



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1544

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S.P. 539

In Senate, April 27, 2017

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### **An Act To Update the Maine Insurance Code To Maintain Conformance with Uniform National Standards**

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Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator WHITTEMORE of Somerset.

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

2 **PART A**

3 **Sec. A-1. 24 MRSA §2306**, as amended by PL 1997, c. 592, §3, is further  
4 amended to read:

5 **§2306. Reports**

6 ~~Annually, on or before March 1st, every~~ Every corporation organized under this  
7 chapter shall file in the office of the superintendent ~~a statement~~ annual and quarterly  
8 financial statements substantially similar to those required of health insurers under Title  
9 24-A, sections 423, 423-A and 423-D verified by at least 2 of the principal officers of that  
10 corporation ~~showing its condition on the previous December 31st~~. The statement must be  
11 on an annual or quarterly statement blank of the National Association of Insurance  
12 Commissioners for use by nonprofit hospital or medical service corporations, be prepared  
13 in accordance with the association's annual or quarterly statement instructions, follow  
14 practices and procedures prescribed by the association's accounting practices and  
15 procedures manual and be accompanied by any useful or necessary modification or  
16 adaptation and any additional information required by the superintendent. The  
17 superintendent may by rule or order require the filing of more frequent reports.

18 A nonprofit hospital or medical service corporation that controls and operates a  
19 health maintenance organization as a division or line of business of the corporation shall  
20 file on a continuing basis any additional periodic financial reports required by ~~the~~  
21 superintendent by rule Title 24-A, section 4208.

22 **Sec. A-2. 24 MRSA §2317-B, sub-§§1-A and 1-B** are enacted to read:

23 **1-A. Title 24-A, section 423-C.** Reports of material transactions, Title 24-A, section  
24 423-C;

25 **1-B. Title 24-A, section 423-G.** Corporate governance annual disclosure, Title  
26 24-A, section 423-G;

27 **Sec. A-3. 24 MRSA §2317-B, sub-§16-B** is enacted to read:

28 **16-B. Title 24-A, chapter 11.** Assets and liabilities, Title 24-A, chapter 11;

29 **Sec. A-4. 24-A MRSA §423-A**, as enacted by PL 1985, c. 330, §6, is amended to  
30 read:

31 **§423-A. Interim financial reporting requirements**

32 **1. Quarterly statement.** ~~Within 45 days~~ No later than the 15th day of the 2nd  
33 month following the close of any calendar quarter, except the 4th quarter, an authorized  
34 insurer, that is subject to the requirements of section 423, shall ~~upon the superintendent's~~  
35 request, made to the authorized insurer, not later than the end of the quarter to be reported

1 upon file a quarterly ~~report~~ statement of financial condition with the ~~Bureau of Insurance~~  
2 superintendent.

3 **2. Form and content.** The quarterly ~~report~~ statement must be in the form  
4 requested by the superintendent and shall contain such information as the superintendent  
5 deems necessary or if the superintendent elects shall be conformed to the reporting format  
6 developed prescribed by the National Association of Insurance Commissioners and which  
7 is in customary use in the United States for differing types of authorized insurers must be  
8 prepared in accordance with the association's quarterly statement instructions.

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

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

17 **Sec. A-5. 24-A MRSA §423-G** is enacted to read:

18 **§423-G. Corporate governance annual disclosure**

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

21 A. "Corporate governance annual disclosure" or "CGAD" means a confidential  
22 report filed by an insurer or insurance group pursuant to this section.

23 B. "Domestic insurance carrier" means an insurance company, health maintenance  
24 organization, fraternal benefit society, nonprofit hospital or medical service  
25 organization or nonprofit health plan domiciled in this State.

26 C. "Insurance group" means the insurance carriers and affiliates included within a  
27 domestic insurance carrier's insurance holding company system as defined in section  
28 222, subsection 2, paragraph C.

29 D. "Lead state," with respect to an insurance group, means the state designated as the  
30 lead state for the insurance group as determined by the procedures outlined in the  
31 most recent financial analysis handbook adopted by the NAIC, except that if the  
32 designated lead state does not have a corporate governance disclosure law  
33 substantially similar to this section, the superintendent shall designate this State or  
34 another state with a substantially similar law as the lead state for purposes of this  
35 section.

36 E. "NAIC" means the National Association of Insurance Commissioners or its  
37 successor organization of insurance regulators.

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

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

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

8 (2) If the CGAD is completed at the legal entity level or if this State is the  
9 group's lead state, the CGAD must be filed with the superintendent.

10 B. The CGAD must contain the information described in subsection 3, paragraph B  
11 and must include a signature of the domestic insurance carrier or insurance group's  
12 chief executive officer or corporate secretary attesting to the best of that individual's  
13 belief and knowledge that the domestic insurance carrier has implemented the  
14 corporate governance practices and that a copy of the CGAD has been provided to  
15 the domestic insurance carrier's board of directors or the appropriate committee  
16 thereof.

17 C. A CGAD may provide information regarding corporate governance at the level of  
18 the group's ultimate controlling parent or intermediate holding company, at the  
19 individual legal entity level or at any combination of these levels depending upon  
20 how the domestic insurance carrier or insurance group has structured its system of  
21 corporate governance. The domestic insurance carrier or insurance group is  
22 encouraged to make the CGAD at the level:

23 (1) At which the domestic insurance carrier's or insurance group's risk appetite is  
24 determined;

25 (2) At which the earnings, capital, liquidity, operations and reputation of the  
26 domestic insurance carrier are overseen collectively and at which the supervision  
27 of those factors is coordinated and exercised; or

28 (3) At which legal liability for failure of general corporate governance duties is  
29 placed.

30 If the domestic insurance carrier or insurance group determines the level of reporting  
31 based on the 3 criteria under this paragraph, it shall indicate which of the criteria  
32 were used to determine the level or levels of reporting and explain any subsequent  
33 changes in the level of reporting.

34 D. If the CGAD is completed at the insurance group level, the lead state shall  
35 conduct the review of the CGAD and any additional requests for information must be  
36 made through the lead state.

37 E. Domestic insurance carriers providing information substantially similar to the  
38 information required by this section in other documents provided to the  
39 superintendent, including proxy statements filed in conjunction with Form B  
40 requirements or other state or federal filings provided to the bureau, may not be  
41 required to duplicate that information in the CGAD, but may only be required to  
42 cross-reference the document in which the information is included.

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

3           A. The domestic insurance carrier or insurance group shall ensure that the CGAD  
4 contains the material information necessary to permit the superintendent to gain an  
5 understanding of the domestic insurance carrier's or insurance group's corporate  
6 governance structure, policies and practices. The superintendent may require  
7 additional information that is determined to be material and necessary to provide a  
8 clear understanding of the corporate governance policies, including the reporting or  
9 information system or controls implementing those policies.

10          B. The CGAD must be prepared consistent with rules adopted pursuant to subsection  
11 6. Documentation and supporting information must be maintained and made  
12 available upon examination or upon request of the superintendent.

13          C. The domestic insurance carrier or insurance group has discretion over its  
14 responses to the CGAD inquiries, as long as those responses meet the requirements of  
15 this section.

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

18          A. Documents, materials or other information in the possession or control of the  
19 bureau that are obtained by, created by or disclosed to the superintendent or any other  
20 person under this section, including the CGAD, are confidential and privileged, are  
21 not public records within the meaning of the Freedom of Access Act, are not subject  
22 to subpoena, are not subject to discovery or admissible in evidence in any private  
23 civil action and may not be made public without the prior written consent of the  
24 domestic insurance carrier. Neither the superintendent nor any person who received  
25 information from or under the authority of the superintendent under this section may  
26 be permitted or required to testify in any private civil action concerning information  
27 that is confidential under this subsection.

28          B. This subsection does not prohibit the superintendent from using information that  
29 is confidential under this subsection in the furtherance of any regulatory or legal  
30 action brought as a part of the superintendent's official duties.

31          C. The superintendent may share information that is confidential under this  
32 subsection only in accordance with the requirements of section 216, subsection 5.

33          D. The privilege provided by this subsection does not supersede any other applicable  
34 privilege or confidentiality protection, nor does disclosure of confidential information  
35 to the superintendent pursuant to this section constitute a waiver of any such privilege  
36 or protection.

37           **5. NAIC and independent consultants.** This subsection governs independent  
38 consultants retained to review corporate governance annual disclosure and compliance  
39 with this section.

40          A. The superintendent may retain, at the domestic insurance carrier's expense,  
41 independent consultants as provided in section 208, including attorneys, actuaries,  
42 accountants and other experts as may be reasonably necessary to assist the

1 superintendent in reviewing the CGAD and related information or the domestic  
2 insurance carrier's compliance with this section.

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

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

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

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

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

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

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

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

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

40 **7. Severability.** If any provision of this section other than subsection 4, or the  
41 application thereof to any person or circumstance, is determined to be invalid, that  
42 determination does not affect the provisions or applications of this section that can be

1 given effect without the invalid provision or application, and to that end the provisions of  
2 this section with the exception of subsection 4 are severable.

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

9 **Sec. A-6. 24-A MRSA §1102, sub-§4,** as amended by PL 1987, c. 399, §4, is  
10 further amended to read:

11 **4.** Any investment limitation or diversification requirement based upon the amount  
12 of the insurer's assets or particular funds ~~shall~~ must relate to such assets or funds as  
13 shown by the insurer's annual or quarterly statement as of the ~~December 31st next~~  
14 statement date immediately preceding the date of acquisition of the investment by the  
15 insurer or as shown by a current applicable financial statement, prepared on the same  
16 basis as that annual or quarterly statement, resulting from merger with another insurer,  
17 bulk reinsurance or change in capitalization.

