CHAPTER 3

THE INSURANCE SUPERINTENDENT

§200. Department continued

There is continued a department of State Government known as the Insurance Bureau. [PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

SECTION HISTORY

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

§201. Superintendent of Insurance; appointment; term

1. The Superintendent of Insurance is the head of the Bureau of Insurance.
[PL 1973, c. 585, §7 (RPR).]

2. The superintendent shall be appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature.
[PL 1987, c. 105, §3 (AMD).]

3. The superintendent shall hold the superintendent's office for 5 years or until the superintendent's successor has been appointed and has qualified. Any vacancy occurring must be filled by appointment for the unexpired portion of the term.
[RR 2021, c. 1, Pt. B, §148 (COR).]

4. The superintendent shall be removable for cause by impeachment or by address of the Governor to both branches of the Legislature, and Title 5, section 931, subsection 2, shall not apply.
[PL 1987, c. 402, Pt. A, §151 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §7 (RPR). PL 1975, c. 771, §259 (AMD). PL 1981, c. 359, §§5-7 (AMD). PL 1987, c. 105, §3 (AMD). PL 1987, c. 402, §A151 (AMD). RR 2021, c. 1, Pt. B, §148 (COR).

§202. Seal

The superintendent must have a seal of office of a suitable design, bearing the words "Insurance Superintendent of the State of Maine." The superintendent shall file an impression of the seal, duly certified by the superintendent under oath, with the Secretary of State. [RR 2021, c. 1, Pt. B, §149 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §149 (COR).

§203. Compensation

The State shall pay to the superintendent an annual salary in amount as provided by law as full compensation for all duties required of the superintendent. [PL 1989, c. 702, Pt. E, §12 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1983, c. 553, §25 (AMD). PL 1989, c. 702, §E12 (AMD).

§204. Principal office

(REPEALED)

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §2 (AMD). PL 1973, c. 585, §12 (AMD). PL 1979, c. 251 (RP).

§205. Bureau organization

With the approval of the Commissioner of Professional and Financial Regulation, the superintendent shall organize the bureau in a manner the superintendent determines necessary for the discharge of the superintendent's duties. [PL 1995, c. 502, Pt. H, §15 (RPR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1995, c. 502, §H15 (RPR).

§206. Deputy superintendents

1. The superintendent, with the approval of the Commissioner of Professional and Financial Regulation, may employ, subject to the Civil Service Law, 2 deputy superintendents. Where authorized by another section of this Title, the superintendent may also appoint such special deputies as regulatory responsibilities may necessitate.
[PL 1995, c. 502, Pt. H, §16 (AMD).]

2. The deputies shall perform such duties and exercise such powers of the superintendent as the superintendent may from time to time authorize. The superintendent shall designate one of the deputy superintendents to perform the duties of the superintendent whenever the superintendent is absent from the State; the deputy superintendent is directed to do so by the superintendent; there is a vacancy in the office of superintendent; or the superintendent is incapacitated by illness.
[PL 1995, c. 502, Pt. H, §16 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §8 (RPR). PL 1983, c. 553, §46 (AMD). PL 1985, c. 785, §B106 (AMD). RR 1993, c. 1, §55 (COR). PL 1995, c. 502, §H16 (AMD).

§207. Staff

The superintendent may employ personnel as the business of the bureau may require, subject to the Commissioner of Professional and Financial Regulation's approval and in accordance with the Civil Service Law. The qualifications of those personnel must reflect the needs and responsibilities relating to the bureau's regulatory functions pursuant to this Title. The superintendent may authorize senior personnel of the bureau to carry out the superintendent's duties and authority. [PL 1995, c. 502, Pt. H, §17 (RPR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1985, c. 785, §B107 (AMD). PL 1995, c. 502, §H17 (RPR).

§208. Independent technical, professional services

The superintendent may from time to time contract for such additional actuarial, examination, rating and other technical and professional services as may be required for discharge of the superintendent's duties. If a contractor retained pursuant to this section has access to confidential information, the contract must require the contractor to comply with the requirements of section 216, subsection 5, paragraph B-1. [PL 2021, c. 521, §2 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §150 (COR). PL 2021, c. 521, §2 (AMD).

§208-A. Cooperative agreements

The superintendent, in the superintendent's discretion, may enter into cooperative agreements with other state, federal or foreign law enforcement or regulatory agencies to facilitate the regulatory functions of the superintendent, including, but not limited to, information sharing, coordination of examinations and investigations and joint examinations and investigations. [PL 1999, c. 184, §18 (NEW).]

SECTION HISTORY

PL 1999, c. 184, §18 (NEW).

§209. Prohibited interests, rewards

1. The superintendent, or the superintendent's deputy, or any examiner or employee of the bureau may not be connected with the management or be holder of a material number of shares of any insurer, insurance holding company, insurance agency or broker, or be pecuniarily interested in any insurance transaction, except as a policyholder or claimant under a policy; except that as to matters wherein a conflict of interests does not exist on the part of any such individual, the superintendent may employ and retain from time to time insurance actuaries, examiners, accountants, and other technicians who are independently practicing their professions even though from time to time similarly employed or retained by insurers or others.
[RR 2021, c. 1, Pt. B, §151 (COR).]

2. Subsection 1 above shall not be deemed to prohibit:

A. Receipt by any such individual of fully vested commissions or fully vested retirement benefits to which the individual is entitled by reason of services performed prior to becoming superintendent or prior to employment in the bureau; [RR 2021, c. 1, Pt. B, §152 (COR).]

B. Investment in shares of regulated diversified investment companies; or [PL 1969, c. 132, §1 (NEW).]

C. Mortgage loans made under customary terms and in ordinary course of business. [PL 1969, c. 132, §1 (NEW).]
[RR 2021, c. 1, Pt. B, §152 (COR).]

3. The superintendent, or the superintendent's deputy, or any employee or technician employed or retained by the bureau may not be given or receive, directly or indirectly, any fee, compensation, loan, gift or other thing of value in addition to the compensation and expense allowance provided by or pursuant to the law of this State, or by contract with the superintendent, for any service rendered or to be rendered as such superintendent, deputy, assistant, employee or technician, or in connection therewith.
[RR 2021, c. 1, Pt. B, §153 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §§151-153 (COR).

§210. Delegation of powers

1. The superintendent may delegate to the superintendent's deputy, examiner or an employee of the bureau the exercise or discharge in the superintendent's name of any power, duty or function, whether ministerial, discretionary or of whatever character, vested in or imposed upon the superintendent.
[RR 2021, c. 1, Pt. B, §154 (COR).]

2. The official act of any such person acting in the superintendent's name and by his authority shall be deemed an official act of the superintendent.
[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §154 (COR).

§211. General powers, duties

1. The superintendent shall enforce the provisions of, and execute the duties imposed upon the superintendent by, this Title.
[RR 2021, c. 1, Pt. B, §155 (COR).]

2. The superintendent has the powers and authority expressly vested in the superintendent by or reasonably implied from this Title.
[RR 2021, c. 1, Pt. B, §156 (COR).]

3. The superintendent shall have such additional rights, powers and duties as may be provided by other laws.
[PL 1696, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §§155, 156 (COR).

§212. Rules and regulations

Subject to the applicable requirements and procedures of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, the superintendent may adopt, amend and rescind reasonable rules to aid the administration or effectuation of any provisions of this Title or of any other state or federal statutes to the extent administered or enforced by the superintendent. [PL 2001, c. 262, Pt. C, §1 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §386 (AMD). PL 1989, c. 269, §4 (AMD). PL 1991, c. 885, §E23 (AMD). PL 1991, c. 885, §E47 (AFF). PL 2001, c. 262, §C1 (AMD).

§212-A. Parity for insurance agents and brokers

Notwithstanding any other provision of law, to the extent authorized by the superintendent by rule, a licensed agent or broker has the power to engage in any insurance activity that financial institutions chartered by or otherwise subject to the jurisdiction of the Federal Government are authorized to engage in pursuant to federal law or regulation or by a court of competent jurisdiction. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1997, c. 207, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 207, §3 (NEW).

§213. Orders, notices in general

1. Orders and notices of the superintendent are effective only when in writing signed by the superintendent or by the superintendent's authority.
[RR 2021, c. 1, Pt. B, §157 (COR).]

2. Every order of the superintendent shall state its effective date, and shall concisely state:

A. Its intent or purpose; [PL 1969, c. 132, §1 (NEW).]

B. The grounds on which based; and [PL 1969, c. 132, §1 (NEW).]

C. The provisions of this Title pursuant to which action is taken or proposed to be taken; but failure to so designate a particular provision shall not deprive the superintendent of the right to rely thereon. [PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

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

3. An order or notice may be given by delivery to the person to be ordered or notified, or by mailing it, postage prepaid, addressed to such person at the person's principal place of business or residence as last of record in the bureau. The order or notice is deemed to have been given when deposited in a mail depository of the United States post office, and of which the affidavit of the individual who so mailed the order or notice is prima facie evidence. Written notice of the party's rights to review or appeal and of the action required and of the time within which action must be taken in order to appeal must be given to each party with the decision.

[RR 2021, c. 1, Pt. B, §158 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §387 (AMD). RR 2021, c. 1, Pt. B, §§157, 158 (COR).

§214. Enforcement

1. The superintendent may, through the Attorney General of this State, invoke the aid of the Superior Court through proceedings instituted in any county of this State to enforce any lawful order made or action taken by the superintendent. In such proceedings, the Superior Court may make such orders, either preliminary or final, as it considers proper under the facts established before it.

[RR 2021, c. 1, Pt. B, §159 (COR).]

2. If the superintendent has reason to believe that any person has violated any provision of this Title, or of other law as applicable to insurance operations, for which criminal prosecution is provided and would be in order, the superintendent shall give the information relative thereto to the Attorney General. The Attorney General shall promptly institute such action or proceedings, including, but not limited to, actions or proceedings to seek restitution, against that person as in the Attorney General's opinion the information may require or justify.

[PL 2003, c. 310, §1 (AMD).]

3. The Attorney General upon request of the superintendent is authorized to proceed in the courts of any other state or in any federal court or agency to enforce an order or decision of any court proceeding or in any administrative proceeding before the superintendent.

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

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 2003, c. 310, §1 (AMD). RR 2021, c. 1, Pt. B, §159 (COR).

§215. Violation of rules, regulations, orders; penalty

Any person who knowingly violates any rule, regulation or order of the superintendent shall be subject to such suspension or revocation of certificate of authority or license as may be applicable under this Title for violation of the provision to which such rule, regulation or order relates. [PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

SECTION HISTORY

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

§216. Records; inspection; destruction

1. The superintendent shall carefully preserve in the bureau and in permanent form a correct account of all the superintendent's transactions and of all fees and money received by the superintendent by virtue of the superintendent's office, together with all financial statements, examination reports, correspondence, filings and documents duly received by the bureau. The superintendent shall hand the same over to the superintendent's successor in office.
[RR 2021, c. 1, Pt. B, §160 (COR).]

2. All records of the bureau are subject to public inspection, except as otherwise expressly provided by law as to particular matters; and except that records, correspondence and reports of investigation in connection with actual or claimed violations of this Title or prosecution or disciplinary action for those violations are confidential. The confidential nature of any such record, correspondence or report may not limit or affect use of the same by the superintendent in any such prosecution or action. This subsection does not preclude participation by the superintendent in the establishment of an interstate complaint handling system that may involve the sharing of information with insurance regulatory officials in other jurisdictions and with the National Association of Insurance Commissioners, as long as the names of the complainant and insured remain confidential. This subsection does not preclude the dissemination of aggregate ratios of consumer complaints to the public by the superintendent. Only complaints received in writing are included in the calculation of the complaint ratio. A complaint received by electronic means is considered a written complaint. For the purposes of this subsection, a "consumer complaint" means any written complaint that results in the need for the bureau to conduct further investigation or to communicate in writing with a regulated entity for a response or resolution to the complaint. The superintendent shall adopt rules necessary to define the method for calculating complaint ratios. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 2001, c. 165, Pt. A, §1 (AMD).]

3. All records and documents of the bureau are subject to subpoena by a court of competent jurisdiction.
[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

4. The superintendent may destroy unneeded or obsolete records and filings in the bureau in accordance with provisions and procedures applicable to administrative agencies of the State in general.
[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

5. In order to assist the superintendent in the regulation of insurers in this State, it is the duty of the superintendent to maintain as confidential a document or information received from 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, the Financial Industry Regulatory Authority, the National Association of Registered Agents and Brokers or political subdivisions or other agencies of this State, if the document or the information has been provided to the superintendent with notice that it is confidential under the laws of the jurisdiction that is the source of the document or information.

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. [PL 2013, c. 238, Pt. A, §1 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

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, the Financial Industry Regulatory Authority, the National Association of Registered Agents and Brokers 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. [PL 2017, c. 115, §1 (AMD).]

B-1. The superintendent may authorize a contractor retained pursuant to section 208, or any other person outside the bureau that is otherwise designated to act on behalf of the superintendent, to receive confidential information. The recipient of confidential information is under the direction and control of the superintendent, is subject to the same confidentiality standards and requirements as the superintendent and shall act in a purely advisory capacity. The recipient of confidential information shall comply with the requirements of this paragraph.

(1) Access to confidential information may not be granted unless the recipient agrees in writing that:

(a) The recipient will maintain the confidentiality of any confidential information that the superintendent has authorized the recipient to access, and establish appropriate procedures to protect such information from unauthorized access or use;

(b) Ownership of any confidential information shared by the superintendent pursuant to this paragraph remains with the superintendent and that the use of such information by the recipient is subject to the direction of the superintendent;

(c) The recipient will not store confidential information obtained or created under the contract in a permanent file or database after the work involving the information is completed;

(d) The recipient will provide prompt notice to the superintendent of any subpoena, request for disclosure or request for production of confidential information; and

(e) The recipient will consent to intervention by an insurer in any judicial or administrative action in which the recipient may be required to disclose confidential information about the insurer that has been shared pursuant to this paragraph.

(2) The recipient of confidential information shall confirm in writing to the superintendent that the recipient is free from conflicts of interest and will conduct ongoing monitoring for conflicts of interest for the duration of the work involving the confidential information. [PL 2021, c. 521, §3 (NEW).]

C. The superintendent may enter into one or more written agreements with the National Association of Insurance Commissioners governing sharing and using information under this subsection that:

(1) Specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners pursuant to this paragraph, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal or international insurance regulators;

(2) Specify that ownership of information shared with the National Association of Insurance Commissioners pursuant to this paragraph remains with the superintendent and that the use of information by the National Association of Insurance Commissioners is subject to the direction of the superintendent;

(2-A) Prohibit the National Association of Insurance Commissioners from storing confidential information in a permanent file or database after the analysis of the confidential information is completed, other than liquidity stress test information obtained pursuant to section 222, subsection 8, paragraph B-1, subparagraph (3);

(3) Require prompt notice to be given by the National Association of Insurance Commissioners to any insurer whose confidential information is in the possession of the National Association of Insurance Commissioners pursuant to this paragraph when that information is the subject of a request or subpoena for disclosure or production; and

(4) Require the National Association of Insurance Commissioners to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners pursuant to this paragraph. [PL 2021, c. 521, §4 (AMD).]

