

**§2325. Assigned risks**

1. Agreements may be made among casualty insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the superintendent.

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

2. Every insurer undertaking to transact in this State the business of automobile and motor vehicle bodily injury, property damage liability, physical damage and medical payments insurance and every advisory organization that files rates for that insurance shall cooperate in the preparation and submission of a plan for the equitable apportionment among insurers of applicants for insurance who are in good faith entitled to, but who are unable to procure through ordinary methods, such insurance. Administration of the plan is the responsibility of the plan member insurers subject to regulatory oversight by the bureau. The plan must provide:

A. Reasonable rules governing the equitable distribution of risks by direct insurance, reinsurance or otherwise and their assignment to insurers; [PL 1989, c. 797, §29 (AMD); PL 1989, c. 797, §§37, 38 (AFF).]

B. Rates and rate modifications applicable to such risks, which may not be excessive, inadequate or unfairly discriminatory; [PL 1991, c. 667, §1 (AMD).]

C. The limits of liability that the insurer is required to assume, except that the maximum amount of physical damage coverage for commercial type vehicles must be determined by the superintendent based on the current cost of new vehicles but not to exceed a maximum amount of \$100,000; and [PL 1991, c. 667, §1 (AMD).]

D. A method whereby applicants for insurance, insureds and insurers may have a hearing on grievances and the right of appeal to the superintendent. [PL 1989, c. 797, §29 (AMD); PL 1989, c. 797, §§37, 38 (AFF).]

[PL 1991, c. 667, §1 (AMD).]

3. The plan referred to in subsection 2 must be filed in writing with the superintendent. The superintendent shall review the plan as soon as reasonably possible after filing in order to determine whether it meets the requirements set forth in subsection 2, paragraphs A, B, C and D. The plan, unless sooner approved in writing, must be on file for a waiting period of 30 days before it becomes effective. The plan is deemed approved unless disapproved by the superintendent within the waiting period.

Subsequent to the waiting period, the superintendent may disapprove the plan on the grounds that it does not meet the requirements set forth in subsection 2, paragraphs A, B, C and D, but only after a hearing held upon not less than 10 days' written notice to every insurer and advisory organization affected, specifying the matters to be considered at the hearing, and only by an order specifying in what respect the superintendent finds that the plan fails to meet the requirements, and stating when within a reasonable period thereafter the plan is deemed no longer effective. That order does not affect any assignment made or policy issued or made prior to the expiration of the period set forth in the order. Amendments to the plan must be prepared, filed and reviewed in the same manner as provided in this subsection with respect to the original plan.

The superintendent may, as necessary and in accordance with the Maine Administrative Procedure Act, initiate rulemaking with respect to the plan.

[PL 1991, c. 667, §2 (AMD).]

4. When the plan referred to in subsection 2 or amendments thereto have been approved or promulgated, no insurer shall thereafter issue a policy of automobile and motor vehicle bodily injury,

property damage liability, physical damage and medical payments insurance or undertake to transact such business in this State, unless such insurer shall participate in such an approved or promulgated plan.

[PL 1969, c. 132, §1 (NEW).]

5. If, after hearing, the superintendent finds that any activity or practice of any insurer or advisory organization in connection with the operation of the plan referred to in subsection 2 is unfair or unreasonable or otherwise inconsistent with this section, the superintendent may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with this section and requiring the discontinuance of such activity or practice.

[PL 1989, c. 797, §30 (AMD); PL 1989, c. 797, §§37, 38 (AFF).]

6. The maximum limits of liability insurance offered by the Maine Automobile Insurance Plan for a personal automobile policy may not be less than \$250,000 per person for bodily injury liability, \$500,000 per occurrence for bodily injury liability and \$100,000 for property damage liability. A combined single limit of \$500,000 may be offered as an alternative to the mandatory split limits for bodily injury liability and property damage liability.

[PL 1991, c. 667, §3 (NEW).]

7. When a notice of cancellation for nonpayment of premium is issued by the Maine Automobile Insurance Plan or by an insurer to which the insured has been assigned by the plan, any premium paid by the insured but unearned within the policy term must be returned to the insured within 10 working days from the effective date of cancellation.

[PL 1991, c. 667, §3 (NEW).]

#### SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1979, c. 423 (AMD). PL 1989, c. 797, §§29,30,37, 38 (AMD). PL 1991, c. 667, §§1-3 (AMD).

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