18 **Sec. A-7. 24-A MRSA §1152, sub-§4,** as enacted by PL 1987, c. 399, §14, is  
19 amended to read:

20 **4. Basis for limitation or diversification.** Any investment limitation or  
21 diversification requirement based upon the amount of the insurer's assets or particular  
22 funds ~~shall~~ must relate to such assets or funds as shown by the insurer's annual or  
23 quarterly statement as of the ~~December 31st next~~ statement date immediately preceding  
24 the date of acquisition of the investment by the insurer, or as shown by a current  
25 applicable financial statement, prepared on the same basis as that annual or quarterly  
26 statement, resulting from merger with another insurer, bulk reinsurance or change in  
27 capitalization.

28 **Sec. A-8. 24-A MRSA §4134, sub-§1,** as amended by PL 1997, c. 592, §70, is  
29 further amended to read:

30 **1.** Every society transacting business in this State shall annually, on or before the  
31 first day of March, unless for cause shown such time has been extended by the  
32 superintendent, file with the superintendent a true statement of its financial condition,  
33 transactions and affairs for the preceding calendar year. The statement must be in general  
34 form and context as approved by the National Association of Insurance Commissioners  
35 for fraternal benefit societies and as supplemented by additional information required by  
36 the superintendent. The society shall also file quarterly statements in accordance with the  
37 National Association of Insurance Commissioners quarterly statement instructions for  
38 fraternal benefit societies, if applicable, and shall report material investment and  
39 reinsurance transactions consistent with section 423-C. If the society provides health care  
40 benefits, it shall file a health insurance supplement consistent with section 423-D. The  
41 fee for filing the annual statement is the same as for an insurer as provided in section 601.

1           **Sec. A-9. 24-A MRSA §4134, sub-§7**, as amended by PL 1973, c. 585, §12, is  
2 further amended to read:

3           7. A society neglecting to file the annual or quarterly statement in the form and  
4 within the time provided by this section shall forfeit \$100 for each day during which such  
5 neglect continues, and, upon notice by the superintendent to that effect, its authority to do  
6 business in this State ~~shall cease~~ ceases while such default continues.

7           **Sec. A-10. 24-A MRSA §4204-A, sub-§2**, as amended by PL 2001, c. 88, §§3 to  
8 5, is further amended to read:

9           **2. Surplus maintained.** Except as provided in this section, every health  
10 maintenance organization must maintain a minimum surplus equal to the greater of:

11           A. One million dollars;

12           B. Two percent of the first \$150,000,000 of annual premium revenues as reported in  
13 the most recent annual financial statement ~~covering~~ filed with the superintendent by  
14 the health maintenance ~~organization's immediately preceding fiscal year as filed with~~  
15 the superintendent on the first \$150,000,000 of premium and organization, plus 1% of  
16 annual premium ~~on the premium~~ in excess of \$150,000,000;

17           C. An amount equal to the sum of 3 ~~months~~ months' uncovered health care  
18 expenditures as reported ~~on~~ in the most recent annual financial statement ~~covering~~  
19 filed with the superintendent by the health maintenance ~~organization's immediately~~  
20 ~~preceding fiscal year as filed with the superintendent~~ organization;

21           D. An amount equal to 8% of the health maintenance organization's annual health  
22 care expenditures, except those paid on a capitated basis, as reported ~~on~~ in the most  
23 recent annual financial statement ~~covering~~ filed with the superintendent by the health  
24 maintenance ~~organization's immediately preceding fiscal year as filed with the~~  
25 ~~superintendent~~ organization; or

26           E. An amount equal to the company action level risk-based capital as defined in  
27 chapter 79.

28           **Sec. A-11. 24-A MRSA §4208**, as amended by PL 1993, c. 313, §§33 to 35, is  
29 further amended to read:

30           **§4208. Annual and interim reports**

31           1. Every health maintenance organization shall file ~~annually, on or before March~~  
32 ~~1st or within any reasonable extension of time that the superintendent for good cause~~  
33 ~~shown may have granted on or before March 1st, with the superintendent a full and true~~  
34 ~~statement of its financial condition, transactions and affairs as of December 31st of the~~  
35 ~~preceding year~~ annual and quarterly financial statements substantially similar to those  
36 required of health insurers under sections 423, 423-A and 423-D, verified by at least 3  
37 principal officers, and shall provide a copy of that each statement to the Commissioner of  
38 Health and Human Services. The superintendent may by rule or order require the filing  
39 of ~~quarterly or more frequent reports, which may be required to include liability for~~  
40 ~~uncovered expenditures as well as an audit opinion.~~



1            **1-A.** The annual and quarterly statements must be prepared in accordance with the  
2 National Association of Insurance Commissioners annual and quarterly statement  
3 instructions and must follow practices and procedures prescribed by the National  
4 Association of Insurance Commissioners accounting practices and procedures manual for  
5 health maintenance organizations. If the health maintenance organization is operated as a  
6 division or line of business by an insurer or by a nonprofit hospital or medical service  
7 corporation, the superintendent shall designate the applicable portions of the financial  
8 statement form that must be filed, so as to eliminate information that is inapplicable to  
9 health maintenance organizations that are not separately incorporated and to minimize  
10 duplication between the statement filed under this section and the overall financial  
11 statement of the insurer or nonprofit hospital or medical service corporation.

12            **1-B.** Every health maintenance organization shall file an annual audit opinion  
13 substantially similar to those required of insurers under section 221-A.

14            ~~3. The annual statement must be prepared in accordance with the National~~  
15 ~~Association of Insurance Commissioners annual statement instructions and must follow~~  
16 ~~practices and procedures prescribed by the National Association of Insurance~~  
17 ~~Commissioners accounting practices and procedures manual for health maintenance~~  
18 ~~organizations. The annual statement and quarterly statements must include, if required by~~  
19 ~~the Commissioner of Health and Human Services or by the superintendent:~~

20            A. A summary of information compiled pursuant to section 4204 in the form  
21 required by the Commissioner of Health and Human Services; and

22            B. Other information related to the performance of the health maintenance  
23 organization that is necessary to enable the superintendent to carry out the  
24 superintendent's duties under this chapter.

25            4. The superintendent may refuse to continue or may suspend or revoke the  
26 certificate of authority of a health maintenance organization failing to file an annual or  
27 quarterly statement when due.

28            **Sec. A-12. 24-A MRSA §4222-B, sub-§5**, as amended by PL 2001, c. 88, §6, is  
29 further amended to read:

30            5. ~~The requirements of section 222, subsections 2 to 9, subsections 11-A and 11-B~~  
31 ~~and subsections 13 to 18 sections 221 to 228, to the extent not inconsistent with this~~  
32 ~~chapter and the reasonable implications of this chapter, apply to domestic health~~  
33 ~~maintenance organizations.~~

34            **Sec. A-13. 24-A MRSA §4222-B, sub-§§23 and 24** are enacted to read:

35            **23.** Section 423-C, relating to reporting of material investment and reinsurance  
36 transactions, applies to health maintenance organizations.

37            **24.** Section 423-G, relating to corporate governance annual disclosure filings, applies  
38 to health maintenance organizations.



1           (1) The group has premiums written in at least 3 countries;

2           (2) The percentage of gross premiums written outside the United States is at least  
3           10% of the insurance holding company system's total gross written premiums;  
4           and

5           (3) Based on a 3-year rolling average, the total assets of the insurance holding  
6           company system are at least \$50,000,000,000 or the total gross written premiums  
7           of the insurance holding company system are at least \$10,000,000,000.

8           **Sec. B-5. 24-A MRSA §222, sub-§4-C, ¶C**, as enacted by PL 2013, c. 238, Pt.  
9           A, §11 and affected by §34, is amended to read:

10           C. An application required by paragraph A must contain the following information  
11           as applicable, made under oath or affirmation, except that if the proposed transaction  
12           is subject to regulation under the Exchange Act or Title 32, chapter 135, the  
13           superintendent may accept the relevant documents filed with the United States  
14           Securities and Exchange Commission or the Department of Professional and  
15           Financial Regulation, Office of Securities in lieu of some or all of the documents  
16           required by this paragraph:

17           (1) The name and address of each person by whom or on whose behalf the  
18           merger or other acquisition of control is to be effected and:

19                   (a) If the person acquiring control is an individual, the person's principal  
20                   occupation and all offices and positions held during the past 5 years and any  
21                   convictions for crimes other than minor traffic violations ~~during the past 10~~  
22                   ~~years~~; and

23                   (b) If the person acquiring control is not an individual, a report of the nature  
24                   of its business operations during the past 5 years or for a lesser period the  
25                   person and any predecessors have been in existence; an informative  
26                   description of the business intended to be done by the person and the person's  
27                   subsidiaries; and a list of all individuals who are or who have been selected  
28                   to become directors or executive officers of the person or who perform or  
29                   will perform functions appropriate to such positions. The list must include  
30                   the information required by division (a) for each individual listed;

31           (2) The source, nature and amount of the consideration used or to be used in  
32           effecting the merger or other acquisition of control, a description of any  
33           transaction through which funds were or are to be obtained for any such purpose,  
34           including any pledge of the insurer's stock or the stock of any of its subsidiaries  
35           or controlling affiliates, and the identity of persons furnishing consideration. If a  
36           source of consideration is a loan made in the lender's ordinary course of business,  
37           the identity of the lender is confidential if the person filing the application so  
38           requests;

