

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

**Legislative Document**

**No. 1213**

S. P. 381

In Senate, March 14, 1979

On Motion of Senator Katz of Kennebec, referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

Presented by Senator Chapman of Sagadahoc.

MAY M. ROSS, Secretary of the Senate.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

**AN ACT Concerning Insurance Consultants.**

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

24-A MRSA c. 17, sub-c. IV, as amended is repealed and the following enacted in its place:

**SUBCHAPTER IV**

**INSURANCE CONSULTANTS**

**QUALIFICATIONS AND REQUIREMENTS**

§ 1801. Short title

This subchapter may be referred to as the "Insurance Consultant Law."

§ 1802. Scope of subchapter IV

1. This subchapter applies only to general lines consultants and life consultants, as defined in section 1508.

2. Unless context otherwise requires, "consultant" as used in this subchapter means both general lines consultants and life consultants.

§ 1803. License required

1. No person shall act as a general lines consultant or a life consultant in this State without first obtaining a license therefor from central licensing in accordance with this subchapter.

2. For purposes of this subchapter, the word "person" shall mean an individual, a corporation, 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 alone or in concert.

#### § 1804. Qualifications for license

No license shall be issued pursuant to this subchapter unless the superintendent shall first certify that the applicant therefor:

1. Has had not less than 5 years of actual experience as a licensed agent or broker with respect to the kinds of insurance and contracts to be covered by the license;

2. Has satisfactorily passed a written examination administered by the superintendent; and

3. Has filed a bond as required by section 1805.

#### § 1805. Consultant's bond

1. Every applicant for license as a consultant shall file with the superintendent with his application for license, and shall maintain in effect while so licensed, a bond issued by an authorized surety insurer in favor of the State of Maine, continuous in form and providing for aggregate liability of \$10,000.

2. The bond shall indemnify any person damaged by any fraudulent act or conduct of the licensee in transactions under the license, and shall likewise be conditioned upon faithful accounting and application of all moneys coming into the licensee's possession in connection with his activities as such a licensee.

3. The bond shall remain in force until released by the superintendent or until cancelled by the surety. Without prejudice to any liability previously incurred thereunder, the surety may cancel the bond upon 30 days advance written notice to the licensee and the superintendent.

#### § 1806. Records

All licensees shall maintain complete and accurate records of all transactions for which a license is herein required. The records shall be kept for a period of 4 years and shall be made available to the superintendent for inspection upon reasonable request.

#### § 1807. Consulting contract required

No licensee shall act in any capacity for which a license is required hereunder, without having first entered into a written contract with his client; the contract to include, without limitation, the amount and basis of any consulting fee and the duration of employment and shall be in a form as approved by the superintendent.

**§ 1808. Commissions and fees**

1. A consultant, nor any person in whom he has an interest, shall not, directly or indirectly, receive or share in any commission or compensation paid, directly or indirectly, by any insurer with respect to any property or casualty insurance procured, renewed, continued, modified, terminated or otherwise disposed of pursuant to any recommendation given or transaction engaged in by the licensee for which a license is required by this subchapter unless the procurement, renewal, continuance, modification, termination or other disposal, or obligation to do the same, occurs at least 12 months before or after the period of employment as a consultant as specified in the contract required by section 1807.

2. A life consultant may charge a consulting fee and receive commissions for the sale of insurance as an agent or broker if both the consulting fee and the insurance commissions are provided for in a written agreement, in a form approved by the Superintendent of Insurance, signed by the client and the life consultant. A life consultant shall offset his fees against first-year commissions received as agent or broker on the sale of insurance. The offset shall apply only to those commissions received as a result of services performed under the agreement.

**§ 1809. Obligation to serve interest of client**

A consultant is obligated, under his license, to serve with objectivity and complete loyalty the interests of his client alone; and to render his client such information, counsel and service as within the knowledge, understanding and opinion in good faith of the licensee will best serve the client's insurance or annuity needs and interests.

**§ 1810. Nonresident consultants; service of process**

Section 1617, service of process, shall also apply to nonresidents of this State licensed as consultants by this State.

**§ 1811. Violations**

The superintendent may, following hearing, revoke or otherwise suspend the license of any person who violates this subchapter.

**STATEMENT OF FACT**

The purpose of this bill is to extend to property and casualty agents the right to act as insurance consultants.