

In Re PHICO INSURANCE COMPANY

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ORDER OF SUSPENSION

DOCKET NO. INS-01-2544

On August 31, 2001, the Superintendent issued an interim order suspending the Maine certificate of authority of PHICO Insurance Company, pursuant to 24-A M.R.S.A. § 417(3), because PHICO has been placed in rehabilitation by the State of Pennsylvania.

The Rehabilitator has advised the Superintendent that PHICO does not contest the suspension but does not waive its statutory right to hearing. Accordingly, the Superintendent convened an adjudicatory hearing to determine whether the suspension should remain in force, pursuant to 24-A M.R.S.A. § 417(3), and provided written notice to PHICO in the interim order of suspension. The Superintendent appointed Bureau of Insurance Attorney Robert Alan Wake to hear and decide this case pursuant to 24-A M.R.S.A. § 210.

The hearing was held as scheduled at 8:00 a.m. on September 19, 2001. PHICO did not appear. Bureau of Insurance Director of Financial Analysis Enya Carter appeared and has provided a copy of the interim order of suspension and a copy of the Order of Rehabilitation issued by the Commonwealth Court of Pennsylvania, *Koken, Insurance Commissioner v. PHICO Ins. Co.*, No. 427MD2001 (Cumberland County), Aug. 16, 2001.

Pursuant to 5 M.R.S.A. § 9058(1), the Superintendent hereby takes official notice of the Order of Rehabilitation, and accordingly finds that good and sufficient cause exists for suspending PHICO's certificate of authority pursuant to 24-A M.R.S.A. § 417(3).

It is therefore *ORDERED* that:

1. PHICO Insurance Company's certificate of authority to transact insurance in Maine shall remain *SUSPENDED* indefinitely.
2. PHICO shall continue servicing existing policies, but shall not issue or renew any policies except as otherwise expressly provided in this Order.
3. PHICO shall provide immediate notice of nonrenewal to any Maine policyholders that have not already been given notice. Pursuant to 24-A M.R.S.A. § 2908(8), the 30-day notice period does not apply.
4. Pursuant to 24-A M.R.S.A. § 2908(2)(F), contractual provisions entitling policyholders to purchase tail coverage upon termination, or to purchase short-term coverage for newly acquired entities, are hereby cancelled, effective immediately. Coverage already in effect pursuant to such provisions may continue.
5. The provisions of Paragraphs 3 and 4 of this Order may be waived by the Superintendent on a short-term emergency basis for the minimum time necessary to allow the purchase of replacement coverage, but only upon a compelling showing of good cause and only at the written request of the policyholder.

6. Pursuant to 24-A M.R.S.A. §§ 229 and 419(1), PHICO Insurance Company may at any time file with the Superintendent a request to lift the suspension upon a showing that valid grounds for suspension no longer exist, and may petition for an adjudicatory hearing if the request to lift the suspension is denied.

This Decision and Order is a final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative Procedure Act. It is appealable to the Superior Court in the manner provided in 24-A M.R.S.A. § 236 (2000) and M.R. Civ. P. 80C. Any party to the hearing may initiate an appeal within thirty days after receiving this notice. Any aggrieved non-party whose interests are substantially and directly affected by the Superintendent's decision may initiate an appeal on or before October 30, 2001. There is no automatic stay pending appeal; application for stay may be made in the manner provided in 5 M.R.S.A. § 11004.

PER ORDER OF THE SUPERINTENDENT OF INSURANCE

September 20, 2001

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ROBERT ALAN WAKE  
DESIGNATED HEARING OFFICER