39           (3) Fully audited financial information as to the earnings and financial condition  
40           of each acquiring person for the preceding 5 fiscal years, or for a lesser period if  
41           the acquiring person and any predecessors have been in existence for less than 5  
42           years, and similar unaudited information as of a date not earlier than 90 days  
43           before the filing of the application;

- 1 (4) Any plans or proposals that each acquiring person may have to liquidate the  
2 insurer, to sell its assets or merge or consolidate it with any person or to make  
3 any other material change in its business or corporate structure or management;
- 4 (5) The number of shares of any security referred to in paragraph A that each  
5 acquiring person proposes to acquire, the terms of the offer, request, invitation,  
6 agreement or acquisition referred to in paragraph A and a statement as to the  
7 method by which the fairness of the proposal was arrived at;
- 8 (6) The amount of each class of any security referred to in paragraph A that is  
9 beneficially owned or concerning which there is a right to acquire beneficial  
10 ownership by each acquiring person;
- 11 (7) A full description of any contracts, arrangements or understandings with  
12 respect to any security referred to in paragraph A in which any acquiring person  
13 is involved, including but not limited to transfer of any of the securities, joint  
14 ventures, loan or option arrangements, puts or calls, guarantees of loans,  
15 guarantees against loss or guarantees of profits, division of losses or profits or the  
16 giving or withholding of proxies. The description must identify the persons with  
17 whom the contracts, arrangements or understandings have been entered into;
- 18 (8) A description of the purchase by any acquiring person of any security  
19 referred to in paragraph A during the 12 calendar months preceding the filing of  
20 the application, including the dates of purchase, names of the purchasers and  
21 consideration paid or agreed to be paid;
- 22 (9) A description of any recommendations to purchase any security referred to in  
23 paragraph A made during the 12 calendar months preceding the filing of the  
24 application by any acquiring person or by anyone based upon interviews with or  
25 at the suggestion of the acquiring person;
- 26 (10) Copies of all tender offers for, requests or invitations for tenders of,  
27 exchange offers for and agreements to acquire or exchange any securities referred  
28 to in paragraph A and copies of any additional related soliciting material that has  
29 been distributed;
- 30 (11) The terms of any agreement, contract or understanding made or proposed to  
31 be made with any broker-dealer as to solicitation of securities referred to in  
32 paragraph A for tender and the amount of any fees, commissions or other  
33 compensation to be paid to broker-dealers with regard to the solicitation of  
34 securities referred to in paragraph A;
- 35 (12) An agreement by the person required to file the application to provide the  
36 annual enterprise risk report required by subsection 8, paragraph B-1 for as long  
37 as control by the person exists;
- 38 (13) An acknowledgement by the person required to file the application that the  
39 person and all subsidiaries within its control in the insurance holding company  
40 system will provide information to the superintendent upon request as necessary  
41 to evaluate enterprise risk to the insurer;
- 42 (14) A statement as to whether or not the proposed transaction will result in an  
43 increase in market share in this State in any line of insurance as specified in the

1 annual statement required to be filed under section 423 for one or more insurers  
2 with combined market share greater than 5% and, if so, such further information  
3 on the competitive impact of the proposed transaction as the superintendent  
4 requires by rule or order; and

5 (15) Such additional information as the superintendent may prescribe by rule or  
6 order.

7 **Sec. B-6. 24-A MRSA §222, sub-§7-C** is enacted to read:

8 **7-C. Groupwide supervision.** This subsection governs groupwide supervision.

9 A. The superintendent is authorized to act as the groupwide supervisor in accordance  
10 with the provisions of this subsection for any internationally active insurance group,  
11 or any other insurance holding company system that has requested the identification  
12 of a groupwide supervisor pursuant to this subsection, or to acknowledge another  
13 regulatory official as the groupwide supervisor if the insurance group:

14 (1) Does not have substantial insurance operations in the United States;

15 (2) Has substantial insurance operations in the United States, but not in this  
16 State; or

17 (3) Has substantial insurance operations in the United States and this State, but  
18 the superintendent has determined pursuant to the factors set forth in paragraphs  
19 B and G that the other regulatory official is the appropriate groupwide supervisor.

20 B. In cooperation with other state, federal and international regulatory agencies, and  
21 in consultation with the insurance group, the superintendent shall identify a single  
22 groupwide supervisor for each internationally active insurance group that includes an  
23 insurer registered under subsection 8 and has the discretion to identify a single  
24 groupwide supervisor for any other insurance holding company system that has  
25 requested that the superintendent identify a groupwide supervisor. The  
26 superintendent may determine that the superintendent is the appropriate groupwide  
27 supervisor for an insurance group that conducts substantial insurance operations  
28 concentrated in this State or may acknowledge that a regulatory official from another  
29 jurisdiction is the appropriate groupwide supervisor for the insurance group. The  
30 superintendent shall consider the following factors when making a determination or  
31 acknowledgment under this paragraph and shall reconsider that determination or  
32 acknowledgment if the superintendent finds that there has been a material change in  
33 the following factors:

34 (1) The place of domicile of the insurers within the insurance group that hold the  
35 largest share of the group's written premiums, assets or liabilities;

36 (2) The place of domicile of the top-tiered insurer or insurers in the insurance  
37 holding company system of the insurance group;

38 (3) The location of the executive offices or largest operational offices of the  
39 insurance group;

40 (4) The recommendation made by a regulatory official who is a candidate for  
41 designation under the criteria in this paragraph but has notified the superintendent

1 that a different regulatory official would be a more appropriate groupwide  
2 supervisor;

3 (5) Whether another regulatory official is acting or is seeking to act as the  
4 groupwide supervisor under a regulatory system that the superintendent  
5 determines to be:

6 (a) Substantially similar to the system of regulation provided under the laws  
7 of this State; or

8 (b) Otherwise sufficient in terms of providing for groupwide supervision,  
9 enterprise risk analysis and cooperation with other regulatory officials; and

10 (6) Whether another regulatory official acting or seeking to act as the groupwide  
11 supervisor provides the superintendent with reasonably reciprocal recognition  
12 and cooperation.

13 C. If another regulatory official is acting as the groupwide supervisor of an insurance  
14 group subject to groupwide supervision under this subsection, the superintendent  
15 shall acknowledge that regulatory official as the groupwide supervisor and may not  
16 consider designating the superintendent as the groupwide supervisor under paragraph  
17 B unless there is a material change in the insurance group that results in:

18 (1) The insurance group's insurers domiciled in this State holding the largest  
19 share of the group's premiums, assets or liabilities; or

20 (2) This State being the place of domicile of the top-tiered insurer or insurers in  
21 the insurance holding company system of the insurance group.

22 D. If more than one regulatory official is acting as the groupwide supervisor of an  
23 insurance group, the superintendent is authorized to cooperate with any of them under  
24 paragraph G.

25 E. Pursuant to subsection 1-A, the superintendent is authorized to collect from any  
26 insurer registered pursuant to subsection 8 all information necessary to determine  
27 whether the superintendent should act as the groupwide supervisor of an insurance  
28 group or whether the superintendent should acknowledge another regulatory official  
29 to act as the groupwide supervisor. Before issuing a determination that an insurance  
30 group is subject to groupwide supervision by the superintendent, the superintendent  
31 shall notify the insurer registered pursuant to subsection 8 and the ultimate  
32 controlling person within the insurance group. The insurance group has no less than  
33 30 days to provide the superintendent with additional information pertinent to the  
34 pending determination. The superintendent shall publish on the bureau's publicly  
35 accessible website the identity of all insurance groups that the superintendent has  
36 determined are subject to groupwide supervision by the superintendent.

37 F. If the superintendent is the groupwide supervisor for an insurance group, the  
38 superintendent is authorized to engage in any of the following groupwide supervision  
39 activities:

40 (1) Assess the enterprise risks within the insurance group to ensure that:

- 1                   (a) The material financial condition and liquidity risks to the members of the  
2                   insurance group that are engaged in the business of insurance are identified  
3                   by management; and
- 4                   (b) Reasonable and effective mitigation measures are in place;
- 5                   (2) Request, from any member of the insurance group, information necessary  
6                   and appropriate to assess enterprise risk, including, but not limited to,  
7                   information about the members of the insurance group regarding:
- 8                   (a) Governance, risk assessment and management;
- 9                   (b) Capital adequacy; and
- 10                  (c) Material intercompany transactions;
- 11                  (3) Coordinate and, through the authority of the regulatory officials of the  
12                  jurisdictions where members of the insurance group are domiciled, compel  
13                  development and implementation of reasonable measures designed to ensure that  
14                  the insurance group is able to promptly recognize and mitigate enterprise risks to  
15                  members of the insurance group that are engaged in the business of insurance;
- 16                  (4) Communicate with other state, federal and international agencies that  
17                  regulate members of the insurance group and share relevant information subject  
18                  to the confidentiality provisions of subsection 13-A, through supervisory colleges  
19                  as set forth in subsection 7-B or otherwise;
- 20                  (5) Enter into agreements with or obtain documentation from any insurer  
21                  registered under subsection 8, any member of the insurance group and any other  
22                  state, federal and international regulatory agencies for members of the insurance  
23                  group, providing the basis for or otherwise clarifying the superintendent's role as  
24                  groupwide supervisor, including provisions for resolving disputes with other  
25                  regulatory officials. Such agreements or documentation may not serve as  
26                  evidence in any proceeding that any insurer or person within an insurance  
27                  holding company system not domiciled or incorporated in this State is doing  
28                  business in this State or is otherwise subject to jurisdiction in this State; and
- 29                  (6) Other groupwide supervision activities, consistent with the authorities and  
30                  purposes set out in subparagraphs (1) to (5), as considered necessary by the  
31                  superintendent.
- 32                  G. If the superintendent acknowledges that another regulatory official from a  
33                  jurisdiction that is not accredited by the National Association of Insurance  
34                  Commissioners is the groupwide supervisor, the superintendent is authorized to  
35                  cooperate reasonably, through supervisory colleges or otherwise, with groupwide  
36                  supervision undertaken by the groupwide supervisor, as long as:
- 37                  (1) The superintendent's cooperation is in compliance with the laws of this State;  
38                  and
- 39                  (2) The regulatory official acknowledged as the groupwide supervisor also  
40                  recognizes and cooperates with the superintendent's activities as a groupwide  
41                  supervisor for other insurance groups as applicable. When such recognition and

1 cooperation is not reasonably reciprocal, the superintendent is authorized to  
2 refuse recognition and cooperation.

