

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

---

Legislative Document

No. 1640

---

S.P. 535

In Senate, March 24, 1997

**An Act to Streamline Licensing and Reporting Requirements and Reduce  
Regulatory Burdens for Licensed Insurance Professionals and Insurers.**

(EMERGENCY)

---

Reference to the Committee on Business and Economic Development suggested and  
ordered printed.

Submitted by the Department of Professional and Financial Regulation pursuant to Joint  
Rule 204.

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

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator ABROMSON of Cumberland.  
Cosponsored by Senator LaFOUNTAIN of York, Representatives: CARLETON of Wells,  
PERRY of Bangor.

2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4           **Whereas,** insurers and the Bureau of Insurance will avoid  
6 considerable expense and delay by enacting immediately certain  
provisions contemplated by this legislation; and

8           **Whereas,** current provisions of the law result in significant  
10 inefficiencies within the Bureau of Insurance that may otherwise  
be streamlined with this legislation; and

12           **Whereas,** to implement certain provisions immediately  
14 requires that this legislation be enacted as emergency  
legislation; and

16           **Whereas,** in the judgment of the Legislature, these facts  
18 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
20 necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

24           **Sec. 1. 5 MRSA §12004-I, sub-§70-A,** as enacted by PL 1989, c.  
26 31, §1, is amended to read:

28 <b>70-A.</b>	Continuing	Expenses	24-A MRSA
Occupations:	Education	Only	@1876
30           Insurance	Advisory		<u>§1481</u>
	Committee		

32           **Sec. 2. 5 MRSA §12004-I, sub-§71,** as enacted by PL 1987, c.  
34 786, §5, is repealed.

36           **Sec. 3. 9-B MRSA §443, sub-§11,** as enacted by PL 1993, c. 322,  
38 §1, is amended to read:

40           **11. Annuities.** A financial institution, credit union or  
financial institution holding company, or a subsidiary or  
42 employee of such an entity, authorized to do business in the  
State may sell, or arrange for the sale of, through a licensed  
44 3rd-party, annuities purchased from a licensed insurance company  
and may share commissions in connection with the sale of  
annuities pursuant to the provisions of Title 24-A. A financial  
46 institution, a credit union or a financial institution holding  
company or an employee or subsidiary of such an entity must be  
48 licensed in accordance with Title 24-A, section ~~1531, subsection~~  
~~1, paragraph F~~ 1416 before engaging in any of the activities  
50 concerning the sale of annuities authorized by this subsection.

2 If annuities are sold pursuant to the authorization under this  
3 subsection through an arrangement with a licensed 3rd-party  
4 agent, that 3rd-party agent may not be licensed to sell general  
5 lines insurance or life and health insurance. As used in this  
6 subsection, the words "sell annuities" and "arrange for the sale  
7 of annuities" do not include the underwriting of those products.

8 A financial institution, credit union or financial institution  
9 holding company that sells or arranges for the sale of annuities  
10 on the premises of that entity:

12 A. Shall post conspicuously a notice that is clearly  
13 visible to all customers that may purchase annuities. The  
14 notice must state in clearly understandable language that  
15 the annuities are not insured by the Federal Deposit  
16 Insurance Corporation;

18 B. Shall orally inform a prospective purchaser of annuities  
19 that the annuities are not insured by the Federal Deposit  
20 Insurance Corporation; and

22 C. Before a sale of annuities is completed, ~~must~~ shall  
23 obtain a written statement signed by the purchaser of the  
24 annuities stating that the purchaser received the oral  
25 notice required by paragraph B.

26 **Sec. 4. 24 MRSA §2312**, as amended by PL 1973, c. 585, §12, is  
27 repealed.

30 **Sec. 5. 24 MRSA §2313**, as amended by PL 1977, c. 682, §2, is  
31 repealed.

32 **Sec. 6. 24 MRSA §2332, sub-§10** is enacted to read:

34 **10. Filing fees.** The superintendent may require nonprofit  
35 hospital or medical service organizations and nonprofit health  
36 care plans to pay filing fees for form and rate approval on a  
37 quarterly, biannual or annual basis.

40 **Sec. 7. 24-A MRSA §3**, as amended by PL 1995, c. 375, Pt. C,  
41 §1, is further amended to read:

42 **§3. "Insurance" defined**

44 "Insurance" is a contract under which one undertakes to pay  
45 or indemnify another as to loss from certain specified  
46 contingencies or perils, or to pay or grant a specified amount or  
47 determinable benefit or annuity in connection with ascertainable  
48 risk contingencies, or to act as surety. A charitable gift  
49 annuity agreement, as defined in section 703-A, is not considered  
50

2 insurance. A road or tourist service contract, other than a  
3 contract issued by a licensed insurer, related to the repair,  
4 operation and care of automobiles or to the protection and  
5 assistance of automobile owners or drivers is not considered  
6 insurance.

7 **Sec. 8. 24-A MRSA §10, sub-§2,** as enacted by PL 1969, c. 132,  
8 §1, is amended to read:

9 2. Fraternal benefit societies, except as stated in chapter  
10 55; or

11 **Sec. 9. 24-A MRSA §10, sub-§3,** as enacted by PL 1969, c. 132,  
12 §1, is repealed.

13 **Sec. 10. 24-A MRSA §421, sub-§1,** as amended by PL 1973, c.  
14 585, §12, is further amended to read:

15 1. Before the superintendent ~~shall authorize~~ authorizes it  
16 to transact insurance in this State, each insurer shall appoint  
17 ~~the superintendent, and his successors in office, as its agent a~~  
18 resident attorney as its agent to receive service of legal  
19 process issued against the insurer in this State. The insurer  
20 shall file with the superintendent a copy of the appointment  
21 ~~shall be made on a form as designated and furnished by the~~  
22 superintendent, and shall. The notice to the superintendent must  
23 be accompanied by a copy of a resolution of the board of  
24 directors or like governing body of the insurer, if an  
25 incorporated insurer, showing that those officers who executed  
26 the appointment were duly authorized to do so on behalf of the  
27 insurer.

28 **Sec. 11. 24-A MRSA §421, sub-§1-A** is enacted to read:

29 1-A. Insurers currently authorized to transact insurance in  
30 this State must comply with this section within 6 months of the  
31 effective date of this subsection. This subsection is repealed 6  
32 months from the effective date of this subsection.

33 **Sec. 12. 24-A MRSA §421, sub-§2,** as enacted by PL 1969, c.  
34 132, §1, is repealed.

35 **Sec. 13. 24-A MRSA §421, sub-§3,** as amended by PL 1973, c.  
36 585, §12, is further amended to read:

37 3. Service of such process against a foreign or alien  
38 insurer shall may be made only by service thereof upon the  
39 superintendent attorney appointed by the insurer.



2	license, including limited license	\$30;
4	B. Appointment of resident agent producer, each insurer	\$30;
6	Biennial continuation of appointment	\$30;
8	C. Temporary license issuance fee	\$50;
10	<del>D. Limited license issuance fee (section 1531)</del>	<del>\$30;</del>
12	E. Issuance fee for original nonresident agent producer license	\$70;
14	Appointment of such agent producer, each	
16	insurer	\$70;
18	Biennial continuation of appointment, each agent insurer	\$70;
20	F. Issuance fee for resident agent-organization agency license	\$30;
22		
24	Biennial renewal-fee continuation	\$30; and
26	G. Issuance fee for nonresident agent organization agency license	\$70;
28		
30	Biennial renewal-fee continuation	\$70.

32 **Sec. 19. 24-A MRSA §601, sub-§6,** as amended by PL 1993, c.  
637, §5, is repealed.

34 **Sec. 20. 24-A MRSA §601, sub-§12,** as amended by PL 1993, c.  
637, §11, is repealed.

36 **Sec. 21. 24-A MRSA §601, sub-§21, ¶B,** as repealed and replaced  
38 by PL 1993, c. 637, §14, is amended to read:

40 B. Biennial Annual continuation \$50.

42 **Sec. 22. 24-A MRSA §604, sub-§2, ¶C,** as amended by PL 1985, c.  
44 446, §3, is repealed.