D. This subsection does not alter prohibitions or restrictions applicable to ex parte contacts in the course of an adjudicatory proceeding in which a state agency is a party. [PL 2013, c. 238, Pt. A, §1 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

E. For purposes of this subsection, "other agencies of this State" includes bureau personnel and consultants designated as serving in an advocacy capacity in an adjudicatory proceeding before the superintendent. [PL 2013, c. 238, Pt. A, §1 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

[PL 2021, c. 521, §§3, 4 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1989, c. 269, §5 (AMD). PL 1995, c. 375, §B1 (AMD). PL 1997, c. 314, §1 (AMD). PL 1999, c. 184, §19 (AMD). PL 2001, c. 165, §A1 (AMD). PL 2013, c. 238, Pt. A, §1 (AMD). PL 2013, c. 238, Pt. A, §34 (AFF). PL 2017, c. 115, §1 (AMD). RR 2021, c. 1, Pt. B, §160 (COR). PL 2021, c. 521, §§3, 4 (AMD).

§217. Annual report

1. As soon as practical after the annual financial statements have been received from the authorized insurers, the superintendent may make a written report to the Governor showing with respect to the preceding calendar year:

A. The receipts and expenses of the bureau for the year; [PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

B. A summary of the insurance business transacted in this State; [PL 1969, c. 132, §1 (NEW).]

C. A summary of the financial condition of each authorized insurer, as shown by its most recent financial statement on file with the superintendent; [PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

D. Such recommendations as the superintendent considers advisable relative to amendment or supplementation of the insurance laws; and [RR 2021, c. 1, Pt. B, §161 (COR).]

E. Such other information and matters as the superintendent considers to be in the public interest relative to the insurance business in this State. [RR 2021, c. 1, Pt. B, §162 (COR).]

[RR 2021, c. 1, Pt. B, §§161, 162 (COR).]

2. If the report is printed, the superintendent shall furnish a copy upon request thereby to the insurance supervisory official of other states and to authorized insurers; and, if copies are available for the purpose, to other persons who so request and upon payment by such persons of such reasonable charge therefor as may be fixed by the superintendent.

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

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1975, c. 771, §260 (AMD). RR 2021, c. 1, Pt. B, §§161, 162 (COR).

§218. Publications; price

The superintendent may have the directory of authorized insurers, of licensed insurance representatives, license examination material, insurance laws and related laws and regulations under the superintendent's administration published in pamphlet form from time to time, and may fix a price for each copy to cover cost of printing and mailing. [RR 2021, c. 1, Pt. B, §163 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §163 (COR).

§219. Interstate cooperation

The superintendent may communicate on request of the insurance supervisory official of any state, province or country any information that it is the superintendent's duty by law to ascertain respecting authorized insurers. [RR 2021, c. 1, Pt. B, §164 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §164 (COR).

§220. Investigation of violations

1. Discretionary investigations. In addition to examinations and investigations expressly authorized, the superintendent may conduct investigations of insurance matters as the superintendent considers proper upon reasonable cause to determine whether any person has violated any provision of this Title or to secure information useful in the lawful administration of any such provision. The cost of these investigations must be borne by the State.
[PL 1991, c. 26 (NEW).]

2. Response to inquiries. All insurers and other persons required to be licensed pursuant to this Title and Title 24 shall respond to all lawful inquiries of the superintendent within 10 business days of receipt of the inquiry and to all follow-up inquiries of the superintendent within 5 business days of receipt. If a substantive response cannot in good faith be provided within the required time, the person required to respond shall so advise the superintendent and provide the reason for the inability to respond. The superintendent may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the requirements of this subsection.
[PL 2023, c. 59, §1 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1991, c. 26 (RPR). PL 2023, c. 59, §1 (AMD).

§221. Examination of insurers

1. For the purpose of determining its financial condition, fulfillment of its contractual obligations and compliance with the law, the superintendent shall examine the affairs, transactions, accounts, records and assets of each authorized insurer, and of any person as to any matter relevant to the financial affairs of the insurer or to the examination, as often as the superintendent determines advisable. In determining the nature, scope and timing of an examination, the superintendent shall consider criteria, including, but not limited to, the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria adopted by the National Association of Insurance Commissioners and published in its Financial Condition Examiners Handbook or Market Regulation Handbook, as applicable, or their

successor publications. Except as otherwise expressly provided, domestic insurers must be examined at least once every 3 years, unless the superintendent defers making an examination for a longer period; but in no event may an authorized insurer be examined less frequently than once every 5 years. Examination of an alien insurer is limited to its insurance transactions, assets, trust deposits and affairs in the United States, except as otherwise required by the superintendent.
[PL 2017, c. 169, Pt. B, §1 (AMD).]

2. The superintendent shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this State.
[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

3.
[PL 2021, c. 16, §1 (RP).]

3-A. The superintendent may accept a full examination report by the insurance regulatory authority of the insurance company's state of domicile or port-of-entry state for any foreign or alien insurer licensed in this State in lieu of an examination by the superintendent if, at the time of the examination, that regulatory authority was accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program or if the examination was performed under the supervision of an accredited insurance regulatory authority or with the participation of one or more examiners who are employed by an accredited insurance regulatory authority and who, after a review of the examination workpapers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by the regulatory authority.
[PL 2021, c. 16, §2 (AMD).]

4. As far as practical, the examination of a foreign or alien insurer must be made in cooperation with the insurance supervisory officials of other states in which the insurer transacts business. Duties may be divided among the participating states in any manner consistent with the standards established by the laws of this State that are applicable to foreign and alien insurers.
[PL 1993, c. 313, §4 (AMD).]

5. Examination of health carriers. The superintendent shall examine the market conduct of each domestic health carrier, as defined in section 4301-A, subsection 3, and each foreign health carrier with at least 1,000 covered lives in this State, offering a health plan as defined in section 4301-A, subsection 7, no less frequently than once every 5 years. An examination under this subsection may be comprehensive or may target specific issues of concern observed in the State's health insurance market or in the company under examination. In lieu of an examination conducted by the superintendent, the superintendent may participate in a multistate examination, or, in the case of a foreign company, approve an examination by the company's domiciliary regulator upon a finding that the examination and report adequately address relevant aspects of the company's market conduct within this State.
[PL 2009, c. 439, Pt. E, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1991, c. 828, §§1,2 (AMD). PL 1993, c. 313, §§2-4 (AMD). PL 2009, c. 439, Pt. E, §1 (AMD). PL 2017, c. 169, Pt. B, §1 (AMD). PL 2021, c. 16, §§1, 2 (AMD).

§221-A. Financial audit requirements

1. Purpose. The purpose of this section is to provide the superintendent with a means of improved financial monitoring of insurers doing business in this State. This mechanism of increased financial surveillance of insurers shall not be a substitute for financial examinations required or authorized by this Title generally.
[PL 1985, c. 330, §1 (NEW).]

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

A. "Accountant" and "independent certified public accountant" mean an independent certified public accountant or firm licensed to practice in the State or in any state recognizing similar reciprocal licensing requirements and who is a member in good standing of the American Institute of Certified Public Accountants. It shall also mean, in the case of Canadian and British domiciled companies, a Canadian or British chartered accountant. [PL 1985, c. 330, §1 (NEW).]

B. "Audited financial report" means a written report which meets the requirements of subsection 4. [PL 1985, c. 330, §1 (NEW).]

C. "Insurer" means any insurance company doing business in the State pursuant to this Title and includes, but is not limited to, all life, accident and health, property and casualty, title, direct writing reinsuring companies and surplus lines companies regulated by the Bureau of Insurance. [PL 1985, c. 330, §1 (NEW).]

[PL 1985, c. 330, §1 (NEW).]

3. Audits required. All insurers, excepting insurers transacting business in this State pursuant to the terms of chapter 51, shall cause to be conducted an annual audit by an independent certified public accountant. Each domestic insurer shall file an audited financial report with the superintendent on or before June 1st for the year ending December 31st preceding. An extension of the filing deadline may be granted by the superintendent upon a showing by the insurer or its accountant that there exists valid justification for such an extension. A foreign or alien insurer shall file an audited financial report upon the superintendent's request. A firm of independent certified public accountants engaged to perform an audit of an insurer shall substitute the appointed audit partner in charge with another audit partner in charge at least once every 5 years. An accountant substituted for pursuant to this subsection may not serve as a partner in charge of that audit until 5 years after the date of substitution, unless the superintendent waives this requirement on the basis of unusual circumstances upon application by the insurer.

[PL 2009, c. 511, Pt. A, §1 (AMD).]

4. Content of annual audited financial reporting. Annual audited financial reporting must consist of the following.

A. Financial statements furnished under this section must be examined by independent certified public accountants in accordance with generally accepted auditing standards as prescribed by the American Institute of Certified Public Accountants. The opinion of the accountant must cover all years for which a financial presentation is made.

The opinion expressed concerning the financial statements filed under this section must conform with the accounting practices prescribed or permitted by the superintendent or the insurance supervisory official of the insurer's state of domicile. An insurer, with the approval of the superintendent, may file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies that uses a pooling agreement and such an insurer cedes all of its direct and assumed business to the pool or if the insurer has executed a 100% reinsurance agreement with one or more of the insurers in the group and the pooling or reinsurance agreement affects the solvency of the insurer or the integrity of the insurer's reserves. In those cases, a columnar consolidating or combining worksheet must be filed with the report.

The opinion must be expressed to the insurer by the accountant on the accountant's letterhead and show the address of the office issuing that opinion, must be manually executed and dated. [PL 1993, c. 313, §6 (AMD).]

B. Financial statements, as a minimum, must consist of:

(1) Balance sheet;

(2) Statement of gain or loss from operations;

(3) Statement of cash flow;

(4) Statement of change in capital paid-up, gross paid-in and contributed surplus and unassigned funds, surplus funds; and

(5) Notes to financial statements. [PL 1993, c. 313, §6 (AMD).]

C. The statement must include an independent certified public accountant's report respecting evaluation of internal controls. [PL 1993, c. 313, §6 (AMD).]

D. The statement must include an independent certified public accountant's letter, in conformance with standards established by the National Association of Insurance Commissioners, attesting to that certified public accountant's qualifications, possession of license and subscription to the code of professional ethics and pronouncements issued by the American Institute of Certified Public Accountants. [PL 1999, c. 113, §6 (AMD).]

[PL 1999, c. 113, §6 (AMD).]

5. Rules authorized. The superintendent shall promulgate such rules as shall be necessary to effectuate provisions of this section.

[PL 1985, c. 330, §1 (NEW).]

6. Application and effective date. For those insurers doing business in this State that are subject to this section, the filing of the initial annual audited financial reports required under this section are due June 30, 1986, covering the calendar year December 31, 1985. Similar recurring reports are due each June 1st thereafter.

[PL 1999, c. 113, §7 (AMD).]

7. Exemptions. Upon written application of any insurer subject to this section, the superintendent may grant an exemption of the filing requirements under this section if the superintendent finds upon review of the application that compliance would constitute a financial hardship upon the insurer.

An insurer is exempt from the filing requirements of this section for any year in which the insurer's annual statement reflects:

A. Nationwide business in an amount less than $1,000,000 in written premium plus reinsurance assumed; and [PL 2009, c. 511, Pt. A, §2 (NEW).]

B. Outstanding loss reserves in an amount less than $1,000,000. [PL 2009, c. 511, Pt. A, §2 (NEW).]

[PL 2009, c. 511, Pt. A, §2 (RPR).]

8. Required notice concerning adverse financial condition. Each insurer retaining an independent certified public accountant to represent it with respect to the report which the insurer is required to file pursuant to this section shall, as a condition of its written terms of engagement of the accountant, require that:

A. The accountant immediately notify in writing each member of the board of directors of the insurer and the superintendent upon any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported in the annual statement required under section 423 for the year ending December 31st preceding; and [PL 1989, c. 846, Pt. C, §2 (AMD); PL 1989, c. 846, Pt. E, §4 (AFF).]

B. If the accountant, subsequent to the date of the audited financial report required by this section, becomes aware of material subsequent facts that would have affected the accountant's report, the accountant shall provide the pertinent information upon the accountant's determination to the parties identified in this subsection. [RR 2021, c. 1, Pt. B, §165 (COR).]

[RR 2021, c. 1, Pt. B, §165 (COR).]

SECTION HISTORY

PL 1985, c. 330, §1 (NEW). PL 1985, c. 636 (AMD). PL 1989, c. 846, §§C1,2,E4 (AMD). PL 1993, c. 313, §§5,6 (AMD). PL 1999, c. 113, §§5-7 (AMD). PL 2009, c. 511, Pt. A, §§1, 2 (AMD). RR 2021, c. 1, Pt. B, §165 (COR).

§222. Registration, regulation, supervision and examination of holding company systems, agents, promoters and others

1. Examination.

[PL 2013, c. 238, Pt. A, §2 (RP); PL 2013, c. 238, Pt. A, §34 (AFF).]

1-A. Examination. For purposes of ascertaining compliance with law, or relationships and transactions between any person as defined hereafter and any insurer or proposed insurer subject to this section, the superintendent may as often as the superintendent determines to be advisable examine the accounts, records, documents and transactions pertaining to or affecting the insurance affairs or proposed insurance affairs, or transactions of the insurer or proposed insurer as may be in the possession of any holding company, its subsidiaries or affiliates as is necessary to ascertain the financial condition, including the enterprise risk to the insurer by the ultimate controlling party, or legality of conduct of the insurer or proposed insurer or the insurance holding company system as a whole or any combination of entities within the insurance holding company system and to verify the accuracy of any information provided or required to be provided to the superintendent pursuant to this section.

A. The superintendent's investigatory and examination authority under this subsection extends to the examination of:

(1) Any business entity structured to hold the stock of an insurance company, or person holding the shares of voting stock or policyholder proxies of an insurer as voting trustee or otherwise, for the purpose of controlling the management thereof;

(2) Any insurance producer, adjuster or consultant or other insurance or reinsurance representative or intermediary or any person acting as or purporting to be any of the foregoing;

(3) Any person having a contract giving that person by its terms or in fact the exclusive or dominant right to manage or control the insurer; and

(4) Any person in this State engaged in or proposing to be engaged in or acting as or purporting to be so engaged or proposing to be engaged in the business of insurance or in this State assisting in the promotion, formation or financing of an insurer or insurance holding corporation or corporation or other group financing an insurer or the production of its business. [PL 2013, c. 238, Pt. A, §3 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

B. Subject to the limitations contained in this subsection and in addition to the powers that the superintendent has under section 221 and sections 223 to 228 relating to the examination of insurers, the superintendent may order an insurer registered under subsection 8 to produce records, books or papers in the possession of the insurer or affiliates as may be necessary to verify the accuracy of the information required to be provided to the superintendent under this section and any additional information pertinent to transactions between the insurer and affiliates. The books, records, papers and information are subject to examination in the same manner as prescribed in this chapter for an examination conducted under section 221, except that expenses incurred by the superintendent in examining an affiliate that is not an insurer must be borne by the registered insurer subject to the limitations of section 228, subsection 1. The superintendent may issue subpoenas, administer oaths and examine any person under oath for purposes of determining compliance with this subsection. [PL 2013, c. 238, Pt. A, §3 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

C. A member of an insurer's insurance holding company system shall comply fully and accurately with a request by the insurer to provide it with information necessary to respond to an examination request by the superintendent pursuant to this section. [PL 2013, c. 238, Pt. A, §3 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

D. The superintendent may order an insurer registered under subsection 8 to produce information not in the possession of the insurer if the insurer can obtain access to the information pursuant to contractual relationships, statutory obligations or any other lawful method. If the insurer cannot obtain the information requested by the superintendent, the insurer shall provide the superintendent a written objection with a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of the information. It is a violation of this section to submit an objection to production of information without a reasonable basis or to fail to produce information on the basis of an objection that the superintendent has denied after notice and opportunity for hearing. [PL 2013, c. 238, Pt. A, §3 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

[PL 2013, c. 238, Pt. A, §3 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

2. Definitions. As used in this section, unless the context otherwise requires, the following words shall have the following meanings.