3 H. The superintendent is authorized to enter into agreements with or obtain  
4 documentation from any insurer registered under subsection 8, any affiliate of the  
5 insurer and other state, federal and international regulatory agencies for members of  
6 the insurance group in order to provide the basis for or otherwise clarify a regulatory  
7 official's role as groupwide supervisor.

8 I. The superintendent may adopt rules necessary for the administration of this  
9 subsection. Rules adopted pursuant to this paragraph are routine technical rules as  
10 defined in Title 5, chapter 375, subchapter 2-A.

11 J. A registered insurer subject to this subsection is liable for and shall pay the  
12 reasonable expenses of the superintendent's participation in the administration of this  
13 subsection, including the engagement of attorneys, actuaries and any other  
14 professionals and all reasonable travel expenses.

15 **Sec. B-7. 24-A MRSA §222, sub-§9, ¶A-1**, as enacted by PL 2013, c. 238, Pt.  
16 A, §21 and affected by §34, is amended to read:

17 A-1. Agreements for ~~cost-sharing~~ management services and ~~management cost~~  
18 sharing must include any provisions required by the superintendent by rule.

19 **Sec. B-8. 24-A MRSA §222, sub-§9, ¶E**, as amended by PL 2013, c. 238, Pt. A,  
20 §21 and affected by §34, is further amended to read:

21 E. A domestic insurer shall notify the superintendent in writing at least 30 days in  
22 advance, unless the superintendent authorizes a shorter period, before entering into or  
23 materially amending or modifying any of the following kinds of transactions with any  
24 member of its holding company system:

25 (1) Sales, purchases, exchanges, loans or extensions of credit, guarantees or  
26 investments that are equal to or exceed:

27 (a) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted  
28 assets as of December 31st of the preceding year and 25% of surplus to  
29 policyholders;

30 (b) With respect to life insurers, 3% of the insurer's admitted assets as of  
31 December 31st of the preceding year; or

32 (c) With respect to nonprofit hospital and medical service organizations and  
33 their 100% controlled affiliates that operate as monoline health insurers or  
34 health maintenance organizations, the lesser of 5% of the entity's admitted  
35 assets as of December 31st of the preceding year and 25% of surplus to  
36 policyholders;

37 (2) Loans or extensions of credit to any person who is not an affiliate, if the  
38 insurer makes the loan or extension of credit with the agreement or understanding  
39 that the proceeds in whole or in substantial part are to be used to make loans or  
40 extensions of credit to, purchase assets of or make investments in any affiliate of



1 the insurer if the loan, extension of credit, purchase or investment is equal to or  
2 exceeds:

3 (a) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted  
4 assets as of December 31st of the preceding year and 25% of surplus to  
5 policyholders;

6 (b) With respect to life insurers, 3% of the insurer's admitted assets as of  
7 December 31st of the preceding year; or

8 (c) With respect to nonprofit hospital and medical service organizations and  
9 their 100% controlled affiliates that operate as monoline health insurers or  
10 health maintenance organizations, the lesser of 5% of the entity's admitted  
11 assets as of December 31st of the preceding year and 25% of surplus to  
12 policyholders;

13 (3) All reinsurance pooling agreements, and all reinsurance agreements in which  
14 the reinsurance premium or a change in the insurer's liabilities, or the projected  
15 reinsurance premium or a projected change in the insurer's liabilities in any of the  
16 next 3 years, equals or exceeds 5% of the insurer's surplus to policyholders, as of  
17 December 31st of the preceding year, including those agreements that may  
18 require as consideration the transfer of assets from an insurer to a nonaffiliate if  
19 an agreement or understanding exists between the insurer and nonaffiliate that  
20 any portion of the assets will be transferred to one or more affiliates of the  
21 insurer;

22 (4) All management agreements, cost-sharing arrangements, tax allocation  
23 agreements, service contracts and guaranties, with the exception of guaranties  
24 that are quantifiable in amount and do not exceed, in the aggregate, the lesser of  
25 0.5% of admitted assets and 10% of surplus as regards policyholders as of  
26 December 31st of the preceding year;

27 (5) Any transactions that are part of a plan or series of like transactions with  
28 persons within the holding company system if the ~~purpose of those separate~~  
29 ~~transactions is to avoid the statutory threshold amount and thus avoid the review~~  
30 ~~that would occur otherwise~~ transactions when aggregated over any 12-month  
31 period exceed the reporting thresholds of this paragraph. If the superintendent  
32 determines that those separate transactions were entered into ~~over any 12-month~~  
33 ~~period for such a purpose, the superintendent may exercise authority for the~~  
34 purpose of avoiding regulatory review by circumventing statutory reporting  
35 requirements, that determination is a sufficient basis for disapproving the  
36 transactions under this subsection; and

37 (6) Any other material transactions specified by rule that the superintendent has  
38 determined may adversely affect the interests of the insurer's policyholders.

39 A notice of amendment or modification of a transaction must include the reasons for  
40 the change and the financial impact on the domestic insurer. The insurer shall notify  
41 the superintendent within 30 days after terminating an agreement previously reported  
42 under this paragraph.

1 The superintendent shall disapprove a transaction that is subject to this paragraph if  
2 the transaction violates the standards of this section or other applicable law or  
3 adversely affects the interests of policyholders. The superintendent's failure to make  
4 a determination on a proposed transaction within 30 days after it has been submitted  
5 for review has the effect of an approval, unless the superintendent has issued a notice  
6 of adjudicatory hearing on the proposal in accordance with section 230.

7 **Sec. B-9. 24-A MRSA §222, sub-§11-C, ¶C**, as enacted by PL 2009, c. 511, Pt.  
8 A, §5, is amended to read:

9 C. An extraordinary dividend may not be paid until affirmatively approved by the  
10 superintendent or until at least 60 days after the superintendent has received a request  
11 to pay an extraordinary dividend.

12 (1) For purposes of this subsection, "extraordinary dividend" means any  
13 dividend or distribution, other than a pro rata distribution of a class of the  
14 insurer's own securities, that:

15 (a) ~~Exceeds~~ When aggregated with all other dividends and distributions paid  
16 or proposed to be paid by the insurer less than a full year before the payment  
17 date, exceeds the greater of 10% of the insurer's surplus to policyholders as  
18 of December 31st of the preceding year ~~or~~ and the net gain from operations  
19 for the preceding calendar year, ~~whichever is greater;~~

20 (b) Is declared within 5 years after any acquisition of control of a domestic  
21 insurer or of any person controlling that insurer, unless it has been approved  
22 by a number of continuing directors equal to a majority of the directors in  
23 office immediately preceding that acquisition of control; or

24 (c) Is not paid entirely from unassigned funds. For purposes of this division,  
25 50% of the net of unrealized capital gains and unrealized capital losses,  
26 reduced, but not to less than zero, by that portion of the asset valuation  
27 reserve attributable to equity investments, must be excluded from the  
28 calculation of unassigned funds.

29 (2) An insurer may declare an extraordinary dividend on a conditional basis,  
30 subject to the superintendent's approval. A declaration pursuant to this  
31 subparagraph does not confer any rights upon stockholders until the  
32 superintendent has approved the payment or the 60-day review period has  
33 elapsed.

34 **Sec. B-10. 24-A MRSA §222, sub-§13-A, ¶A**, as enacted by PL 2013, c. 238,  
35 Pt. A, §26 and affected by §34, is amended to read:

36 A. For purposes of this subsection, "holding company information" means any of the  
37 following documents, materials and other information if the document, material or  
38 other information has not specifically and expressly been designated as a public  
39 record by other applicable law:

40 (1) Information obtained by the superintendent pursuant to an examination or  
41 investigation pursuant to subsection 1-A to the same extent as the information

- 1 would have been confidential if obtained in an examination or investigation  
2 conducted under section 220 or 221;
- 3 (2) A registration statement or report filed under subsection 8, including all  
4 supporting information;
- 5 (3) A report filed under subsection 9, including all supporting information;
- 6 (4) A notice of proposed divestiture filed under subsection 4-C, paragraph B,  
7 until the divestiture transaction has occurred;
- 8 (5) A disclosure of the beneficial owner of securities made by a broker-dealer  
9 pursuant to subsection 4-C, paragraph E;
- 10 (6) The identity of a lender that is to finance a proposed transaction if declared  
11 confidential under subsection 4-C, paragraph C, subparagraph (2);
- 12 (7) Information filed in support of any required attestation of risk management  
13 or internal controls under subsection 4-C, paragraph C, subparagraph (12) or  
14 (13);
- 15 (8) A competitive impact statement filed under subsection 4-C, paragraph C,  
16 subparagraph (14), including all supporting information;
- 17 (8-A) Groupwide supervision information reported or provided to the  
18 superintendent under subsection 7-C;
- 19 (9) Information obtained under an information-sharing agreement entered into  
20 pursuant to this section to the extent that it is protected by the confidentiality  
21 provisions of the agreement;
- 22 (10) Information obtained pursuant to this section from a jurisdiction other than  
23 this State to the extent that it is confidential under the laws of the jurisdiction in  
24 which it is normally maintained; and
- 25 (11) Information obtained under this section to the extent that it is confidential  
26 under other applicable law, including, but not limited to, section 216, section 225  
27 and Title 1, section 402, subsection 3.

