PLEASE NOTE: Legislative Information ***cannot*** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill in Part A in section 1 in subsection 5 by striking out all of paragraphs A and B (page 1, lines 14 to 27 in L.D.) and inserting the following:

'A. Any information furnished pursuant to this subsection by or to the superintendent that has been designated confidential by the official, agency or other entity furnishing the information remains the property of the agency furnishing the information and must be held as confidential by the recipient of the information, except as authorized by the official, agency or other entity furnishing the information to the superintendent, with prior notice to interested parties and consistent with other applicable laws. The authority of the superintendent, pursuant to paragraph B, to permit further disclosure to a 3rd party or to the public of information shared by the superintendent is subject to the same requirements and conditions that apply if the superintendent discloses the information directly to a 3rd party or to the public.

B. The superintendent may share information, including otherwise confidential information, with the National Association of Insurance Commissioners or International Association of Insurance Supervisors, public officials of other jurisdictions and members of supervisory colleges in which the superintendent participates pursuant to section 222, subsection 7-B, agencies of the Federal Government or political subdivisions or other agencies of this State, if the recipient of the information agrees to maintain the same level of confidentiality as is available under Maine law and has demonstrated that it has the legal authority to do so.'

Amend the bill in Part A in section 3 in subsection 1-A in the 9th line (page 2, line 28 in L.D.) by striking out the following: "holding company" and inserting the following: 'insurance holding company system'

Amend the bill in Part A in section 3 in subsection 1-A in the 10th line (page 2, line 29 in L.D.) by inserting after the following: "verify" the following: 'the accuracy of'

Amend the bill in Part A in section 3 in subsection 1-A in paragraph A in subparagraph (3) in the first line (page 2, line 41 in L.D.) by inserting after the following: "by" the following: 'its'

Amend the bill in Part A in section 3 in subsection 1-A in paragraph B in the 5th line (page 3, line 10 in L.D.) by inserting after the following: "verify" the following: 'the accuracy of'

Amend the bill in Part A in section 3 in subsection 1-A in paragraph D in the 3rd line (page 3, line 24 in L.D.) by inserting after the following: "other" the following: 'lawful'

Amend the bill in Part A in section 4 in paragraph B by striking out all of subparagraph (3) (page 4, lines 21 to 32 in L.D.) and inserting the following:

'

(3) The presumption of control contained in subparagraph (1) does not apply to a securities broker-dealer holding, in the usual and customary broker's function, less than 20% of the voting securities of another person.

Amend the bill in Part A in section 11 in subsection 4-C by inserting after paragraph D the following:

‘E. A broker-dealer that is exempt from the requirements of this section pursuant to subsection 2, paragraph B, subparagraph (3) shall disclose to the superintendent the identity of any person, or group of persons the broker-dealer knows or reasonably believes to be acting in concert, on whose behalf the broker-dealer knows or reasonably believes that the broker-dealer holds 5% or more of the voting securities of a domestic insurer or of any entity the broker-dealer knows or reasonably believes to be a controlling person of a domestic insurer. A broker-dealer shall disclose to the superintendent on request the beneficial owners of any securities held by the broker-dealer of any entity that is, or that the superintendent believes might be or might become, a member of the insurance holding company system of an insurer subject to registration under subsection 8.’

Amend the bill in Part A in section 17 in paragraph B in subparagraph (2) by striking out all of division (e) (page 14, lines 13 to 15 in L.D.) and inserting the following:

‘

(e) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles;

’

Amend the bill in Part A in section 26 in subsection 13-A in paragraph A by striking out all of the first 4 lines (page 21, lines 28 to 31 in L.D.) and inserting the following:

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

Amend the bill in Part A in section 26 in subsection 13-A in paragraph A in subparagraph (5) in the 2nd line (page 22, line 4 in L.D.) by striking out the following: "2, paragraph B, subparagraph (3)" and inserting the following: '4-C, paragraph E'

Amend the bill in Part A in section 26 in subsection 13-A in paragraph A by striking out all of subparagraph (10) (page 22, lines 15 to 18 in L.D.) and inserting the following:

‘

(10) Information obtained pursuant to this section from a jurisdiction other than this State to the extent that it is confidential under the laws of the jurisdiction in which it is normally maintained; and

Amend the bill in Part A in section 26 in subsection 13-A by striking out all of paragraphs B and C (page 22, lines 22 to 41 and page 23, lines 1 to 17 in L.D.) and inserting the following:

‘B. Except as otherwise provided by paragraphs D and E or specifically and expressly provided by other applicable law, holding company information is confidential, is not a public record, is not subject to a subpoena, is not subject to discovery or admissible as evidence in any private

civil action and may not be made public by the superintendent without prior written consent of the relevant insurer. The privilege provided under this paragraph does not supersede any other applicable privilege or confidentiality protection, nor does disclosure of confidential holding company information to the superintendent constitute a waiver of any such privilege or protection. Neither the superintendent nor any person who received holding company information from or under the authority of the superintendent under this section may be permitted or required to testify in any private civil action concerning holding company information that is confidential under this subsection.

