

# MAINE STATE LEGISLATURE

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September 14, 1967

Harold E. Trahey, Acting  
Commissioner  
Jerome S. Matus, Assistant

Insurance  
Attorney General

Surplus Line Broker's Licenses.

**FACTS:**

You have requested an opinion concerning the issuance of surplus line broker's licenses.

**QUESTION:**

Is the issuance of surplus line broker's licenses limited to issuance to qualified individuals?

**ANSWER:**

Yes.

**OPINION:**

The chapter of the M.R.S.A. relating to the licensing of insurance agents and brokers is Chapter 21 of Title 24. This chapter contains two subchapters. Subchapter 2 pertains to the qualifications and licensing of life insurance agents. The authority for qualification and licensing of all other insurance agents and brokers is found in subchapter 1 which subchapter contains sections 2501 through 2522.

The definition of terms used in the subchapter 1 is found in 24 M.R.S.A. § 2501. Section 2501 does not contain a definition of "person" but does include a definition of "organization" which reads as follows:

"2. Organization. 'Organization' means a partnership, company or corporation."  
24 M.R.S.A. § 2501 (2).

It is our opinion that the term "person" when used in subchapter 1 must refer to an individual otherwise there would be no statutory authority for an individual to be licensed by the Commissioner.

There is a clear distinction between a "person" and an "organization" in subchapter 1 of Chapter 21. This distinction is established by 24 M.R.S.A. § 2502 which reads as follows:

"Types of licenses - The commissioner may issue the following types of licenses which must be obtained before a person or organization may perform any act authorized by them:

- "1. Resident Agent. Resident agent's license;
- "2. Nonresident agent. Nonresident agent's license;
- "3. Resident broker. Resident broker's license;
- "4. Nonresident broker. Nonresident broker's license;
- "5. Surplus line broker. Surplus line broker's license;
- "6. Resident organization agent. Resident organization agent's license;
- "7. <sup>Non-</sup>Resident organization agent. Non-resident organization agent's license;
- "8. Resident organization broker. Resident organization broker's license;
- "9. Nonresident organization broker. Non-resident organization broker's license;
- "10. Adjuster. Adjuster's license."

(Emphasis supplied)

There would be no necessity for the phrase "person or organization" if an "organization" could be considered a "person". Also note that licenses issued under subsections 6 through 9 of 24 M.R.S.A. § 2502 can be issued only to organizations. If the term "person" is to have any meaning within § 2502 the term must refer to licenses issued under subsections 1 through 5 and subsection 10 and must refer to licenses issued to individuals. The licenses to "persons" authorized under subsections 1 through 4 respectively correspond to licenses to "organizations" authorized under subsections 6 through 9 respectively. It is our firm opinion that if an organization surplus line broker's license was authorized there would have to be a specific subsection corresponding to subsection 5, the section authorizing surplus line broker's licenses. There is no specific subsection authorizing the Commissioner to issue an organization surplus line broker's license.

Further substantiation that the use of the term "person" means individual can be found in the language of 24 M.R.S.A. § 2516 which reads as follows:

"An organization agent's or broker's license entitled the organization through its representatives to act in the same manner as an individual holding the same type of license. A person named in the license is entitled to act only for and in the name of the organization.

"1. Limitation explained. This does not prevent a person named in an organization license from being licensed and acting in his own name."

We are further convinced that a surplus line broker's license may only be issued to a qualified individual, as 24 M.R.S.A. § 2515, which section relates to the application for and use of surplus line broker's licenses, reads in pertinent part: "a person licensed as a surplus line broker . . ." and the section does not contain the phrase "a person or organization licensed as a surplus license broker."