A. Affiliate. "Affiliate" of, or a person "affiliated" with, a specific person means a person who directly or indirectly controls, or is controlled by, or is under common control with the person specified. [PL 1975, c. 356, §1 (RPR).]

A-1. Beneficial owner. "Beneficial owner" of a voting security, voting insurance policy or guaranty capital share means any person or group of persons acting in concert who, directly or indirectly, through any contract, arrangement, proxy appointment, understanding, relationship or otherwise, has or shares:

(1) Voting power over the security, policy or guaranty capital share, including the power to vote or to direct the voting of the security, policy or share; or

(2) Investment power over the security, policy or share, including the power to dispose or to direct the disposition of the security, policy or share.

The superintendent may determine that persons are acting in concert, either on the superintendent's own initiative or upon application of an interested person, based upon evidence that actions taken by those persons, if consummated, may permit the exercise of common control, directly or indirectly, over the domestic insurer. The absence of a determination by the superintendent that persons are acting in concert shall not be construed to exempt those persons from compliance with the requirements of this section. [PL 1989, c. 385, §1 (NEW).]

A-2. "Continuing director" means:

(1) Any member of a domestic insurer's board of directors, while that person is a member of the board of directors, who was a member of that board of directors prior to the time that any person acquires control of the domestic insurer or any person controlling the insurer; and

(2) Any successor of a continuing director, while the successor is a member of the board of directors, who is recommended or elected to succeed a continuing director by a number of continuing directors equal to a majority of continuing directors in office immediately preceding the acquisition of control. [PL 1991, c. 37, §1 (NEW).]

B. Control.

(1) "Control," including "controlling," "controlled by" and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by

contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is solely the result of an official position with or a corporate office held by the person. Control is presumed to exist if any person is the beneficial owner of 10% or more of the voting securities or guaranty capital shares, if applicable, or has the right to cast 10% or more of the votes in the election of directors or other governing body of any other person. A beneficial owner may rely in determining the amount of voting securities of any person outstanding upon information set forth in that person's most recent quarterly or annual report filed with the Securities and Exchange Commission pursuant to the Exchange Act unless the beneficial owner knows or has reason to believe that the information contained in the quarterly or annual report is inaccurate. Two or more domestic mutual insurance companies that have restricted their licensed territories to the State are not considered subject to this section merely because those insurance companies commonly share facilities, incurred expenses or personnel services or otherwise utilize cost allocations based on generally accepted accounting principles including pro rata sharing of assumed risks. A person may have more than one controlling person, even if those controlling persons are not acting in concert.

(2) Notwithstanding the presumption of control contained in subparagraph (1), the superintendent, upon application of the insurance company, may determine that the insurer is not controlled by the person presumed to control it. In addition, the superintendent, after notice and an opportunity to be heard, may determine, notwithstanding the absence of the presumption in subparagraph (1), that a person does control an insurance company or companies.

(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. [PL 2013, c. 238, Pt. A, §4 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

B-1. Exchange Act. "Exchange Act" means the federal Securities Act of 1933, 15 United States Code, Chapter 2-A, Subchapter 1 and the federal Securities Exchange Act of 1934, 15 United States Code, Chapter 2-B. [PL 2013, c. 238, Pt. A, §5 (RPR); PL 2013, c. 238, Pt. A, §34 (AFF).]

B-2. Enterprise risk. "Enterprise risk" means an activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer, or of its insurance holding company system as a whole, including, but not limited to, anything that would cause or exacerbate a risk-based capital event as described in sections 6453 to 6456 or would cause the insurer to be in unsound or hazardous financial condition as determined by the superintendent. [PL 2013, c. 238, Pt. A, §6 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

B-3. "Groupwide supervisor" means the regulatory official who is determined or acknowledged by the superintendent under subsection 7-C to have the authority to engage in conducting and coordinating groupwide supervision activities over an internationally active insurance group or other insurance group that has requested groupwide supervision. [PL 2017, c. 169, Pt. B, §2 (NEW).]

B-4. “Group capital calculation” means a method for insurance groups to assess the financial condition of the group, including noninsurance entities within the group, in order to identify and quantify potential risks. [PL 2021, c. 521, §5 (NEW).]

B-5. “Group capital calculation instructions” means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC. [PL 2021, c. 521, §6 (NEW).]

C. Insurance holding company system. "Insurance holding company system" shall consist of 2 or more affiliated persons, one or more of whom is an insurer. [PL 1975, c. 356, §1 (RPR).]

D. Insurer. "Insurer" has the same meaning as in section 4 and includes a fraternal benefit society required to be licensed under section 4124 or 4125. [PL 2013, c. 238, Pt. A, §7 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

D-1. [PL 1993, c. 313, §7 (RP).]

D-2. "Net gain from operations" means:

(1) For life insurers, the net income or loss after dividends to policyholders and federal income taxes but before the inclusion of net realized capital gains or losses; and

(2) For nonlife insurers, the net income or loss after dividends to policyholders and federal income taxes and net realized capital gains or losses. [PL 2017, c. 169, Pt. B, §3 (AMD).]

D-3. Own risk and solvency assessment or ORSA. "Own risk and solvency assessment" or "ORSA" means a confidential internal assessment that is conducted by an insurer or insurance holding company system of the material and relevant risks associated with its current business plan and the sufficiency of its capital resources to support those risks and that is appropriate to the nature, scale and complexity of the operations of the insurer or insurance holding company system. [PL 2013, c. 238, Pt. A, §8 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

D-4. ORSA guidance manual. "ORSA guidance manual" means the NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual, as amended from time to time. A change in the ORSA guidance manual is effective with regard to this State on January 1st following the calendar year in which the change has been adopted by the National Association of Insurance Commissioners. [PL 2013, c. 238, Pt. A, §8 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

D-5. ORSA summary report. "ORSA summary report" means a confidential high-level summary of an insurer's or insurance holding company system's own risk and solvency assessment and includes a combination of separate reports that collectively meet the requirements of the ORSA guidance manual. [PL 2013, c. 238, Pt. A, §8 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

D-6. "Internationally active insurance group" means an insurance holding company system that meets the following criteria:

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

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

(3) Based on a 3-year rolling average, the total assets of the insurance holding company system are at least $50,000,000,000 or the total gross written premiums of the insurance holding company system are at least $10,000,000,000. [PL 2017, c. 169, Pt. B, §4 (NEW).]

D-7. "Liquidity stress test" means a method for insurance groups to assess the potential effects of liquidity risk to the insurer and to the financial markets. [PL 2021, c. 521, §7 (NEW).]

D-8. “NAIC Liquidity Stress Test Framework” means the NAIC publication that includes the applicable scope criteria and liquidity stress test instructions and reporting templates, as adopted by the NAIC and amended from time to time in accordance with the procedures adopted by the NAIC. [PL 2021, c. 521, §8 (NEW).]

E. Person. "Person" shall mean an individual, a corporation, a corporation which, pursuant to Title 24, chapter 19, maintains and operates nonprofit hospital service plans, nonprofit medical service plans or nonprofit health care plans or any combination thereof, a partnership, an association, a joint stock company, a business trust, an unincorporated organization or any similar entity, or any combination of the foregoing acting in concert. [PL 1975, c. 356, §1 (RPR).]

E-1. “Scope criteria” means the designated exposure bases and minimum magnitudes, as detailed in the NAIC Liquidity Stress Test Framework, used to establish a preliminary list of insurers that

are presumptively within the scope of the NAIC Liquidity Stress Test Framework. [PL 2021, c. 521, §9 (NEW).]

F. "Subsidiary" of a specified person means an affiliate controlled by that person directly or through one or more intermediaries. [PL 2001, c. 72, §4 (AMD).]

G. "Surplus regarding policyholders" means admitted assets less all liabilities. [PL 1993, c. 313, §9 (NEW).]

H. "Unassigned funds" means the undistributed and unappropriated amount of surplus remaining on the balance sheet date as the result of all operations of an insurance company from its commencement of business. [PL 1993, c. 313, §9 (NEW).]

I. "Voting security" means any security with voting rights or any security convertible into or evidencing a right to acquire a security with voting rights. [PL 1999, c. 113, §10 (NEW).]
[PL 2021, c. 521, §§5-9 (AMD).]

3. Subsidiaries of insurers; investments to acquire interest. This subsection pertains to insurers and their subsidiaries and affiliates.

A. Any domestic insurer may invest in or otherwise acquire one or more subsidiaries as authorized in section 1115 or section 1157. [PL 1987, c. 399, §1 (AMD).]

A-1. A domestic insurer shall notify the superintendent in writing within 30 days after any investment by the insurer or any of its affiliates in any one corporation if the insurer has invested in that corporation and the total investment in that corporation by the insurance holding company system exceeds 10% of the corporation's voting securities. [PL 1991, c. 828, §4 (AMD).]

B. If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within 3 years from the time of the cessation of control or within such further time as the superintendent may prescribe, unless at any time after the investment was made, the investment met the requirements for investment under any other section of this Title and the insurer has notified the superintendent thereof. [PL 1991, c. 828, §4 (AMD).]
[PL 1991, c. 828, §4 (AMD).]

4. Tender offers.
[PL 1989, c. 385, §4 (RP).]

4-A. Tender offers.

[PL 2013, c. 238, Pt. A, §9 (RP); PL 2013, c. 238, Pt. A, §34 (AFF).]

4-B. Application for approval.

[PL 2013, c. 238, Pt. A, §10 (RP); PL 2013, c. 238, Pt. A, §34 (AFF).]

4-C. Acquisitions; tender offers; divestitures. The following provisions apply to a transaction or proposed transaction that results or might result in the change of direct or indirect control of a domestic insurer.

A. Except as provided in paragraph B, a person other than the issuer may not make a tender offer for, or a request or invitation for tenders of, or an agreement to exchange securities for, or otherwise acquire any voting security, or any security convertible into a voting security, of a domestic insurer or of any person controlling a domestic insurer if, as a result of the consummation thereof, the person making the tender offer, request or agreement would, directly or indirectly, acquire actual or presumptive control of the insurer or controlling person, and a person may not enter into an agreement to merge with or otherwise acquire actual or presumptive control of a domestic insurer or its controlling person, unless:

(1) The person has filed with the superintendent and has sent the domestic insurer an application containing the information required by paragraph C;

(2) The offer, request, invitation, agreement or acquisition has been approved by the superintendent in the manner prescribed in subsection 7; and

(3) Ten days has elapsed from the date of approval by the superintendent and no injunction or other court order precludes consummation of the offer, request, invitation, agreement or acquisition. [PL 2013, c. 238, Pt. A, §11 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

B. A controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer in any manner, including any partial divestiture that would cause that person to cease to be a controlling person, shall file with the superintendent, with a copy to the insurer, confidential notice of its proposed divestiture at least 30 days before the cessation of control, unless the divestiture transaction consists of the transfer of the divesting person's interest to one or more acquiring persons, all of whom have reported their respective acquisitions pursuant to paragraph A. Unless the superintendent grants an exemption under paragraph D, the divesting person shall file an application substantially similar to the application required under paragraph C, with such modifications as the superintendent determines to be appropriate based on the nature of the transaction. The superintendent shall decide whether to approve the application using the criteria in subsection 7, paragraph A and may hold a public hearing if the superintendent determines that a hearing is in the interests of policyholders or the public. If 20 days has elapsed after the superintendent's receipt of a notice filed under this paragraph and the superintendent has not disapproved the proposed divestiture or postponed its effective date pending further review, the superintendent is deemed to have granted an exemption under paragraph D, subparagraph (2). [PL 2013, c. 238, Pt. A, §11 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

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

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

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

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

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

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

(4) Any plans or proposals that each acquiring person may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person or to make any other material change in its business or corporate structure or management;

(5) The number of shares of any security referred to in paragraph A that each acquiring person proposes to acquire, the terms of the offer, request, invitation, agreement or acquisition referred to in paragraph A and a statement as to the method by which the fairness of the proposal was arrived at;

(6) The amount of each class of any security referred to in paragraph A that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring person;

(7) A full description of any contracts, arrangements or understandings with respect to any security referred to in paragraph A in which any acquiring person is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. The description must identify the persons with whom the contracts, arrangements or understandings have been entered into;

(8) A description of the purchase by any acquiring person of any security referred to in paragraph A during the 12 calendar months preceding the filing of the application, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid;

(9) A description of any recommendations to purchase any security referred to in paragraph A made during the 12 calendar months preceding the filing of the application by any acquiring person or by anyone based upon interviews with or at the suggestion of the acquiring person;

(10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities referred to in paragraph A and copies of any additional related soliciting material that has been distributed;

(11) The terms of any agreement, contract or understanding made or proposed to be made with any broker-dealer as to solicitation of securities referred to in paragraph A for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard to the solicitation of securities referred to in paragraph A;

(12) An agreement by the person required to file the application to provide the annual enterprise risk report required by subsection 8, paragraph B-1, subparagraph (1)for as long as control by the person exists;

(13) An acknowledgement by the person required to file the application that the person and all subsidiaries within its control in the insurance holding company system will provide information to the superintendent upon request as necessary to evaluate enterprise risk to the insurer;

(14) A statement as to whether or not the proposed transaction will result in an increase in market share in this State in any line of insurance as specified in the annual statement required to be filed under section 423 for one or more insurers with combined market share greater than 5% and, if so, such further information on the competitive impact of the proposed transaction as the superintendent requires by rule or order; and

(15) Such additional information as the superintendent may prescribe by rule or order. [PL 2021, c. 521, §10 (AMD).]

D. The superintendent may exempt a person otherwise subject to the requirements of this subsection and subsection 7 from some or all of those requirements if the person demonstrates to the satisfaction of the superintendent that an exemption will not be detrimental to the interests of policyholders in the State or the public and that the transaction satisfies at least one of the following criteria:

(1) The interests of the State in regulating the transaction are minimal relative to the interests of other jurisdictions or are minimal relative to the impact of the transaction as a whole;

(2) The person proposes a divestiture of control under paragraph B and the superintendent determines that the prior approval process is not necessary in the circumstances of the transaction;

(3) A party proposing to acquire presumed control submits a disclaimer fully disclosing all material relationships and bases for affiliation with the insurer and demonstrating to the satisfaction of the superintendent that the person will not be acquiring actual control. As a condition of granting an exemption under this subparagraph, the superintendent may require the person to agree to reasonable restrictions on the exercise of rights or powers that might otherwise tend to result in control;

(4) The superintendent elects to participate in a consolidated approval proceeding conducted under the laws of one or more other states pursuant to subsection 7-A, paragraph E; and

(5) The transaction involves the control of a person that is not primarily engaged in the business of insurance, directly or through its affiliates, and there will be no material impact on the management or operations of a domestic insurer.