28 **Sec. B-11. 24-A MRSA §223, sub-§1**, as amended by PL 1991, c. 828, §7, is  
29 further amended to read:

30 **1.** Whenever the superintendent determines to examine the affairs of any person,  
31 the superintendent shall designate one or more examiners and instruct them as to the  
32 scope of the examination. The superintendent may designate a bureau employee or may  
33 designate an examiner outside the bureau ~~if the designee is a competent public accountant~~  
34 ~~or an actuary who is a member of the American Academy of Actuaries and is in active~~  
35 ~~practice~~ who has been retained pursuant to section 208. Examiners may be attorneys,  
36 appraisers, independent actuaries, independent certified public accountants or other  
37 professionals and specialists with skills relevant to the examination. The examiner shall,  
38 upon demand, exhibit the examiner's official credentials to the person under examination.

39 A. An examiner may not be designated by the superintendent if the examiner directly  
40 or indirectly has a conflict of interest or is affiliated with the management of or owns

1 a pecuniary interest in any person subject to examination under sections 221 and 222.  
2 This section may not be construed to preclude automatically an examiner from being:

- 3 (1) A policyholder or claimant under an insurance policy;
- 4 (2) A grantor of a mortgage or similar instrument on the examiner's residence to  
5 a regulated entity if done under customary terms and in the ordinary course of  
6 business;
- 7 (3) An investment owner in shares of regulated diversified investment  
8 companies; or
- 9 (4) A settlor or beneficiary of a "blind trust" into which any otherwise  
10 impermissible holdings have been placed.

11 **Sec. B-12. 24-A MRSA §223, sub-§2**, as amended by PL 1993, c. 313, §14, is  
12 further amended to read:

13 **2.** The superintendent shall conduct each examination in an expeditious, fair and  
14 impartial manner, consistent with current guidelines and procedures adopted from time to  
15 time by the National Association of Insurance Commissioners and published in its  
16 Examiners' Financial Condition Examiners Handbook or Market Regulation Handbook  
17 as applicable, or their successor publications.

## 18 PART C

19 **Sec. C-1. 24-A MRSA §731-B, sub-§1, ¶D**, as amended by PL 2013, c. 238, Pt.  
20 B, §6, is further amended to read:

21 D. Does not meet the requirements of paragraph A, B, B-1, B-2 or C, but only with  
22 respect to risks located in a jurisdiction where that reinsurance is required by law.  
23 The superintendent may waive the requirements of subsections 2 and 5 to the extent  
24 that compliance with those requirements is not feasible for compulsory reinsurance  
25 subject to this paragraph. The superintendent for good cause after notice and  
26 opportunity for hearing may disallow or reduce the credit otherwise permitted under  
27 this paragraph.

28 **Sec. C-2. 24-A MRSA §731-B, sub-§2-B** is enacted to read:

29 **2-B.** Through rules adopted under subsection 7, the superintendent may establish  
30 additional requirements that reinsurance agreements that are subject to this subsection  
31 must satisfy to qualify for credit.

32 A. This subsection applies only to reinsurance of:

- 33 (1) Life insurance policies with guaranteed nonlevel gross premiums or  
34 guaranteed nonlevel benefits;
- 35 (2) Universal life insurance policies with provisions resulting in the ability of a  
36 policyholder to keep a policy in force over a secondary guarantee period;
- 37 (3) Variable annuities with guaranteed death or living benefits;
- 38 (4) Long-term care insurance policies; or

1 (5) Other life and health insurance and annuity products for which the National  
2 Association of Insurance Commissioners adopts model regulatory requirements  
3 with respect to credit for reinsurance.

4 B. Requirements established under this subsection may address:

5 (1) The valuation of assets or reserve credits;

6 (2) The amount and forms of acceptable security, in accordance with rules that  
7 may supplement or modify the requirements of subsection 3; and

8 (3) The circumstances pursuant to which credit will be reduced or eliminated.

9 C. Requirements established under this subsection may take into consideration the  
10 results of applying the valuation manual adopted under section 959 to ceded policies  
11 whose statutory reserves are calculated according to a prior methodology.

12 D. Requirements established with respect to reinsurance described in paragraph A,  
13 subparagraphs (1) and (2) may apply to any treaty for which the risk ceded includes:

14 (1) Policies issued on or after January 1, 2015; or

15 (2) Risk on policies issued before January 1, 2015 and ceded in connection with  
16 the treaty, in whole or in part, on or after January 1, 2015.

17 E. This subsection does not apply to cessions to an assuming insurer that:

18 (1) Is certified in this State pursuant to subsection 1, paragraph B-2; or

19 (2) Maintains at least \$250,000,000 in capital and surplus as determined in  
20 accordance with section 901-A, excluding the impact of any permitted or  
21 prescribed practices; and is:

22 (a) Licensed in at least 26 states; or

23 (b) Licensed in at least 10 states and licensed or accredited in a total of at  
24 least 35 states.

## 25 **PART D**

26 **Sec. D-1. 24-A MRSA §4379, first ¶**, as enacted by PL 1969, c. 132, §1, is  
27 amended to read:

28 The priorities in distribution of assets from the insurer's estate ~~shall be to pay~~  
29 unsecured claims, including the unsecured portion of undersecured claims, are  
30 in the order as shown in this section. The first \$50 of the amount allowed on each claim in the  
31 classes under subsections ~~2 to~~ 3, 4, 4-B, 5 and 6 shall must be deducted from the claim  
32 and included in the class under subsection 8. Claims shall may not be cumulated by  
33 assignment to avoid application on the \$50 deductible provision. Subject to the \$50  
34 deductible provision, every claim in each class shall must be paid in full or adequate  
35 funds retained for the payment thereof before claims of the next succeeding class receive  
36 any payment. No subclasses shall may be established within any class.

37 **Sec. D-2. 24-A MRSA §4379, sub-§2**, as enacted by PL 1969, c. 132, §1, is  
38 repealed.

1 **Sec. D-3. 24-A MRSA §4379, sub-§§4-A and 4-B** are enacted to read:

2 **4-A. Federal claims.** Claims of the Federal Government not included in the classes  
3 under subsections 3 or 4, except to the extent that a similar claim would be subordinated  
4 in a proceeding conducted under the United States Bankruptcy Code.

5 **4-B. Wages.** Debts due to employees of the insurer, other than officers, for services  
6 performed, not to exceed \$1,000 to each employee and earned within one year  
7 immediately preceding the filing of the petition for liquidation. This priority is in lieu of  
8 any other similar priority authorized by law as to wages or compensation of such  
9 employees.

10 **Sec. D-4. 24-A MRSA §4379, sub-§5,** as enacted by PL 1969, c. 132, §1, is  
11 amended to read:

12 **5. Residual classification.** All other claims, including claims of ~~the federal~~ or any  
13 state or local government, not falling within other classes under this section. Claims,  
14 including those of any governmental body, for a penalty or forfeiture ~~shall be allowed~~ are  
15 included in this class only to the extent of the pecuniary loss sustained from the act,  
16 transaction or proceeding out of which the penalty or forfeiture arose, with reasonable  
17 and actual costs occasioned thereby. The remainder of such claims ~~shall~~ must be  
18 postponed to the class of claims under subsection 8.

19 **Sec. D-5. 24-A MRSA §4379, sub-§8, ¶A,** as enacted by PL 1969, c. 132, §1, is  
20 amended to read:

21 A. The first \$50 of each claim in the classes under subsections ~~2 through 3, 4, 4-B, 5~~  
22 and 6 subordinated under this section;

23 **Sec. D-6. 24-A MRSA §4386, sub-§2, ¶A,** as enacted by PL 1981, c. 347, is  
24 amended to read:

25 A. Reserving amounts for the payment of the expenses of administration and the  
26 claims falling within the priorities established in section 4379, subsections 1 and ~~2~~  
27 4-B;

28 **PART E**

29 **Sec. E-1. 24-A MRSA §6401,** as enacted by PL 1991, c. 828, §33, is amended to  
30 read:

31 **§6401. Short title**

32 This chapter may be known and cited as the "Maine Business Transacted with  
33 ~~Broker-Controlled~~ Producer-controlled Insurer Act."

34 **Sec. E-2. 24-A MRSA §6402, sub-§2,** as enacted by PL 1991, c. 828, §33, is  
35 repealed.

1           **Sec. E-3. 24-A MRSA §6402, sub-§4**, as enacted by PL 1991, c. 828, §33, is  
2 amended to read:

3           **4. Controlling producer.** "Controlling ~~broker~~ producer" means a ~~broker~~ producer  
4 who directly or indirectly controls an insurer.

