

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

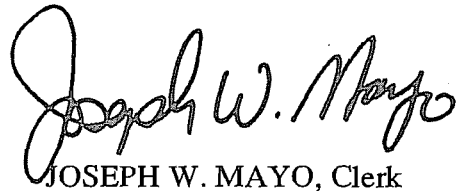
No. 1924

H.P. 1414

House of Representatives, February 23, 1994

An Act to Improve Licensing Procedures at the Bureau of Insurance.

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


JOSEPH W. MAYO, Clerk

Presented by Representative CARLETON of Wells. (GOVERNOR'S BILL)
Cosponsored by Representative: HALE of Sanford.

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

2 **Sec. 1.** 24-A MRSA §413, sub-§§9 and 10, as enacted by PL 1969,
4 c. 132, §1, are amended to read:

6 **9.** If a life or health insurer, a copy of the insurer's
8 rate book and of each form of policy currently proposed to be
issued in this State, and of the form of application therefor; or

10 **10.** If an alien insurer, a copy of the appointment and
12 authority of its United States manager, certified by its officer
having custody of its records~~+~~.

14 **Sec. 2.** 24-A MRSA §413, sub-§§11 and 12, as enacted by PL 1969,
16 c. 132, §1, are repealed.

18 **Sec. 3.** 24-A MRSA §428, sub-§1-A is enacted to read:

20 1-A. Notwithstanding subsection 1, this section does not
22 apply to application fees, examination fees, issuance fees,
24 appointment fees, renewal fees and any other licensing fees
associated with agent licenses, broker licenses, consultant
licenses, adjuster licenses, managing general agent registrations
and reinsurance intermediary licenses.

26 **Sec. 4.** 24-A MRSA §601, sub-§5, as amended by PL 1993, c. 153,
28 §§1 and 2, is further amended to read:

30 **5. Agents.** Agents' licenses and appointments fees are:

32 A. Issuance fee for original resident agent license	\$30;
34 B. Appointment of resident agent, each insurer	\$30;
36 Biennial continuation of appointment	\$30;
38 Each-domestic-mutual-nonlife-insurer	\$16+
40 Each-other-insurer	\$30+
42 C. Temporary license <u>issuance fee</u>	\$5 <u>\$50;</u>
44 D. Limited license <u>issuance fee</u> 46 (section 1531)	\$30;
48 E. Issuance fee for original nonresident 50 agent license	\$50 <u>\$70;</u>

2 Appointment of such agent, each insurer \$50 ~~\$70~~;

4 Biennial continuation of appointment, each agent insurer \$50 ~~\$70~~;

6 F. Issuance fee for resident agent organization license \$50 ~~\$30~~;

8 Biennial renewal fee \$50 ~~\$30~~; and

10 G. Issuance fee for nonresident agent organization license \$50 ~~\$70~~;

12 Biennial renewal fee \$50 ~~\$70~~.

14 **Sec. 5. 24-A MRSA §601, sub-§6, ¶E**, as enacted by PL 1993, c. 153, §4, is amended to read:

16 E. Issuance fee for nonresident broker organization fee \$150;

18 Biennial renewal fee \$150.

20 **Sec. 6. 24-A MRSA §601, sub-§7, ¶A**, as amended by PL 1991, c. 334, §5, is further amended to read:

22 A. Resident Issuance fee for original resident consultant,--application-fee ~~original license and-issuance,--if-issued~~ \$50;

24 Biennial continuation \$50;

26 **Sec. 7. 24-A MRSA §601, sub-§7, ¶B**, as amended by PL 1993, c. 153, §5, is further amended to read:

28 B. Nonresident Issuance fee for original nonresident consultant,--application-fee ~~original license and-issuance,--if-issued~~ \$100;

30 Biennial continuation \$100;

32 **Sec. 8. 24-A MRSA §601, sub-§8**, as amended by PL 1993, c. 153, §§7 and 8, is further amended to read:

34 **8. Adjusters.** Adjuster license fees are:

36 A. Issuance fee for original resident adjuster license \$20 ~~\$50~~;

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2 Agent Resident agent license, biennial \$10- \$30; and
continuation
4 Nonresident agent license, biennial continuation \$70.

