pt. A, §4 (AMD).]

2. Form and content. The quarterly statement must be in the form prescribed by the National Association of Insurance Commissioners and must be prepared in accordance with the association's quarterly statement instructions.

[PL 2017, c. 169, Pt. A, §4 (AMD).]

3. Verification. The report must be verified by the oath of the insurer's president or vice-president, and the secretary or actuary as applicable, or in the absence of the foregoing, by 2 other principal officers; or if a reciprocal insurer, by the oath of the attorney-in-fact or its like officers if a corporation.

[PL 2017, c. 169, Pt. A, §4 (AMD).]

4. Supplemental reporting. Upon the superintendent's request, the insurer shall file periodic reports of financial condition on a monthly basis, or at other intervals prescribed by the superintendent, in such form and containing such information as the superintendent prescribes.

[PL 2017, c. 169, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1985, c. 330, §6 (NEW). PL 2017, c. 169, Pt. A, §4 (AMD).

§423-B. Periodic financial reports of insurer-controlled health maintenance organizations

An authorized insurer that controls and operates a health maintenance organization as a division or line of business shall file on a continuing basis any additional periodic financial reports required by the superintendent by rule. [PL 1993, c. 702, Pt. A, §8 (NEW).]

SECTION HISTORY

PL 1993, c. 702, §A8 (NEW).

§423-C. Reports of material transactions

1. Report required. Every domestic insurer must file a report with the superintendent, on or before the 15th day of each month, if it has engaged in a material investment or reinsurance transaction during the preceding month that has not already been separately reported to the superintendent or submitted to the superintendent for prior review.

[PL 1995, c. 375, Pt. A, §1 (NEW).]

2. Material transactions defined. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Material investment transaction" means an acquisition or disposition of an asset or the aggregate of a series of related acquisitions or related dispositions during a 30-day period that is nonrecurring, not in the ordinary course of business and involving more than 5% of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the superintendent. Asset acquisitions and dispositions include without limitation a purchase, sale, lease, exchange, merger, consolidation, succession, mortgage, hypothecation, assignment, whether for the benefit of creditors or otherwise, abandonment or destruction. Asset acquisition does not include the construction or development of real property for the use of the reporting insurer or the acquisition of materials for such construction or development. [PL 1995, c. 375, Pt. A, §1 (NEW).]

B. "Material reinsurance transaction" means:

(1) A transaction involving property and casualty business, including accident and health business written by a property and casualty insurer, that involves more than 50% of either the insurer's total ceded written premium or the insurer's total ceded indemnity and loss adjustment reserves;

(2) A transaction involving life, annuity or accident and health business that causes a change, either positive or negative, in the current total reserve credit taken for all life, annuity and accident and health business of more than 50% from the total reserve credit taken for such business in the insurer's most recent annual statement. "Total reserve credit" includes reserve credit taken for unearned premiums, reserve credit taken other than for unearned premiums and amounts recoverable on paid and unpaid losses for all reinsurance ceded;

(3) Any transaction in which either:

(a) An authorized reinsurer representing more than 10% of the insurer's total reserve credit for business ceded is replaced by one or more unauthorized reinsurers; or

(b) Previously established collateral requirements have been reduced or waived for one or more unauthorized reinsurers representing collectively more than 10% of the insurer's total reserve credit for business ceded; or

(4) Transactions otherwise falling within the scope of this paragraph do not need to be reported if:

(a) In the case of a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than 10% of its total written premium for direct and assumed business;

(b) In the case of a life, annuity and accident and health insurer, the total reserve credit taken for business ceded represents, on an annualized basis, less than 10% of the statutory reserve requirement before any cession; or

(c) The transaction falls within the scope of a previously reported reinsurance agreement. [RR 1995, c. 2, §51 (COR).]

[RR 1995, c. 2, §51 (COR).]

3. Reporting procedures. Reports for material investment transactions and material reinsurance transactions must follow the following procedures.