C. The superintendent may share holding company information that is confidential under this subsection only in accordance with the requirements of section 216, subsection 5 and the following additional requirements.

(1) The recipient of the information must agree in writing to maintain the same level of confidentiality as is available under Maine law. This requirement may be satisfied through a multilateral confidentiality agreement to which both the superintendent and the recipient are parties.

(2) The superintendent may not share confidential holding company information with or through the National Association of Insurance Commissioners except in accordance with an information-sharing agreement entered into in accordance with section 216, subsection 5, paragraph C.

(3) If the recipient of the information is in the United States, the recipient's state must have statutes or rules that expressly protect holding company information at a level at least equivalent to the protections provided by this subsection and section 216, subsection 5.

,

(4) ORSA-related information subject to subsection 8, paragraph B-3 may, with the written consent of the insurer, be shared with a 3rd-party consultant under an agreement containing the conditions specified in section 216, subsection 5, paragraph C. In addition, any agreement for sharing ORSA-related information with the National Association of Insurance Commissioners or a 3rd-party consultant must further provide that:

(a) The recipient of the information agrees in writing to maintain the confidentiality and privileged status of the ORSA-related information and has verified in writing the legal authority to maintain confidentiality;

(b) Any preauthorization granted under the agreement for further sharing of information provided by the superintendent must be limited to only the domiciliary regulators of other insurers in the same insurance holding company system; and

(c) The National Association of Insurance Commissioners or a 3rd-party consultant may not store ORSA-related information shared pursuant to this subparagraph in a permanent database after the underlying analysis is completed.

Amend the bill in Part A in section 26 in subsection 13-A by striking out all of paragraph E (page 23, lines 21 to 26 in L.D.) and inserting the following:

'E. Unless otherwise provided by applicable law, the superintendent may, after giving notice and opportunity for hearing to the insurer and any affiliates, controlling person or other persons that would be affected, order one or more items of holding company information, other than ORSA-related information, to be made a public record in its entirety or in redacted form if the superintendent determines that public disclosure will be in the interest of policyholders, shareholders or the public.'

Amend the bill in Part A by inserting after section 33 the following:

'**Sec. A-34. Effective date.** This Part takes effect January 1, 2014.'

Amend the bill in Part B in section 4 in paragraph B-2 in subparagraph (3) by striking out the first 2 lines (page 27, lines 7 and 8 in L.D.) and inserting the following:

'

(3) The superintendent shall create and publish a list of jurisdictions that are qualified to serve as the domiciliary regulators of certified reinsurers.

Amend the bill in Part B in section 4 in paragraph B-2 in subparagraph (5) in division (b) by striking out all of subdivision (iii) (page 28, lines 13 to 24 in L.D.) and inserting the following:

'

(iii) If the certified reinsurer also maintains a multibeneficiary trust for obligations required to be fully secured under paragraph C or comparable laws of other states, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed with reduced security as permitted by this paragraph or comparable laws of other United States jurisdictions and for its obligations that are required to be fully secured. The trust accounts may not be approved as qualifying security unless the reinsurer has bound itself, by the language of the trust and by agreement with the insurance regulator with principal oversight of each such trust account, to apply, upon termination of any such trust account, the remaining surplus of that trust to the extent necessary to fund any deficiency of any other such trust account.

'

Amend the bill in Part B in section 5 in paragraph C in subparagraph (3-A) by striking out all of division (a) (page 29, lines 35 to 40 in L.D.) and inserting the following:

'

(a) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after ~~August 1, 1995~~January 1, 1993, the trust must consist of a trusteed account in an amount at least equal to the ~~group's~~respective underwriters' several liabilities attributable to reinsurance ceded by United States domiciled ceding insurers to any ~~member~~underwriter that is a member of the group.

,

Amend the bill in Part B in section 10 in §731-E by striking out all of subsection 2 (page 32, lines 16 to 22 in L.D.) and inserting the following:

'**2. Diversification.** An insurer shall diversify its reinsurance program to the extent reasonably necessary to avoid imprudent concentrations of risk. A domestic insurer shall notify the superintendent within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20% of the insurer's gross written premium in the prior calendar year or after the insurer has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit.'