6 **Sec. 12. 24-A MRSA §601, sub-§18, ¶¶A and B,** as amended by PL
1991, c. 334, §5, are further amended to read:

- 8
10 A. Application Original issuance fee \$50 \$100; and
12 B. Annual renewal fee \$100.

14 **Sec. 13. 24-A MRSA §601, sub-§§19 and 20,** as enacted by PL
1991, c. 334, §5, are amended to read:

16 **19. Purchasing group registrations.** Purchasing group
18 registration fees are:

- 20 A. Registration Original issuance fee \$50 \$100; and
22 B. Annual renewal fee \$100.

24 **20. Preferred provider organization.** Preferred provider
organization fees are:

- 26 A. Application Original registration
28 issuance fee \$50 \$100; and
30 B. Annual renewal fee \$100.

32 **Sec. 14. 24-A MRSA §601, sub-§21,** as enacted by PL 1991, c.
828, §15, is repealed and the following enacted in its place:

34 **21. Reinsurance intermediary.** Reinsurance intermediary
36 issuance fees and renewal fees are:

- 38 A. Original license issuance fee \$50; and
40 B. Biennial continuation \$50.

42 **Sec. 15. 24-A MRSA §601, sub-§23** is enacted to read:

44 **23. Continuing education vendors and courses.** Filing fees
for continuing education courses and vendors are:

- 46 A. Filing fee for each continuing
48 education vendor \$100;
50 B. Biennial continuation of approval \$100; and

2 C. Filing fee for original approval
3 of each continuing education course

\$20.

4 **Sec. 16. 24-A MRS §1518, sub-§1,** as amended by PL 1993, c.
5 221, §6, is further amended to read:

6
7 1. Written application for an agent, broker, consultant or
8 adjuster license must be made to the superintendent by the
9 applicant and accompanied by the applicable license application
10 fees shown in section 601, ~~the cost of examination, if~~
11 ~~applicable, referred to in section 1520~~ and the investigation
12 ~~cost, if applicable,~~ referred to in section 1519. The
13 application fee is earned when paid and is not subject to
14 refund. The application must be signed and duly sworn to by the
15 applicant. An individual who applies for more than one category
16 of license, as defined in section 1528, shall pay a separate
17 application fee for each license requested.

18 **Sec. 17. 24-A MRS §1518, sub-§2,** as amended by PL 1973, c.
19 585, §12, is further amended to read:

20
21 2. The application form shall require full answers to
22 questions reasonably necessary to determine the applicant's
23 identity, age, residence, present occupation and occupations and
24 business record over not less than the 5 years next preceding the
25 date of the application, financial responsibility, insurance
26 experience, ~~special education or instruction in insurance and~~
27 ~~insurance laws of this State he has had or expects to receive,~~
28 ~~purpose for which the license is to be used, whether he will~~
29 ~~devote all or part of his efforts to transactions under the~~
30 ~~license and, if part only, how much time he will devote to such~~
31 ~~transactions and in what other business or businesses he is or~~
32 ~~will be engaged or employed, when required for licensure~~ and such
33 other facts as the superintendent may require relative to the
34 applicant's qualifications for the license as such qualifications
35 are stated in this chapter. ~~The application shall be accompanied~~
36 ~~by an imprint of the applicant's fingerprints and applicant's~~
37 ~~recent photograph.~~

38
39 **Sec. 18. 24-A MRS §1518, sub-§6,** as amended by PL 1975, c.
40 67, is further amended to read:

41
42 6. The application shall show whether the applicant was
43 ever previously licensed anywhere as to insurance; whether any
44 such license was ever refused, suspended, revoked or renewal or
45 continuance refused; and whether any insurer, general agent,
46 agent or broker claims applicant to be indebted to it, and if so,
47 the details thereof and applicant's defense thereto; ~~whether~~
48 ~~applicant has ever had an agency contract cancelled, and the~~
49 ~~facts thereof.~~

2 **Sec. 19. 24-A MRSA §1519**, as amended by PL 1973, c. 585, §12,
4 is further amended to read:

6 **§1519. Investigation of license applicants**

8 1. Upon completion of any application for license under
10 this chapter, the superintendent shall make such investigation as
12 he deems advisable of the applicant's character, financial
14 responsibility, experience, background and fitness for the
16 license applied for.