A person requesting an exemption under this paragraph must agree to provide additional information if needed by the superintendent and to postpone the effective date of the transaction if ordered by the superintendent while the request for exemption is pending. [PL 2013, c. 238, Pt. A, §11 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

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. [PL 2013, c. 238, Pt. A, §11 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

[PL 2021, c. 521, §10 (AMD).]

5. Tender offer material. All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such voting securities for control of a domestic insurer or its controlling person made by or on behalf of any such person must contain any information specified in subsection 4-C as the superintendent may prescribe and must be filed with the superintendent at the time that material is first published or sent or given to security holders. Copies of any additional material soliciting or requesting such tender offers subsequent to the initial solicitation or request must contain the information that the superintendent may prescribe as necessary or appropriate in the public interest or for the protection of policyholders and must be filed with the superintendent at the time copies of that material are first published or sent or given to security holders.

[PL 2013, c. 238, Pt. A, §12 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

6. Information as to applicant. If a person required to file an application under subsection 4-C is a partnership, limited partnership, syndicate or other group, the superintendent may require that the information called for by subsection 4-C must be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group and each person who controls any such partner or member. If a person required to file an application under subsection 4-C is a corporation, the superintendent may require that the information called for by subsection 4-C must be given with respect to the corporation and each officer and director thereof and each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding securities of the corporation. [PL 2013, c. 238, Pt. A, §13 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

7. Approval, disapproval of proposed change of control.

A. The superintendent shall hold a hearing in accordance with the procedures set forth in section 231 and Title 5, chapter 375, subchapter 4, within 30 days after the application required by subsection 4-C has been filed with the superintendent. The superintendent shall make a determination within 30 days after the conclusion of that hearing. The superintendent shall approve any purchase, exchange, merger or other change of control referred to in subsection 4-C unless the superintendent finds that:

(1) After the change of control, the domestic insurer could not satisfy the requirements for the issuance of a certificate of authority according to requirements in force at the time of the issuance or last renewal or continuation of its certificate of authority to do the insurance business that it intends to transact in this State;

(2) The effect of the purchases, exchanges, merger of a controlling person of the insurer or other changes of control may be substantially to lessen competition in insurance in this State or tend to create a monopoly in this State or would violate the laws of this State or of the United States relating to monopolies or restraints of trade;

(3) The financial condition of an acquiring person would jeopardize the financial stability of the insurer or prejudice the interest of its policyholders;

(4) The plans or proposals that the acquiring or divesting person has to liquidate the insurer, to sell its assets or to merge it with any person, or to make any other major change in its business or corporate structure or management, are unfair or prejudicial to policyholders;

(5) The competence, experience and integrity of those persons who would control the operation of the insurer indicate that it would not be in the interest of policyholders or the public to permit them to do so;

(6) Any merger of a domestic insurer does not comply with section 3474; or

(7) The change of control would tend to affect adversely the contractual obligations of the domestic insurer or its ability and tendency to render service in the future to its policyholders and the public. [PL 2021, c. 16, §3 (AMD).]

B. Paragraph A, subparagraphs (3) to (7) do not apply to any change of control if and to the extent that the superintendent, by rule or by order, exempts the change of control from the provisions of those subparagraphs as not included within the purpose of this subsection. [PL 2013, c. 238, Pt. A, §14 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

C. Merger, consolidation or bulk reinsurance as to a domestic insurer may be effectuated only pursuant to the applicable provisions of chapter 47, subchapter 4 and sections 3875, 4108 and 4109, as related to organization and powers of insurers. [PL 2013, c. 238, Pt. A, §14 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

D. Violation.

(1) Failure to file the application required under subsection 4-C constitutes a violation of this section.

(2) Effectuation of or any attempt to effectuate an acquisition of control of, divestiture of control of or merger with a domestic insurer earlier than 30 days after the filing of the application required by subsection 4-C, before the superintendent's decision if a hearing is held or after disapproval by the superintendent of the acquisition, divestiture or merger, constitutes a violation of this section. [PL 2013, c. 238, Pt. A, §14 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

[PL 2021, c. 16, §3 (AMD).]

7-A. Consolidated proceedings. If a proposed change of control requires, or is part of a series of related transactions that require, the approval of the insurance regulators of more than one state, a person filing an application under subsection 4-C with respect to the change of control may file a request for a consolidated approval proceeding with the National Association of Insurance Commissioners.

A. The applicant shall file a copy of the application made under subsection 4-C with the National Association of Insurance Commissioners within 5 days after making the request for a consolidated approval proceeding. [PL 2013, c. 238, Pt. A, §15 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

B. Within 10 days after receiving notice from the National Association of Insurance Commissioners of a request for a consolidated approval proceeding, the superintendent shall issue an order, with notice to the applicant and to the National Association of Insurance Commissioners, specifying whether the superintendent elects to participate in the consolidated proceeding or to opt out of the consolidated proceeding. [PL 2013, c. 238, Pt. A, §15 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

C. If the superintendent opts out of the consolidated approval proceeding pursuant to paragraph B, the superintendent shall hold a public hearing under subsection 7 unless the superintendent grants an exemption under subsection 4-C, paragraph D. Opting out of the consolidated proceeding does not preclude or limit the superintendent’s authority to coordinate a proceeding conducted under subsection 7 with the consolidated proceeding or with other parallel proceedings in other states. [PL 2013, c. 238, Pt. A, §15 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

D. With the agreement of the other participating insurance regulators, the superintendent may initiate a consolidated approval proceeding under this paragraph to render decisions on all applications within the scope of the order of consolidation issued by the superintendent. A consolidated approval proceeding convened under this paragraph is a public adjudicatory proceeding. Except as provided in this paragraph, the proceeding must be conducted in the same manner as a proceeding under subsection 7.

(1) A person who would have the right to participate in a proceeding on any of the consolidated applications held under subsection 7 or substantially similar laws of other states has the right to participate in the proceeding.

(2) The chief insurance regulator of a participating state has the right to participate in making the decision or in designating a decision-making panel.

(3) The proceeding is public to the same extent as a proceeding conducted under subsection 7, except that deliberations of a decision-making panel are not public proceedings and communications in the course of those deliberations among panel members and their advisers, other than the decision itself, are not public records.

(4) The proceeding may be held in any state with a significant connection to the subject transactions or in a nearby location in an adjacent state. Sessions may be held in different states. Provision must be made for parties, witnesses, insurance regulators and members of the public to attend and participate in the proceeding by telecommunication.

(5) The superintendent, decision-making panel or presiding officer may vary the applicable procedural requirements under this Title and Title 5 to the extent the superintendent, panel or presiding officer determines to be reasonably necessary for the fair and effective administration of a consolidated multistate proceeding.

(6) The decision is subject to judicial review in the same manner as a final agency action of the superintendent. [PL 2021, c. 16, §4 (AMD).]

E. The superintendent may participate, including serving as a decision maker or member of a decision-making panel, in a consolidated approval proceeding conducted under the laws of one or more other states if the consolidated proceeding provides for a public hearing with substantially similar rights of participation and judicial review as a proceeding conducted pursuant to paragraph D. If the superintendent elects under this paragraph to participate in a consolidated proceeding that is conducted under the laws of one or more other states, the application is exempt from further review under this section pursuant to subsection 4-C, paragraph D, subparagraph (4) and the consolidated proceeding, notwithstanding the superintendent's participation, is not subject to any provisions of the law of this State governing adjudicatory proceedings, judicial review, public records or public meetings. [PL 2013, c. 238, Pt. A, §15 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

[PL 2021, c. 16, §4 (AMD).]

7-B. Supervisory colleges. In order to assess the business strategy, financial position, legal and regulatory position, risk exposure including enterprise risk, risk management and governance processes of a domestic insurer that is part of an insurance holding company system with international operations, the superintendent may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal and international regulatory agencies. A supervisory college may be convened as either a temporary or permanent forum for communication and cooperation among the regulators charged with the supervision of the insurer or its affiliates.

A. The superintendent's powers with respect to supervisory colleges include, but are not limited to:

(1) Initiating the establishment of a supervisory college or participating in a supervisory college initiated by one or more other regulators;

(2) Entering into agreements providing the basis for cooperation between the superintendent and the other participating regulators and for the activities of the supervisory college, including but not limited to agreements for sharing confidential information under section 216, subsection 5;

(3) Obtaining and providing assistance in examinations conducted under subsection 1-A or under the examination authority of other participating jurisdictions;

(4) Clarifying the membership and participation of other regulators in the supervisory college;

(5) Clarifying the functions of the supervisory college and the role of other regulators, including the designation of the superintendent or another member of the supervisory college as a group-wide supervisor;

(6) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities and processes for information sharing; and

(7) Establishing a crisis management plan. [PL 2013, c. 238, Pt. A, §15 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

B. A domestic insurer whose activities are subject to this subsection is liable for and shall pay the reasonable expenses of the superintendent's participation in a supervisory college, including

reasonable travel expenses. The superintendent may establish a regular assessment to the insurer for the payment of these expenses. [PL 2013, c. 238, Pt. A, §15 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

C. This section may not be construed to delegate to a supervisory college the authority of the superintendent to regulate or supervise an insurer or its affiliates within this State. [PL 2013, c. 238, Pt. A, §15 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

[PL 2013, c. 238, Pt. A, §15 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

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

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

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

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

(3) Has substantial insurance operations in the United States and this State, but the superintendent has determined pursuant to the factors set forth in paragraphs B and G that the other regulatory official is the appropriate groupwide supervisor. [PL 2017, c. 169, Pt. B, §6 (NEW).]

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

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

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

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

(4) The recommendation made by a regulatory official who is a candidate for designation under the criteria in this paragraph but has notified the superintendent that a different regulatory official would be a more appropriate groupwide supervisor;

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

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

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

(6) Whether another regulatory official acting or seeking to act as the groupwide supervisor provides the superintendent with reasonably reciprocal recognition and cooperation. [PL 2017, c. 169, Pt. B, §6 (NEW).]

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

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

(2) This State being the place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the insurance group. [PL 2017, c. 169, Pt. B, §6 (NEW).]

D. If more than one regulatory official is acting as the groupwide supervisor of an insurance group, the superintendent is authorized to cooperate with any of them under paragraph G. [PL 2017, c. 169, Pt. B, §6 (NEW).]

E. Pursuant to subsection 1-A, the superintendent is authorized to collect from any insurer registered pursuant to subsection 8 all information necessary to determine whether the superintendent should act as the groupwide supervisor of an insurance group or whether the superintendent should acknowledge another regulatory official to act as the groupwide supervisor. Before issuing a determination that an insurance group is subject to groupwide supervision by the superintendent, the superintendent shall notify the insurer registered pursuant to subsection 8 and the ultimate controlling person within the insurance group. The insurance group has no less than 30 days to provide the superintendent with additional information pertinent to the pending determination. The superintendent shall publish on the bureau's publicly accessible website the identity of all insurance groups that the superintendent has determined are subject to groupwide supervision by the superintendent. [PL 2017, c. 169, Pt. B, §6 (NEW).]

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

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

(a) The material financial condition and liquidity risks to the members of the insurance group that are engaged in the business of insurance are identified by management; and

(b) Reasonable and effective mitigation measures are in place;

(2) Request, from any member of the insurance group, information necessary and appropriate to assess enterprise risk, including, but not limited to, information about the members of the insurance group regarding:

(a) Governance, risk assessment and management;

(b) Capital adequacy; and

(c) Material intercompany transactions;

(3) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the insurance group is able to promptly recognize and mitigate enterprise risks to members of the insurance group that are engaged in the business of insurance;

(4) Communicate with other state, federal and international agencies that regulate members of the insurance group and share relevant information subject to the confidentiality provisions of subsection 13-A, through supervisory colleges as set forth in subsection 7-B or otherwise;

(5) Enter into agreements with or obtain documentation from any insurer registered under subsection 8, any member of the insurance group and any other state, federal and international regulatory agencies for members of the insurance group, providing the basis for or otherwise clarifying the superintendent's role as groupwide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation may not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this State is doing business in this State or is otherwise subject to jurisdiction in this State; and

(6) Other groupwide supervision activities, consistent with the authorities and purposes set out in subparagraphs (1) to (5), as considered necessary by the superintendent. [PL 2017, c. 169, Pt. B, §6 (NEW).]

G. If the superintendent acknowledges that another regulatory official from a jurisdiction that is not accredited by the National Association of Insurance Commissioners is the groupwide supervisor, the superintendent is authorized to cooperate reasonably, through supervisory colleges or otherwise, with groupwide supervision undertaken by the groupwide supervisor, as long as:

(1) The superintendent's cooperation is in compliance with the laws of this State; and

(2) The regulatory official acknowledged as the groupwide supervisor also recognizes and cooperates with the superintendent's activities as a groupwide supervisor for other insurance groups as applicable. When such recognition and cooperation is not reasonably reciprocal, the superintendent is authorized to refuse recognition and cooperation. [PL 2017, c. 169, Pt. B, §6 (NEW).]

H. The superintendent is authorized to enter into agreements with or obtain documentation from any insurer registered under subsection 8, any affiliate of the insurer and other state, federal and international regulatory agencies for members of the insurance group in order to provide the basis for or otherwise clarify a regulatory official's role as groupwide supervisor. [PL 2017, c. 169, Pt. B, §6 (NEW).]

I. The superintendent may adopt rules necessary for the administration of this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2017, c. 169, Pt. B, §6 (NEW).]

J. A registered insurer subject to this subsection is liable for and shall pay the reasonable expenses of the superintendent's participation in the administration of this subsection, including the engagement of attorneys, actuaries and any other professionals and all reasonable travel expenses. [PL 2017, c. 169, Pt. B, §6 (NEW).]

[PL 2017, c. 169, Pt. B, §6 (NEW).]

8. Registration of holding company system insurers.

A. An insurer that is authorized to do business in this State and that is a member of an insurance holding company system shall register with the superintendent, except that these requirements do not apply to a foreign insurer domiciled in a jurisdiction that in the opinion of the superintendent has adopted by statute or regulation disclosure statements and standards substantially similar to those contained in this section. An insurer domiciled in a jurisdiction that has not adopted by statute or regulation disclosure requirements and standards substantially similar to those contained in this section may be treated as a domestic insurer for purposes of this section. Each insurer that is subject to registration under this subsection shall register within 15 days after it becomes subject to registration, and annually thereafter by May 1st, unless the superintendent, for good cause shown,

extends the time for registration and then an insurer shall register within that extended time. This section does not prohibit the superintendent from requesting any authorized insurer that is a member of an insurance holding company system and not subject to registration under this section to provide a copy of the registration statement or other information filed by such insurer with the insurance regulatory authority of its state of domicile. Upon request of the insurer or of the insurance regulatory authority of another jurisdiction in which the insurer is authorized to transact insurance, the superintendent at the insurer's expense shall furnish a copy of the registration statement or other information filed by a domestic insurer with the superintendent pursuant to this section; [PL 2013, c. 238, Pt. A, §16 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

B. An insurer subject to registration shall file a registration statement with the superintendent on a form and in a format prescribed by the National Association of Insurance Commissioners. The registration statement must contain current information about:

(1) The capital structure, general financial condition, ownership and management of the insurer and of any person controlling the insurer;

(1-A) The identity and relationship of every member of the insurance holding company system;

(2) The following transactions currently outstanding between the insurer and its affiliates:

(a) Loans and other investments, and purchases, sales or exchanges of securities of the affiliate by the insurer or of the insurer by its affiliates;

(b) Purchases, sales or exchanges of assets;

(c) Transactions not in the ordinary course of business;

(d) Guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

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

(f) Reinsurance agreements;

(g) Dividends and other distributions to shareholders; and

(h) Consolidated tax allocation agreements;

(2-A) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(2-B) If requested by the superintendent, financial statements of or within the insurance holding company system, including all affiliates. The required financial statements may include but are not limited to annual audited financial statements filed with the United States Securities and Exchange Commission pursuant to the Exchange Act. An insurer required to file financial statements pursuant to this subparagraph may satisfy the request by providing the superintendent with the most recently filed parent corporation financial statements that have been filed with the United States Securities and Exchange Commission;

(3) Other matters concerning transactions between the insurer and any affiliate as may be required by the superintendent; and

(4) Any other information required by the superintendent by rule; [PL 2013, c. 238, Pt. A, §17 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

B-1. The controlling person with ultimate control of an insurer subject to registration shall file an annual enterprise risk report in accordance with subparagraph (1) and, if applicable, shall file any additional reports required by this paragraph. The reports must be filed with the lead state regulator

of the insurance holding company system as determined by the procedures within the NAIC Financial Analysis Handbook or successor publication.

