

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to S.P. 53, L.D. 28, Bill, "An Act
Relating to the Licensing of Insurance Agents, Brokers and
Adjusters"

Amend the bill by inserting after the enacting clause the
following:

'Sec. 1. 5 MRSA §12004-I, sub-§72-A is enacted to read:

<u>72-A. Occupations:</u>	<u>Adjuster License</u>	<u>Expenses</u>	<u>24-A MRSA</u>
<u>Insurance</u>	<u>Advisory Board</u>	<u>Only</u>	<u>\$1525'</u>

Further amend the bill by striking out all of section 3 and
inserting in its place the following:

'Sec. 3. 24-A MRSA §1509, as amended by PL 1973, c. 585, §12,
is repealed and the following enacted in its place:

§1509. "Adjuster" defined

An adjuster is any person who, as an independent contractor
or as an employee of an independent contractor, adjustment
bureau, association, managing general agent, insurer or other
firm for fee, commission or other compensation, investigate and
settles on behalf of and reports to an insurer, workers'
compensation self-insurer or insured relative to claims arising
under the workers' compensation laws, insurance contracts or
annuity contracts. The definition of adjuster does not include
and a license as an adjuster shall not be required of:

1. Attorneys at law admitted to practice in this State;

2. Salaried employees of insurers who are authorized to
settle and pay claims within a specified limit established by the
insurer not to exceed \$2,500;

1
3 3. Licensed agents authorized to settle and pay claims
within a specified limit established by the insurer not to exceed
\$2,500;

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7 4. Persons excepted from licensure as adjusters pursuant to
Title 5, section 1727-A, and persons acting as adjusters solely
on behalf of the State or counties, cities and towns thereof;

9
11 5. Persons adjusting only life and health insurance claims;
and

13 6. Adjuster trainees pursuant to section 1509-A.

15 Sec. 4. 24-A MRSA §1509-A is enacted to read:

17 §1509-A. "Adjuster trainee" defined

19 An adjuster trainee is any person with less than 2 years
total experience handling loss claims under insurance contracts
21 or the workers' compensation laws. An adjuster trainee must be
employed by and subject to the immediate personal supervision of
23 an adjuster who is licensed in this State and who has been
established in the business of adjusting for 3 years or more.

25 Sec. 5. 24-A MRSA §1512, sub-§6 is enacted to read:

27 6. Until July 1, 1991, the requirements of this section
shall not apply to adjusters who are employees of insurers,
29 adjust workers' compensation self-insurance claims only or who
adjust claims on behalf of the public.
31

33 Sec. 6. 24-A MRSA §1512-B is enacted to read:

35 §1512-B. Report of superintendent

37 By February 15, 1990, the Superintendent of Insurance shall
make a recommendation to the joint standing committee of the
39 Legislature having jurisdiction over business matters of the
desirability and feasibility of excluding adjusters from
41 licensure who have been in the business of adjusting for more
than 5 years and requiring adjusters to fulfill continuing
43 education requirements as a condition of license renewal.

45 Sec. 7. 24-A MRSA §1513, sub-§3, as amended by PL 1969, c.
177, §27-B, is further amended to read:

47
49 3. Any regular salaried officer or employee of an
authorized insurer rendering assistance to or on behalf of a
licensed agent or broker, if such officer or employee devotes
51 substantially all of his that person's time to activities other

1 than the solicitation of applications for insurance or annuity
2 contracts, and receives no commission or other compensation
3 directly dependent upon the amount of business obtained; except
4 that a service representative shall be licensed as an agent when
5 required by section 1507-; and

7 **Sec. 8. 24-A MRSA §1513, sub-§4** is enacted to read:

9 4. An adjuster trainee pursuant to section 1509-A.'

11 Further amend the bill by inserting after section 5 the
12 following:

13 'Sec. 6. 24-A MRSA §1525, sub-§1, as amended by PL 1985, c.
14 366, §8, is further amended to read:

15 1. The superintendent shall appoint ~~2~~ ³ advisory boards, as
16 authorized and established by Title 5, section ~~12004~~ ^{12004-I,}
17 ~~subsections 71 to 72-A,~~ to make recommendations to
18 ~~him the superintendent~~ with respect to the scope, type and
19 conduct of written examinations for license, the times and places
20 within the State where examinations shall be held, and with
21 respect to the other matters referred to in this section and in
22 section 1526. ~~He shall appoint one board~~ One board shall be
23 appointed with respect to general lines agent licensing, to be
24 referred to as the "General Lines Agent Examination Advisory
25 Board;" ~~he shall appoint the other such board~~ one board shall be
26 appointed with respect to life agent licensing, to be referred to
27 as the "Life Agent Examination Advisory Board;" and one board
28 shall be appointed with respect to adjuster licensing to be
29 referred to as the "Adjuster License Advisory Board."