A. A report of a material investment transaction must include the following information:

- (1) Date of the transaction;
- (2) Manner of acquisition or disposition;
- (3) Description of the assets involved;
- (4) Nature and amount of the consideration given or received;
- (5) Purpose of or reason for the transaction;
- (6) Manner by which the amount of consideration was determined;
- (7) Gain or loss recognized or realized as a result of the transaction; and
- (8) Name of the person from whom the assets were acquired or to whom they were disposed. [PL 1995, c. 375, Pt. A, §1 (NEW).]

B. A report of a material reinsurance transaction must include the following information:

- (1) Effective date of the nonrenewal, cancellation or revision of the reinsurance agreement affected by the transaction;
- (2) The description of the transaction with an identification of the initiator of the transaction;
- (3) Purpose of or reason for the transaction; and
- (4) If applicable, the identity of the replacement reinsurers. [PL 1995, c. 375, Pt. A, §1 (NEW).]

C. Material transactions must be reported on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers that uses a pooling arrangement of 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves, and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is considered to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct and assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than 5% of the insurer's capital and surplus. [PL 1995, c. 375, Pt. A, §1 (NEW).]
[PL 1995, c. 375, Pt. A, §1 (NEW).]

4. Confidentiality. All reports obtained by or disclosed to the superintendent pursuant to this section are confidential, are not subject to subpoena and may not be made public by the superintendent, the National Association of Insurance Commissioners or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains. If the superintendent, after giving the insurer that would be affected notice and an opportunity for hearing, determines that publication is in the interest of policyholders, shareholders or the public, the superintendent may publish all or any part of a report in the manner the superintendent determines to be appropriate.

[PL 1995, c. 375, Pt. A, §1 (NEW).]

SECTION HISTORY

RR 1995, c. 2, §51 (COR). PL 1995, c. 375, §A1 (NEW).

§423-D. Annual report supplement

1. Annual report supplement required. Each health insurer and health maintenance organization shall file an annual report supplement on or before March 1st of each year, or within any reasonable extension of time that the superintendent for good cause may have granted on or before March 1st. The superintendent shall adopt rules regarding specifications for the annual report supplement. The annual report supplements must provide the public with general, understandable and comparable financial information relative to the in-state operations and results of authorized insurers and health maintenance organizations. Such information must include, but is not limited to, medical claims expense, administrative expense and underwriting gain for each line segment of the market in this State in which the insurer participates. The annual report supplements must contain sufficient detail for the public to understand the components of cost incurred by authorized health insurers and health maintenance organizations as well as the annual cost trends of these carriers. The superintendent shall develop standardized definitions of each reported measure. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2003, c. 469, Pt. E, §2 (NEW).]

2. Exemption. If an insurer is engaged in the type of health insurance business identified as an exception to the definition of health insurance in section 704, subsection 2 and is not engaged in health insurance in this State as defined in that section, then the insurer is not subject to the requirements of this section for the filing of annual report supplements.

[PL 2003, c. 469, Pt. E, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 469, §E2 (NEW).

§423-E. Report to Legislature

(REPEALED)

SECTION HISTORY

PL 2007, c. 629, Pt. A, §2 (NEW). PL 2011, c. 90, Pt. B, §3 (RP). PL 2011, c. 90, Pt. B, §10 (AFF).

§423-F. Own risk and solvency assessment

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

[PL 2013, c. 238, Pt. A, §30 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

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

[PL 2013, c. 238, Pt. A, §30 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

SECTION HISTORY

PL 2013, c. 238, Pt. A, §30 (NEW). PL 2013, c. 238, Pt. A, §34 (AFF).

§423-G. Corporate governance annual disclosure

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

A. "Corporate governance annual disclosure" or "CGAD" means a confidential report filed by an insurer or insurance group pursuant to this section. [PL 2017, c. 169, Pt. A, §5 (NEW).]

B. "Domestic insurance carrier" means an insurance company, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization or nonprofit health plan domiciled in this State. [PL 2017, c. 169, Pt. A, §5 (NEW).]

C. "Insurance group" means the insurance carriers and affiliates included within a domestic insurance carrier's insurance holding company system as defined in section 222, subsection 2, paragraph C. [PL 2017, c. 169, Pt. A, §5 (NEW).]