(1) The enterprise risk report must be appropriate to the nature, scale and complexity of the operations of the insurance holding company system and must, to the best of the controlling person's knowledge and belief, identify the material risks within the insurance holding company system, if any, that could pose enterprise risk to the insurer.

(2) Except as otherwise provided in this subparagraph, the ultimate controlling person of an insurer subject to registration shall file an annual group capital calculation concurrently with the registration required by paragraph A. The report must be completed as directed by the lead state regulator in accordance with the group capital calculation instructions, which may permit the lead state regulator to allow a controlling person that is not the ultimate controlling person to file the group capital calculation.

(a) An insurance holding company is exempt from filing the group capital calculation if it has only one insurer within its holding company structure and that insurer is not licensed outside this State to transact insurance, does not write business outside this State and does not assume reinsurance from any other insurer.

(b) An insurance holding company is exempt from filing the group capital calculation if it is required to perform a group capital calculation specified by the Board of Governors of the Federal Reserve System and the lead state regulator has obtained the current group capital calculation from the board of governors. If this State is the insurance holding company system's lead state, the superintendent shall request the calculation from the board of governors under the terms of information sharing agreements in effect.

(c) An insurance holding company is exempt from filing the group capital calculation if its groupwide supervisor is located within a non-United States jurisdiction that the superintendent has designated as a reciprocal jurisdiction pursuant to section 731-B, subsection 1, paragraph B-3, subparagraph (1), division (b) and that recognizes the United States system of group supervision and group capital regulation.

(d) An insurance holding company is exempt from filing the group capital calculation if its groupwide supervisor is located in a non-United States jurisdiction and:

(i) The lead state regulator meets the requirements for accreditation under the NAIC financial standards and accreditation program and the insurance holding company system provides information to the lead state regulator, either directly or indirectly through the groupwide supervisor, that the lead state regulator has determined to be satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook or successor publication; and

(ii) The groupwide supervisor recognizes and accepts the group capital calculation as the worldwide group capital assessment for United States insurance groups that operate in that non-United States jurisdiction, consistent with criteria specified by the superintendent by rule.

(e) Notwithstanding divisions (c) and (d), a non-United States-based insurance holding company system shall file a group capital calculation limited to its United States operations if its lead state regulator determines, after any necessary consultation with other supervisors or officials, that requiring a United States group capital calculation is appropriate for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(f) If this State is an insurance holding company system's lead state, the superintendent may exempt the ultimate controlling person from filing an annual group capital calculation or may accept a limited group capital filing or report in accordance with criteria specified by the superintendent by rule. An exemption or modification granted under a substantially similar law of another jurisdiction that is the lead state of an insurance holding company system that includes a domestic insurer applies to a filing otherwise required by this subparagraph.

(g) If the lead state regulator determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this subparagraph, the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state regulator based on reasonable grounds shown.

(3) The ultimate controlling person of an insurer subject to registration shall file the results of a liquidity stress test for each data year for which the insurer's insurance holding company system is within the scope of that year's NAIC Liquidity Stress Test Framework, as determined by the lead state regulator.

(a) If this State is the lead state, the determination that an insurer is within scope or out of scope must be based on whether the insurer or its insurance holding company system meets at least one threshold in the applicable scope criteria, unless the superintendent determines, in consultation with the NAIC Financial Stability Task Force or its successor organization, that there is good cause to exclude an insurer or insurance holding company system that meets one or more thresholds or to include an insurer or insurance holding company system that does not meet any of the thresholds. In making that determination, the superintendent shall consider the goal of providing a stable experience base and avoiding insurers moving in and out of scope frequently.

(b) A liquidity stress test under this subparagraph must be performed, and its results must be filed, in accordance with the NAIC Liquidity Stress Test Framework's instructions and reporting templates for that data year.

(c) For the purposes of this subparagraph, any change to the NAIC Liquidity Stress Test Framework, including the data to be used in applying the scope criteria, is effective on January 1st of the year following the calendar year when the change is adopted by the NAIC. [PL 2021, c. 521, §11 (AMD).]

B-2. An insurer subject to registration shall file statements confirming that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved and implemented and continue to maintain and monitor corporate governance and internal control procedures; [PL 2013, c. 238, Pt. A, §18 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

B-3. A domestic insurer that is subject to registration, and has annual premium of $500,000,000 or more or is a member of an insurance holding company system with annual premium of $1,000,000,000 or more, shall conduct an own risk and solvency assessment in accordance with the requirements of this paragraph and the ORSA guidance manual at least annually, and also at any time when there are significant changes to the risk profile of the insurer or its insurance holding company system, except as otherwise provided in subparagraph (1). For purposes of this paragraph, "premium" means direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation within the United States Department of Agriculture, Risk Management Agency and with the National Flood Insurance Program within the United States Department of Homeland Security, Federal Emergency Management Agency.

(1) This paragraph does not apply if:

(a) The insurer is an agency, authority or instrumentality of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia or a state or political subdivision of a state;

(b) The insurer and its insurance holding company system did not meet either of the minimum premium criteria of this paragraph in the financial statements immediately preceding their most recent financial statements and the superintendent has not required compliance with this paragraph under subparagraph (2); or

(c) The superintendent has granted a waiver from the requirements of this paragraph based upon unique circumstances. In deciding whether to grant a waiver, the superintendent may consider the type and volume of business written by the insurer, the ownership and organizational structure of the insurer and its insurance holding company system and any other factor the superintendent considers relevant to the insurer or the insurer's insurance holding company system. If the insurer's insurance holding company system includes insurers domiciled in more than one state, the superintendent shall coordinate with the lead regulator and with other domiciliary regulators in considering whether to grant the insurer's request for a waiver.

(2) The superintendent may require an insurer that does not meet either of the minimum premium criteria of this paragraph to comply with the requirements of this paragraph if:

(a) The superintendent determines that the insurer should be subject to this paragraph due to unique circumstances, including, but not limited to, the type and volume of business written by the insurer, the ownership and organizational structure of the insurer and its insurance holding company system, federal agency requests and international supervisor requests;

(b) The insurer is subject to a corrective order or required to adopt a risk-based capital plan under sections 6453 to 6456;

(c) The superintendent has determined in accordance with rules adopted by the superintendent that the insurer is in hazardous financial condition; or

(d) The superintendent has determined that the insurer otherwise exhibits qualities of a troubled insurer.

(3) If an insurer's insurance holding company system has annual premium of $1,000,000,000 or more, the assessment and reporting required by this paragraph must be conducted for each insurer within the insurance holding company system, either on a systemwide basis or separately for insurers or combinations of insurers within the insurance holding company system.

(4) An insurer subject to this paragraph shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material and relevant risks. An insurer may satisfy this requirement by participating in an applicable risk management framework maintained by the insurance holding company system of which the insurer is a member.

(5) An insurer subject to this paragraph shall prepare and submit regular ORSA summary reports that satisfy the requirements of this subparagraph and shall provide additional information to the superintendent upon request.

(a) Beginning no later than 2015, the ORSA summary report must be prepared at least annually, on a timetable consistent with the insurer's internal strategic planning processes, and submitted to the lead regulator of the insurer's insurance holding company system, as

determined by the procedures within the NAIC Financial Analysis Handbook or successor publication. If the superintendent is not the lead regulator, the insurer shall submit the insurer's or insurance holding company system's most recent ORSA summary report to the superintendent on request.

(b) The ORSA summary report must be prepared consistent with the ORSA guidance manual. Documentation and supporting information must be maintained and made available upon examination by or upon request of the superintendent.

(c) The insurer's or insurance holding company system's chief risk officer, or other executive having responsibility for the oversight of the insurer's enterprise risk management process, shall sign the ORSA summary report attesting to the best of the signer's belief and knowledge that the insurer applies the enterprise risk management process described in the ORSA summary report and that a copy of the report has been provided to the insurer's board of directors or the appropriate committee of the board.

(d) An insurer may comply with this paragraph by providing the most recent ORSA summary report and a report or reports that are substantially similar to the ORSA summary report that are provided by the insurer or another member of its insurance holding company system to the insurance commissioner of another state or to an insurance supervisor or regulator of a foreign jurisdiction if that report provides information that is comparable to the information described in the ORSA guidance manual. Any report in a language other than English must be accompanied by an English translation.

(6) The superintendent's review of the ORSA summary report, and any additional requests for information, must be consistent with accepted regulatory procedures for the analysis and examination of multistate or global insurers and insurance groups. [PL 2021, c. 521, §12 (AMD).]

C. An insurer does not need to disclose on the registration statement filed pursuant to this subsection information that is not material to the purposes of this section. Sales, purchases, exchanges, loans or extensions of credit or investments involving 1/2 of 1% or less of an insurer's admitted assets as of December 31st immediately preceding are not material for purposes of this section, except:

(1) For purposes of the group capital calculation and liquidity stress test in accordance with paragraph B-1, subparagraphs (2) and (3);

(2) When the instructions for a specific filing specify a different materiality threshold or specify that no materiality threshold applies; or

(3) As the superintendent otherwise provides by rule or order. [PL 2021, c. 521, §13 (AMD).]

D. Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting on forms provided by the superintendent all material changes or additions on or before the 15th day of the month following that in which it learns of each such change or addition; [PL 1975, c. 356, §1 (NEW).]

E. The superintendent shall terminate the registration of any insurer which demonstrates that it is no longer a member of an insurance holding company system; [PL 1975, c. 356, §1 (NEW).]

F. Two or more affiliated insurers subject to registration hereunder may file a consolidated registration statement or consolidated reports amending their respective consolidated statements or their individual registration statements so long as such consolidated filings correctly reflect the condition of and transactions between such persons; [PL 1975, c. 356, §1 (NEW).]

G. The superintendent may allow or require any insurer, which is authorized to do business in this State and which is part of an insurance holding company system, to register on behalf of any

affiliated insurer which is required to register under paragraph A and to file all information and material required to be filed under this section; [PL 1975, c. 356, §1 (NEW).]

H. This section shall not apply to any insurer, information or transaction if and to the extent that the superintendent by rule, regulation or order shall exempt the same from the provisions of this section as not comprehended within the purposes thereof; [PL 1975, c. 356, §1 (NEW).]

I. Any person may file with the superintendent a disclaimer of affiliation with any authorized insurer. A disclaimer of affiliation may be filed by the insurer or any member of an insurance holding company system. The disclaimer must fully disclose all material relationships and bases for affiliation between the disclaiming person and the insurer as well as the bases for disclaiming affiliation.

(1) An approved disclaimer relieves the disclaiming person of the duty to register under this section.

(2) A disclaimer is deemed approved unless the superintendent, within 30 days after receipt of a complete disclaimer, including any additional information required by the superintendent, either disallows the disclaimer or notifies the disclaiming person that a hearing will be held on the disclaimer.

(3) The superintendent may condition the approval of a disclaimer on terms and conditions reasonably designed to ensure that the disclaiming person will not exercise actual control or acquire the right to actual control over the insurer without triggering the prior approval process under subsections 4-C and 7.

(4) If the superintendent takes action on a disclaimer without hearing, including the imposition of conditions not agreed to by the disclaiming person, an aggrieved person has the right to a hearing.

(5) The superintendent may rescind the approval of a disclaimer, after notice and opportunity for hearing, on the basis of new information or changed circumstances demonstrating the existence of control over the insurer. [PL 2013, c. 238, Pt. A, §20 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

[PL 2021, c. 521, §§11-13 (AMD).]

9. Transactions with affiliates; standards. Transactions by insurers subject to registration with their affiliates are subject to the following standards.

A. The terms, including any charges or fees for services performed, must be fair and reasonable. [PL 1991, c. 828, §5 (AMD).]

A-1. Agreements for management services and cost sharing must include any provisions required by the superintendent by rule. [PL 2017, c. 169, Pt. B, §7 (AMD).]

B. The books, accounts and records of each party must be so maintained as to disclose clearly and accurately the nature and details of the transaction, including all accounting information necessary to support the reasonableness of any charges or fees. [PL 1991, c. 828, §5 (AMD).]

C. The insurer's surplus to policyholders following any dividends or distributions to stockholder affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. [PL 1991, c. 548, Pt. B, §3 (AMD).]

D. Expenses incurred and payment received must be allocated to the insurer in conformity with customary insurance accounting practices consistently applied. [PL 1991, c. 828, §5 (NEW).]

D-1. If an insurer subject to this Title is determined by the superintendent to be in hazardous financial condition as defined by rule or a condition that would be grounds for a delinquency proceeding under chapter 57, the superintendent may require the insurer to secure and maintain

either a deposit, held by the Treasurer of State on behalf of the superintendent, or a bond, as determined by the insurer at the insurer's discretion, for the protection of the insurer for the duration of a contract or agreement or the duration of the condition for which the superintendent required the deposit or the bond. In determining whether a deposit or a bond is required, the superintendent shall consider whether concerns exist with respect to the affiliated person's ability to fulfill all of its contracts or agreements if the insurer were to be put into liquidation. If the insurer is determined to be in hazardous financial condition or in a condition that would be grounds for a delinquency proceeding, and a deposit or bond is required, the superintendent has discretion to determine the amount of the deposit or bond, not to exceed the aggregate value in any one year of all contracts or agreements secured by the deposit or bond, and whether the deposit or bond should be required for a single contract, multiple contracts or a contract with a specific person. [PL 2021, c. 521, §14 (NEW).]

D-2. All records and data of the insurer held by an affiliate are and remain the property of the insurer, must be subject to control of the insurer, must be identifiable and must be segregated or readily capable of segregation, at no additional cost to the insurer, from all other persons' records and data. This includes all records and data that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to, claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records and similar records within the possession, custody or control of the affiliate. At the request of the insurer or its receiver, the affiliate shall allow the insurer or receiver to obtain a complete set of all records of any type that pertain to the insurer's business and obtain access to the electronic operating systems on which the data is maintained or software that runs those systems either through assumption of licensing agreements or otherwise and shall restrict the use of the data by the affiliate if it is not operating the insurer's business. The affiliate shall provide a waiver of any landlord lien or other encumbrance to give the insurer access to all records and data in the event of the affiliate's default under a lease or other agreement. [PL 2021, c. 521, §15 (NEW).]

