

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 837

S.P. 273

In Senate, March 9, 1993

**An Act to Change or Clarify Language in the Maine Insurance Code
Relative to Procurement of Surplus Lines Insurance and Pertaining to
Licensing Procedures in Order to Provide for a More Efficient
Regulatory System.**

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule
24.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator KIEFFER of Aroostook.
Cosponsored by Senator: CAREY of Kennebec, Representatives: KNEELAND of Easton,
KUTASI of Bridgton, PINEAU of Jay, YOUNG of Limestone.

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

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Sec. 1. 24-A MRSA §601, sub-§5, ¶E, as amended by PL 1991, c. 334, §5, is further amended to read:

- E. Issuance fee for original nonresident agent license \$50;
- Appointment of such agent, each insurer \$50; and
- Biennial continuation of appointment, each insurer \$50.

Sec. 2. 24-A MRSA §601, sub-§5, ¶¶F and G are enacted to read:

- F. Issuance fee for resident agent organization license \$50;
- Biennial renewal fee \$50; and
- G. Issuance fee for nonresident agent organization license \$50;
- Biennial renewal fee \$50.

Sec. 3. 24-A MRSA §601, sub-§6, ¶C, as amended by PL 1991, c. 334, §5, is further amended to read:

- C. Issuance fee for original surplus lines broker license \$150; and
- Biennial continuation \$150.

Sec. 4. 24-A MRSA §601, sub-§6, ¶¶D and E are enacted to read:

- D. Issuance fee for resident broker organization license \$70;
- Biennial renewal fee \$70; and
- E. Issuance fee for nonresident broker organization fee \$150;
- Biennial renewal fee \$150.

Sec. 5. 24-A MRSA §601, sub-§7, ¶B, as amended by PL 1991, c. 334, §5, is further amended to read:

2 B. Nonresident consultant, application for
original license and issuance, if issued \$100; and
4
6 Biennial continuation \$100.;

8 **Sec. 6. 24-A MRSA §601, sub-§7, ¶¶C and D** are enacted to read:

10 C. Issuance fee for resident consultant
organization license \$50;

12 Biennial renewal fee \$50; and

14 D. Issuance fee for nonresident consultant
organization license \$100;

16 Biennial renewal fee \$100.

18 **Sec. 7. 24-A MRSA §601, sub-§8, ¶¶B and C**, as amended by PL
20 1991, c. 334, §5, are further amended to read:

22 B. Issuance fee for original nonresident
adjuster license \$40;

24 Biennial continuation \$40; and

26 C. Temporary license \$5.;

28 **Sec. 8. 24-A MRSA §601, sub-§8, ¶¶D and E** are enacted to read:

30 D. Issuance fee for resident adjuster
organization license \$20;

34 Biennial renewal fee \$20; and

36 E. Issuance fee for nonresident adjuster
organization license \$40;

38 Biennial renewal fee \$40.

40 **Sec. 9. 24-A MRSA §1510**, as enacted by PL 1969, c. 132, §1,
42 is amended to read:

44 **§1510. "Organization" defined**

46 For the purposes of this chapter an "organization" is a
partnership ~~or~~ a corporation or a firm as defined in section 1517.

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2 **Sec. 10. 24-A MRSA §1517, sub-§1**, as amended by PL 1973, c.
585, §12, is further amended to read:

4 1. A firm or corporation shall must be licensed only as an
agent, broker, adjuster or consultant. A firm includes 2 or more
6 individuals, whether formally organized or not, who operate an
insurance business together and advertise under a business name,
8 and includes any individual licensee who operates an insurance
business under any name other than the individual's own name.
10 Each general partner of a firm or corporation must be registered
with the superintendent, and each other individual ~~to act~~ who
12 acts for the firm or corporation under the license, ~~shall must~~ be
~~named-in-or~~ registered with the superintendent ~~as-to-the-license,~~
14 and shall qualify as though an individual licensee. Such an
individual shall exercise the firm's or corporation's license
16 powers only for and in the name of the organization, but this
shall does not prevent ~~sueh~~ the individual from at the same time
18 being separately licensed and acting in ~~his~~ the individual's own
behalf and name. ~~A--full--additional~~ The firm or corporation
20 license fee shall be paid as to each respective individual in
~~excess of one named-in-or-registered-as-to-the~~ issued by the
22 superintendent is known as an agent, broker, adjuster or
consultant organization license. A firm's or corporation's
24 application for license must be accompanied by the fee for such
application as specified in section 601.