46 **Sec. 23. 24-A MRSA c. 16** is enacted to read:

CHAPTER 16

PRODUCERS, ADJUSTERS, CONSULTANTS AND AGENCIES

50

SUBCHAPTER I

SCOPE OF CHAPTER AND DEFINITIONS

§1401. Scope of chapter

1. Producers, consultants and adjusters. This chapter governs the qualifications, licensing and general requirements for producers, consultants and adjusters as to any and all kinds of insurance and types of insurers, nonprofit hospital or medical service organizations, health maintenance organizations and fraternal benefit societies, except reinsurers.

2. Agents and brokers. This chapter governs the qualifications, licensing and general requirements for agents and brokers as to any and all kinds of insurance and types of insurers, nonprofit hospital or medical service organizations, health maintenance organizations and fraternal benefit societies, except reinsurers. Wherever the context warrants in this Title, the term "agent" or the term "broker" is replaced with the term "producer." Reference to insurance agent or insurance broker is the same as reference to insurance producer.

This subsection is repealed on January 1, 1998.

§1402. Definitions

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

1. Adjuster. "Adjuster" means any person who, as an independent contractor or as an employee of an independent contractor, or as an employee of another organization, for fee, commission or other compensation, investigates for, settles on behalf of and reports to an insurer, fraternal benefit society, workers' compensation self-insurer or insured relative to claims arising under the workers' compensation laws or other types of insurance contracts. "Adjuster" does not include:

A. Attorneys admitted to practice in this State;

B. Salaried employees of insurers;

C. Licensed producers authorized by contract to settle and pay claims within a specified limit established by the insurer or fraternal benefit society not to exceed \$5,000;

D. 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;



2           E. Persons adjusting only life and health insurance claims;  
3           or

4

5           F. Adjuster trainees.

6

7           2. Adjuster trainee. "Adjuster trainee" means any person  
8           with less than one year total experience handling loss claims  
9           under insurance contracts or the workers' compensation laws. An  
10           "adjuster trainee" must be employed by and subject to the  
11           immediate personal supervision of an adjuster who is licensed in  
12           this State and who has been established in the business of  
13           adjusting for 3 years or more.

14

15           3. Agency. "Agency" means any corporation, association,  
16           limited liability company, partnership, limited partnership or  
17           other legal entity that operates as an insurance producer,  
18           consultant or adjuster under a license issued pursuant to this  
19           chapter. An agency includes a sole proprietorship where more  
20           than one licensed individual is employed by or works under the  
21           name of the agency or where the individual licensee uses a name  
22           for the agency other than the individual licensee's own name.

23

24           4. Consultant. "Consultant" means any person who, for a  
25           fee, advises or offers to advise any person insured or seeking  
26           insurance or named or to be named as beneficiary, or having or to  
27           have any interest in or insured under any property and casualty  
28           or life and health insurance contract or annuity contract,  
29           existing or proposed.

30

31           A. "To advise" means to provide information relative to  
32           coverage, rights or interests under insurance or annuity  
33           contracts, or relative to the retention, exchange,  
34           surrender, exercise of rights or other disposition of  
35           insurance or annuity contracts.

36

37           B. This definition includes a person who advises or offers  
38           to advise on financial planning if the person also offers  
39           advice on insurance or annuity coverages or if the person is  
40           also a licensed insurance producer.

41

42           C. This definition includes a person who advises or offers  
43           to advise on estate planning, including a person who sells  
44           trust packages, if the person also offers advice on  
45           insurance coverages or if the person is also a licensed  
46           insurance producer.

47

48           D. "Consultant" does not include:

- 2           (1) An attorney licensed to practice who is actively  
practicing law in this State;
- 4           (2) An insurance actuary and member or associate of  
the Society of Actuaries or American Academy of  
6           Actuaries;
- 8           (3) A public accountant certified under Title 32,  
chapter 113 or a certified public accountant who is  
10           certified under Title 32, chapter 113 and in active  
public practice; or
- 12           (4) A licensed insurance producer who receives a fee  
14           in lieu of a commission pursuant to section 1450 if the  
insurance producer is not engaging in activities other  
16           than insurance producer activities.

18           **5. Insurance producer.** "Insurance producer" means a person  
20           who engages in insurance producer activities. Unless the person  
receives commission or other fees for the service, this  
22           definition does not include: a salaried employee of an employer  
or labor union whose insurance producer activities are limited to  
24           taking applications for certificates under group insurance  
contracts issued pursuant to sections 2603, 2605-A, 2606-A, 2804,  
26           2805, and 2806; a person whose insurance producer activities are  
limited to taking applications for certificates of insurance  
28           under approved group contracts where underwriting is not required  
and where certificates are issued to members of the group without  
30           contribution from the members; or a person employed by a group  
policyholder of a credit life or credit life and health insurance  
32           policy, so long as that person does not receive a commission or  
other compensation for enrolling participants in the group policy.

34           A. For the purposes of this Title, a person currently  
licensed as an agent or broker is deemed to be an insurance  
36           producer.

38           This paragraph is repealed on July 1, 1998.

40           **6. Insurance producer activities.** "Insurance producer  
42           activities" means, with respect to insurance risks residing,  
located or to be performed in this State, to solicit, take  
44           application for, negotiate, effect, procure, deliver, renew, bind  
or receive commissions for policies of insurance issued by  
46           insurers, certificates of insurance under approved group  
policies, automobile mechanical breakdown contracts; or  
48           certificates or policies issued by health maintenance  
organizations or nonprofit hospital or medical service  
50           organizations.

2        7. License. "License" means a document issued by the  
3 superintendent authorizing a person to act as an insurance  
4 producer for classes of insurance specified in the document as  
5 authorized in this chapter. The license itself does not create  
6 any authority, actual, apparent or inherent, in the licensee to  
7 represent or commit any particular insurer.

8        8. Life and health consultant. "Life and health  
9 consultant" means a person licensed as a consultant to advise on  
10 life contracts, annuity contracts and health insurance contracts.

12        9. Limited insurance producer license. "Limited insurance  
13 producer license" means a license issued by the superintendent  
14 authorizing a person to act as an insurance producer limited to  
15 insurance producer activities involving any one of the following:

16            A. Certificates under group insurance contracts only.

18            This paragraph takes effect on July 1, 1997;

20            B. Automobile insurance contracts only;

22            C. Travel accident and baggage insurance contracts only;

24            D. Credit life and credit health insurance contracts only;

26            E. Title insurance contracts only;

28            F. Annuities contracts only; or

30            G. Automobile mechanical break-down contracts only.

32            This paragraph takes effect on July 1, 1997.

34        10. Nonresident. "Nonresident" means a person other than a  
36 resident of this State.

38        11. Property and casualty consultant. "Property and  
39 casualty consultant" means a person licensed as a consultant to  
40 advise on any one or more of the following kinds of insurance:

42            A. Casualty insurance;

44            B. Property insurance;

46            C. Surety insurance;

48            D. Marine and transportation insurance;

50            E. Title insurance; or

2           F. Legal services insurance.

4           12. Resident. "Resident" means any of the following:

6           A. An individual who is domiciled in this State and who is  
8           not licensed elsewhere as a resident producer, consultant or  
          adjuster;

10          B. An individual whose principal place of business is  
12          located in this State and who is not licensed elsewhere as a  
          resident producer, consultant or adjuster; or

14          C. An agency either incorporated in this State or having  
16          its principal place of business in this State that is not  
          licensed as a resident agency elsewhere.

18

SUBCHAPTER II

20

GENERAL LICENSING REQUIREMENTS FOR PRODUCERS,  
22           ADJUSTERS, CONSULTANTS AND AGENCIES

22

24       §1411. License required

26           1. Producer. A person may not act as or purport to be an  
28           insurance producer or limited insurance producer or engage in  
          producer activities with respect to insurance risks resident,  
30           located or to be performed in this State or elsewhere for any  
          kind or kinds of insurance unless licensed for such a kind or  
          kinds in accordance with this chapter.