D-3. Premiums or other funds belonging to the insurer that are collected by or held by an affiliate are the exclusive property of the insurer and are subject to the control of the insurer. Any offset in the event that an insurer is placed into receivership is subject to section 4381. [PL 2021, c. 521, §16 (NEW).]

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

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

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

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

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

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

make investments in any affiliate of the insurer if the loan, extension of credit, purchase or investment is equal to or exceeds:

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

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

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

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

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

(5) Any transactions that are part of a plan or series of like transactions with persons within the holding company system if the transactions when aggregated over any 12-month period exceed the reporting thresholds of this paragraph. If the superintendent determines that those separate transactions were entered into for the purpose of avoiding regulatory review by circumventing statutory reporting requirements, that determination is a sufficient basis for disapproving the transactions under this subsection; and

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

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

The superintendent shall disapprove a transaction that is subject to this paragraph if the transaction violates the standards of this section or other applicable law or adversely affects the interests of policyholders. The superintendent's failure to make a determination on a proposed transaction within 30 days after it has been submitted for review has the effect of an approval, unless the superintendent has issued a notice of adjudicatory hearing on the proposal in accordance with section 230. [PL 2017, c. 169, Pt. B, §8 (AMD).]

Any violation of this subsection, in addition to the penalties contained in subsection 14, renders the transactions voidable at the initiative of the superintendent or otherwise under applicable law. The superintendent's approval of a transaction in accordance with this section, whether actual or by acquiescence, may not override any applicable law and does not operate to authorize any transaction that would be contrary to law if it involved an insurer not a member of the same holding company system.
[PL 2021, c. 521, §§14-16 (AMD).]

10. Insurer's surplus; adequacy factors. For the purposes of this section, in determining whether an insurer's surplus to policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, may be considered:

A. The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria; [PL 1975, c. 356, §1 (NEW).]

B. The extent to which the insurer's business is diversified among the several lines of insurance; [PL 1975, c. 356, §1 (NEW).]

C. The number and size of the risks insured in each line of business; [PL 1975, c. 356, §1 (NEW).]

D. The extent of the geographical dispersion of the insurer's insured risks; [PL 1975, c. 356, §1 (NEW).]

E. The nature and extent of the insurer's reinsurance program; [PL 1975, c. 356, §1 (NEW).]

F. The quality, diversification and liquidity of the insurer's investment portfolio; [PL 1975, c. 356, §1 (NEW).]

G. The recent past and projected future trend in the size of the insurer's surplus as regards policyholders; [PL 1993, c. 313, §10 (AMD).]

H. The quality and liquidity of investments in subsidiaries or affiliates. The department may discount any such investment or treat any investment as a nonadmitted asset for purposes of determining the adequacy of surplus as regards policyholders whenever the investment so warrants; [PL 1993, c. 313, §10 (AMD).]

I. The adequacy of the insurer's reserves; [PL 1993, c. 313, §10 (AMD).]

J. The surplus as regards policyholders maintained by other comparable insurers in respect of the factors set out in this subsection; and [PL 1993, c. 313, §10 (AMD).]

K. The quality of the company's earnings and the extent to which the reported earnings include extraordinary items. [PL 1993, c. 313, §10 (NEW).]

[PL 2013, c. 238, Pt. A, §22 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

11. Dividends and distributions.

[PL 1993, c. 313, §11 (RP).]

11-A. Extraordinary dividends.

[PL 2009, c. 511, Pt. A, §3 (RP).]

11-B. All other dividends and distributions.

[PL 2009, c. 511, Pt. A, §4 (RP).]

11-C. Dividends and distributions. The superintendent shall review all dividends and distributions declared or paid by any insurer registered under subsection 8 at least annually.

A. An insurer shall notify the superintendent within 5 days after the declaration of any dividend or distribution. If the dividend or distribution is not disapproved pursuant to paragraph B and is not an extraordinary dividend as defined in paragraph C, the insurer may pay the dividend or distribution once the superintendent has approved the payment or 10 days have elapsed after the superintendent’s receipt of notice. [PL 2009, c. 511, Pt. A, §5 (NEW).]

B. The superintendent shall issue an order restricting or disallowing the payment of dividends and distributions if the superintendent determines that the insurer's surplus would not be reasonable in relation to the insurance company's outstanding liabilities, that the insurer's surplus would be inadequate to that company's financial needs, that the insurer's financial condition would constitute a condition hazardous to policyholders, claimants or the public or that a violation of subsection 4-C

prevents the superintendent from sufficiently understanding the enterprise risk to the insurer posed by its affiliates or by its insurance holding company system. [PL 2013, c. 238, Pt. A, §23 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

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

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

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

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

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

(2) An insurer may declare an extraordinary dividend on a conditional basis, subject to the superintendent's approval. A declaration pursuant to this subparagraph does not confer any rights upon stockholders until the superintendent has approved the payment or the 60-day review period has elapsed. [PL 2017, c. 169, Pt. B, §9 (AMD).]

[PL 2017, c. 169, Pt. B, §9 (AMD).]

12. Verification of information.

[PL 2013, c. 238, Pt. A, §24 (RP); PL 2013, c. 238, Pt. A, §34 (AFF).]

13. Confidential communications.

[PL 2013, c. 238, Pt. A, §25 (RP); PL 2013, c. 238, Pt. A, §34 (AFF).]

13-A. Confidential information. This section applies to holding company information that is in the possession or control of the superintendent or that is in the possession or control of the National Association of Insurance Commissioners as a result of a filing under this section or as a result of information sharing by the superintendent as authorized by this section.

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:

(1) Information obtained by the superintendent pursuant to an examination or investigation pursuant to subsection 1-A to the same extent as the information would have been confidential if obtained in an examination or investigation conducted under section 220 or 221;

(2) A registration statement or report filed under subsection 8, including all supporting information;

(2-A) Any group capital calculation or liquidity stress test, including all supporting information, conducted under the authority of a non-United States financial supervisor or the Board of Governors of the Federal Reserve System;

(3) A report filed under subsection 9, including all supporting information;

(4) A notice of proposed divestiture filed under subsection 4-C, paragraph B, until the divestiture transaction has occurred;

(5) A disclosure of the beneficial owner of securities made by a broker-dealer pursuant to subsection 4-C, paragraph E;

(6) The identity of a lender that is to finance a proposed transaction if declared confidential under subsection 4-C, paragraph C, subparagraph (2);

(7) Information filed in support of any required attestation of risk management or internal controls under subsection 4-C, paragraph C, subparagraph (12) or (13);

(8) A competitive impact statement filed under subsection 4-C, paragraph C, subparagraph (14), including all supporting information;

(8-A) Groupwide supervision information reported or provided to the superintendent under subsection 7-C;

(9) Information obtained under an information-sharing agreement entered into pursuant to this section to the extent that it is protected by the confidentiality provisions of the agreement;

(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

(11) Information obtained under this section to the extent that it is confidential under other applicable law, including, but not limited to, section 216, section 225 and Title 1, section 402, subsection 3. [PL 2021, c. 521, §17 (AMD).]

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. [PL 2013, c. 238, Pt. A, §26 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

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 person under contract with the superintendent pursuant to section 208. In addition, any agreement for sharing ORSA-related information with the person under the contract with the superintendent or with the National Association of Insurance Commissioners 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; and

(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.

(5) If the superintendent authorizes a contractor to have access to liquidity stress test information provided pursuant to subsection 8, paragraph B-1, subparagraph (3), the superintendent shall disclose the identity of the contractor to the applicable insurers. [PL 2021, c. 521, §§18, 19 (AMD).]

D. This subsection does not prohibit the superintendent from using holding company information in the furtherance of any regulatory or legal action brought as a part of the superintendent's official duties. [PL 2013, c. 238, Pt. A, §26 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

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. [PL 2013, c. 238, Pt. A, §26 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

F. Except as otherwise required under this section, directly or indirectly publicly disseminating a statement in print or electronically regarding a group capital calculation required under subsection 8, paragraph B-1, subparagraph (2) or its resulting group capital ratio, a liquidity stress test required under subsection 8, paragraph B-1, subparagraph (3) or its results or supporting disclosures of any insurer or any insurance group or of any component derived in the calculation by any insurer, producer or other person engaged in any manner in the insurance business is prohibited. The insurer may publish in a written publication an announcement the sole purpose of which is to rebut any materially false statement or inappropriate comparison if the materially false statement or inappropriate comparison relating to a group capital calculation, group capital ratio, liquidity stress test or test results or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the superintendent with substantial proof the falsity of that statement or the inappropriateness, as the case may be. [PL 2021, c. 521, §20 (NEW).]

G. A group capital calculation required under subsection 8, paragraph B-1, subparagraph (2) or its resulting group capital ratio or a liquidity stress test required under subsection 8, paragraph B-1, subparagraph (3) or its results and supporting disclosures is not a means to rank any insurers or insurance holding company systems. [PL 2021, c. 521, §21 (NEW).]

[PL 2021, c. 521, §§17-21 (AMD).]

14. Penalties.

A. Any person who willfully violates any of the provisions of this section, or the rules and regulations promulgated by the superintendent under authority thereof, or any person who willfully, in a filing pursuant to subsection 4-C or a registration pursuant to subsection 8, paragraph B, makes any untrue statement of a material fact or omits to state any material fact required to be stated

therein or necessary to make the statements therein not misleading, must upon conviction be fined not more than $1,000 or imprisoned not more than 3 years, or both; [PL 2013, c. 238, Pt. A, §27 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

B. Any person who is found, after notice and opportunity to be heard, to have willfully violated any of the provisions of this section or any rule or regulations promulgated by the superintendent under the authority thereof, shall, in addition to any other penalty provided by law, forfeit to this State the sum of $50 for a first violation and an additional sum of $25 for each day such violation shall continue; [PL 1975, c. 356, §1 (NEW).]

C. In addition to other remedies and penalties provided in this section or otherwise available under the laws of this State, any violation of this section is hereby declared to be an unfair method of competition or an unfair or deceptive act and practice in the business of insurance subject to the provisions of chapter 23 and in addition, the superintendent may, after notice and hearing:

(1) Refuse to issue, refuse to renew or reissue, revoke or suspend for a period not exceeding one year any license or certificate of authority issued or to be issued to any person found to have violated any of the provisions of this section;

(2) Impose civil penalties in accordance with section 12-A for each such violation and for each day's continuance thereof;

(4) Issue such administrative orders to require compliance with this section, including the filing of evidence of compliance and periodic reporting as to such compliance, enforceable by such revocation, suspension or refusal to issue, renew or reissue of any such license or licenses or otherwise pursuant to the laws of this State; or

(5) Any or all of the foregoing; [PL 2025, c. 348, §§2-4 (AMD).]

D. The superintendent may proceed in a court of competent jurisdiction within or without this State for an injunction to prevent a violation of this section, to reverse or hold invalid any transaction made in violation of this section or in violation of a rule adopted or order issued pursuant to this section, to enforce any order issued pursuant to this section and for other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditors and shareholders or the public may require.

(1) If the superintendent finds probable cause that a violation of this section constitutes grounds provided for the rehabilitation, conservatorship or liquidation of an insurer, the superintendent may initiate a delinquency proceeding under chapter 57.

(2) The Superior Court may, on the application of an insurer or the superintendent:

(a) Enjoin any offer, request, invitation, agreement or acquisition made in contravention of this section or any rule adopted or order issued by the superintendent pursuant to this section;

(b) Enjoin the voting of any security that is the subject of any agreement or arrangement regarding acquisition or that is acquired or to be acquired in contravention of the provisions of this section or of any rule adopted or order issued by the superintendent and, if appropriate, may void any vote of the security already cast at any meeting of shareholders;

(c) Seize or sequester any voting securities of the insurer owned or controlled directly or indirectly by a person who has acquired or is proposing to acquire a voting security of the insurer in violation of this section or any rule adopted or order issued by the superintendent; and

(d) Issue any other order as may be appropriate to effectuate the provisions of this section. [PL 2025, c. 348, §5 (NEW).]

[PL 2025, c. 348, §§2-5 (AMD).]

14-A. Recovery.

A. If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under that order has the right to recover on behalf of the insurer:

(1) From any parent corporation or holding company or person or affiliate who otherwise controlled the insurer, the amount of any distributions other than distributions of shares of the same class of stock paid by the insurer on its capital stock; or

(2) Any payment in the form of a bonus, termination settlement or extraordinary lump-sum salary adjustment made by the insurer or by any subsidiary of that insurer to a director, officer or employee when the distribution or payment pursuant to this subparagraph or subparagraph (1) is made at any time during the one year preceding the petition for liquidation, conservation or rehabilitation, subject to the limitations of paragraphs B, C and D. [PL 1993, c. 313, §13 (NEW).]

B. Such a distribution is not recoverable if the parent corporation or affiliate shows that when paid the distribution was lawful and reasonable and that the insurer did not know and could not reasonably have known that the distribution could adversely affect the ability of the insurer to fulfill its contractual obligations. [PL 1993, c. 313, §13 (NEW).]

C. Any person who was a parent corporation or holding company or a person who otherwise controlled the insurer or affiliate at the time distributions were paid is liable up to the amount of distributions or payments under paragraph A that the person received. Any person who otherwise controlled the insurer at the time the distributions were declared is liable up to the amount of the distributions the person would have received if that person had been paid immediately. If 2 or more persons are liable for the same distributions, those persons are jointly and severally liable. [PL 1993, c. 313, §13 (NEW).]

D. The maximum amount recoverable under this subsection is the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds. [PL 1993, c. 313, §13 (NEW).]

E. To the extent that any person liable under paragraph C is insolvent or fails to pay claims due pursuant to paragraph C, its parent corporation or holding company or person who otherwise controlled it at the time the distribution was paid, is jointly and severally liable for any resulting deficiency in the amount recovered from the parent corporation or holding company or person who otherwise controlled it. [PL 1993, c. 313, §13 (NEW).]

[PL 1993, c. 313, §13 (NEW).]

14-B. Supervision, seizure, conservatorship or receivership proceedings. This subsection governs an affiliate's obligations under supervision, seizure, conservatorship or receivership proceedings against an insurer.

A. An affiliate that is party to an agreement or contract with a domestic insurer that is subject to subsection 9, paragraph E, subparagraph (4) is subject to the jurisdiction of a supervision, seizure, conservatorship or receivership proceeding against the insurer and to the authority of a supervisor, rehabilitator or liquidator for the insurer appointed pursuant to chapter 57 for the purpose of interpreting, enforcing and overseeing the affiliate’s obligations under the agreement or contract to perform services for the insurer that are:

(1) An integral part of the insurer’s operations, including, but not limited to, management, administrative, accounting, data processing, marketing, underwriting, claims handling and investment functions and any other similar functions; or

(2) Essential to the insurer's ability to fulfill its obligations under insurance policies. [PL 2021, c. 521, §22 (NEW).]

B. The superintendent may require that an agreement or contract subject to subsection 9, paragraph E, subparagraph (4) for the provision of services described in paragraph A, subparagraph (1) or (2) specify that the affiliate consents to jurisdiction as set forth in this subsection. [PL 2021, c. 521, §22 (NEW).]

[PL 2021, c. 521, §22 (NEW).]