26 **Sec. 11. 24-A MRSA §1521**, as amended by PL 1973, c. 625,
28 §138, is further amended to read:

30 **§1521. Exemption from examination requirement**

32 Section 1520 shall does not apply and ~~no-sueh~~ an examination
shall may not be required of:

34 1. An applicant for license covering the same kind or kinds
36 of insurance ~~as-to~~ for which the applicant was licensed under a
similar license in this State, other than a temporary license ~~or~~
38 ~~initial-license-as-a-life-agent~~ issued pursuant to section 1536,
within ~~2-years~~ 90 days next preceding the date of application for
40 the license, unless ~~sueh~~ the previous license was revoked or
continuation ~~thereof~~ of the license was refused by the
42 superintendent, and if the superintendent ~~deems~~ considers the
applicant to be fully qualified for the license. For the
44 purposes of this subsection, an agent's license covering fire
insurance and existing on January 1, 1970 ~~shall-be-deemed-to-be~~
46 is the equivalent of a license covering "property" insurance as
defined in this Title;

48 2. An applicant for an agent's license who is currently
50 licensed as a broker or as a consultant ~~as-to~~ for the same kind

2 or kinds of insurance, or has been so licensed within 12-months
3 90 days next preceding the date of application for the license,
4 unless such the previous license was revoked or suspended or
5 continuation thereof of the license was refused by the
6 superintendent;

7 3. Applicants for limited license under section 1531,
8 subsection 1, paragraph B, who solicit or sell insurance
9 incidental to the transportation of persons or to the storage or
10 transportation of property, and as to insurance so transacted; or

11 4. Applicants for license as title insurance agent, who are
12 attorneys at law duly licensed to practice law in this State.

13 **Sec. 12. 24-A MRSA §1523, sub-§2,** as repealed and replaced by
14 PL 1977, c. 260, is amended to read:

15 2. The superintendent shall make examinations available to
16 applicants at least once a month ~~in~~ Augusta at convenient
17 locations within the State.

18 **Sec. 13. 24-A MRSA §1523, sub-§3,** as enacted by PL 1969, c.
19 132, §1, is amended to read:

20 3. All the kinds of insurance and annuity business the
21 applicant proposes to transact under the license applied for
22 shall must be included in the same examination, except as
23 provided in section 1520, subsections 3 and 4, as to applicants
24 for license as ~~to~~ for both life insurance and general lines, ~~and~~
25 ~~as to variable annuities.~~

26 **Sec. 14. 24-A MRSA §1532-A,** as amended by PL 1989, c. 878,
27 Pt. A, §66, is further amended to read:

28 **§1532-A. License continuation or termination**

29 1. Each resident broker, ~~resident---or---nonresident,~~
30 ~~consultant, adjuster, broker organization, consultant~~
31 ~~organization or adjuster organization~~ license issued under this
32 Title shall ~~continue~~ continues in force until 12:01 a.m. on
33 January ~~October~~ 1st of the ~~biennium for which it was issued~~
34 ~~even-numbered years,~~ unless prior thereto ~~it has been to that~~
35 date the license was suspended, revoked or otherwise terminated.

36 2. Each nonresident broker, consultant, adjuster, broker
37 organization, consultant organization or adjuster organization
38 license issued under this Title shall ~~continue~~ continues in force
39 until 12:01 a.m. on March ~~January~~ 1st of the ~~biennium for which~~
40 ~~it was issued even-numbered years,~~ unless prior thereto ~~it has~~
41 been to that date the license was suspended, revoked or otherwise
42 terminated.

2 3. ~~Each adjuster license issued under this Title shall~~
3 ~~continue in force until 12:01 a.m. on January 1st of the biennium~~
4 ~~for which it was issued, unless prior thereto it has been~~
5 ~~suspended, revoked or otherwise terminated.~~

6
7 4. The superintendent shall notify each broker, consultant
8 and, adjuster, broker organization, consultant organization or
9 adjuster organization licensed under this Title of the expiration
10 date of the licensee's license and the fee that is required for
11 renewal for a 2-year period. The notice shall must be mailed to
12 that person at least 30 days in advance of the expiration date of
13 the license at the person's last-known address.

14
15 5. Any broker, consultant ~~or, adjuster may,~~ broker
16 organization, consultant organization or adjuster organization
17 must apply to renew a license issued under this chapter by
18 written request and payment to the superintendent of the
19 applicable renewal fee as stated in section 601. As a condition
20 of or in connection with the renewal of any ~~broker, consultant or~~
21 ~~adjuster~~ such license, the superintendent may require the
22 licensee to file with the superintendent information regarding
23 application for the license or the use made of the license during
24 the current or next preceding license year. At the same time the
25 broker organization, consultant organization or adjuster
26 organization makes a request for renewal, that organization must
27 forward to the superintendent a current list of its members,
28 director and officers and other individuals to be registered with
29 the superintendent as to the license.

30
31 Upon the filing of the information required by this subsection
32 and subject to continuing education requirements established
33 under subchapter VI, the superintendent shall issue a renewal
34 license for the ensuing biennium, unless, following a hearing,
35 the superintendent determines that any reason or condition exists
36 which is specified in section 1539 for the suspension or
37 revocation of a license. If the broker, consultant, adjuster,
38 broker organization, consultant organization or adjuster
39 organization does not file a written request and pay the fee by
40 the renewal date, the license is not renewed and notice of the
41 nonrenewal need not be given by the superintendent to the former
42 licensee.