32

34           2. Consultant; adjuster. A person may not act as or  
          purport to be a consultant with respect to insurance risks  
36           resident, located or to be performed in this State or elsewhere  
          unless licensed as a consultant under this chapter. A person may  
38           not act or purport to be an adjuster unless licensed as an  
          adjuster under this chapter, except as provided in section 1475.

40           3. Insurance business. A person may not for a fee or  
42           commission engage in the business of offering any advice,  
          counsel, opinion or service with respect to the benefits,  
44           advantages or disadvantages under any policy of insurance that is  
          issued in this State unless that person is:

46           A. Engaged or employed as an attorney licensed in this  
          State to practice law;

48

50           B. A licensed insurance producer offering advice concerning  
          a kind of insurance for which the insurance producer is

2 licensed to transact business and does not receive a  
3 separate fee for rendering such advice other than  
4 commissions or fees for the sale of an insurance or annuity  
5 policy;

6 C. An actuary or a certified public accountant engaged or  
7 employed in a consulting capacity, performing duties  
8 incidental to that position;

10 D. A licensed adjuster acting within the scope of the  
11 license; or

12 E. A licensed insurance consultant acting within the scope  
13 of the license.

16 4. Liability. A licensee is personally liable under any  
17 insurance contract made by or through the licensee that is  
18 outside the scope of the license authority. An insurance  
19 contract issued on an application solicited, received or  
20 forwarded by an unlicensed person and otherwise valid is not  
21 thereby rendered invalid.

22 **§1412. Prohibited activities**

24 1. License revocation. A person whose license as an  
25 insurance producer, consultant or adjuster has been revoked,  
26 suspended, denied for cause or voluntarily surrendered to avoid  
27 prosecution in this State may not participate in any manner in  
28 the conduct of an insurance agency or insurance brokerage,  
29 consulting or adjusting business.

32 2. Compensation. A person whose license as an insurance  
33 producer, consultant or adjuster has been revoked, suspended,  
34 denied for cause or voluntarily surrendered to avoid prosecution  
35 may not derive any compensation, by whatever name called, based  
36 on the operation of the insurance agency or other firm in which  
37 the person was engaged or employed prior to the revocation,  
38 suspension, denial or surrender of license. This subsection does  
39 not prohibit a person from receiving compensation for activities  
40 that the person engaged in prior to any loss of license referred  
41 to in this section, nor does it prohibit any person from  
42 divesting an interest in an insurance company or agency for value.

44 3. Relicensure. Nothing in this section prohibits any  
45 rights a person may have to seek relicensure under section 1418.

46 4. Violations. Any person violating this section is guilty  
47 of a Class E crime and may be punished upon conviction, by a fine  
48 of not less than \$100 nor more than \$1,000, or by imprisonment  
49 for not more than 6 months, or by both.

2        **§1413. License requirement for agencies**

4            **1. License required.** An agency, whether it has a location  
6        in this State or not, must be licensed as an insurance producer,  
8        adjuster or consultant agency in order to engage in insurance  
10       producer, adjuster or consultant activities or in order to use  
12       the name of the agency in insurance-related advertising in the  
14       State. Licensure of a nonresident agency does not depend upon  
16       the agency maintaining an agency license in another state.  
Agency licensees are subject to the standards of section 407,  
subsection 2, where applicable, and section 408, subsections 1  
and 4. Agency licensees may advertise only in the names under  
which they are licensed. An agency may not be licensed with the  
word "company" in its name after the effective date of this  
subsection.

18           **2. Officers; directors; members; partners.** An agency shall  
20       notify the superintendent of its members, directors, officers or  
partners within 14 days of a request for such information by the  
superintendent.

22           **3. Responsible person.** Each officer or director of a  
24       corporation, each officer and member of a limited liability  
26       company and each partner of a partnership who is acting as an  
28       insurance producer, adjuster or consultant shall obtain an  
30       insurance producer, adjuster, or consultant license. Officers,  
32       members and partners do not have to be individually licensed if  
34       they are not engaging in producer activities, are not acting as  
36       consultants or adjusters and are not being compensated based upon  
38       the volume of insurance business transacted. At least one  
40       officer, member or partner must be licensed and designated  
42       responsible for the organization's compliance with the insurance  
44       laws and rules of this State. The responsible person shall  
46       ensure that every individual acting in the name of the agency  
does not act beyond the scope of that individual's license. The  
designated responsible person for each agency shall maintain a  
list of all current home addresses and home telephone numbers for  
each individual designated to act in the name of the agency. The  
agency shall notify the superintendent, within 14 days of every  
change of the designated licensed person responsible for the  
organization's compliance with laws and rules of this State. The  
designated responsible person is responsible for all  
correspondence with the agency from the superintendent. If the  
responsible person in an agency loses that person's license, the  
agency license terminates if a new person is not designated as  
responsible for the agency within 14 days.

48           **4. Authority.** Whenever an agency replaces the individual  
50       designated to act in the name of the agency with another person

2 named in this capacity, the agency shall notify the  
3 superintendent within 30 days of that change.

4 **5. Resident branch offices.** A resident branch office is  
5 any office location other than the location of the licensed  
6 agency that regularly conducts insurance business or that is  
7 advertised as a location where the public may contact the agency  
8 or its employees concerning insurance services. An office  
9 location that meets this definition that is itself a separate  
10 legal entity from the licensed agency must obtain a separate  
11 agency license and can not be registered as a branch office. A  
12 place of residence need not be registered as a branch office so  
13 long as that address is filed with the superintendent. The  
14 licensed person designated as responsible for the agency is  
15 responsible for all branch locations.

16 **6. Nonresident branch locations.** A nonresident agency  
17 establishing a place of business in this State shall procure an  
18 agency license for its principal location and a branch office  
19 registration for each location within the State. At least one  
20 branch location within the State must be staffed with a resident  
21 insurance producer, adjuster or consultant. The licensed person  
22 designated as responsible for the agency is responsible for all  
23 such branch locations.

24 **7. Applications.** The superintendent shall convert broker  
25 and agent agency licenses to producer agency licenses and accept  
26 applications for insurance agency licenses beginning on the  
27 effective date of this subsection. Applications for organization  
28 licenses may not be accepted after July 1, 1997.

29 This subsection is repealed on July 1, 1997.

30 **§1414. Trade names**

31 An agency or person may conduct business under a trade name,  
32 if the license is issued under the trade name. If an agency is  
33 licensed with a trade name, that name must be used by the agency  
34 and its employees in all insurance-related advertising. The  
35 superintendent may refuse to issue a license under a specific  
36 trade name if the name is determined as misleading, deceptive or  
37 likely to result in confusion with other existing businesses.

38 **§1415. License categories**

39 **1. Producer categories.** A resident or nonresident  
40 insurance producer may receive the following authorities under  
41 the license:

42 **A. Property and casualty:**

2           B. Life and health; or

4           C. Variable contract.

6           2. Consultant categories. A resident or nonresident  
7 consultant may receive the following authorities under the  
8 license:

10          A. Property and casualty; or

12          B. Life and health.

14        §1416. Limited insurance licenses

16          1. Limited license. The superintendent may issue to an  
17 applicant qualified under this chapter a limited insurance  
18 producer license as defined in section 1402.

20          2. Fee. The fee for a limited insurance producer license  
21 is specified in section 601.