D. "Lead state," with respect to an insurance group, means the state designated as the lead state for the insurance group as determined by the procedures outlined in the most recent financial analysis handbook adopted by the NAIC, except that if the designated lead state does not have a corporate governance disclosure law substantially similar to this section, the superintendent shall designate this State or another state with a substantially similar law as the lead state for purposes of this section. [PL 2017, c. 169, Pt. A, §5 (NEW).]

E. "NAIC" means the National Association of Insurance Commissioners or its successor organization of insurance regulators. [PL 2017, c. 169, Pt. A, §5 (NEW).]

[PL 2017, c. 169, Pt. A, §5 (NEW).]

2. Disclosure requirement. This subsection governs corporate governance annual disclosure filings.

A. A domestic insurance carrier shall file a corporate governance annual disclosure in accordance with this subsection no later than June 1st of each calendar year. The carrier's insurance group may file the CGAD on behalf of the carrier.

(1) If the CGAD is completed at the insurance group level, and this State is not the group's lead state, the CGAD must be filed with the chief insurance regulator of the lead state in accordance with the laws of the lead state, and a copy must be filed with the superintendent if requested by the superintendent.

(2) If the CGAD is completed at the legal entity level or if this State is the group's lead state, the CGAD must be filed with the superintendent. [PL 2017, c. 169, Pt. A, §5 (NEW).]

B. The CGAD must contain the information described in subsection 3, paragraph B and must include a signature of the domestic insurance carrier or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the domestic insurance carrier has implemented the corporate governance practices and that a copy of the CGAD has been provided to the domestic insurance carrier's board of directors or the appropriate committee thereof. [PL 2017, c. 169, Pt. A, §5 (NEW).]

C. A CGAD may provide information regarding corporate governance at the level of the group's ultimate controlling parent or intermediate holding company, at the individual legal entity level or

at any combination of these levels depending upon how the domestic insurance carrier or insurance group has structured its system of corporate governance. The domestic insurance carrier or insurance group is encouraged to make the CGAD at the level:

- (1) At which the domestic insurance carrier's or insurance group's risk appetite is determined;
- (2) At which the earnings, capital, liquidity, operations and reputation of the domestic insurance carrier are overseen collectively and at which the supervision of those factors is coordinated and exercised; or
- (3) At which legal liability for failure of general corporate governance duties is placed.

If the domestic insurance carrier or insurance group determines the level of reporting based on the 3 criteria under this paragraph, it shall indicate which of the criteria were used to determine the level or levels of reporting and explain any subsequent changes in the level of reporting. [PL 2017, c. 169, Pt. A, §5 (NEW).]

D. If the CGAD is completed at the insurance group level, the lead state shall conduct the review of the CGAD and any additional requests for information must be made through the lead state. [PL 2017, c. 169, Pt. A, §5 (NEW).]

E. Domestic insurance carriers providing information substantially similar to the information required by this section in other documents provided to the superintendent, including proxy statements filed in conjunction with Form B requirements or other state or federal filings provided to the bureau, may not be required to duplicate that information in the CGAD, but may only be required to cross-reference the document in which the information is included. [PL 2017, c. 169, Pt. A, §5 (NEW).]

[PL 2017, c. 169, Pt. A, §5 (NEW).]

3. Contents of corporate governance annual disclosure. This subsection governs the contents of corporate governance annual disclosure filings.

A. The domestic insurance carrier or insurance group shall ensure that the CGAD contains the material information necessary to permit the superintendent to gain an understanding of the domestic insurance carrier's or insurance group's corporate governance structure, policies and practices. The superintendent may require additional information that is determined to be material and necessary to provide a clear understanding of the corporate governance policies, including the reporting or information system or controls implementing those policies. [PL 2017, c. 169, Pt. A, §5 (NEW).]

B. The CGAD must be prepared consistent with rules adopted pursuant to subsection 6. Documentation and supporting information must be maintained and made available upon examination or upon request of the superintendent. [PL 2017, c. 169, Pt. A, §5 (NEW).]