43
44 7. An A resident agent and agent organization license,
45 ~~other than an initial license, shall continue in force~~ is valid
46 until 12:01 a.m. on April October 1st of the ~~biennium for which~~
47 ~~it was issued~~ even-numbered years, unless prior thereto ~~it has~~
48 ~~been to that date the license was~~ suspended, revoked or otherwise
49 terminated, while there is in effect as to the license, as shown
50 by the superintendent's records, an appointment or appointments

2 as agent of authorized insurers covering collectively all the
kinds of insurance included in the agent's license. A
4 nonresident agent and agent organization license is valid until
12:01 a.m. on February 1st of odd-numbered years, unless prior to
6 that date the license was suspended, revoked or otherwise
8 terminated, while there is in effect as to the license, as shown
10 by the superintendent's records, an appointment or appointments
12 as agent of authorized insurers covering collectively all the
14 kinds of insurance included in the agent's license. Upon
16 termination of all the licensee's agency appointments, as to a
particular kind of insurance, and ~~failure to replace these~~
18 ~~appointments within 60 days thereafter,~~ the license shall
thereupon ~~expire and~~ terminates as to those kinds of insurance
and the licensee shall must promptly deliver ~~his~~ the license to
the superintendent for reissuance, without fee or charge, as to
these kinds of insurance, if any, covered by the remaining agency
appointments. Upon termination of all the licensee's agent
appointments, the license shall ~~immediately terminate~~ terminates.

20 7-A. The superintendent may presume for the purposes of
22 termination of appointments and licenses that the insurer has
24 given the agent proper legal notice pursuant to section 1535 and
shall terminate appointments or licenses, when appropriate, to be
effective on the date requested by the insurer.

26 8. Each agent license issued under this Title which that
28 terminates on its expiration date, subject to the continuing
30 education requirements under subchapter VI, shall must be
32 automatically renewed for a further 2-year period, unless,
following a hearing, the superintendent determines that any
reason or condition exists which that is specified in section
1539 for the suspension or revocation of a license.

34 As conditions of or in connection with the renewal of any
36 agent license, the superintendent may require the licensee to
file with ~~him~~ the superintendent information as for application
38 for the license, or as to the use made of the license during the
current or next preceding license term. The superintendent shall
40 forward a notice of renewal to each licensee, whose agents
agent's license is automatically renewed, ~~a notice of renewal~~.

42 **Sec. 15. 24-A MRSA §2002**, as amended by PL 1987, c. 769, Pt.
44 A, §92, is further amended to read:

46 **§2002. Exemptions from provisions**

48 ~~This Surplus-Line Law shall not apply to~~ The following kinds
of insurance must be procured from authorized insurers and are
50 not eligible for export in the surplus lines market: life
insurance, health insurance or, reinsurance; or to the following

2 insurance--when--written--by--licensed--general--lines--agents--or
brokers--or--surplus--line--brokers--of--this--State; or employee
4 benefit excess insurance.

6 Surplus lines brokers may procure the following kinds of
insurance from eligible surplus lines insurers without adherence
8 to the procedures set forth in section 2004:

10 1. Wet marine and transportation insurance;

12 2. Insurance on subjects located, resident, or to be
performed wholly outside of this State, or on vehicles or
14 aircraft owned and principally garaged outside this State;

16 3. Insurance on operations of railroads engaged in
transportation in interstate commerce and their property used in
18 such operations; or

20 4. Insurance of aircraft owned or operated by manufacturers
of aircraft, or of aircraft operated in commercial interstate
22 flight, or cargo of such aircraft, or against liability, other
than workers' compensation and employer's liability, arising out
24 of the ownership, maintenance or use of such aircraft.

26 **Sec. 16. 24-A MRSA §2020 is enacted to read:**

28 **§2020. Surplus lines broker bond**

30 1. Every applicant for a surplus lines broker's license
shall file with the superintendent evidence of a bond in favor of
32 the State executed by an authorized surety insurer. The bond is
conditioned upon full accounting and due payment to the person
34 entitled to the bond of funds coming into the surplus lines
broker's possession through insurance transactions under the
36 license. The bond may be continuous in force and aggregate
liability on the bond is limited to payment of not less than
38 \$2,500.

40 2. The bond must remain in force until released by the
superintendent or until canceled by the surety. Without
42 prejudice to liability previously incurred, the surety may cancel
the bond upon 30 days' advance written notice to both the broker
44 and the superintendent. Upon notice to the superintendent of
cancellation by the surety and failure of the surplus lines
46 broker to procure a satisfactory replacement bond prior to
cancellation, the surplus lines broker's license terminates.

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STATEMENT OF FACT

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6 This bill amends the regulatory standards contained in the
8 Maine Insurance Code. The increase in the volume of licenses,
10 appointments, new categories of licenses and cash entries
12 warrants changes in the dates for renewals so that workload at
14 the Bureau of Insurance is more evenly distributed. This bill
16 also clarifies the language for licensing organizations and
18 changes the fee for licensing organizations to a flat fee rather
20 than charging for each individual who is affiliated with the
agency. In addition, due to the fact that licensees now have to
comply with continuing education requirements, this bill amends
the law to shorten the period of time in which licensees can
become relicensed without having to take an examination. This
bill also clarifies ambiguous language in surplus lines law.
Finally, this bill changes the law so that applicants for
licenses are able to take examinations for licensure in parts of
the State other than in Augusta.