5           **Sec. E-4. 24-A MRSA §6402, sub-§5**, as enacted by PL 1991, c. 828, §33, is  
6 amended to read:

7           **5. Controlled insurer.** "Controlled insurer" means a licensed property or casualty  
8 insurer that is controlled directly or indirectly by a ~~broker~~ producer.

9           **Sec. E-5. 24-A MRSA §6402, sub-§6**, as enacted by PL 1991, c. 828, §33, is  
10 amended to read:

11           **6. Licensed property or casualty insurer.** "Licensed property or casualty insurer"  
12 ~~or "insurer"~~ means any person licensed to transact a property or casualty insurance  
13 business, or both, in this State. ~~The following, inter alia, are not licensed insurers for the~~  
14 ~~purposes of this chapter with the exception of:~~

15           A. ~~All risk retention groups as defined in the federal Superfund Amendments~~  
16 ~~Reauthorization Act of 1986, Public Law No. 99-499, 100 Stat. 1613 (1986) and the~~  
17 ~~Risk Retention Act, 15 United States Code, Section 3901 et seq. and the Maine~~  
18 ~~Liability Risk Retention Act;~~

19           B. ~~All A residual market pools and pool or joint underwriting authorities authority or~~  
20 ~~associations association; and or~~

21           C. ~~All captive insurers, which for the purposes of this chapter are insurance~~  
22 ~~companies owned by another organization whose exclusive purpose is to insure risks~~  
23 ~~of the parent organization and affiliated companies or, in the case of groups and~~  
24 ~~associations, insurance organizations owned by the insureds whose exclusive purpose~~  
25 ~~is to insure risks to member organizations or group members and their affiliates. A~~  
26 ~~special purpose reinsurance vehicle holding a limited certificate of authority under~~  
27 ~~section 782 or a captive insurance company, other than a risk retention group,~~  
28 ~~licensed under section 6702.~~

29           **Sec. E-6. 24-A MRSA §6402, sub-§7**, as amended by PL 1997, c. 457, §53 and  
30 affected by §55, is further amended to read:

31           **7. Producer.** "Producer" means an insurance producer licensed or required to be  
32 licensed pursuant to chapter 16 or a person holding or required to hold a comparable  
33 license in another state where a licensed property or casualty insurer does business.

34           **Sec. E-7. 24-A MRSA §6402, sub-§8**, as enacted by PL 1991, c. 828, §33, is  
35 amended to read:

36           **8. Subproducer.** "Subproducer" means a producer who, for shared commission or  
37 other recompense, places business with a controlled insurer through a controlling ~~broker~~  
38 producer.

1           **Sec. E-8. 24-A MRSA §6403**, as enacted by PL 1991, c. 828, §33, is amended to  
2 read:

3           **§6403. Applicability**

4           This ~~Act~~ chapter applies to licensed property or casualty insurers ~~as defined in section~~  
5 ~~6402~~, either domiciled in this State or domiciled in a state that is not an accredited state  
6 with a substantially similar law in effect. Section 222, to the extent not modified by this  
7 chapter, continues to apply to all parties within holding company systems subject to this  
8 chapter.

9           **Sec. E-9. 24-A MRSA §6404**, as enacted by PL 1991, c. 828, §33, is amended to  
10 read:

11           **§6404. Minimum standards**

12           **1. Applicability.** This section applies as follows.

13           A. This section applies if, in any calendar year, the aggregated amount of gross  
14 written premium on business placed with a controlled insurer by a controlling ~~broker~~  
15 producer is equal to or greater than 5% of the admitted assets of the controlled insurer  
16 as of September 30th of the preceding year, as reported in the controlled insurer's  
17 quarterly statement.

18           B. Notwithstanding paragraph A, this section does not apply if:

19               (1) The controlling ~~broker~~ producer:

20                   (a) Places insurance only with the controlled insurer, only with the  
21 controlled insurer and a member or members of the controlled insurer's  
22 holding company system or only with the controlled insurer's parent, affiliate  
23 or subsidiary and receives no compensation based upon the amount of  
24 premiums written in connection with such insurance; and

25                   (b) Accepts insurance placements only from nonaffiliated subproducers and  
26 not directly from insureds; and

27               (2) The controlled insurer, except for insurance business written through a  
28 residual market facility such as the workers' compensation residual market  
29 mechanism or the State's automobile assigned risk plan, accepts insurance  
30 business only from a controlling ~~broker~~ producer, a producer controlled by the  
31 controlled insurer or a producer that is a subsidiary of the controlled insurer.

32           **2. Required contract provisions.** A controlled insurer may not accept business  
33 from a controlling ~~broker~~ producer and a controlling ~~broker~~ producer may not place  
34 business with a controlled insurer unless there is a written contract between the  
35 controlling ~~broker~~ producer and the controlled insurer specifying the responsibilities of  
36 each party. The contract must be approved by the board of directors of the insurer and  
37 must contain the following minimum provisions.

38           A. The controlled insurer may terminate the contract for cause upon written notice to  
39 the controlling ~~broker~~ producer. The controlled insurer shall suspend the authority of



1 the controlling ~~broker~~ producer to write business during the pendency of any dispute  
2 regarding the cause for the termination.

3 B. The controlling ~~broker~~ producer shall render timely accounts to the controlled  
4 insurer detailing all material transactions including information necessary to support  
5 all commissions, charges and other fees received by or owed to the controlling ~~broker~~  
6 producer.

7 C. The controlling ~~broker~~ producer shall remit all funds due under the terms of the  
8 contract to the controlled insurer on at least a monthly basis. The due date must be  
9 fixed so that premiums or installments of premiums collected are remitted no later  
10 than 90 days after the effective date of any policy placed with the controlled insurer  
11 under the contract.

12 D. All funds collected for the controlled insurer's account must be held in trust by the  
13 controlling ~~broker~~ producer in a fiduciary capacity, in one or more appropriately  
14 identified bank accounts in banks that are members of the Federal Reserve System, in  
15 accordance with applicable insurance laws. Funds of a controlling ~~broker~~ producer  
16 not licensed in this State must be maintained in compliance with the requirements of  
17 the controlling ~~broker's~~ producer's domiciliary jurisdiction.

18 E. The controlling ~~broker~~ producer shall maintain separately identifiable records of  
19 business written for the controlled insurer. The controlled insurer must have access  
20 and may copy all accounts and records related to its business in a form usable by the  
21 insurer. The records must be retained according to section 3408.

22 F. The contract may not be assigned in whole or in part by the controlling ~~broker~~  
23 producer.

24 G. The controlled insurer shall provide the controlling ~~broker~~ producer with its  
25 underwriting standards, rules, procedures, rates and conditions, including manuals  
26 setting forth the rates to be charged and the conditions for the acceptance or rejection  
27 of risks. The controlling producer shall comply with those standards, rules,  
28 procedures, rates and conditions, which must be the same as those applicable to  
29 comparable business placed with the controlled insurer by a producer other than the  
30 controlling ~~broker~~ producer.

31 H. The rates of the controlling ~~broker's~~ producer's commissions, charges and other  
32 fees may not be greater than those applicable to comparable business placed with the  
33 controlled insurer by producers other than controlling ~~brokers~~ producers. For  
34 purposes of this paragraph and paragraph G, examples of "comparable business"  
35 include the same lines of insurance, the same kinds of insurance, the same kinds of  
36 risks, similar policy limits and similar quality of business.

37 I. If the contract provides that the controlling ~~broker~~ producer, on insurance business  
38 placed with the insurer, must be compensated contingent upon the insurer's profits on  
39 that business, then that compensation may not be determined and paid until at least 5  
40 years after the premiums on liability insurance are earned and at least one year after  
41 the premiums are earned on any other insurance. The commissions may not be paid  
42 until the adequacy of the controlled insurer's reserves on remaining claims are  
43 independently verified pursuant to subsection 3.

1 J. The controlled insurer shall place a limit on the controlling ~~broker's~~ producer's  
2 writings in relation to the controlled insurer's surplus and total writings. The insurer  
3 may establish a different limit for each line or subline of business. The controlled  
4 insurer shall notify the controlling ~~broker~~ producer when the applicable limit is  
5 approached and may not accept business from the controlling ~~broker~~ producer if the  
6 limit is reached. The controlling ~~broker~~ producer may not place business with the  
7 controlled insurer if notified by the controlled insurer that the limit has been reached.

8 K. The controlling ~~broker~~ producer may negotiate but may not bind reinsurance on  
9 behalf of the controlled insurer on business the controlling ~~broker~~ producer places  
10 with the controlled insurer, except that the controlling ~~broker~~ producer may bind  
11 facultative reinsurance contracts pursuant to obligatory facultative agreements. All  
12 such contracts with the controlled insurer must contain underwriting guidelines  
13 including, for reinsurance both assumed and ceded, a list of reinsurers with which the  
14 automatic agreements are in effect, the coverages and amounts or percentages that  
15 may be reinsured and schedules of the commissions allowed.

16 **3. Audit committee.** Every controlled insurer must have an audit committee of the  
17 board of directors composed of independent directors. The audit committee shall  
18 annually meet with management, the insurer's independent certified public accountants  
19 and an independent casualty actuary acceptable to the superintendent to review the  
20 adequacy of the insurer's loss reserves.

21 **4. Reporting requirements.** A controlled insurer shall make the following reports.

22 A. In addition to any other required loss reserve certification, by April 1st of each  
23 year, the controlled insurer shall file with the superintendent an opinion of an  
24 independent casualty actuary acceptable to the superintendent reporting loss ratios for  
25 each line of business written and attesting to the adequacy of loss reserves established  
26 for losses incurred and outstanding at the preceding year end, including incurred but  
27 not reported losses, on business placed by the controlled ~~broker~~ producer.