18 2. As to applicants not theretofore licensed under this
20 Title or licensed as insurance agent, broker or adjuster in this
22 State under laws heretofore in force, the superintendent shall
24 secure, as soon as is reasonably possible after filing of the
26 application, a credit and or investigation report relative to the
28 applicant from a recognized and established independent
30 investigation and reporting agency; ~~except that in lieu of~~
32 ~~obtaining a special such report, the superintendent may, in his~~
34 ~~discretion, accept with the application a similar report~~
36 ~~furnished by or on behalf of an insurer which proposes to appoint~~
38 ~~the applicant as its agent.~~ The cost, if any, of such report, in
40 a reasonable uniform flat amount as from time to time fixed by
42 the superintendent, shall be paid by or on behalf of the
44 applicant, and shall be deposited with the superintendent at the
46 time of filing the application. The superintendent shall promptly
48 deposit the payment with the Treasurer of State to the credit of
50 the Insurance Regulatory Fund. The superintendent shall keep
 confidential the contents of any such report and shall destroy
 the report after the application has been approved.

Sec. 20. 24-A MRSA §1520, as amended by PL 1993, c. 221, §§7
 and 8, is further amended to read:

§1520. Written examination

 1. ~~After the applicant's completion and~~ Prior to filing of ~~an~~
 an application with the superintendent as required by section
 1518, the superintendent shall require each applicant for license
 as agent, broker, consultant or adjuster, unless exempted
 therefrom under section 1521, to take a written examination as to
 his competence to act as such agent, broker, consultant or
 adjuster. The applicant shall appear at a time and place
 designated by the superintendent and take a written examination
 prepared and administered by the superintendent, or an
 independent testing service designated by the superintendent,
 under the direction of the superintendent, who shall fix a
 passing grade, which in his the superintendent's judgment,
 indicates the applicant's ability to perform his the duties in a

2 satisfactory-manner under the license applied for which-he-has
3 applied. The superintendent-~~shall determine or approve~~ applicant
4 must pay any charges-to-be-paid-by-or-on-behalf-of-applicants
5 fees for the services of any independent testing service
6 designated by the superintendent.

7 2. If the applicant is an organization, the examination
8 shall be so taken by each individual who is to be named in or
9 registered as to the license, as provided in section 1517.

10 3. As to life insurers authorized to issue variable
11 contracts under section 2537, applicants appointed by such
12 insurers to solicit such variable contracts in this State, in
13 addition to completing examinations required for a life agent's
14 license, shall have successfully completed the minimum National
15 Association of Securities Dealers requirements for the sale of
16 variable contracts and provide the superintendent with a
17 registration form as issued by the National Association of
18 Securities Dealers. Such a registration shall be with the
19 broker-dealer of the insurer appointing the applicant or with a
20 broker-dealer with whom the insurer has a sales agreement.

21 4. An applicant for more than one category of license as
22 ~~both a life agent or broker and a general lines agent or broker~~
23 must be separately examined for ~~life insurance and for general~~
24 ~~lines,~~ each category of license and shall pay a separate
25 examination fee for each ~~of the 2 examinations~~ examination.

26 5. Nothing in subsection 3 or 4 shall be deemed to prohibit
27 the giving of all required examinations as to a particular
28 applicant on the same day.

29 7. The superintendent shall establish or approve procedures
30 for examination registrations.

31 **Sec. 21. 24-A MRSA §1523**, as amended by PL 1993, c. 153, §§12
32 and 13, is further amended to read:

33 **§1523. Time, place and conduct of examination**

34 1. All examinations of ~~license-applicants~~ individuals shall
35 be conducted by the superintendent, or his the superintendent's
36 designee using examinations approved by the superintendent.

37 2. The superintendent shall make examinations available to
38 applicants at least once a month at convenient locations within
39 the State.

40 3. All the kinds of insurance and annuity business the
41 applicant individual proposes to transact under the license to be
42

2 applied for must be included in the same examination, except as
provided in section 1520, subsections 3 and 4, as to applicants
4 for more than one category of license for both life insurance and
general lines.

6 4. The superintendent shall ensure that all examinations
are given, conducted and graded in a fair and impartial manner
8 and without unfair discrimination as between individuals examined.