Amend the bill in Part C by striking out all of section 3 (page 34, lines 1 to 21 in L.D.) and inserting the following:

'**Sec. C-3. 24-A MRSA §952, sub-§1,** as amended by PL 1973, c. 585, §12, is further amended to read:

1. The superintendent shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer transacting business in this State in accordance with this subchapter, except that in the case of an alien insurer, such valuation ~~shall~~must be limited to its United States business; and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods, net level premium method or other, used in the calculation of such reserves. In calculating such reserves, ~~he~~the superintendent may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required of any foreign or alien insurer, ~~he~~the superintendent may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided ~~and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the superintendent when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by law of that state or jurisdiction~~. For policies and contracts issued before the operative date of the valuation manual or not addressed by the valuation manual, reserves must be determined according to sections 953 to 958-A. For policies and contracts issued after the operative date of the valuation manual, reserves must be determined according to sections 959 and 960 and as specified by the valuation manual.'

Amend the bill in Part C in section 5 in §952-A by striking out all of subsections 1 and 2 (page 34, lines 32 to 42 and page 35, lines 1 to 17 in L.D.) and inserting the following:

'**1. General.** ~~A life~~An insurer doing business in this State subject to this subchapter shall ~~annually~~appoint a qualified actuary, in accordance with any applicable requirements of the valuation manual or rules adopted by the superintendent, and annually submit the opinion of ~~a qualified~~the appointed actuary as to whether the reserves and related actuarial items of that ~~life~~ insurer held in support of the policies and contracts specified by the superintendent by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this State. ~~The~~Before the operative date of the valuation manual, the superintendent by rule shall define the specifics of ~~this~~the opinion ~~and~~. On and after the operative date of the valuation manual, if the valuation manual has prescribed specific requirements applicable to the opinion, the opinion must comply with those requirements. The superintendent by rule may add any other items considered necessary to ~~its~~the scope of the opinion.

2. Actuarial analysis of reserves and assets supporting those reserves. ~~A life~~Except as otherwise authorized or required in accordance with rules adopted by the superintendent or applicable provisions of the valuation manual, an insurer~~, except as exempted by or pursuant to rule,~~subject to this subchapter shall include in the opinion required by subsection 1 an opinion of the ~~same qualified~~appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the superintendent by rule, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, adequately provide for the insurer's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

The superintendent may provide by rule for a transition period for establishing any higher reserves that the ~~qualified~~appointed actuary may consider necessary in the opinion required by this subsection.'

Amend the bill in Part C in section 9 in §959 in subsection 1 by striking out all of the first paragraph (page 38, lines 2 to 5 in L.D.) and inserting the following:

'**1. General requirement.** On and after the operative date of the valuation manual, reserves on policies and contracts of subject lines of insurance must be valued as follows, except as otherwise specifically provided in this section or in rules adopted by the superintendent:'

Amend the bill in Part C in section 9 in §959 in subsection 7 in the 2nd line (page 39, line 32 in L.D.) by inserting after the following: "the change" the following: 'by rule'

Amend the bill in Part C in section 9 in §960 by inserting after subsection 4 the following:

'**5. Applicability of rules.** Rules adopted by the superintendent pursuant to this subchapter before January 1, 2014 do not apply to policies, contracts or actuarial opinions issued on or after the operative date of the valuation manual unless expressly made applicable by rule or order of the superintendent.'

Amend the bill in Part C in section 9 in §962 in subsection 2 by striking out all of the first paragraph (page 42, lines 20 to 25 in L.D.) and inserting the following:

‘**2. Confidentiality of information subject to this section.** Except as provided in this subsection, all protected valuation information is confidential, must be kept confidential by the superintendent, is not a public record and is not subject to subpoena or discovery or admissible in evidence in any private civil action. The superintendent may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the superintendent's official duties, including sharing the information on a confidential basis under section 216, subsection 5.’

SUMMARY

This amendment makes the following clarifying and technical changes to the bill.

In Part A, the amendment does the following.

1. It clarifies that the sharing of confidential information by the Superintendent of Insurance may not be done without prior notice to interested parties and that the further disclosure of that information is subject to the same requirements and conditions that apply if the superintendent discloses the information directly.

2. It clarifies that the superintendent has authority to order an insurer to produce records necessary to verify the accuracy of information required to be provided as part of an examination.

3. It moves a provision from one section to another.

4. It restores language deleted in the bill related to cost allocation arrangements.

5. It clarifies the provision relating to confidentiality of insurance company holding system information so that the superintendent may not share information with the National Association of Insurance Commissioners except in accordance with information-sharing agreements.

6. It adds an effective date of January 1, 2014 to Part A.

In Part B, the amendment makes several clarifying and grammatical changes.

In Part C, the amendment clarifies the application of the valuation manual and rules adopted by the superintendent.