22        §1417. Suspension; revocation; refusal of license

24          1. Suspension. Notwithstanding Title 5, chapter 375,  
25 subchapter VI, the superintendent may, after notice and  
26 opportunity for hearing, deny, revoke, suspend or limit the  
27 permissible activities under any license issued under this  
28 chapter, including agency licenses, or any surplus lines broker  
29 license if the superintendent finds that, as to the applicant or  
30 licensee, any of the following causes exist:

32           A. For any cause for which issuance of the license could  
33 have been refused had it then existed and been known to the  
34 superintendent;

36           B. For a violation or noncompliance with any applicable  
37 provision of this Title or for willful violation of any rule  
38 or order of the superintendent;

40           C. For obtaining or attempting to obtain any license  
41 through misrepresentation, failure to disclose a material  
42 fact required to be disclosed in the application or fraud;

44           D. For misappropriation or conversion of money belonging to  
45 others to the applicant's or licensee's own use or for  
46 illegal withholding of money or failure under the license to  
47 remit money received in the conduct of business belonging to  
48 policyholders, insurers, beneficiaries or others;

50



2           E. For material misrepresentation of the terms of any  
existing or proposed insurance contract;

4           F. For willful over insurance of property located in this  
State;

6           G. For holding at the same time licenses as a resident  
8           insurance producer in this State and any other state; or

10          H. If in the conduct of the licensee's affairs under the  
12          license, the licensee has used fraudulent, coercive, or  
14          dishonest practices, or has been shown to be incompetent,  
untrustworthy, financially irresponsible or a source of  
injury and loss to the public.

16          2. Agency suspension. The superintendent may deny,  
18          suspend, revoke or limit the permissible activities under an  
20          agency license if cause exists to deny, suspend, revoke or limit  
the permissible activities under a person's license who is  
affiliated to the agency.

22          3. Voluntary surrender. The superintendent may, after  
24          notice and opportunity for a hearing under this section, deem the  
26          license suspended or revoked of a previously licensed person who  
voluntarily surrendered an insurance license.

28          4. Exceptional circumstances. The superintendent may  
30          revoke or suspend any license issued under this chapter, pursuant  
to Title 5, section 10004, without proceeding in conformity with  
chapter 3 or Title 5, chapter 375, subchapter IV or VI, when:

32          A. The decision to take that action is based solely upon a  
34          conviction in court of any offense under Title 5, section  
36          5301, subsection 2, or a conviction in the courts of any  
38          other state or country of an offense under Title 5, section  
40          5301, had the offense occurred in this State. Any  
revocation, suspension or denial of license under this  
paragraph must be in accordance with Title 5, sections 5302  
to 5304;

42          B. The license has been issued upon the basis of a  
44          reciprocal agreement with another government and the action  
46          in this State is based upon evidence, in the form of a  
certified copy, that the authority issuing the license which  
provided the basis for reciprocal licensing in this State  
has revoked or suspended the licensee's license; or

48          C. The health or physical safety of a person or persons is  
50          in immediate jeopardy at the time of the superintendent's  
action, and acting in accordance with chapter 3 or Title 5,

chapter 375, subchapter IV or VI the superintendent would fail to adequately respond to a known risk, provided that the revocation, suspension or refusal to renew does not continue for more than 30 days.

**§1418. Relicensing after revocation; refusal of license**

**1. Relicensing.** The superintendent may not issue a license under this Title to a person whose license has been revoked until at least one year has expired from the effective date of that revocation. If the licensee pursues an appeal from the superintendent's decision, the superintendent may not consider issuance of a new license until at least one year from the date of a final court order affirming that revocation. The license applicant shall reestablish qualification for the license in accordance with the applicable provisions of this Title. The superintendent may refuse any such new license applications unless the applicant shows good cause why the prior revocation should not be deemed a bar to the issuance of a new license.

**2. Ineligibility for relicensing.** A person whose license has been revoked twice pursuant to section 1417 may not again be eligible for any license under this Title.

**3. Agency relicensing.** If the license of an agency is suspended or revoked pursuant to section 1417, an officer, director or member of that agency may not be licensed as an insurance producer, adjuster or consultant during the period of that suspension or revocation unless the superintendent determines that member, officer or director was not personally at fault and did not acquiesce in the matter for which the license was suspended or revoked.

**§1419. Duty to notify of changes**

Any change of business address, business telephone number, name or other material change in the conditions or qualifications set forth in the original application must be reported to the superintendent no later than 30 days after the change. This requirement includes any conviction of a crime other than a traffic violation or any disciplinary action brought by an insurance regulatory official of any other jurisdiction. If notice of the change is received after 30 days, the licensee shall pay the late fee for filing as prescribed in section 601. The levying of this late fee by the superintendent may be appealed pursuant to section 236. In the event the late fee charge is appealed, it becomes a final agency action and the superintendent shall issue an order. If the late fee charge is not appealed, the payment of the fee is not considered a final agency action and is not considered a disciplinary action. Every

2 previous consent order or agreement issued by the superintendent  
3 for failure to notify the superintendent of address change may be  
4 considered payment of a late fee and not considered a  
5 disciplinary action upon request by the licensee. This section  
6 does not negate the superintendent's authority to bring an action  
7 under section 12-A or section 1417.

8  
9  
10 **SUBCHAPTER III**

11 **APPLICATION PROCEDURE FOR PRODUCERS, ADJUSTERS,**  
12 **CONSULTANTS AND AGENCIES**

13 **§1421. Licensing forms**

14  
15 The superintendent shall prescribe, consistent with the  
16 applicable requirements of this chapter, and furnish all forms  
17 required under this chapter in connection with applications for  
18 and issuance of licenses. The superintendent or an independent  
19 testing service designated by the superintendent shall prescribe  
20 and furnish all forms required in connection with examinations  
21 for licenses.

22  
23 **§1422. License to be issued only on compliance**

24  
25 The superintendent may not issue or permit any license of an  
26 insurance producer, consultant or adjuster who is not in  
27 compliance with or who has not established qualifications in  
28 accordance with the applicable provisions of this chapter.

29  
30 **§1423. Application for examination**

31  
32 **1. Written examination.** Unless exempt, prior to filing an  
33 application for a license with the superintendent, an individual  
34 applying for a resident insurance producer, adjuster or  
35 consultant license must pass a written examination. The  
36 examination must test the knowledge of the person concerning the  
37 kinds of insurance for which the application is made, the duties  
38 and responsibilities of an insurance producer, adjuster or  
39 consultant and the insurance laws and rules of this State.

40  
41 **2. Outside testing service.** The superintendent may make  
42 arrangements, including contracting with an outside testing  
43 service, for administering examinations. The applicant shall pay  
44 any fees for the services of any independent testing service  
45 designated by the superintendent. A person who fails to appear  
46 for the examination as scheduled shall reapply for an examination  
47 and remit all required fees and forms before being rescheduled  
48 for another examination.

49  
50

2           3. Education requirements. An applicant for examination  
3 for a life and health or property and casualty producer license  
4 must have completed the education requirements prescribed by  
5 either paragraph A or B within 2 years prior to the date the  
6 application for license is filed with the superintendent.

7           A. The applicant must have completed successfully such  
8 courses of instruction in insurance as the superintendent  
9 may reasonably require and approve. Such courses may be  
10 either in attendance at or under the supervision and  
11 direction of or by correspondence with an educational  
12 institution or insurer, as approved by the superintendent.

13           B. The applicant must have had not less than 6 months of  
14 responsible duties and experience as a substantially  
15 full-time employee of an insurance producer or insurer.