10 5. The applicant individual must pass the examination with
a grade indicating his the individual's ability to perform his
12 the duties in a satisfactory manner under the license for which
he the individual applies.

14 6. Within 30 days after the examination, the superintendent
16 or ~~his designee shall~~ any independent testing service designated
18 by the superintendent must inform the applicant ~~and the~~
~~appointing insurer~~ individual as to whether or not he the
individual has passed. An individual who has passed an
20 examination must make application for and otherwise qualify for
an agent, broker, adjuster or consultant license pursuant to this
22 chapter.

24 7. The superintendent or any independent testing service
designated by the superintendent shall keep each examination
26 paper on file for at least 6 months.

28 8. An individual who fails to pass an examination must
register and pay the fee for a subsequent examination in the same
30 manner as a first-time registrant. A different set of
examination questions must be used on each reexamination.

32 Sec. 22. 24-A MRSA §1524, as amended by PL 1985, c. 366, §§5
34 to 7, is repealed.

36 Sec. 23. 24-A MRSA §1533, sub-§1, as amended by PL 1993, c.
221, §9, is further amended to read:

38 1. Each insurer appointing an agent in this State shall
40 file with the superintendent the appointment in writing,
specifying the kinds of insurance or annuity business to be
42 transacted by the agent for the insurer, and pay the appointment
fee at the rate specified in section 601. The insurer shall pay
44 the full appointment fee ~~if the agent's~~ without regard to the
effective date of the appointment precedes the sponsoring
46 insurer's biennial continuation date by a period of more than one
year. If the agent's appointment precedes the sponsoring
48 insurer's biennial continuation date by a period less than one
year, 1/2 the applicable appointment fee is charged. An agent
50 who qualifies to be licensed to sell variable annuity contracts

2 pursuant to section 1520 must be separately appointed as to
variable annuities and the insurer shall pay a separate
4 appointment fee for the appointment.

6 **Sec. 24. 24-A MRSA §1534, sub-§1, as repealed and replaced by
PL 1975, c. 767, §19, is repealed.**

8 **Sec. 25. 24-A MRSA §1534, sub-§2, as amended by PL 1993, c.
221, §11, is further amended to read:**

10
12 2. The superintendent shall must notify every insurer of
the ~~expiration date of the insurer's agents' appointments and the~~
14 ~~fees that are required for continuation of an agent's appointment~~
the insurer's agents' appointments for a 2-year period
16 accompanied by a list of the insurer's agents. The notice must
be mailed to the insurer at least 30 days in advance of the
18 expiration date of the insurer's agents' appointments. Insurers
must be charged a fee for every agent whose appointment has not
20 been terminated pursuant to section 1533 on the date the notice
is sent. At least 15 days before the insurer's agents'
22 expiration date, the insurer shall file with the superintendent
~~an alphabetical list of the names and addresses of all the~~
24 ~~insurer's agents in this State whose appointments are to remain~~
~~in effect for the kinds of insurance or annuity business for~~
26 ~~which the respective agents are appointed, accompanied by payment~~
~~of the biennial continuation of appointment fee as specified in~~
28 ~~section 601~~ must pay the fees required by the notice. Fees
submitted with the alphabetical list are earned when paid and are
30 not subject to refund. If an insurer does not accompanied by payment of pay the
32 required fee fees, the appointment insurer is considered expired
at midnight on the insurer's biennial continuation date subject
34 to penalties pursuant to section 12-A. ~~At the same time, the~~
~~insurer shall also file with the superintendent an alphabetical~~
36 ~~list of the names and addresses of all the insurer's agents whose~~
~~appointments in this State are not to remain in effect. An~~
38 ~~appointment not so continued and not otherwise expressly~~
~~terminated is considered expired at midnight on the insurer's~~
40 ~~biennial continuation date.~~

42 **Sec. 26. 24-A MRSA §1534, sub-§3, as enacted by PL 1975, c.
767, §19, is repealed.**

44 **Sec. 27. 24-A MRSA §1535, sub-§1, as amended by PL 1993, c.
221, §12, is further amended to read:**