30 **Sec. 7. 24-A MRSA §1525, sub-§2,** as amended by PL 1973, c.
31 585, §12, is further amended to read:

32 2. Each ~~such~~ board shall consist of 5 members, to be
33 appointed by the superintendent for terms of 3 years each, on a
34 staggered term system so as to prevent the terms of more than 2
35 members from expiring in any one year. ~~No~~ Except as otherwise
36 provided, no person shall ~~may~~ be eligible for appointment to such
37 a board unless ~~he or she~~ that person is active on a full-time
38 basis in the general lines insurance business, as to the general
39 lines advisory board, or in the life insurance business, as to
40 the life advisory board, and is a resident of this State. Except
41 as otherwise provided, no person may be eligible for appointment
42 to the Adjuster License Advisory Board unless active as an
43 adjuster on a full-time basis and a resident of this State. No
44 person may be reappointed to a board for more than one 3-year
45 term.

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Sec. 8. 24-A MRSA §1525, sub-§5 is enacted to read:

5. In appointing members to the Adjuster License Advisory Board, the superintendent shall, so far as practicable, constitute the board so that it shall at all times include at least one adjuster who is an employee of an insurer, one public adjuster, one member or employee of an independent adjusting firm and one member who represents the public.

Sec. 9. 24-A MRSA §1526, as amended by PL 1983, c. 812, §150, is further amended to read:

§1526. Functions; reports; expenses

1. Each respective such advisory board shall meet with the superintendent twice during each calendar year at times and places to be designated by the superintendent, and on such other occasions as its members deem appropriate. The superintendent shall furnish to the each board such information, not otherwise designated by law as confidential, as its members may reasonably require with respect to the conduct, scope and results of ~~examinations of general lines agents, as to the general lines advisory board, or of life agents, as to the life advisory board~~ with which it is concerned.

2. Each such board shall make at least one written annual report to the superintendent with respect to the matters within its province. In the report, or in addition thereto, the board shall provide the superintendent with its specific recommendations from time to time as to changes in the scope, format and nature of examinations with which it is concerned, as appear to its members desirable and in the best interest of the people of this State, ~~and of the property, casualty or surety insurance business, as to the general lines advisory board, or the life insurance business, as to the life advisory board, as conducted in this State.~~

3. The superintendent shall avail himself ~~and his~~ the bureau of all such recommendations and material so furnished by the respective such boards, and shall adopt or implement such portions ~~thereof~~ of the recommendations and material as appear to ~~him~~ appropriate and advisable.

4. Each board may, in addition, consult with the superintendent with respect to possible legislation or regulatory measures designed or intended to improve the quality and nature of the ~~solicitation and servicing of property, casualty or surety insurance by licensed general lines agents, as to the general lines advisory board, or of life insurance by licensed life agents, as to the life advisory board, within this State~~ lines of

1 insurance and aspects of the insurance business within its
2 concern; but nothing in this section shall may be deemed to vest
3 any authority in such a board other than on an advisory basis as
4 stated.

5
6 5. The written reports of a board shall be matters of
7 public record, and available from the superintendent upon request.

8
9 6. The members of the advisory boards, as established by
10 Title 5, section 12004 ~~12004-I~~, ~~subsection-10~~ subsections 71 to
11 72-A, shall be compensated according to the provisions of Title
12 5, chapter 379.

13
14 **Sec. 10. 24-A MRSA §1528, sub-§1, ¶C**, as amended by PL 1975,
15 c. 159, §§1 and 2, is further amended to read:

16
17 C. Except as provided in section 1531, an agent license
18 must cover one or more of the following:

19 (1) General lines as defined in 1503, permanent;

20 ~~(1-A)--General-lines-as-defined-in-1503,-initial,~~

21 ~~(2)--Life-as-defined-in-1504,-initial,~~

22 (3) Life as defined in 1504, permanent;

23 (4) Health as defined in 1505; or

24 (5) Variable contract as defined in 1520, subsection 3;

25
26 **Sec. 11. 24-A MRSA §1528, sub-§2-A** is enacted to read:

27
28 2-A. The superintendent may issue to an applicant qualified
29 under this chapter one or more limited adjuster licenses as
30 follows:

31 A. Claims arising under the workers' compensation laws only;

32 B. Property insurance claims only; and

33 C. Casualty insurance claims only.'

34
35 Further amend the bill by inserting after section 13 the
36 following:

37
38 **'Sec. 14. 24-A MRSA §1853, first ¶**, as amended by PL 1973, c.
39 585, §12, is further amended to read:

40
41 For the protection of the people of this State, the
42 superintendent shall not issue, continue or permit to exist any
43 license as an adjuster or limited license as a workers'
44 compensation, property insurance or casualty insurance adjuster,

1 except in compliance with this chapter, or, as to any individual
not qualified therefor, as follows:

3

5 Sec. 15. 24-A MRSA §1853, sub-§3, as enacted by PL 1969, c.
132, §1, is further amended to read:

7

3. Must pass any written examination required for the
license under this chapter, except that with respect to
9 adjusters employed by insurers and persons acting as public
11 adjusters in this State as of September 1, 1989, this subsection
will not apply until July 1, 1991;

13

Sec. 16. 24-A MRSA §1854, sub-§4, as amended by PL 1973, c.
585, §12, is further amended to read:

15

4. No bond may be required with respect to an adjuster who
17 is an employee of an insurer. The superintendent may waive the
requirement of a separate bond as to a licensee employed or to be
19 employed by a licensed firm or corporation adjuster which has
posted with the superintendent a general bond covering all such
21 licensees in such aggregate liability amount in excess of \$10,000
as the superintendent deems reasonable.'

23

Further amend the bill by inserting after section 14 the
25 following:

27

'Sec. 15. Allocation. The following funds are allocated from
Other Special Revenue Fund to carry out the purposes of this Act.

29

1989-90 1990-91

31

33 **PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF**

35 **Bureau of Insurance**

37

All Other \$1,500 \$1,500

39

Provides funds for the
expenses of members of the
41 Adjusters License Advisory
Board.'

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Further amend the bill by renumbering the sections to read
consecutively.

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Further amend the bill by inserting before the statement of
fact the following:

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FISCAL NOTE

This bill will require an increase in the assessment on insurers of \$1,500 in each year of the upcoming biennium to cover the additional costs of the Adjuster's License Advisory Board. In addition to the above mentioned increase in dedicated revenue to the Bureau of Insurance, additional exam and license fees for adjusters will increase dedicated revenue to the bureau beginning in fiscal year 1991-92. The estimated increase for fiscal year 1991-92 is \$14,000.'

STATEMENT OF FACT

This amendment makes changes to those sections of the bill which relate to the licensing of insurance adjusters and to the elimination of the initial insurance agent license.

This amendment creates an adjusters license advisory board.

This amendment clarifies an ambiguity in the definition of an adjuster and would exempt several groups of persons from required licensure. These groups include employees of insurers who have limited authority to process small claims, persons who adjust claims on behalf of public entities, life and health insurance claims adjusters and certain persons who are training to be adjusters.

This amendment provides that the requirement that adjusters who are staff employees of insurers, public adjusters or workers' compensation self-insurance adjusters must obtain licenses does not apply until July 1, 1991.

This amendment defines adjuster trainees and creates an exception to license provisions for them. Persons with less than 3 years' experience who work under supervision of licensed personnel will be considered trainees for purposes of this exception.

This amendment deletes 2 references to the initial agent licenses which were omitted from the original bill.

This amendment establishes 3 limited insurance adjuster licenses which may be suitable for those persons who adjust claims relating to only limited lines of insurance.

This amendment would provide for over a one-year period for

COMMITTEE AMENDMENT "A " to S.P. 53, L.D. 28

1 those persons currently employed as adjusters by insurers or who
2 are public adjusters to pass the adjuster's license exam.

3

4 This amendment provides that adjusters who are insurance
5 company employees need not meet the bonding requirements
6 applicable to other adjusters. Insurer assets are assessable
7 with respect to these persons.

9

10 This amendment requires the superintendent to make a
11 recommendation to the Joint Standing Committee on Business
12 Legislation by February 15, 1990, regarding the desirability and
13 feasibility of requiring insurance adjusters to participate in
14 continuing education as a condition of license renewal and
15 excluding adjusters who have been in the business for more than 5
16 years.

17

18 This amendment also adds an allocation section and fiscal
19 note to the bill.

19

Reported by Senator Hobbins for the Committee on Business
Legislation. Reproduced and Distributed Pursuant to Senate
Rule 12.

(5/2/89)

(Filing No. S-74)