14-C. Prohibited voting of securities. In regard to a security that is the subject of any agreement or arrangement regarding acquisition or that is acquired or to be acquired in contravention of the provisions of this section or of any rule adopted or order issued by the superintendent, a person may not vote the security at any shareholder's meeting or count the security for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though the securities were not issued and outstanding. An action taken at any meeting at which a security described by this section has been voted is not invalidated by the voting of the security unless the action would materially affect control of the insurer or unless the courts of this State have so ordered.
[PL 2025, c. 348, §6 (NEW).]

15. Additional powers. The powers, remedies, procedures and penalties provided in this section shall be in addition to, and not in limitation of, any other powers, remedies, procedures and penalties otherwise provided by law.
[PL 1975, c. 356, §1 (NEW).]

16. Separability of provisions. If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and for this purpose the provisions of this section are separable.
[PL 1975, c. 356, §1 (NEW).]

17. Jurisdiction of courts; service of process. Any person obtaining or attempting to obtain control of a domestic insurer is subject to the jurisdiction of the courts of this State and to service of process in the manner provided in this Title. Unless a valid appointment of an agent for service of process is on file with the superintendent pursuant to another provision of this Title, the person is deemed to have appointed the superintendent as agent for service of process, and service may be made in the same manner as provided in section 2105.
[PL 1999, c. 113, §14 (AMD).]

18. Rules. The superintendent may adopt reasonable rules to carry out provisions of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2013, c. 238, Pt. A, §28 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

19. Supplemental to existing provisions. This section, as to insurance holding company systems, supplements in particular those provisions contained in sections 407, subsection 2; 410, subsection 1, paragraph B; 413; 423-C; 425; 1115; 1136; 3414; 3474; 3475; 3476; 3483; 3875 and 4407; and the provisions of this section are deemed to supersede or modify any such provisions or any other provisions of this Title to the extent inconsistent therewith.
[PL 2013, c. 238, Pt. A, §29 (AMD); PL 2013, c. 238, Pt. A, §34 (AFF).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1975, c. 356, §1 (RPR). PL 1977, c. 694, §388 (AMD). PL 1983, c. 394, §§1, 2 (AMD). PL 1987, c. 399, §1 (AMD). PL 1989, c. 385, §§1-9 (AMD). PL 1989, c. 611, §§1, 4 (AMD). PL 1991, c. 37, §§1, 2 (AMD). PL 1991, c. 548, Pt. B, §3 (AMD). PL 1991, c. 828, §§3-6 (AMD). PL 1993, c. 313, §§7-13 (AMD). PL

1999, c. 113, §§8-14 (AMD). PL 2001, c. 72, §§4, 5 (AMD). PL 2007, c. 466, Pt. D, §§1-3 (AMD). PL 2009, c. 511, Pt. A, §§3-5 (AMD). PL 2013, c. 238, Pt. A, §§2-29 (AMD). PL 2013, c. 238, Pt. A, §34 (AFF). PL 2017, c. 169, Pt. B, §§2-10 (AMD). PL 2021, c. 16, §§3-5 (AMD). PL 2021, c. 521, §§5-22 (AMD). PL 2025, c. 348, §§2-6 (AMD).

§223. Conduct of examination; access to records; correction

1. Whenever the superintendent determines to examine the affairs of any person, the superintendent shall designate one or more examiners and instruct them as to the scope of the examination. The superintendent may designate a bureau employee or may designate an examiner outside the bureau who has been retained pursuant to section 208. Examiners may be attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists with skills relevant to the examination. The examiner shall, upon demand, exhibit the examiner's official credentials to the person under examination.

A. An examiner may not be designated by the superintendent if the examiner directly or indirectly has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under sections 221 and 222. This section may not be construed to preclude automatically an examiner from being:

(1) A policyholder or claimant under an insurance policy;

(2) A grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business;

(3) An investment owner in shares of regulated diversified investment companies; or

(4) A settlor or beneficiary of a "blind trust" into which any otherwise impermissible holdings have been placed. [PL 1991, c. 828, §7 (NEW).]

[PL 2017, c. 169, Pt. B, §11 (AMD).]

2. The superintendent shall conduct each examination in an expeditious, fair and impartial manner, consistent with current guidelines and procedures adopted from time to time by the National Association of Insurance Commissioners and published in its Financial Condition Examiners Handbook or Market Regulation Handbook, as applicable, or their successor publications.
[PL 2017, c. 169, Pt. B, §12 (AMD).]

3. Upon any such examination, the superintendent, or the examiner if specifically so authorized in writing by the superintendent, shall have power to administer oaths, and to examine under oath any individual as to any matter relevant to the affairs under examination or relevant to the examination.
[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

4. Every person being examined, its officers, attorneys, employees, agents and representatives shall make freely available to the superintendent or designated examiners the accounts, records, documents, files, information, assets and matters of that person in that person's possession or control relating to the subject of the examination and shall facilitate the examination. The refusal of any insurer to submit to examination is grounds for revocation or refusal of a license or renewal license.
[PL 1991, c. 828, §8 (AMD).]

5. If the superintendent or examiner finds any accounts or records to be inadequate, or inadequately kept or posted, the superintendent may employ experts to reconstruct, rewrite, post or balance them at the expense of the person being examined, if such person has failed to maintain, complete or correct such records or accounting after the superintendent or examiner has given such person written notice and a reasonable opportunity to do so.
[RR 2021, c. 1, Pt. B, §166 (COR).]

6. Neither the superintendent nor any examiner shall remove any record, account, document, file or other property of the person being examined from the offices or place of such person, except with

the written consent of such person in advance of such removal or pursuant to an order of court duly obtained. This provision shall not be deemed to affect the making and removal of copies or abstracts of any such record, account, document, or file.
[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

7. Any individual who refuses without just cause to be examined under oath or who willfully obstructs or interferes with the examiners in the exercise of their authority pursuant to this section shall, upon conviction thereof, be subject to a fine of not more than $2,500 or imprisonment for less than a year, or by both.
[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1991, c. 828, §§7,8 (AMD). PL 1993, c. 313, §14 (AMD). PL 2017, c. 169, Pt. B, §§11, 12 (AMD). RR 2021, c. 1, Pt. B, §166 (COR).

§224. Appraisal of asset

1. If the superintendent considers it necessary to value any asset involved in such an examination, the superintendent may appoint one or more competent disinterested persons as appraisers with authority to appraise the real property of an insurer or any real property on which it holds security.
[PL 1991, c. 828, §9 (AMD).]

2. Any such appraisal shall be expeditiously made, and a copy thereof furnished to the superintendent and to the person being examined.
[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

3. The reasonable expense of the appraisal shall be borne by the person being examined.
[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1991, c. 828, §9 (AMD).

§225. Examination report; contents; prima facie evidence in certain proceedings

1. Upon completion of an examination, the examiner in charge shall make a true report thereof which shall comprise only facts appearing upon the books, records or other documents of the person examined, or from an appraisal of assets, or as ascertained from the sworn testimony of its officers or agents or other individuals examined concerning its affairs, and such conclusions and recommendations as may reasonably be warranted from such facts. The report of examination shall be verified by the oath of the examiner in charge thereof.
[PL 1969, c. 132, §1 (NEW).]

2. Such a report of examination of an insurer so verified shall be prima facie evidence in any delinquency proceeding against the insurer, its officers, employees or agents upon the facts stated therein, and whether or not the report has then been filed in the bureau as provided in section 226.
[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

3. All working papers, recorded information, documents and copies of any of these media produced by, obtained by or disclosed to the superintendent or any other person in the course of an examination made under this chapter are confidential, are not subject to subpoena and may not be made public by the superintendent or any other person, except to the extent provided in sections 226 and 227. Access may be granted to the National Association of Insurance Commissioners. Any parties granted access must agree in writing prior to receiving the information to provide the information with the same confidential treatment as required by this section unless prior written consent of the insurer to which the information pertains has been obtained.
[PL 2011, c. 320, Pt. A, §3 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1991, c. 828, §10 (AMD). PL 2011, c. 320, Pt. A, §3 (AMD).

§226. Examination reports; distribution, hearing; as evidence

1. Within 60 days after completion of the examination, the superintendent shall deliver a copy of the verified examination report to the person examined, together with a notice affording that person 20 days or an additional reasonable period as the superintendent for good cause may allow, within which to review the report and recommend changes to the report.
[PL 1999, c. 113, §15 (AMD).]

2. If requested by the person examined, within the period allowed under subsection 1, or if determined advisable by the superintendent without such request, the superintendent shall hold a hearing relative to the report and may not file the report in the bureau until after the hearing and the superintendent's order on the report; except that the superintendent may furnish a copy of the report to the Governor, Attorney General or Treasurer of State pending final decision and, if the copies are so furnished, they are confidential until the other requirements of this section with regard to examination reports have been satisfied. In lieu of convening a hearing, the superintendent may reopen the examination or, if supported by the information obtained, may adopt some or all of the modifications proposed by the person examined.
[PL 2011, c. 320, Pt. A, §4 (AMD).]

3. If no such hearing has been requested or held, the examination report, with such modifications, if any, thereof as the superintendent deems proper, shall be accepted by the superintendent and filed in the bureau upon expiration of the review period provided for in subsection 1. The report shall in any event be so accepted and filed within 6 months after final hearing thereon.
[PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

4. The superintendent shall forward to the person examined a copy of the examination report as filed, together with any recommendations or statements relating thereto that the superintendent considers proper.
[RR 2021, c. 1, Pt. B, §167 (COR).]

5. If the report is as to examination of a domestic insurer, a copy of the report, or a summary thereof approved by the superintendent, when filed in the bureau, together with the recommendations or statements of the superintendent or the superintendent's examiner, must be presented by the insurer's chief executive officer to the insurer's board of directors or similar governing body at a meeting thereof that must be held within 30 days next following receipt of the report in final form by the insurer. A copy of the report must also be furnished by the secretary of the insurer, if incorporated, or by the attorney-in-fact, if a reciprocal insurer, to each member of the insurer's board of directors or board of governors, if a reciprocal insurer, and the certificate of the secretary or attorney-in-fact that a copy of the examination report has been so furnished must be deemed to constitute knowledge of the contents of the report by each such member.
[RR 2021, c. 1, Pt. B, §168 (COR).]

6. The report when so filed in the bureau is admissible in evidence in any action or proceeding brought by the superintendent against the person examined, or against its officers, employees or agents. In any such action or proceeding, the superintendent or the superintendent's examiners may at any time testify and offer proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished or filed in the bureau.
[RR 2021, c. 1, Pt. B, §169 (COR).]

7. The Maine Insurance Code does not prevent and may not be construed to prohibit the superintendent from disclosing the content of an examination report, preliminary examination report or the results, or any matter related to a report or results, to the Bureau of Insurance of this State or the insurance department of any other state or country, or to law enforcement officials of this State, any other state agency or the federal government at any time. Any such disclosure must be subject to a protective order of confidentiality issued by the superintendent.
[PL 1991, c. 828, §11 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 425, §1 (AMD). PL 1973, c. 585, §12 (AMD). PL 1991, c. 828, §11 (AMD). PL 1999, c. 113, §15 (AMD). PL 2011, c. 320, Pt. A, §4 (AMD). RR 2021, c. 1, Pt. B, §§167-169 (COR).

§227. Examination report

The report of examination of those persons, partnerships, corporations or other business associations that are subject to examination by the superintendent as provided for in sections 221 and 222 must, upon satisfaction of the requirements of section 226 and so long as no court of competent jurisdiction has stayed its publication, be filed in the bureau as a public record, except that any information relating to an individual insured or individual applicant for insurance is confidential. [PL 2011, c. 320, Pt. A, §5 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 425, §2 (RPR). PL 1973, c. 585, §12 (AMD). PL 1991, c. 828, §12 (AMD). PL 2011, c. 320, Pt. A, §5 (AMD).

§228. Examination expense

1. The expense of examination of an insurer or of any person regulated under section 222, must be borne by the person examined. Such expense may include only the reasonable and proper hotel and travel expenses of the superintendent and the superintendent's examiners and assistants, including expert assistance, and examiners furnished for the purpose by other states in which the insurer is authorized to transact insurance, reasonable compensation as to such examiners and assistants and incidental expenses as necessarily incurred in the examination. As to expense and compensation, involved in any such examination the superintendent may give due consideration to scales and limitations recommended by the National Association of Insurance Commissioners and outlined in the examination manual sponsored by that association.
[RR 2021, c. 1, Pt. B, §170 (COR).]

2. Such person examined shall promptly pay to the superintendent the expenses of the examination upon presentation by the superintendent of a reasonably detailed written statement thereof. Any insurer with total admitted assets as of the end of the preceding calendar year of $50,000,000 or greater must comply with this section in satisfaction of the examination assessment.
[PL 1997, c. 660, Pt. B, §1 (AMD).]

3. Except that in lieu of payment of examination expense as above required, a domestic insurer with total admitted assets of less than $50,000,000 has the right, at its option, of making an annual payment to the superintendent of an examination expense allotment in an amount equal to .001 of its total admitted assets as of the end of the preceding calendar year, which must be made on March 1st with the filing of the insurer's annual statement with the superintendent; or, if the insurer's admitted assets exceed $10,000,000, but do not exceed $50,000,000, the insurer has the right, at its further option, to pay to the superintendent with respect to any examination the lesser of:

A. The expense of the examination as determined pursuant to subsections 1 and 2 above; or [PL 1969, c. 132, §1 (NEW).]

B. An annual amount equal to .001 of the first $10,000,000 of the insurer's admitted assets plus .0002 of the remainder of such assets, limited, however, to insurers whose admitted assets do not exceed $25,000,000 as such assets are shown by the insurer's financial statement filed with the superintendent for the year-end next preceding the commencement of the examination, such payment to be made on March 1st with the filing of the insurer's annual statement with the superintendent; or [PL 1997, c. 660, Pt. B, §2 (AMD).]

C. If the admitted assets of the insurer exceed $25,000,000, but do not exceed $50,000,000, an annual payment of an examination expense allotment of an amount equal to .001 of the first $10,000,000 of the insurer's admitted assets, plus .0002 of the next $15,000,000 of such assets, plus .000175 of the remainder of such assets as are shown by the insurer's financial statement filed with the superintendent for the preceding calendar year. The payment must be made on March 1st with the filing of the insurer's annual statement with the superintendent. [PL 1997, c. 660, Pt. B, §2 (AMD).]

[PL 1997, c. 660, Pt. B, §2 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §3 (AMD). PL 1973, c. 394 (AMD). PL 1973, c. 585, §12 (AMD). PL 1975, c. 356, §2 (AMD). PL 1975, c. 467 (AMD). PL 1997, c. 660, §§B1,2 (AMD). RR 2021, c. 1, Pt. B, §170 (COR).

§229. Administrative procedures; hearings in general

1. The superintendent may hold a hearing without request of others for any purpose within the scope of this Title.

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

2. The superintendent shall hold a hearing:

A. If required by any provision of this Title, or [PL 1969, c. 132, §1 (NEW).]

B. Upon written application for a hearing by a person aggrieved by any act or impending act, or by any report or order of the superintendent, other than an order for the holding of a hearing, or order on a hearing, or pursuant to such order, of which hearing such person had notice. [PL 1987, c. 220, §1 (AMD).]

[PL 1987, c. 220, §1 (AMD).]

3. Any such application must be filed with the superintendent within 30 days after such person knew or reasonably should have known of such act, impending act, failure, report or order, unless a different period is provided for by other applicable law, and in which case such other law shall govern. The application shall briefly state the respects in which the applicant is so aggrieved, together with the ground to be relied upon for the relief to be demanded at the hearing. The superintendent may require that the application be signed and sworn to.