28 B. The controlled insurer shall report annually to the superintendent the amount of  
29 commissions paid to the controlling ~~broker~~ producer, the percentage that amount  
30 represents of the net premiums written and comparable amounts and percentage paid  
31 to noncontrolling producers for placement of the same kinds of insurance.

32 **Sec. E-10. 24-A MRSA §6405**, as corrected by RR 1991, c. 2, §94, is amended to  
33 read:

34 **§6405. Disclosure**

35 ~~Prior to~~ Before the effective date of ~~the~~ any policy placed with a controlled insurer by  
36 a controlling producer or a controlling producer's subproducer, the controlling ~~insurer~~  
37 producer shall ~~cause the controlling broker to~~ deliver written notice to the prospective  
38 insured disclosing the relationship between the ~~broker~~ producer and the controlled  
39 insurer, except that if the business is placed through a subproducer who is not a  
40 controlling ~~broker~~ producer, the controlling ~~insurer~~ producer shall ~~cause the controlling~~  
41 ~~broker to~~ retain and enforce a signed commitment from the subproducer that the

1 subproducer is aware of the relationship between the insurer and the controlling ~~broker~~  
2 producer and that the subproducer has notified or will notify the insured.

3 **Sec. E-11. 24-A MRSA §6406, sub-§1**, as enacted by PL 1991, c. 828, §33, is  
4 repealed and the following enacted in its place:

5 **1. Civil action by superintendent.** If the superintendent has good cause to believe  
6 that a controlled insurer or any policyholder of the controlled insurer has suffered any  
7 loss or damage resulting from a violation of this chapter, the superintendent may maintain  
8 a civil action or intervene in an action brought by or on behalf of the insurer or  
9 policyholder for recovery of compensatory damages or other appropriate relief for the  
10 benefit of the insurer or policyholder.

11 **Sec. E-12. 24-A MRSA §6406, sub-§2**, as enacted by PL 1991, c. 828, §33, is  
12 amended to read:

13 **2. Civil action by receiver.** If an order for liquidation or rehabilitation of ~~the a~~ a  
14 controlled insurer is entered pursuant to chapter 57 and a receiver is appointed, and the  
15 ~~superintendent finds pursuant to subsection 1~~ receiver has good cause to believe that the  
16 controlling ~~broker~~ producer or any other person has not complied with this chapter or any  
17 rule or order made under this chapter and that the insurer suffered any loss or damage  
18 because of that noncompliance, the receiver ~~appointed under that order~~ may maintain a  
19 civil action for recovery of damages or other appropriate sanctions for the benefit of the  
20 insurer.

21 **Sec. E-13. 24-A MRSA §6406, sub-§3**, as enacted by PL 1991, c. 828, §33, is  
22 amended to read:

23 **3. Other action.** Nothing contained in this section affects the right of the  
24 superintendent to impose any ~~other penalties provided for in this Title~~ or other remedies  
25 authorized under section 12-A or other applicable law.

26 **Sec. E-14. 24-A MRSA §6407**, as enacted by PL 1991, c. 828, §33, is repealed.

27 **Sec. E-15. Maine Revised Statutes headnote amended; revision clause.** In  
28 the Maine Revised Statutes, Title 24-A, chapter 77, in the chapter headnote, the words  
29 "business transacted with broker-controlled property or casualty insurer" are amended to  
30 read "business transacted with producer-controlled property or casualty insurer" and the  
31 Revisor of Statutes shall implement this revision when updating, publishing or  
32 republishing the statutes.

## 33 PART F

34 **Sec. F-1. 24-A MRSA §6456, sub-§2**, as amended by PL 1997, c. 81, §8, is  
35 repealed and the following enacted in its place:

36 **2. Superintendent duties; mandatory control level event.** When a mandatory  
37 control level event occurs, the superintendent shall take those actions that are necessary to  
38 cause the insurer to be placed under regulatory control under chapter 57 or take

1 alternative action as authorized under paragraphs A and B. If the superintendent takes  
2 those actions, the mandatory control level event is deemed sufficient grounds for the  
3 superintendent to take action under chapter 57, and the superintendent has the rights,  
4 powers and duties with respect to the insurer as are set forth in chapter 57. If the  
5 superintendent takes actions pursuant to an adjusted risk-based capital report, the insurer  
6 is entitled to those protections that are afforded to insurers under the provisions of chapter  
7 57, subchapter 2 pertaining to summary proceedings.

8 A. The superintendent may forgo action for up to 90 days after the mandatory  
9 control level event if the superintendent finds there is a reasonable expectation that  
10 the mandatory control level event may be eliminated within the 90-day period.

11 B. In the case of a property and casualty insurer that is not authorized to write new  
12 business, the superintendent may allow the insurer to continue to run off its existing  
13 business under the superintendent's supervision if the superintendent determines that  
14 there will be sufficient funds to meet the insurer's obligations as they become due.  
15 This paragraph does not apply to health insurers.

16 **Sec. F-2. 24-A MRSA §6458, sub-§1**, as enacted by PL 1993, c. 634, Pt. A, §1,  
17 is amended to read:

18 **1. Confidentiality.** The following constitute information that might be damaging to  
19 the insurer if made available to its competitors and must be kept confidential by the  
20 superintendent:

21 A. Risk-based capital reports, with respect to any domestic insurer or foreign insurer,  
22 that are filed with the superintendent, to the extent that the information in the reports  
23 is not required to be set forth in a publicly available annual statement schedule; and

24 B. Risk-based capital plans, with respect to any domestic insurer or foreign insurer,  
25 that are filed with the superintendent, including the results or report of any  
26 examination or analysis of an insurer performed pursuant to this chapter and any  
27 corrective order issued by the superintendent pursuant to the examination or analysis.

28 The information listed in paragraph A or B may be shared on a confidential basis in  
29 accordance with section 216, subsection 5 but may not be made public or be subject to  
30 subpoena, other than by the superintendent and then only for the purpose of enforcement  
31 actions taken by the superintendent pursuant to this chapter or any other provision of the  
32 insurance laws of this State.

33 **Sec. F-3. 24-A MRSA §6458, sub-§3** is enacted to read:

34 **3. Prohibition on use in ratemaking.** Risk-based capital instructions, risk-based  
35 capital reports, adjusted risk-based capital reports, risk-based capital plans and revised  
36 risk-based capital plans may not be used by the superintendent for purposes of rate  
37 review, considered or used as evidence in any rate proceeding or used by the  
38 superintendent to calculate or derive any elements of an appropriate premium level or  
39 appropriate rate of return. This subsection does not prohibit the consideration of  
40 premium rates and projected or realized rates of return for purposes of company action or  
41 regulatory action taken under this chapter.



1           **Sec. G-3. 24-A MRSA §6702, sub-§3, ¶C**, as enacted by PL 1997, c. 435, §1, is  
2 amended to read:

3           C. The A plan of operation satisfactory to the superintendent, with supporting  
4 information demonstrating the overall soundness of its plan of operation;

5           **Sec. G-4. 24-A MRSA §6706, sub-§1, ¶C**, as enacted by PL 2009, c. 335, §12,  
6 is amended to read:

7           C. Organized as a ~~manager-managed~~ limited liability company with a limited  
8 liability company agreement approved by the superintendent.

9           **Sec. G-5. 24-A MRSA §6706, sub-§2, ¶D**, as enacted by PL 2009, c. 335, §12,  
10 is amended to read:

11           D. Organized as a ~~manager-managed~~ limited liability company with a limited  
12 liability company agreement approved by the superintendent.

13           **Sec. G-6. 24-A MRSA §6706, sub-§3**, as amended by PL 2009, c. 335, §12, is  
14 further amended to read:

15           **3. Incorporators.** A captive insurance company, other than a limited liability  
16 company, may not have fewer than 3 incorporators or 3 organizers of whom at least one  
17 must be a resident of this State. If the captive insurance company is a limited liability  
18 company, ~~at least one manager~~ its certificate of formation must be executed by a resident  
19 of this State.

20           **Sec. G-7. 24-A MRSA §6706, sub-§6**, as amended by PL 2013, c. 588, Pt. A,  
21 §30, is further amended to read:

22           **6. Board of directors.** If a captive insurance company incorporated in this State is  
23 formed as a corporation, then at least one of the members of the board of directors of the  
24 company incorporated in this State must be a resident of this State. If the company is  
25 formed as a reciprocal insurer, then at least one of the members of the subscribers'  
26 advisory committee must be a resident of this State. If the company is organized as a  
27 limited liability company, then at least one ~~manager~~ member of its governing body must  
28 be a resident of this State.

29           **Sec. G-8. 24-A MRSA §6707**, as amended by PL 1997, c. 583, §4, is further  
30 amended to read:

31           **§6707. Financial statements and other reports**

32           **1. Financial statement.** A captive insurance company shall submit an annual  
33 statement of financial condition ~~written according to generally accepted accounting~~  
34 ~~principles and~~ audited by an independent certified public accountant to the superintendent  
35 on or before the last day of the 6th month following the end of the company's fiscal year.

36           A. The audited financial statement of an association captive insurance company or  
37 industrial insured captive insurance company must be prepared in conformity with  
38 statutory accounting principles.

1            B. The audited financial statement of a captive insurance company other than those  
2            set out in paragraph A must be prepared in conformity with either generally accepted  
3            accounting principles or statutory accounting principles, at the election of the  
4            company.