C. The domestic insurance carrier or insurance group has discretion over its responses to the CGAD inquiries, as long as those responses meet the requirements of this section. [PL 2017, c. 169, Pt. A, §5 (NEW).]

[PL 2017, c. 169, Pt. A, §5 (NEW).]

4. Confidentiality. This subsection governs confidentiality in corporate governance annual disclosure filings.

A. Documents, materials or other information in the possession or control of the bureau that are obtained by, created by or disclosed to the superintendent or any other person under this section, including the CGAD, are confidential and privileged, are not public records within the meaning of the Freedom of Access Act, are not subject to subpoena, are not subject to discovery or admissible in evidence in any private civil action and may not be made public without the prior written consent of the domestic insurance carrier. Neither the superintendent nor any person who received

information from or under the authority of the superintendent under this section may be permitted or required to testify in any private civil action concerning information that is confidential under this subsection. [PL 2017, c. 169, Pt. A, §5 (NEW).]

B. This subsection does not prohibit the superintendent from using information that is confidential under this subsection in the furtherance of any regulatory or legal action brought as a part of the superintendent's official duties. [PL 2017, c. 169, Pt. A, §5 (NEW).]

C. The superintendent may share information that is confidential under this subsection only in accordance with the requirements of section 216, subsection 5. [PL 2017, c. 169, Pt. A, §5 (NEW).]

D. The privilege provided by this subsection does not supersede any other applicable privilege or confidentiality protection, nor does disclosure of confidential information to the superintendent pursuant to this section constitute a waiver of any such privilege or protection. [PL 2017, c. 169, Pt. A, §5 (NEW).]

[PL 2017, c. 169, Pt. A, §5 (NEW).]

5. NAIC and 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. [PL 2017, c. 169, Pt. A, §5 (NEW).]

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. [PL 2017, c. 169, Pt. A, §5 (NEW).]

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. [PL 2017, c. 169, Pt. A, §5 (NEW).]

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. [PL 2017, c. 169, Pt. A, §5 (NEW).]

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. [PL 2017, c. 169, Pt. A, §5 (NEW).]

[PL 2017, c. 169, Pt. A, §5 (NEW).]

6. Rules. The superintendent may adopt reasonable rules as necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2017, c. 169, Pt. A, §5 (NEW).]

7. Severability. If any provision of this section other than subsection 4, or the application thereof to any person or circumstance, is determined to be invalid, that determination does not affect the provisions or applications of this section that can be given effect without the invalid provision or application, and to that end the provisions of this section with the exception of subsection 4 are severable.

[PL 2017, c. 169, Pt. A, §5 (NEW).]

8. Relationship to other laws. This section may not be construed to prescribe or impose corporate governance standards and internal procedures beyond those required of business corporations under Title 13-C. This section may not be construed to limit the superintendent's examination authority under sections 221 and 222 or the rights or obligations of 3rd parties in connection with examinations conducted under those sections.

[PL 2017, c. 169, Pt. A, §5 (NEW).]

SECTION HISTORY

PL 2017, c. 169, Pt. A, §5 (NEW).

§424. -- penalty for late or false statement

1. An insurer failing, without just cause beyond the reasonable control of the insurer, to file its annual statement as required in section 423 shall forfeit to the State \$25 for each day of delinquency, to be collected if necessary, by civil action against the insurer in the District Court, Southern Kennebec Division.

[PL 1969, c. 132, §1 (NEW).]

2. Any director, officer, agent or employee of any insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement that is false, commits a Class D crime.

[PL 1991, c. 797, §9 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1991, c. 797, §9 (AMD).

§425. Transactions with parent corporation, subsidiaries, and affiliates

1. No insurer shall engage directly or indirectly in any transaction or agreement with its parent corporation, or with any subsidiary or affiliated person which shall result or tend to result in:

A. Substitution through any method of any asset of the insurer with an asset or assets of inferior quality or lower fair market value; or [PL 1969, c. 132, §1 (NEW).]