16           4. Experience required. An applicant for examination for a  
17 consultant license must have had not less than 5 years of actual  
18 experience with respect to the kinds of insurance and contracts  
19 to be covered by the license.  
20

21           5. Examination subjects. Within 30 days after the  
22 examination, the superintendent or any independent testing  
23 service designated by the superintendent must inform the person  
24 whether or not the person has passed. The test may be a 2-part  
25 test. One part of the test must test the applicant's knowledge  
26 as to insurance industry practices and one part must test the  
27 applicant's knowledge of state insurance law. A person who fails  
28 all or one part of the examination must remit the required fees  
29 before being rescheduled for either one part or all of another  
30 examination. A person who does not apply for a license within 2  
31 years after passing one part or all of an examination must  
32 register and pay the fee for a subsequent examination.  
33  
34

35           6. Separate examination for each category. An applicant  
36 for more than one kind of license must be separately examined for  
37 each category of license and shall pay a separate examination fee  
38 for each examination. Nothing in this section prohibits the  
39 giving of all required examinations to a particular applicant on  
40 the same day.  
41

42           7. Variable contract license. An applicant for a variable  
43 contract license, in addition to passing an examination required  
44 for a life and health producer's license, must have successfully  
45 completed the minimum requirements of a national association of  
46 securities dealers for the sale of variable contracts.  
47

48           §1424. Application for license  
49  
50

2           1. Application. Application for an insurance producer,  
3 consultant, adjuster or agency license must be made to the  
4 superintendent by the applicant and accompanied by the applicable  
5 license application fees under section 601. The application fee  
6 is not subject to refund. The application must be signed by the  
7 applicant as determined necessary by the superintendent. Upon  
8 filing the application, the applicant automatically agrees to  
9 participation in an electronic interstate licensing system which  
10 may involve the sharing of information, including social security  
11 numbers, with insurance regulatory officials in other  
12 jurisdictions, with the National Association of Insurance  
13 Commissioners, and with insurers, nonprofit hospital or medical  
14 service organizations, health maintenance organizations,  
15 fraternal benefit societies and other licensees authorized to do  
16 business in the State. An applicant's social security number is  
17 not otherwise public information. Use of this information by any  
18 person other than licensees and regulatory officials of other  
19 states and provinces and for any purpose other than to verify  
20 licensure in this State is prohibited. Any person who violates  
21 this subsection is subject to criminal penalties under section  
22 214.

23           2. Form of application. The application form for resident  
24 and nonresident licenses must require full answers to questions  
25 reasonably necessary to determine the applicant's identity, age,  
26 residence and qualification for licensure. The application form  
27 may require information essential to determine present occupation  
28 and occupations record and business record over the 5 years prior  
29 to the date of the application, financial responsibility,  
30 insurance experience and other facts as the superintendent may  
31 require relative to the applicant's qualifications for the  
32 license. The application form may require the applicant to  
33 provide a confidential password for the purpose of sharing  
34 information with insurers.

35           3. Reciprocal agreements. A nonresident applicant must  
36 hold a license in good standing with a state or province that has  
37 substantially similar insurance laws to those in this State. The  
38 superintendent may enter into reciprocal licensing agreements  
39 with officials of other states or Canadian provinces.

40           4. Designation of authorized agent. An agency shall  
41 designate in its application all licensed persons who have the  
42 authority to act in the name of the agency. An agency may  
43 register either nonresident or resident individual licensees to  
44 act in the name of the agency.

45           5. Previous licensure. Resident and nonresident  
46 applications must show if the applicant ever had an insurance  
47 license issued in this State or another state; whether any such  
48 license was ever suspended or annulled.

2 license was ever refused, suspended, revoked or had renewal or  
3 continuance refused; and whether the applicant was ever convicted  
4 of a crime other than a traffic violation.

6 6. Willful misrepresentation. No applicant for license  
7 under this chapter may willfully misrepresent or withhold any  
8 fact or information required in or in connection with the  
9 application form.

10 7. Public records. Except as provided in subsection 1, the  
11 superintendent shall withhold from public inspection information  
12 of a personal nature concerning applicants for license. The  
13 name, business address, business telephone number, licensing  
14 history and complaint record of an applicant are public records.

16 8. Temporary resident licensees. Any nonresident licensee  
17 who becomes or plans to become a resident and applies for  
18 licensing status as a resident is subject to the state-specific  
19 portion of the license examination. If the nonresident applies  
20 for examination and passes the state-specific portion of the  
21 examination and if the superintendent determines that the  
22 licensee's nonresident license is in good standing, the  
23 superintendent may issue a temporary resident license to the  
24 licensee. A temporary license remains valid for 60 days pending  
25 receipt of evidence that the licensee is no longer licensed in  
26 the licensee's former state of residency.

28 §1425. Investigation of license applicants

30 When an application for license under this chapter is  
31 submitted, the superintendent may investigate the applicant's  
32 character, financial responsibility, experience, background and  
33 fitness for the license applied for.

34 §1426. Issuance; refusal of license; refunds of fees

36 1. Issuance. If the superintendent finds that the  
37 application is complete, the applicant has passed any required  
38 examination and that the applicant is otherwise qualified for  
39 the license applied for, the superintendent shall promptly issue  
40 the license; otherwise, the superintendent may not issue the  
41 license and shall promptly notify the applicant of such refusal  
42 stating the grounds for denial.

44 2. Refund of fees. If the license is refused, fees for  
45 application for an insurance producer, consultant or adjuster  
46 license are not refundable.

48 §1427. Exemption from examination requirement

50

1. Exemption. Section 1411 does not apply to and an examination is not required of:

A. An applicant for license covering the same kind or kinds of insurance for which the applicant was licensed under a similar license in this State within the past 2 years, other than a temporary license issued pursuant to section 1428. This exemption applies only to persons who have met the applicable continuing education requirements during the 2-year period and who continue to be fully qualified for the license. A person whose previous license was revoked or suspended may not become relicensed pursuant to this paragraph;

B. An applicant for a limited insurance producer who solicits or sells travel and baggage insurance; or

C. An applicant for a license as a resident title insurance producer who is an attorney at law duly licensed to practice law in this State.

**§1428. Temporary license as insurance producer**

1. Temporary license. The superintendent, in the superintendent's discretion, may issue a temporary license as insurance producer without requiring the person to take an examination in the following cases:

A. To the surviving spouse or next of kin or to the administrator or executor or employee of a licensed insurance producer who has died, or to the spouse, next of kin, employee or legal guardian or employee of a licensed producer who has become disabled because of sickness, insanity or injury, if in either case the superintendent determines that a temporary license is necessary for the winding up or continuation of the producer's business;

B. To an officer, member or employee of an agency upon the death or disablement of a person affiliated with the agency if no other licensee is affiliated with the agency; or

C. To the designee of a licensee entering active service in the Armed Forces of the United States of America.

2. Term. A temporary license issued under this section must be for a term of not more than 6 months and may not be renewed unless for good cause shown.

**§1429. Insurance vending machines**

2           1. Vending machines. A licensed resident insurance  
4           producer may solicit and issue personal travel accident insurance  
6           policies by means of mechanical vending machines supervised by  
8           the insurance producer and placed at airports and similar places  
10           of convenience to the traveling public if the superintendent  
12           finds:

14           A. That the policy to be sold provides reasonable coverage  
16           and benefits, is reasonably suited for sale and issuance  
18           through vending machines and that use of such a machine in a  
20           proposed location would be of convenience to the public;

22           B. That the type of vending machine proposed to be used is  
24           reasonably suitable for the purpose;

26           C. That reasonable means are provided for informing  
28           prospective purchasers of policy coverages and restrictions;  
30           and

32           D. That reasonable means are provided for refund of money  
34           inserted in defective machines when no insurance or a lesser  
36           amount than that paid for is actually received.

38           2. Special license. For each machine to be used, the  
40           superintendent may issue to the insurance producer a special  
42           vending machine license. The license must specify the name and  
44           address of the insurer, health maintenance organization,  
46           fraternal benefit society, or nonprofit hospital or medical  
48           service organization and insurance producer, the name of the  
          policy to be sold, the serial number of the machine and the place  
          where the machine is to be in operation. The license is subject  
          to termination, suspension or revocation coincidentally with the  
          license of the insurance producer. The superintendent shall also  
          revoke the license for any machine for which the superintendent  
          finds that the license qualifications no longer exist. The  
          license fee for each respective vending machine is established in  
          section 601. Proof of the existence of a license must be  
          displayed on or about each machine in use in the manner that the  
          superintendent reasonably requires.

42           §1430. License continuation or termination

44           1. Resident agency license. Each resident agency license  
46           issued under this Title continues in force until 12:01 a.m. on  
48           October 1st of even-numbered years, unless prior to that date the  
          license was suspended, revoked or otherwise terminated.