46
48 1. Subject to the ~~general~~ lines agent's contract
obligations and rights, if any, an insurer or agent may terminate
50 an agency agent appointment at any time. If the ~~appointment is~~
~~by written agreement and the insurer intends to terminate the~~

2 ~~written agreement with the agent or modify the agreement to~~
3 ~~delete that~~ agent's authority to represent the insurer for any
4 line of business, the insurer shall provide 90 days advance
5 written notice of the termination or modification to the agent.
6 A notice is not required when:

7 A. The agent is subject to suspension or revocation of
8 license under section 1539;

9 B. The agency fails to pay money due the company;

10 C. There is a sale or a merging of the agency;

11 D. There is an insolvency or bankruptcy of the agency;

12 E. The agent holds a limited license under section 1531,
13 subsection 1; or

14 F. The agent is an employee of an insurer or the agent by
15 contractual agreement represents only one insurer or group
16 of affiliated insurers, if the property rights in the
17 renewal are owned by the insurer or group of affiliated
18 insurers. Cancellation or termination of the agent's
19 contract under this paragraph may not result in the
20 cancellation or nonrenewal of the policies.

21 **Sec. 28. 24-A MRSA §1535, sub-§2**, as amended by PL 1993, c.
22 221, §13, is further amended to read:

23 2. Notice of cancellation of an agent's appointment must be
24 given to the superintendent in writing ~~at the same time notice is~~
25 ~~given to the agent prior to or on the effective date of the~~
26 cancellation. The list of appointments not being continued under
27 section 1534 constitutes notice to the superintendent of an
28 agent's termination only if the termination takes effect on the
29 agent's renewal date. The superintendent may require of the
30 insurer reasonable proof that the insurer has given notice to the
31 agent pursuant to this section. Accompanying the notice of
32 termination given the superintendent, the insurer shall file with
33 the superintendent a statement of the cause, if any, for
34 termination on a form provided by the superintendent. Any
35 information, document, record or statement so disclosed or
36 furnished to the superintendent is considered an absolutely
37 privileged communication and is not admissible as evidence in any
38 action or proceeding. An agent's cancellation of appointment is
39 not effective until the superintendent receives notice of the
40 cancellation as required in this section.

41 **Sec. 29. 24-A MRSA §1603**, as amended by PL 1973, c. 585, §12,
42 is further amended to read:

2 **§1603. Qualifications for general lines agent and broker license**

4 For the protection of the people of this State, the
6 superintendent shall not issue, continue or permit to exist any
8 agent or broker license except in compliance with this chapter,
10 or as to any individual unless qualified therefor as follows:

12 1. **Age.** Must be at least 18 years of age.;

14 2. **Residence.** Must be a resident of this State if to be
16 licensed as a resident agent or resident broker, and, if to be
18 licensed as a resident agent or broker, must not be licensed as a
20 resident agent or resident broker of another state.;

22 3. **Competence, etc.** Must be competent, trustworthy,
24 financially responsible, and of good personal and business
26 reputation.;

28 4. **Education.** Must have fulfilled applicable education
30 requirements as provided for in section 1604.;

32 5. **Examination.** Must have passed any written examination
34 required for the license under this chapter.;

36 6. **Purpose.** Must not seek or use the license for the
38 purpose of writing controlled business, as referred to in section
40 1514.;

42 7. **Appointment.** If for agent's license, must have been
44 appointed agent by an authorized insurer or insurers as to the
46 kinds of insurance to be covered by the license, subject to
48 issuance of the license.; or

50 8. **Experience.** ~~If An applicant for a broker's license,~~
52 ~~must have had experience either be licensed as an agent,~~
54 ~~consultant, service representative, adjuster, managing general~~
56 ~~agent or broker, or other special experience, education or~~
58 ~~training, all of sufficient content and duration as deemed by for~~
60 ~~one year within 2 years prior to the date the application for~~
62 ~~license is filed with the superintendent to be reasonably~~
64 ~~necessary for competence in fulfilling the responsibilities of a~~
66 ~~broker.~~

68 **Sec. 30. 24-A M RSA §1673, sub-§7, as amended by PL 1993, c.**
70 **221, §19, is further amended to read:**

72 7. **Experience.** ~~If An applicant for a broker's license,~~
74 ~~the individual must have had experience be licensed as a life agent~~
76 ~~or broker, or managing general agent or other special experience,~~

education--or--training--in--the--life--insurance--business,--all--of
2 sufficient--content--and--duration--as--determined--by for one year
4 within 2 years prior to the date the application for license is
filed with the superintendent reasonably necessary for competence
6 in fulfilling the responsibilities of a broker.