5            **2. Annual and quarterly statements.** An association captive insurance company or  
6            industrial insured captive insurance company shall file ~~an annual statement~~ annual and  
7            quarterly statements in accordance with statutory accounting ~~practices~~ principles, each of  
8            which must be a true statement of its financial condition, transactions and affairs ~~as of the~~  
9            ~~immediately preceding December 31st,~~ substantially similar to the statements required  
10           under sections 423 and 423-A for insurance companies certified under section 414, in  
11           general form and context as approved by the National Association of Insurance  
12           Commissioners, or other format prescribed by the superintendent, verified by oaths of at  
13           least 2 of the insurer's principal officers.

14           **3. Reserves.** The statements required under subsections 1 and 2 must include, but  
15           are not limited to, actuarially appropriate reserves for:

- 16           A. Known claims and associated expenses;
- 17           B. Claims incurred but not reported and associated expenses;
- 18           C. Unearned premiums; and
- 19           D. Bad debts, reserves for which must be shown as liabilities.

20           An actuarial opinion regarding reserves for known claims and claims incurred but not  
21           reported, and expenses associated with those claims, must be included in the audited  
22           statements. The actuarial opinion must be given by a member of the American Academy  
23           of Actuaries or other qualified loss reserve specialist as defined in the annual statement  
24           instructions adopted by the National Association of Insurance Commissioners.

25           **4. Other reports.** The superintendent may prescribe the format and frequency of  
26           other reports, which may include, but are not limited to, summary loss reports, material  
27           transaction reports and ~~quarterly~~ interim financial statements.

28           **Sec. G-9. 24-A MRSA §6715,** as amended by PL 1997, c. 583, §5, is further  
29           amended to read:

30           **§6715. Confidential information**

31           All information submitted to the superintendent pursuant to section 6702, subsection  
32           3 and section 6724, subsection 3 is confidential and is not a public record within the  
33           meaning of Title 1, chapter 13, subchapter ~~1~~ 1. Each report or statement filed with the  
34           superintendent pursuant to section 6707, except those filed by or with respect to industrial  
35           insured groups as defined in section 6701, subsection 8, is confidential and is not a public  
36           record within the meaning of Title 1, chapter 13, subchapter ~~1~~ 1. The confidential nature  
37           of this information does not limit the ability of the superintendent, in the superintendent's  
38           discretion, to disclose such information to a public official in another state, as long as the  
39           public official agrees in writing to maintain the confidentiality of such information and  
40           the laws of the state in which the public official serves designate such information as  
41           confidential.

1           **Sec. G-10. 24-A MRSA §6724, sub-§2**, as enacted by PL 2009, c. 335, §23, is  
2 amended to read:

3           **2. Formation.** One or more sponsors may form a sponsored captive insurance  
4 company under this chapter. In addition to the general provisions of this chapter, the  
5 provisions of this section apply to sponsored captive insurance companies. A sponsored  
6 captive insurance company must be incorporated as a stock insurer with its capital  
7 divided into shares and held by the stockholder, as a nonprofit corporation with one or  
8 more members or as a ~~manager-managed~~ limited liability company with a limited liability  
9 company agreement approved by the superintendent.

10           **Sec. G-11. 24-A MRSA §6724, sub-§4, ¶B**, as enacted by PL 2009, c. 335, §23,  
11 is amended to read:

12           B. Each participant contract must specify one or more protected cells as the sole  
13 source of the participant's coverage and limit the covered losses of the participant to  
14 ~~its pro rata share of~~ an amount not to exceed the amount recoverable from the assets  
15 of the protected cell or cells identified in the contract and shall provide for pro rata  
16 distribution if the assets of a cell are insufficient to pay all liabilities to participants. If  
17 the sponsored captive insurance company enters into a contract involving more than  
18 one protected cell, the rights and obligations relating to each protected cell must be  
19 several rather than joint and the contract must make clear provisions for  
20 apportionment of the rights and obligations between protected cells;

21           **Sec. G-12. 24-A MRSA §6724, sub-§4, ¶B-1** is enacted to read:

22           B-1. A sponsored captive insurance company may only reinsure risks of its  
23 participants, and its liability to a ceding insurer must be limited to amounts  
24 recoverable from the assets of the protected cell or cells participating in the risks  
25 giving rise to the underlying losses in accordance with paragraph B. Any  
26 management fees or other unallocated expenses payable to a ceding insurer or its  
27 affiliate or contractor must be charged pro rata to the protected cell or cells assuming  
28 the reinsurance and may not be a liability of the general account;

29           **Sec. G-13. 24-A MRSA §6724, sub-§4, ¶C**, as enacted by PL 2009, c. 335, §23,  
30 is amended to read:

31           C. Each protected cell must be accounted for separately on the books and records of  
32 the sponsored captive insurance company to reflect the financial condition and results  
33 of operations of each protected cell, net income or loss, dividends or other  
34 distributions to participants and such other factors as may be provided in the  
35 participant contract or required by the superintendent. All attributions of assets and  
36 liabilities between a protected cell and the general account must be in accordance  
37 with the plan of operation approved by the superintendent;

38           **Sec. G-14. 24-A MRSA §6724, sub-§4, ¶L**, as enacted by PL 2009, c. 335, §23,  
39 is amended to read:



1 L. A sponsored captive insurance company shall notify the superintendent in writing  
2 within 10 business days after the ~~special purpose reinsurance vehicle~~ company or any  
3 protected cell becomes impaired or insolvent.

4 **SUMMARY**

5 This bill updates several provisions of the Maine Insurance Code to incorporate  
6 recent amendments to model laws adopted by the National Association of Insurance  
7 Commissioners, or NAIC, and makes related technical changes. These amendments  
8 maintain the State's compliance with uniform financial solvency standards and with the  
9 NAIC's accreditation requirements for state insurance regulators.

10 Part A enhances regulatory oversight and complies with NAIC accreditation  
11 requirements by requiring domestic insurance carriers to file corporate governance annual  
12 disclosure reports and clarifying the filing requirement for quarterly financial statements.  
13 These requirements apply to health maintenance organizations, nonprofit hospital and  
14 medical service organizations and fraternal benefit societies as well as to traditional  
15 commercial insurance companies. Part A also updates the procedures for examinations  
16 and holding company supervision for health maintenance organizations, updates other  
17 financial reporting laws to conform to current requirements and clarifies the applicability  
18 of statutory accounting principles to nonprofit hospital and medical service organizations.

19 Part B facilitates coordinated regulatory action and complies with NAIC accreditation  
20 requirements by incorporating a group supervision framework. It amends the law  
21 regarding Maine insurance holding companies and examination laws to update obsolete  
22 references to the former NAIC Examiners' Handbook. It clarifies the Superintendent of  
23 Insurance's ability to hire examiners with any necessary credentials. It resolves  
24 inconsistencies in the criminal conviction reporting requirements and clarifies that  
25 dividend payments and affiliate transactions are aggregated over any consecutive 12-  
26 month period for purposes of applying statutory materiality thresholds.

27 Part C amends the law regarding credit for reinsurance to allow the Superintendent of  
28 Insurance to waive certain requirements and to incorporate the recently developed  
29 framework establishing uniform minimum collateral requirements for reserve financing  
30 transactions.

31 Part D corrects a conflict between state and federal insolvency laws and clarifies the  
32 priority of secured claims and federal claims.

33 Part E updates the Maine Business Transacted with Broker-Controlled Insurer Act to  
34 conform it to the current NAIC model act and comply with NAIC accreditation  
35 requirements. It corrects an inconsistency by clarifying the law's applicability to  
36 domestic risk retention groups, and it replaces obsolete references to "brokers" with  
37 references to "producers." Part E also clarifies a definition of "licensed insurer," amends  
38 the disclosure section to treat the producer rather than the insurer as the controlling party,  
39 removes superfluous enforcement language and repeals an obsolete transition clause.

40 Part F makes technical corrections to the risk-based capital standards laws to address  
41 issues identified during the most recent Department of Professional and Financial

1 Regulation, Bureau of Insurance accreditation review. These amendments codify current  
2 practice and maintain compliance with NAIC accreditation requirements, clarifying that  
3 the solvent run-off exception to mandatory control does not apply to health insurers,  
4 clarifying that confidential risk-based capital information may be shared with other public  
5 officials and agencies on the same basis as other confidential regulatory information,  
6 providing that risk-based capital information may not be used for rate-making purposes  
7 except to the extent that ratemaking and related activities are part of a corrective action  
8 for a risk-based capital impaired insurer and clarifying that the corrective action plan  
9 requirements for foreign insurers apply at all action levels.

10 Part G updates the captive insurance companies laws to respond to emerging  
11 regulatory issues and to make technical corrections. It clarifies the definitions of  
12 "controlled unaffiliated business" and "pure nonprofit captive insurance company" and  
13 clarifies that a captive insurance company's license application's supporting documents  
14 must include a plan of operation and that the additional supporting documents required  
15 for sponsored captive insurers are subject to the same confidentiality provisions as the  
16 other supporting documents. It corrects obsolete references to manager-managed limited  
17 liability companies and updates the reporting provisions for association and industrial  
18 captive insurers consistent with Part A of the bill. It provides that statutory rather than  
19 generally accepted accounting principles audits are to be filed when the captive insurer  
20 uses statutory accounting principles as its general basis of accounting, requires a  
21 sponsored captive insurer's plan of operation to specify how assets and liabilities are  
22 attributed between the protected cells and the general account and clarifies that a  
23 sponsored captive insurer's obligations to reinsurers follow the reinsured participant and  
24 not the general account.