B. Deception as to the true operating results of the insurer; or [PL 1969, c. 132, §1 (NEW).]

C. Deception as to the true financial condition of the insurer; or [PL 1969, c. 132, §1 (NEW).]

D. Allocation to the insurer of a proportion of the expense of combined facilities or operations which is unfair and unfavorable to the insurer; or [PL 1969, c. 132, §1 (NEW).]

E. Unfair, unnecessary or excessive charges against the insurer for services, or facilities, or supplies or reinsurance; or [PL 1969, c. 132, §1 (NEW).]

F. Unfair and inadequate charges by the insurer for reinsurance, services, facilities or supplies furnished by the insurer to others; or [PL 1969, c. 132, §1 (NEW).]

G. Payment by the insurer for services, facilities, supplies or reinsurance not reasonably needed by the insurer. [PL 1969, c. 132, §1 (NEW).]

[PL 1969, c. 132, §1 (NEW).]

2. In all transactions between the insurer and its parent corporation, or involving the insurer and any subsidiary or affiliated person, full recognition shall be given to the paramount duty and obligation of the insurer to protect the interests of policyholders, both existing and future.

[PL 1969, c. 132, §1 (NEW).]

3. For the purposes of this section a "subsidiary" is a person of which either the insurer or the parent corporation, or both, holds practical control, and an "affiliated person" is a person controlled by any combination of the insurer, the parent corporation, a subsidiary, or the principal stockholders or officers or directors of any of the foregoing.

[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW).

§425-A. Contract to participate in finance program

An authorized insurer may enter into a contract or arrangement with a financial institution for the purpose of participating in a finance program with the financial institution. In this case, the financial institution need not be licensed as a producer, as long as the purpose of the arrangement is to authorize an insurer to direct or refer insureds, prospective insureds or other customers to the financial institution for loans, or for the purpose of authorizing an insurer to facilitate arrangements for leases, loans or credit applications with the financial institution. This section does not exempt persons from otherwise complying with applicable state or federal laws relating to entering into such contracts. [PL 1997, c. 457, §16 (NEW).]

SECTION HISTORY

PL 1997, c. 457, §16 (NEW).

§426. Resident agent; countersignature law

(REPEALED)

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1989, c. 168, §2 (RP).

§427. -- exceptions

(REPEALED)

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §11 (AMD). PL 1979, c. 162 (AMD). PL 1985, c. 524, §§1-4 (AMD). PL 1987, c. 481, §1 (AMD). PL 1989, c. 168, §3 (RP).

§428. Retaliatory provision

1. When by or pursuant to the laws of any other state or foreign country or province any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material requirements, obligations, prohibitions or restrictions are or would be imposed upon Maine insurers doing business or that might seek to do business in such state, country or province, or upon the agents or representatives of such insurers or upon brokers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or obligations, prohibitions or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, or upon brokers, of such other state, country or province under the statutes of this State, so long as such laws of such other state, country or province continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material requirements, obligations, prohibitions or restrictions of whatever kind shall be imposed by the superintendent upon the insurer, or upon the agents or representatives of such insurers, or upon brokers, of such other state, country or province doing business or seeking to do business in Maine. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state, country or province on Maine insurers or their agents or representatives or upon Maine brokers shall be deemed to be imposed by such state, country or province within the meaning of this section.

[PL 1973, c. 585, §12 (AMD).]

1-A. Notwithstanding subsection 1, this section does not apply to application fees, examination fees, issuance fees, appointment fees, renewal fees and any other licensing fees associated with agent licenses, broker licenses, consultant licenses, adjuster licenses, managing general agent registrations and reinsurance intermediary licenses.

[PL 1993, c. 637, §3 (NEW).]

2. This section shall not apply as to personal income taxes, or as to ad valorem taxes on real or personal property, or as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration by the superintendent in determining the propriety and extent of retaliatory action under this section.

[PL 1973, c. 585, §12 (AMD).]

3. For the purposes of this section the domicile of an alien insurer, other than insurers formed under the laws of Canada or a province thereof, shall be that state designated by the insurer in writing filed with the superintendent at time of admission to this State or within 6 months after January 1, 1970, whichever date is the later, and may be any one of the following states:

A. That in which the insurer was first authorized to transact insurance; [PL 1969, c. 132, §1 (NEW).]

B. That in which is located the insurer's principal place of business in the United States; or [PL 1969, c. 132, §1 (NEW).]