[PL 1987, c. 220, §2 (AMD).]

4. If the superintendent finds that the application is timely and made in good faith, that the applicant would be so aggrieved if the applicant's grounds are established and that such grounds otherwise justify the hearing, the superintendent shall hold the hearing within 30 days after filing of the application, or within 30 days after the application has been sworn to, whichever is the later date, unless in either case the hearing is postponed by mutual consent. The hearing must be held in conformity with the provisions contained in the Maine Administrative Procedure Act.

[RR 2021, c. 1, Pt. B, §171 (COR).]

5. Failure to hold the hearing upon application therefor of a person entitled thereto as provided shall constitute a denial of the relief sought, and shall be the equivalent of a final order of the superintendent on hearing for the purpose of an appeal under section 236.

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

6. Pending the hearing and decision thereon, the superintendent may suspend or postpone the effective date of the superintendent's previous action.
[RR 2021, c. 1, Pt. B, §172 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §389 (AMD). PL 1987, c. 220, §§1,2 (AMD). RR 2021, c. 1, Pt. B, §§171, 172 (COR).

§230. Notice of hearing

1. Notice of hearing shall be given in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375.
[PL 1981, c. 501, §38 (RPR).]

2. Except when a different period is expressly provided by the Maine Administrative Procedure Act, Title 5, chapter 375, or by this Title, the superintendent shall give written notice of hearing not less than 14 days in advance. Notice of hearing may be waived and the hearing held at a time mutually fixed by the superintendent and the parties.
[PL 1981, c. 501, §38 (RPR).]

3.
[PL 1981, c. 501, §38 (RP).]

4.
[PL 1981, c. 501, §38 (RP).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §§390-392 (AMD). PL 1981, c. 501, §38 (RPR).

§231. Conduct of hearing

1. The superintendent may hold a hearing in Augusta or any other place of convenience to parties and witnesses, as the superintendent determines. The superintendent or the superintendent's designee shall preside at the hearing and shall expedite the hearing and all procedures involved therein. Adjudicatory hearings shall be governed by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.
[PL 1989, c. 269, §6 (AMD).]

2.
[PL 1989, c. 269, §6 (RP).]

3.
[PL 1989, c. 269, §6 (RP).]

4.
[PL 1989, c. 269, §6 (RP).]

5. The hearing shall be public, unless the superintendent or hearing officer determines that a private hearing would be in the public interest, in which case the hearing shall be private, subject to Title 1, section 405, subsection 6.
[PL 1989, c. 269, §6 (AMD).]

6.
[PL 1989, c. 269, §6 (RP).]

7. The validity of any hearing held in accordance with the notice thereof, or waiver of notice, shall not be affected by the failure of any person to attend or remain in attendance.

[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §§393-395 (AMD). PL 1989, c. 269, §6 (AMD).

§232. Witnesses and documentary evidence

1. As to the subject of any examination, investigation or hearing being conducted by the superintendent, the superintendent may subpoena witnesses and administer oaths or affirmations and examine any individual under oath, or take depositions; and by subpoena duces tecum may require the production of documentary and other evidence. Any delegation by the superintendent of power of subpoena shall be in writing. The procedures of Title 5, section 9060, subsection 1, shall also apply to the issuance of subpoenas.
[PL 1989, c. 269, §7 (AMD).]

2. Every person subpoenaed to appear at any such hearing, examination or investigation shall obey the subpoena, testify truthfully, behave with decorum and in no way obstruct the proceeding or purpose thereof.
[RR 2021, c. 1, Pt. B, §173 (COR).]

3. Witnesses shall be entitled to the same fees and allowances as witnesses in Superior Court; except that no insurer, agent, broker or other person subject to this Title who is a subject of such proceeding, and no officer, director or employee of any of the foregoing, shall be entitled to witness or mileage fees. No person shall be excused from attending and testifying in obedience to a subpoena on the ground that the proper witness fee was not tendered or paid, unless the witness shall have demanded such payment as a condition precedent to attending the hearing, examination or investigation and unless such demand shall not have been complied with.
[PL 1969, c. 132, §1 (NEW).]

4. Any individual knowingly testifying falsely under oath or making a false affirmation, as to any matter material to any such examination, investigation or hearing, shall upon conviction thereof be guilty of perjury.
[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1989, c. 269, §7 (AMD). RR 2021, c. 1, Pt. B, §173 (COR).

§233. Witnesses; disciplinary proceedings

1. If any individual without reasonable cause fails to appear when summoned as a witness, or refuses to answer a lawful and pertinent question, or refuses to produce documentary evidence when directed to do so by the superintendent, or behaves in a disrespectful or disorderly manner at the inquiry, or obstructs the proceedings by any means, whether or not in the presence of the superintendent or the superintendent's designee, the individual is guilty of contempt and may be dealt with as provided in subsection 2.
[RR 2021, c. 1, Pt. B, §174 (COR).]

2. The superintendent or the superintendent's designee, as the case may be, may file a complaint in the Superior Court, setting forth under oath the facts constituting the contempt and requesting an order returnable in not less than 2 nor more than 5 days, directing the alleged contemner to show cause before the court why the alleged contemner should not be punished for contempt. Upon the return of such order, the court shall examine the alleged contemner under oath and the alleged contemner has an opportunity to be heard. If the court determines that the respondent has committed any alleged

contempt, the court shall punish the offender as if the contempt had occurred in an action arising in or pending in such court.
[RR 2021, c. 1, Pt. B, §174 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). RR 2021, c. 1, Pt. B, §174 (COR).

§234. Witnesses; immunity from prosecution

If any individual asks to be excused from testifying or from producing evidence of any kind in connection with any examination, hearing or investigation being conducted by the superintendent on the ground that the testimony or evidence required of that individual may tend to incriminate the individual or subject the individual to a penalty or forfeiture, and the Attorney General directs that individual to give testimony or produce evidence, the individual must comply with the directive. No testimony or other evidence so compelled, or any information directly or indirectly derived from that testimony or other evidence, may be used against the offering individual in any criminal, juvenile or civil violation proceeding, except that the testimony or other evidence may be used in a prosecution for perjury, false swearing, contempt or otherwise failing to comply with the directive to testify or produce evidence, or in a proceeding in which the individual has waived the immunity or privilege. [PL 1989, c. 269, §8 (NEW).]

1.
[PL 1989, c. 269, §8 (RP).]

2.
[PL 1989, c. 269, §8 (RP).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1989, c. 269, §8 (RPR).

§235. Order on hearing

1. In the conduct of hearings under this Title and making the superintendent's order thereon, the superintendent shall act in a quasi-judicial capacity.
[RR 2021, c. 1, Pt. B, §175 (COR).]

2. Within 30 days after termination of a hearing, or of any rehearing thereof or reargument thereon, or within such other period as may be specified in this Title as to particular proceedings, or within such further reasonable period as the superintendent for good cause may require, the superintendent shall make the superintendent's order on hearing covering matters involved in such hearing, and give a copy of the order to each party to the hearing in the same manner as notice of the hearing was given to such party; except that as to hearings held with respect to merger, consolidation, bulk reinsurance, conversion, affiliation or change of control of a domestic insurer as provided in chapter 47 when notice of the hearing was given to all stockholders and policyholders of an insurer involved, the superintendent is required to give a copy of the order on hearing to the corporation and insurer parties, to intervening parties, to a reasonable number of such stockholders or policyholders as representative of the class, and to other parties only upon written request of such parties.
[RR 2021, c. 2, Pt. A, §66 (COR).]

3. The order must contain:

A. A concise statement of facts found by the superintendent upon the evidence adduced at the hearing; [PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

B. A concise statement of the superintendent's conclusions from the facts so found; [PL 1969, c. 132, §1 (NEW); PL 1973, c. 585, §12 (AMD).]

C. The superintendent's order, and the effective date of the order; [RR 2009, c. 2, §64 (COR).]

D. Citation of the provisions of this Title upon which the order is based; but failure to so designate a particular provision does not deprive the superintendent of the right thereafter to rely thereon; and [RR 2009, c. 2, §64 (COR).]

E. Notice of the party's right to appeal or review of the order, of the action required for appeal and of the time within which the action must be taken in order to exercise the right. [RR 2009, c. 2, §64 (COR).]

[RR 2009, c. 2, §64 (COR).]

4. The order may affirm, modify or rescind action theretofore taken or may constitute taking of new action within the scope of the notice of the hearing.

[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §396 (AMD). RR 2009, c. 2, §64 (COR). RR 2021, c. 1, Pt. B, §§175, 176 (COR). RR 2021, c. 2, Pt. A, §66 (COR).

§236. Appeal from the superintendent

1. In general, judicial review of actions taken by the superintendent or the superintendent's representatives must occur in conformity with the provisions set forth in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter 7.

[RR 2009, c. 2, §65 (COR).]

2. An appeal from the superintendent shall be taken only from an order on hearing, or as to a matter on which the superintendent has failed to hold a hearing after application thereof under section 229, or regarding a matter as to which the superintendent has failed to issue an order after hearing as required by section 235.

[PL 1977, c. 694, §397 (RPR).]

3. Any person who was a party to the hearing may appeal from an order of the superintendent within 30 days after receipt of notice. Any person not a party to the hearing whose interests are substantially and directly affected and who is aggrieved by an order of the superintendent may appeal within 40 days from the date the decision was rendered. If the appeal is taken from the superintendent's failure or refusal to act, the petition for review shall be filed within 6 months of the expiration of the time within which the action should reasonably have occurred.

[PL 1977, c. 694, §397 (RPR).]

4.

[PL 1989, c. 269, §9 (RP).]

5.

[PL 1989, c. 269, §9 (RP).]

6.

[PL 1989, c. 269, §9 (RP).]

7.

[PL 1989, c. 269, §9 (RP).]

8.

[PL 1989, c. 269, §9 (RP).]

9.

[PL 1989, c. 269, §9 (RP).]

10.

[PL 1989, c. 269, §9 (RP).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1969, c. 177, §4 (AMD). PL 1973, c. 585, §12 (AMD). PL 1977, c. 694, §397 (RPR). PL 1989, c. 269, §§9,10 (AMD). RR 2009, c. 2, §65 (COR).

§237. Assessment for expense of maintaining the Bureau of Insurance

The expense of maintaining the Bureau of Insurance must be assessed annually by the Superintendent of Insurance against all insurers and health maintenance organizations licensed to do business in this State in proportion to their respective direct gross premium written on business in this State during the year ending December 31st immediately preceding the fiscal year for which assessment is made. The annual assessment upon all insurers must be applied to the budget of the bureau for the fiscal year commencing July 1st. For any biennial period, total assessment must be in an amount not exceeding .002 of total direct premiums written. When the superintendent calculates the amount of the annual assessment, the superintendent must consider, among other factors, the staffing level required to administer the responsibilities of the bureau. [PL 1997, c. 79, §2 (AMD).]

1. Expense of examination. The expense of examination of an insurer or of any person regulated by section 222 continues to be borne by the person examined. The expense of examination consistent with section 228 may not be considered when determining the assessment for maintaining the Bureau of Insurance.
[PL 1997, c. 79, §2 (AMD).]

2. Direct gross premium. Based on the annual statement filed by each insurer pursuant to section 423 or health maintenance organization pursuant to section 4208, the superintendent shall ascertain the amount of direct gross premium it received in that year. For the purpose of this section only, "direct gross premiums" means and includes policy, membership, annuity considerations and other fees, policy dividends applied in payment for insurance and other considerations for insurance received by insurers or health maintenance organizations, on account of policies or contracts covering subjects of insurance, or risks located, resident or to be performed in this State, after deducting return premiums or dividends actually returned or credited to policyholders.
[PL 1997, c. 79, §2 (AMD).]

3. Minimum assessment. In any year in which an insurer or health maintenance organization has no direct gross premium writings in this State, or in which direct gross premium written is not sufficient to produce at the rate prescribed an amount equal to or in excess of $100, the minimum assessment payable by any insurer or health maintenance organization is $100.
[PL 1997, c. 79, §2 (AMD).]

4. Notification of assessment. On or before July 1st of each year, the superintendent shall forward to each insurer or health maintenance organization an itemized bill of the amount due for the annual assessment, the amount due for filing of the annual statement pursuant to sections 423 and 601 and the amount due for the certificate of authority annual continuation fee pursuant to section 601. When an extension of the time of filing an annual statement is granted for good cause by the superintendent pursuant to section 423, subsection 1, or section 4208, the insurer or health maintenance organization must be assessed a provisional amount of $100. Upon receipt of the insurer's or health maintenance organization's annual statement, the provisional assessment must be adjusted to effect a final assessment for the fiscal year at the same rate utilized by the superintendent and levied upon all insurers by the general assessment of July 1st.
[PL 1997, c. 79, §2 (AMD).]

5. Time of payment. Time of payment for the annual assessment, the annual statement filing fee and the annual continuation fee must be made on or before August 10th.
[PL 1995, c. 544, §1 (AMD).]

6. Revocation or suspension. If the annual assessment, annual statement filing fee or annual continuation fee is not paid to the superintendent on or before the prescribed date, the license or certificate of authority of an insurer or health maintenance organization to transact business in this State may be revoked or suspended by the superintendent after a hearing or upon waiver of hearing by the insurer or health maintenance organization until the annual assessment, annual statement filing fee and annual continuation fee is paid. A reinstatement of certificate of authority may not be made prior to payment of the balance of the annual assessment, annual statement filing fee or continuation fee.
[PL 1997, c. 79, §2 (AMD).]

7. Recalculation of assessment. Immediately following the close of the fiscal year ending June 30, 1987, and at the close of each 2nd succeeding fiscal year, the superintendent shall recalculate the assessment made against each party assessed after giving recognition to actual expenditures of the bureau during the preceding biennial period. On or before October 1st, the superintendent shall render to each party assessed a statement showing the difference between their respective recalculated assessment and the amount they had paid with respect to the preceding biennium. Any overpayment of annual assessment resulting from complying with the requirements of this section must be refunded or, at the option of the assessed party, applied as a credit against the assessment for the succeeding fiscal year. Any overpayment of $100 or less must be applied as a credit against the assessment for the succeeding fiscal year.
[PL 1997, c. 79, §2 (AMD).]

8. Deposit with Treasurer of State. The superintendent shall deposit all payments made pursuant to this section with the Treasurer of State. The money must be used for the sole purpose of paying the expenses of the Bureau of Insurance.
[PL 1997, c. 79, §2 (AMD).]

9. Exclusions. This section does not apply to fraternal benefit societies, as defined in section 4101; assessment mutual insurance companies, as defined in section 3603; and joint underwriting associations, subject to section 2322-A.
[RR 2021, c. 2, Pt. A, §67 (COR).]

10. Applicability. This section applies with respect to insurers for fiscal years commencing on or after July 1, 1986 and to health maintenance organizations for fiscal years commencing on or after July 1, 1997.
[PL 1997, c. 79, §2 (AMD).]

SECTION HISTORY

PL 1985, c. 446, §2 (NEW). PL 1991, c. 334, §§3,4 (AMD). PL 1993, c. 313, §15 (AMD). PL 1995, c. 544, §§1,2 (AMD). PL 1997, c. 79, §2 (AMD). RR 2021, c. 2, Pt. A, §67 (COR).

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