8 Sec. 31. 24-A MRS §1854, sub-§2, as enacted by PL 1969, c.
132, §1, is amended to read:

10 2. The bond shall be continuous in form, and aggregate
12 liability thereon may be limited to ~~\$10,000~~ \$25,000.

14 Sec. 32. 24-A MRS §1854, sub-§4, as amended by PL 1989, c.
168, §28, is repealed.

16 Sec. 33. 24-A MRS §1878, as enacted by PL 1989, c. 31, §4,
18 is amended to read:

20 **§1878. Application for approval of program**

22 1. Each application for approval of a continuing education
24 program shall be submitted according to the guidelines prescribed
26 by the superintendent accompanied by the appropriate fee in
28 section 601. The fee is nonrefundable. A fee is required only
for original course submissions. Subsequent or renewal filings
of approved courses are considered original if modified in any
manner.

30 2. Courses and programs shall be approved or disapproved by
32 the superintendent, subject to prior review and nonbinding
34 recommendations of the Continuing Education Advisory Committee.
36 After reviewed and approved or disapproved, the submissions need
not be maintained by the superintendent and may be destroyed.
The superintendent may, by rule, establish criteria for the
review and approval of courses and for the determination of the
number of continuing education hours to be credited for
completion of each course or program.

38 Sec. 34. 24-A MRS §3104, as repealed and replaced by PL
40 1977, c. 330, is amended to read:

42 **§3104. Notice of authorization to registers of probate**

44 Whenever any surety insurer is authorized to transact
46 business in this State, the superintendent shall maintain the
48 name of such insurer and the names of all agents of such insurer
50 who have been licensed by him the superintendent, their places of
residence and the dates when their licenses will expire,--and the
names--and--addresses--of--all--attorneys--in--fact--registered--with--him.

2 Sec. 35. 24-A MRSA §3105, as enacted by PL 1969, c. 132, §1,
is amended to read:

4 **§3105. Estoppel to deny corporate power**

6 An insurer must attach a power of attorney to every bond it
7 executes in this State. The power of attorney must identify the
8 name and address of its attorney-in-fact who is authorized to act
9 for the insurer within this State together with the scope of
10 authority of the attorney-in-fact. Any insurer which shall
11 execute any bond as surety under section 3102 shall be estopped
12 in any proceedings to enforce the liability which it shall have
13 assumed to incur, to deny its corporate power or the authority of
14 its attorney in fact within the scope of ~~his~~ the power of
15 attorney filed in accordance with this section ~~413~~, to execute
16 such instrument or assume such liability or the authority of any
17 licensed agent to countersign such instrument.

18

20

STATEMENT OF FACT

22

23 This bill amends parts of the Maine Insurance Code to
24 improve and streamline licensing and application procedures and
25 changes some of the fee schedule. The bill repeals several
26 sections of law that require tracking of information that was
27 backlogging the Bureau of Insurance. The bill adds a simpler
28 requirement to replace those repealed sections of law.

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31 The bill changes certain scheduled insurance fees from a
32 staggered renewal system to a more consistent system. Some fees
33 are raised to compensate for the elimination of other fees and
34 for some fees that have never been raised. The bill addresses
35 the application procedures of the Maine Insurance Code and amends
36 the code to reduce the workload of the Bureau of Insurance and
37 cut back on incoming applications. The bill amends the code on
38 the requirements for becoming a broker and eliminates
39 distinctions between adjustors; this reduces excess record
40 keeping.

40

41 Lastly, this bill amends the Maine Insurance Code to allow
42 the Superintendent of Insurance to contract with outside services
43 for continuing education courses. It removes a requirement that
44 the superintendent maintain and update an attorneys' list for all
45 licensed insurers.

46

48

49 This document has not yet been reviewed to determine the
50 need for cross-reference, stylistic and other technical
51 amendments to conform existing law to current drafting standards.

50