2. Nonresident agency license. Each nonresident agency  
          license issued under this Title continues in force until 12:01



2 a.m. on February 1st of odd-numbered years, unless prior to that  
date the license was suspended, revoked or otherwise terminated.

4 3. Renewal. An agency license is automatically renewed and  
the agency will be billed a fee by the superintendent unless the  
6 superintendent is notified by the responsible person for the  
agency that the agency does not seek a renewal or unless,  
8 following a hearing, the superintendent determines that any  
reason or condition exists for the suspension or revocation of a  
10 license.

12 4. Information. As a condition of or in connection with  
the continuation of a license or with the maintenance of a  
14 license, the superintendent may require the licensee to file with  
the superintendent information regarding application for the  
16 license or the use made of the license during the prior license  
year.

18 5. Termination. Each agent or broker license currently  
20 issued under this Title terminates on June 30, 1997. If the  
agent or broker is in compliance with the continuing education  
22 requirements under subchapter VII, a perpetual insurance producer  
license must be reissued without application or fee. All agent  
24 or broker applications received after July 1, 1997 are considered  
producer applications.

26 This subsection is repealed on January 1, 1998.

28 **§1431. Appointment of insurance producers or agencies**

30 1. Appointment. Each insurer appointing an insurance  
32 producer or agency in this State shall appoint the producer or  
agency in writing, specifying the kinds of insurance or annuity  
34 business to be transacted by the insurance producer or agency for  
the insurer and pay the appointment fee at the rate specified in  
36 section 601. The insurer may forward new appointment fees to the  
superintendent on a quarterly basis. The insurer need not file  
38 the appointments with the superintendent, but shall maintain the  
appointments in the insurer's office. Upon request of the  
40 superintendent, the insurer shall provide copies of appointments  
to the superintendent within 14 days, unless the request is part  
42 of an examination pursuant to section 221. The insurer shall  
designate and maintain a list of each insurance producer within  
44 an appointed agency that represents the insurer. The fee for  
designation of an insurance producer within an agency is the same  
46 as for an appointment. The insurer shall pay the full  
appointment fee without regard to the effective date of the  
48 appointment. An insurance producer who qualifies to be licensed  
to sell variable annuity contracts pursuant to section 1411 must

2 be separately appointed as to variable annuities and the insurer  
3 shall pay a separate appointment fee for the appointment.

4 **§1432. Termination of producer or agency appointment**

6 **1. Termination.** Subject to the producer's or agency's  
7 contract obligations and rights, if any, an insurer, agency or  
8 producer may terminate a producer's or agency's appointment at  
9 any time. If the insurer intends to terminate the producer's or  
10 agency's authority to represent the insurer for any kind of  
11 business, the insurer shall provide 90 days advance written  
12 notice of the termination or modification to the producer or  
13 agency. A notice is not required when:

14 A. The producer or agency is subject to suspension or  
15 revocation of license under section 1417;

16 B. The agency or producer fails to pay money due the  
17 insurer;

18 C. There is a sale or merger of the agency;

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

20 E. The producer or agency holds a limited license; or

21 F. The producer or agency is an employee of an insurer or  
22 when the producer or agency by contractual agreement  
23 represents only one insurer or group of affiliated insurers  
24 and the property rights in the renewals are owned by the  
25 insurer or group of affiliated insurers. An insurer may not  
26 cancel or renew policies as a result of the termination of  
27 the producer's or agency's contract under this paragraph.

28 **2. Notice.** Notice of cancellation of an appointment must  
29 be maintained in the insurer's office and must be forwarded to  
30 the superintendent within 5 days of a request from the  
31 superintendent.

32 **3. Rights of insureds.** The termination of an appointment  
33 under this section does not affect the rights of insureds.

34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44 **SUBCHAPTER IV**

45 **PRODUCERS**

46  
47  
48 **§1441. Applicability**

2 1. Licensed resident producers. This subchapter applies to  
licensed resident producers with respect to the following kinds  
of insurance:

4 A. Annuities;

6 B. Casualty;

8 C. Health;

10 D. Life;

12 E. Property; and

14 F. Surety.

16 **§1442. Authority of insurance producer**

18 1. Licensed insurance producer. A licensed insurance  
20 producer in this State may:

22 A. Engage in insurance producer activities throughout this  
24 State within the authority granted the insurance producer by  
the insurer, health maintenance organization, fraternal  
benefit society, or nonprofit hospital or medical service  
26 organization and the scope of the producer's license;

28 B. Adjust the losses of the insurer or fraternal benefit  
30 society within the authority granted the insurance producer  
by the insurer or fraternal benefit society;

32 C. Place or seek to place insurance coverage, other than  
with an insurer, health maintenance organization, fraternal  
34 benefit society or nonprofit hospital association for which  
the insurance producer holds a contract, except as provided  
36 under section 1450. A licensed resident or a nonresident  
insurance producer may not place or seek to place insurance  
38 coverage other than in an authorized insurer, health  
maintenance organization, fraternal benefit society or  
40 nonprofit hospital or medical service organization, except  
as provided in chapter 19; and

42 D. Enter into a contract or arrangement with a financial  
44 institution for the purpose of participating in a finance  
program with the financial institution. In this case, the  
46 financial institution need not be licensed as a producer, as  
long as the purpose of the arrangement is to authorize an  
48 insurance producer to facilitate, direct or refer insureds,  
prospective insureds or other customers to the financial  
50 institution for loans or for the purpose of authorizing an

insurance producer to facilitate arrangements for leases,  
loans or credit applications with the financial institution.

**§1443. Exceptions to licensing requirement**

**1. License not required.** A license as an insurance  
producer is not required of the following persons:

A. Any regularly salaried officer or employee of an  
insurance company who is engaged in the performance of usual  
and customary executive, administrative or clerical duties  
that do not include insurance producer activities;

B. Any salaried employee in the office of an insurance  
producer who performs only clerical or administrative  
services, subject to the following:

(1) The unlicensed employee may not engage in producer  
activities;

(2) The unlicensed employee may not receive any  
commissions or other compensation directly dependent  
upon the amount of business obtained. Employees may  
participate in profit-sharing arrangements, pension  
plans and bonuses offered by the insurer or agency;

(3) The unlicensed employee may occasionally take  
information incidental to insurance coverage for  
applications. Unlicensed personnel who take incidental  
information from a customer shall give the proposed  
insured the name of the licensed insurance producer who  
is responsible for obtaining the coverage and shall  
refer any information the unlicensed person receives to  
the licensed insurance producer;

(4) The unlicensed employee may occasionally take full  
applications for insurance, but may not do so on a  
routine basis; and

(5) The primary contact must be between a prospective  
insured and an insurance producer;

C. An employer, officer, employee or a trustee of any  
employee trust plan, to the extent that the employer,  
officer, employee or trustee is engaged in the  
administration or operation of any program of employee  
benefits for the employer's own employees or the employees  
of the agency's subsidiaries or affiliates. This exemption  
applies only to an employer program that involves the use of  
insurance issued by an insurance company and only as long as

2       the employer, officer, employee or trustee is not in any  
3       manner compensated, directly or indirectly, by the company  
4       issuing the contracts;

6       D. A person that enrolls participants in group credit life  
7       or credit life and health policies and does not engage in  
8       producer activities, as long as the person does not receive  
9       any commissions or other compensation directly dependent  
10       upon the amount of business obtained; or

12       E. Any regularly salaried officer or employee of an  
13       authorized insurer, health maintenance organization,  
14       fraternal benefit society or nonprofit hospital or medical  
15       service organization rendering assistance to a licensed  
16       insurance producer if the officer or employee devotes  
17       substantially all of that person's time to activities other  
18       than insurance producer activities and receives no  
19       commission or other compensation directly dependent upon the  
20       amount of business obtained.

