MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

No. 28 Legislative Document S.P. 53 In Senate, January 26, 1989 Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24. Reference to the Committee on Business Legislation suggested and ordered printed. JOY J. O'BRIEN Secretary of the Senate Presented by Senator WHITMORE of Androscoggin. Cosponsored by Representative CURRAN of Westbrook, Representative SIMPSON of Casco and Representative CARROLL of Gray. STATE OF MAINE IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-NINE AN ACT Relating to the Licensing of Insurance Agents, Brokers and Adjusters.



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

- Sec. 1. 24-A MRSA §426, as enacted by PL 1969, c. 132, §1, is repealed.
- Sec. 2. 24-A MRSA $\S427$, as amended by PL 1987, c. 481, $\S1$, is repealed.
- Sec. 3. 24-A MRSA §1509, as amended by PL 1973, c. 585, §12, is repealed and the following enacted in its place: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

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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, investigates,
settles and reports to the adjuster's principal relative to
claims arising under the workers' compensation laws, insurance
contracts or annuity contracts on behalf of an insurer, workers'
compensation self-insurer or insured. The definition of adjuster
does not include and a license as an adjuster is not required of:

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

3. Licensed agents authorized to settle and pay claims not exceeding a specified limit.

Sec. 4. 24-A MRSA §1520, sub-§3, as amended by PL 1973, c. 585, §12, is further amended to read:

life insurers authorized to issue Αs to under section 2537, applicants appointed by insurers to solicit such variable contracts in this State, in addition to completing examinations required for a life agent's license, shall take-and-pass-successfully-a-separate-examinationcovering-the-subject-of-variable-contracts,-in-accordance-with such-reasonable-rules-and-regulations-as-may-be-adopted-by-the superintendent, -- and -pay--a - separate -examination - application - fee therefor --- Said -rules -- and -requiations -- may -- provide -- for -- several sections-of-the-examination-and-several-classifications-of-said variable-contract-license-corresponding-to-the-different-types-of variable--contracts--to--be--offered--in--this--State,--including, without-limitation, -- variable -annuity - contracts - and -variable - life insurance -- centracts have successfully completed the minimum National Association of Securities Dealers requirements for the sale of variable contracts and provide the superintendent with a registration form as issued by the National Association of Securities Dealers. Such a registration shall be with the

1 broker-dealer of the insurer appointing the applicant or with a broker-dealer with whom the insurer has a sales agreement. 3 Sec. 5. 24-A MRSA §1522, sub-§2, as enacted by PL 1969, c. 5 132, §1, is amended to read: 7 The examination for a broker license shall be more difficult than that for an agent license; the examination for a 9 consultant license shall be substantially more difficult than that for a broker license and shall be a thorough testing of the 11 applicant's competence to provide expert advice within the field covered by the license applied for -- and -the - examination - fer - a 13 life---agent---permanent--license---shall--be---substantially--more difficult-than-the-examination-for-initial-license-as-a-life 15 agent-as-provided-for-in-section-1674. 17 Sec. 6. 24-A MRSA §1532-A, sub-§6, as enacted by PL 1983, c. 419, §8, is repealed. 19 Sec. 7. 24-A MRSA §1532-A, sub-§8, as amended by PL 1985, c. 366, §9, is further amended to read: 21 23 Each agent license, -- other -- than -- an - initial -- license, issued under this Title which terminates on its expiration date, 25 shall be automatically renewed for a further 2-year period, unless, following a hearing, the superintendent determines that 27 any reason or condition exists which is specified in section 1539 for the suspension or revocation of a license. 29 Sec. 8. 24-A MRSA §1611, as amended by PL 1973, c. 585, §12, is repealed. 31 33 Sec. 9. 24-A MRSA §1612, as enacted by PL 1969, c. 132, §1, is repealed. 35 Sec. 10. 24-A MRSA \$1616, sub-\$2, as amended by PL 1973, c. 37 585, §12, is further amended to read: 39 The superintendent may waive the taking of a written examination by the nonresident applicant for such a license, if a 41 similar privilege is extended by the other state or province to Maine residents and if he the superintendent finds that the 43 applicant has already met qualification requirements standards in the applicant's domiciliary state or province which 45 are substantially as high as those applicable under this chapter residents applying for a similar license. 47 nonresident agent or broker licensed under this section who becomes a resident and applies for licensing status as a resident 49 is subject to the State-specific portion of the license examination.

Sec. 11. 24-A MRSA §1619, as amended by PL 1975, c. 159, §4,

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is repealed.

1	Sec. 12. 24-A MRSA §1674, as amended by PL 1975, c. 159, §5,
3	is repealed.
5	Sec. 13. 24-A MRSA §1680, sub-§4 is enacted to read:
7	4. Any nonresident agent or broker licensed under this section who becomes a resident and applies for licensing status
9	as a resident is subject to the State-specific portion of the license examination.
11	Sec. 14. 39 MRSA §23, sub-§8-A is enacted to read:
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15	8-A. Qualifications for claims personnel. Persons who investigate, settle or negotiate the settlement of claims on behalf of self-insurers or employees of self-insurers shall be
17	required to be licensed as insurance adjusters pursuant to Title
	24-A, chapter 17, subchapters I and IV.
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21	STATEMENT OF FACT
23	This bill proposes 5 changes to Maine law relating to the licensing of insurance agents and brokers.
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27	Sections 1, 2, 8 and 9 of the bill repeal those provisions of the Maine Insurance Code, the Maine Revised Statutes, Title
29	24-A, which require policies to be countersigned by Maine agents and countersignature fees to be paid to those agents. These requirements are an historical anachronism and no longer serve
31	any legitimate public purpose.
33	Section 3 of the bill amends Maine law concerning adjusters in 3 ways. Those persons who act as insurance adjusters on
35	behalf of the public would be required to become licensed by the Bureau of Insurance and subject to state regulation. Private
37	adjusters who act on behalf of insurers are currently licensed. The bill extends the same regulatory protections currently
39	enjoyed by insurers to the general public. The bill also requires those persons who adjust claims on behalf of workers'
41	compensation self-insurers to be licensed, as well as those employees of insurers who adjust workers' compensation claims.
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4.5	Section 4 of the bill eliminates a requirement that
45	applicants for authority to sell variable life insurance contracts or variable annuities pass a separate Maine examination
47	concerning those contracts. Those applicants have already completed thorough testing under the auspices of the National
49	Association of Security Dealers. The State of Maine currently tests on material subject to the National Association of Security

Dealers examination. The Maine test is therefore redundant.

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Sections 5, 6, 7, 11 and 12 of the bill repeal those sections of Maine law which provide for the issuance of initial licenses to insurance agents. This proposal will protect the insurance-buying public by eliminating the possibility of insurance sales by unsupervised initial licensees who have not demonstrated sufficient knowledge to qualify for a permanent license.

Sections 10 and 13 of the bill are intended to close a loophole in current Maine law relating to the qualification of agents. Currently, many nonresident agents become authorized to do business in Maine without the benefit of examination. If these agents subsequently seek to become licensed as residents, many states require a successful completion of the state-specific portion of the applicable examination. Maine should do so as well.

Section 14 provides a cross reference in the law relating to worker's compensation self-insurance to clarify that persons who adjust claims on behalf of self-insurers must be licensed.