

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 847

H.P. 596

House of Representatives, February 26, 1991

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative RAND of Portland.

Cosponsored by Senator KANY of Kennebec, Representative PARADIS of Frenchville and Representative MITCHELL of Vassalboro.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Establish a Consumer Advocate for Insurance.**

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

24-A MRSA c.77 is enacted to read:

CHAPTER 77

OFFICE OF CONSUMER ADVOCATE FOR INSURANCE

§6401. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Consumer. "Consumer" means any person who is a named insured, insured, or beneficiary of a policy of property and casualty insurance or any other person who may be affected by the exercise of authority or failure of exercise of authority over property and casualty insurance matters by the superintendent.

2. Consumer advocate. "Consumer advocate" means the Consumer Advocate for Insurance.

§6402. Office of Consumer Advocate for Insurance

The Office of Consumer Advocate for Insurance is established as an independent office within the Department of the Attorney General to represent the interests of consumers in property and casualty insurance matters.

§6403. Consumer Advocate for Insurance

The Office of Consumer Advocate for Insurance is administered by the Consumer Advocate for Insurance.

1. Appointment. The Consumer Advocate for Insurance is appointed by the Attorney General subject to review by the joint standing committee of the Legislature having jurisdiction over insurance matters and to confirmation by the Legislature, and shall serve at the pleasure of the Attorney General. Any vacancy must be filled by similar appointment.

2. Qualifications. The consumer advocate must be qualified by reason of training, experience and attainment to represent the interests of consumers with regard to property and casualty insurance. In addition to the limitations of Title 5, section 18, the consumer advocate may not have any official or professional connection or relation with, or hold any stock or securities in any insurance company operating within this State, render any professional service for or against such insurance company or be a member of a firm which renders any such service.

2       3. Duties. The duties and responsibilities of the consumer  
3       advocate are to represent the interests of property and casualty  
4       insurance consumers in connection with any property or casualty  
5       insurance matter involving regulation by the superintendent. In  
6       performing this responsibility the consumer advocate shall  
7       consider the public interest, the resources available and the  
8       effect of the proceeding on the interests of consumers. Specific  
9       duties include, but are not limited to, the following.

10       A. The consumer advocate may make recommendations necessary  
11       or desirable to protect the interests of consumers.

12       B. When determined necessary by the consumer advocate, the  
13       consumer advocate may initiate, participate in or intervene  
14       in any proceeding before the superintendent, any department,  
15       agency or court.

16       When the consumer advocate initiates, participates or  
17       intervenes in any proceeding, the consumer advocate shall  
18       file in the proceeding and shall issue to the public a  
19       statement of the interests of the consumers being protected.

20       C. The consumer advocate may represent the interests of  
21       consumers presented for consideration, upon petition of 25  
22       registered voters who are consumers of a property and  
23       casualty insurer subject to regulation by the  
24       superintendent. The consumer advocate shall notify the  
25       principal sponsors of the petition, within a reasonable time  
26       after receipt of the petition, of the action to be taken by  
27       the consumer advocate or of the reasons for inaction.

28       D. Insurers shall provide copies to the consumer advocate  
29       of all filings, documents or other correspondence filed with  
30       the superintendent unless notified by the consumer advocate  
31       that they are not required. Insurers shall provide all  
32       other nonprivileged information requested by the consumer  
33       advocate and reasonably related to the performance of the  
34       duties of the consumer advocate.

35       E. The consumer advocate shall prepare and submit an annual  
36       report of the activities of the Office of the Consumer  
37       Advocate for Insurance to the Governor and to the joint  
38       standing committee of the Legislature having jurisdiction  
39       over insurance matters, by August 1st of each year, with  
40       copies available upon request to all Legislators and to the  
41       public.

2     **§6404. Assessment for expense of maintaining Office of Consumer**  
4             **Advocate for Insurance**

6             **1. Funding.** The expense of operating the Office of Consumer  
8     Advocate for Insurance must be assessed annually by the  
10    superintendent against all property and casualty insurers  
12    licensed to do business in this State in proportion to their  
14    respective direct gross premiums written on property and casualty  
   insurance business in this State during the year ending December  
   31st immediately preceding the fiscal year for which the  
   assessment is made. The assessment upon all insurers must be  
   applied to the budget of the Department of the Attorney General  
   for the fiscal year commencing July 1st.

16            **2. Payment.** Payment of the assessment must be made by June  
18    1st. The superintendent shall deposit all payments made pursuant  
20    to this section with the Treasurer of State for the sole purpose  
   of paying the expenses of the Office of the Consumer Advocate for  
   Insurance.

22     **§6405. Duties of superintendent in property and casualty**  
24             **insurance matters**

26            **1. Filings.** The superintendent may not accept a document as  
28    timely filed if a copy of the document is also required to be  
   provided to the consumer advocate and the insurer has not  
   indicated that a copy has been provided.

30            **2. Additional duties.** In dealing with any proposed action  
32    that may substantially affect the interests of consumers,  
34    including, but not limited to, a proposed change of rates and the  
   adoption of rules, guidelines, orders, standards or final policy  
   decisions, the superintendent shall:

36            **A. Notify the consumer advocate and provide, free of charge,**  
38    **copies of all related documents when notice of the proposed**  
   **action is given to the public or at a time fixed by**  
   **agreement with the consumer advocate; and**

40            **B. Consistent with the other statutory responsibilities of**  
42    **the superintendent, take action with due consideration to**  
44    **the interests of consumers.**

46     **§6406. Savings provision**

48            **1. Consumer rights.** Nothing in this chapter in any way  
50    limits the right of a consumer to bring proceedings before the  
   superintendent or a court.

52            **2. Public interest.** Nothing in this chapter may be  
   construed to impair the statutory authority or responsibility of

the superintendent to regulate insurers in the public interest.

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### STATEMENT OF FACT

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This bill establishes the Office of Consumer Advocate for Insurance as an independent office within the Department of the Attorney General. The Consumer Advocate for Insurance has a duty to represent the interests of consumers in property and casualty insurance matters. The office is paid for by assessments against insurers in proportion to their respective direct gross premiums written on property and casualty insurance within the State during the year.