21       **§1444. Appointment required; report and fees required**

22       A person acting in the capacity of an insurance producer may  
23       not place business with an insurer, health maintenance  
24       organization, fraternal benefit society or nonprofit hospital or  
25       medical service organization unless there is in force a valid  
26       appointment with an authorized insurer, health maintenance  
27       organization, fraternal benefit society or nonprofit hospital or  
28       medical service organization. This provision does not apply to  
29       business placed pursuant to section 1450 or pursuant to any  
30       assigned risk plan. The superintendent shall forward every  
31       licensed insurer, health maintenance organization, fraternal  
32       benefit society and nonprofit hospital or medical service  
33       organization a form for reporting and paying fees for its  
34       appointed producers. Two years from the last payment of renewal  
35       appointment fees and every 2 years thereafter, every licensed  
36       insurer, health maintenance organization, fraternal benefit  
37       society and nonprofit hospital or medical service organization  
38       shall report the number of producers with which it has  
39       appointments to the superintendent and pay the fee established in  
40       section 601 for each producer appointment. The superintendent  
41       shall prescribe and provide the form to be used for filing and  
42       may accept filings in compatible electronic form. Fees are  
43       earned when paid and are not refundable. If an insurer does not  
44       pay the required fees, the insurer is subject to penalties  
45       pursuant to section 12-A.

46       **§1445. Responsibility of insurer, health maintenance**  
47       **organization, fraternal benefit society, or nonprofit**  
48       **hospital or medical service organization; prohibited**  
49

activities

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

1. Responsibilities for training and supervision. In addition to any other applicable provisions of law, the insurer, health maintenance organization, fraternal benefit society or nonprofit hospital or medical service organization:

A. Shall provide adequate training for its appointed producers prior to allowing them to solicit insurance;

B. Shall provide supervision of its appointed producers who sell insurance on its behalf;

C. Is responsible for injuries to consumers resulting from the actions of its appointed producers to the extent of restitution, reimbursement of money or payment of interest to the consumer; and

D. Is accountable and may be penalized by the superintendent, as provided for in this Title, for the actions of its producers.

2. Prohibited activities. A licensed insurance producer in this State may not:

A. Use knowledge gained as a result of the producer's insurance relationship with the insurance consumer for the producer's own personal gain, other than the receipt of commissions allowed under section 1450, or use knowledge gained as a result of the relationship for the purpose of investing the insurance consumer's money in property or assets in which the insurance producer or the producer's relatives have or will have a personal ownership interest unless that activity is otherwise authorized under insurance, banking or securities laws or rules; or

B. Receive a fee for rendering advice on financial or estate planning unless licensed as a consultant pursuant to subchapter V and in compliance with the consultant licensing requirements.

3. Consumer remedies. Nothing in this chapter abrogates the common law rights of apparent or implied authority as available remedies for consumers or the superintendent.

§1446. Place of business

Every resident insurance producer shall have and maintain in this State or in a contiguous state or province a place of business accessible to the public where the licensee principally

2 conducts transactions under the license. Nothing in this section  
3 prohibits maintenance of a place of business in the licensee's  
4 residence in this or any contiguous state or province.

6 **§1447. Records**

8 1. Records. The insurance producer or agency shall keep at  
9 the producer's or agency's place of business a copy of the  
10 written appointment or designation from each insurer, health  
11 maintenance organization, fraternal benefit society or nonprofit  
12 hospital or medical service organization with which the insurance  
13 producer or agency has an appointment. The insurance producer  
14 shall keep at the producer's place of business complete records  
15 of transactions under the license. For the purpose of  
16 examination or investigation by the superintendent, records may  
17 be maintained in electronic form. As to each insurance policy or  
18 contract placed through or sold by the licensee, the records must  
19 show:

20 A. The names of the insurer, health maintenance  
21 organization, fraternal benefit society or nonprofit  
22 hospital or medical service organization;

24 B. The number and expiration date of the policy or contract;

26 C. The premium payable as to the policy or contract;

28 D. The name and address of the insured;

30 E. The date and time of every binder made by the insurance  
31 producer; and

32 F. Such other information as the superintendent may  
33 reasonably require.

36 2. Retention. The records must be kept available for  
37 inspection by the superintendent for a period of at least 3 years  
38 after completion of the respective transactions.

40 **§1448. Qualifications for insurance producer license**

42 1. License. The superintendent may not issue, continue or  
43 permit to exist any insurance producer license except in  
44 compliance with this chapter, or unless the person meets the  
45 requirements of subsection 2.

46 2. Qualifications. In order to be licensed as an insurer  
47 producer, a person:

50 A. May be at least 18 years of age;

- 2           B. May not be licensed as a resident of another state if to  
3           be licensed as a resident;
- 4
- 5           C. Must be competent, trustworthy, financially responsible  
6           and of good personal and business reputation;
- 7
- 8           D. Must have fulfilled the requisite prelicensing  
9           requirements; and
- 10
- 11           E. Must have passed any required examination.

12           **§1449. Reporting and accounting for premiums**

13

14           All premiums and return premiums received by an insurance  
15           producer are trust funds received by the licensee in a fiduciary  
16           capacity. The licensee shall account for and pay the premiums to  
17           the insured or apply the premiums to outstanding balances of any  
18           insured within 10 days from the date of receipt. The date of  
19           receipt is the date the money is actually received or the date  
20           the credit is posted by the insurer, health maintenance  
21           organization, fraternal benefit society or nonprofit hospital or  
22           medical service organization to the licensee's account. The  
23           licensee shall promptly account for and pay premiums to the  
24           insurer, health maintenance organization, fraternal benefit  
25           society or nonprofit hospital or medical service organization in  
26           accordance with the contract between the insurer, health  
27           maintenance organization, fraternal benefit society or nonprofit  
28           hospital or medical service organization and the licensee.

29

30           **§1450. Commissions; payment; acceptance**

31

32           1. Commissions. An insurer, health maintenance  
33           organization, fraternal benefit society or nonprofit hospital or  
34           medical service organization may not pay to any unlicensed  
35           person, either directly or indirectly, any commission or  
36           compensation for a contract of insurance issued on a risk located  
37           or to be performed within this State unless at the time of the  
38           taking of the application for the insurance the person was duly  
39           licensed by this State as an insurance producer as to the kind or  
40           kinds of insurance involved. An unlicensed person or agency may  
41           not receive or accept any commission or compensation for  
42           insurance unless licensed pursuant to this chapter.

43

44           2. Shared commissions. If an insurance producer does not  
45           have an appointment with an insurer, the insurance producer may  
46           place with that insurer, through a duly licensed and appointed  
47           producer of such insurer, an insurance coverage necessary for the  
48           adequate protection of a subject of insurance and share in the



2 commission on that insurance, if each producer is licensed as to  
3 the kinds of insurance involved.

4 3. Rules. With respect to the sale of property and  
5 casualty insurance sold to large commercial insurance risks,  
6 producers may be compensated by fees paid by or on behalf of the  
7 insured, by commissions paid by an insurer or by a combination of  
8 both. The superintendent may adopt rules to establish standards  
9 for determining large commercial insurance risks. Rules adopted  
10 pursuant to this subsection are routine technical rules as  
11 defined in Title 5, chapter 375, subchapter II-A.

## 14 SUBCHAPTER V

### 16 CONSULTANTS

#### 18 §1461. Scope of subchapter

20 1. Scope. This subchapter applies to consultants as  
21 defined in section 1402.

22 2. Definition. Unless the context otherwise requires,  
23 "consultant," as used in this subchapter, means both property and  
24 casualty consultants and life and health consultants as defined  
25 in section 1402.

#### 28 §1462. License required

30 A person may not act as a consultant in this State without  
31 first obtaining a license from the superintendent in accordance  
32 with this subchapter.

#### 34 §1463. Qualifications for license

36 A license may not be issued pursuant to this subchapter  
37 unless the applicant has satisfactorily passed a written  
38 examination administered by the superintendent and has filed a  
39 bond as required by section 1464.