C. That in which is held the largest deposit of trustee assets of the insurer for the protection of its policyholders in the United States. [PL 1969, c. 132, §1 (NEW).]

If the insurer makes no such designation, its domicile shall be deemed to be that state in which is located its principal place of business in the United States.

[PL 1973, c. 625, §135 (AMD).]

4. The domicile of an insurer formed under the laws of Canada or a province thereof shall be that province of Canada in which its head office is located.

[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1973, c. 625, §135 (AMD). PL 1993, c. 637, §3 (AMD).

SUBCHAPTER 2

INSURANCE EMERGENCIES

§471. Proclamation by Governor

Whenever it appears to the Governor that the welfare of the State or any section thereof, or the welfare and security of insurers under the supervision of the superintendent or their insureds or beneficiaries require, the Governor may proclaim that an insurance emergency exists and this subchapter shall thereupon become effective. [PL 1973, c. 585, §12 (AMD).]

SECTION HISTORY

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

§472. Rules and regulations

During the period of any insurance emergency described in section 471, the superintendent has power to make, amend or rescind such rules and regulations governing the business of any insurers as the superintendent considers expedient in order to adopt and maintain sound methods of protecting the interests of insurer, insureds, beneficiaries or the public. [RR 2021, c. 1, Pt. B, §182 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §182 (COR).

§473. Insurers regulated; suspended

During any insurance emergency period as described in sections 471 and 472, the superintendent is empowered to suspend for such time or times as the superintendent may determine the transaction of insurance functions of any authorized insurer, whether domestic or foreign, solvent or otherwise, and to limit its insurance business in volume or character to such particular amounts or classifications and for such time or times as the superintendent considers advisable. [RR 2021, c. 1, Pt. B, §183 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §183 (COR).

§474. Payments deferred

During any insurance emergency period as described in sections 471 and 472, the superintendent has authority to postpone or defer, by rules or orders made and issued by the superintendent, for such time or times as the superintendent determines, the payment of any amount payable under the terms of any policy of insurance, annuity or pure endowment contract, and the payment of judgments, notes, drafts, checks, bills of exchange or other forms of payment of claims due from insurers to any person, firm or corporation, whether such claim is liquidated or unliquidated, due or to become due at a day certain, and defer the payment of premiums on policies affected by such postponements or suspensions and may direct payment in full or in part whenever in the superintendent's discretion such payment may be safely consummated. [RR 2021, c. 1, Pt. B, §184 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §184 (COR).

§475. "Insurer" defined

The words "insurer" or "insurers" as used in this subchapter shall include corporations, interinsurers, associations, societies and orders as well as partnerships and individual agents representing such organizations. [PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW).

§476. Personal responsibility of the superintendent limited

The superintendent shall not be held legally responsible for any act or failure to act in the premises when such act or failure to act shall have been shown to be the result of good faith. [PL 1973, c. 585, §12 (AMD).]

SECTION HISTORY

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

§477. Duration at will of Governor

The authority and power given the superintendent under this subchapter shall terminate and be of no effect when the Governor proclaims that any insurance emergency has ceased to exist. [PL 1973, c. 585, §12 (AMD).]

SECTION HISTORY

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

§478. Jurisdiction of courts

During any emergency insurance period as described in sections 471 and 472, the superintendent is authorized to issue such directions, rules or orders as in the superintendent's discretion the circumstances may warrant, and any Justice of the Supreme Judicial or Superior Courts has full jurisdiction to enforce this chapter by appropriate decrees. [RR 2021, c. 1, Pt. B, §185 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §185 (COR).

§479. Penalties

Any violation of any order issued by virtue of this subchapter or any rule or regulatory provision made by the superintendent pursuant thereto shall be punishable by a fine of not more than \$1,000 or by imprisonment for less than one year, or by both. [PL 1973, c. 585, §12 (AMD).]

SECTION HISTORY

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

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