#### 40 §1464. Consultant's bond

42 1. Bond. Every applicant for license as a consultant shall  
43 file with the license application and maintain in effect while  
44 licensed a bond issued by an authorized surety insurer in this  
45 State, continuous in form and providing for aggregate liability  
46 of \$20,000.

48 2. Indemnification. The bond must indemnify any person  
49 damaged by any fraudulent act or conduct of the licensee in  
50 the course of his or her business.

2 transactions under the license, and must likewise be conditioned  
4 upon faithful accounting and application of all money coming into  
6 the licensee's possession in connection with activities as such a  
8 licensee.

10 3. Release. The bond remains in force until released by  
12 the superintendent or until canceled by the surety. Without  
14 prejudice to any liability previously incurred, the surety may  
16 cancel the bond upon 30 days advance written notice to the  
18 licensee and the superintendent. Upon cancellation by the surety  
20 and failure to procure a satisfactory replacement bond prior to  
22 cancellation, the consultant's license terminates.

24 **§1465. Consulting contract required**

26 A licensee may not act in any further capacity for which a  
28 license is required without having first entered into a written  
30 contract with a client. The contract must include, without  
32 limitation, the amount and basis of any consulting fee and the  
34 duration of employment and must be in a form approved by the  
36 superintendent.

38 **§1466. Commissions and fees**

40 1. Property and casualty consultant. A property and  
42 casualty consultant and any person in which the consultant has an  
44 interest may not, directly or indirectly, charge a consultant fee  
46 and receive or share in any commission for the sale of insurance  
48 as a producer on any policy or certificate of insurance unless  
the advice given by the producer for the insurance occurs at  
least 12 months before or after the period of employment as a  
consultant as specified in the contract required by section  
1465. This subsection does not prevent a licensed property and  
casualty insurance producer from receiving a fee rather than  
commission on the sale of property and casualty insurance in  
accordance with section 1450 and rules adopted by the  
superintendent.

2. Life and health consultant. A life and health  
consultant may charge a consulting fee and receive commissions  
for the sale of insurance as an insurance producer if both the  
consulting fee and the insurance commissions are provided for in  
a written agreement, in a form approved by the superintendent,  
signed by the client and the consultant. A life consultant shall  
offset fees against first-year commissions received as an  
insurance producer on the sale of insurance.

**§1467. Obligation to serve interest of client**

2 A consultant is obligated, under the license, to serve with  
3 objectivity and complete loyalty the interests of the client and  
4 to render to the client such information, counsel and service  
5 that, within the knowledge, understanding and opinion in good  
6 faith of the consultant, best serves the client's insurance or  
7 annuity needs and interests. A consultant may not use knowledge  
8 gained as a result of the consultant's insurance relationship  
9 with the client for the consultant's own personal gain, other  
10 than the receipt of fees or commissions allowed under section  
11 1450, or use knowledge gained as a result of the relationship for  
12 the purpose of investing the client's money in property or assets  
13 in which the consultant, or any person in which the consultant  
14 has a pecuniary interest or a familial relationship, has or will  
15 have a personal ownership interest unless such activity is  
16 otherwise specifically authorized under insurance, banking, or  
17 securities laws.

18 **§1468. Records**

19 The consultant shall keep at the consultant's place of  
20 business all contracts with clients for a period of 3 years from  
21 the termination of the contracts. For the purpose of  
22 investigation or examination by the superintendent, contracts may  
23 be maintained in electronic form.

24  
25  
26 **SUBCHAPTER VI**

27 **ADJUSTERS**

28  
29 **§1471. Scope of this subchapter**

30 This subchapter applies only to insurance adjusters as  
31 defined in section 1402.

32 **§1472. Qualifications for adjuster license**

33 **1. Issuance of license.** The superintendent may not issue,  
34 continue or permit to exist any license as an adjuster, except in  
35 compliance with this chapter or unless the person meets the  
36 requirements of subsection 2.

37 **2. Qualifications.** In order to be licensed as an insurance  
38 adjuster, a person:

39 **A. Must be at least 18 years of age;**

40 **B. Must be competent, trustworthy, financially responsible,**  
41 **and of good personal and business reputation; and**

2           C. Must pass any written examination required for the  
3           license under this subchapter.

4           **§1473. Adoption of rules**

6           The superintendent may adopt rules to establish the  
7           standards for performance of the duties of the adjuster. In  
8           addition to the causes set forth in section 1417, the  
9           superintendent may suspend, revoke or refuse a license of an  
10           adjuster for failure to perform the duties of the adjuster in  
11           accordance with the standards in this subchapter and in  
12           accordance with the standards adopted by rules. Rules adopted  
13           pursuant to this subchapter are routine technical rules as  
14           defined in Title 5, chapter 375, subchapter II-A.

16           **§1474. Records**

18           1. Record of each transaction. Each adjuster shall keep at  
19           the adjuster's business address shown on the license a record of  
20           all transactions under the license. For the purpose of  
21           investigation or examination by the superintendent, records may  
22           be maintained in electronic form.

24           2. Information. The record must include:

26           A. A copy of all investigations or adjustments undertaken  
27           or consummated; and

28           B. A statement of any fee, commission or other compensation  
29           received or to be received by the adjuster on account of the  
30           investigation or adjustment.

32           3. Retention. The adjuster shall make records available  
33           for examination by the superintendent at all times and shall  
34           retain the records for at least 3 years.

36           **§1475. Catastrophe investigations and adjustments**

38           An adjuster license is not required for an adjuster sent  
39           into this State on behalf of an authorized insurer or fraternal  
40           benefit society for the investigation or adjustment of a  
41           particularly unusual or extraordinary loss or of a series of  
42           losses resulting from a catastrophe common to all such losses.

46                           **SUBCHAPTER VII**

48                           **CONTINUING EDUCATION**

50           **§1481. Continuing education advisory committee**

2           The Continuing Education Advisory Committee is established  
4 and consists of 6 members appointed by the superintendent for  
6 terms of 3 years each, on a staggered-term basis to prevent the  
8 terms of more than 2 members from expiring in any one year. A  
10 person may not be reappointed to the committee for more than one  
12 3-year term. A person is ineligible for appointment to the  
14 committee unless that person is an active, full-time insurance  
16 producer or consultant. Committee members are eligible for  
18 reimbursement of expenses.

12    **§1482. Educational requirements**

14           As a prerequisite to maintaining a license, resident  
16 licensees must complete 30 hours of continuing education every 2  
18 years in programs or courses approved by the superintendent. The  
20 superintendent may, for good cause shown, grant an extension of  
22 time to any person to allow that person to comply with this  
24 subchapter.

20    **§1483. Application for approval of program**

22           1. Application. Each application for approval of a  
24 continuing education program must be submitted according to the  
26 guidelines prescribed by the superintendent accompanied by the  
28 appropriate fee in section 601. The fee is nonrefundable. A fee  
30 is required only for original course submissions. Subsequent or  
32 renewal filings of approved courses are not considered original  
34 if modified in any manner.

30           2. Review. Courses and programs must be approved or  
32 disapproved by the superintendent, subject to prior review and  
34 nonbinding recommendations of the Continuing Education Advisory  
36 Committee or another 3rd-party selected by the superintendent.  
38 After review and approval or disapproval, the submissions need  
40 not be maintained by the superintendent and may be destroyed.  
42 The superintendent may, by rule, establish criteria for the  
44 review and approval of courses and for the determination of the  
46 number of continuing education hours to be credited for  
48 completion of each course or program. Rules adopted pursuant to  
this subchapter are routine technical rules as defined in Title  
5, chapter 375, subchapter II-A.

44    **§1484. Penalty**

46           The license of any insurance producer or consultant who  
48 fails to comply with this subchapter terminates upon the biennial  
expiration date. The insurance producer may have the license  
reinstated if the insurance producer complies with continuing

education requirements within 60 days from the date the license terminates.

**§1485. Rule-making authority**

The superintendent may establish by rule reasonable procedures and standards to fulfill the purposes of this subchapter and may contract with third parties for the purpose of fulfilling responsibilities under this subchapter. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 24. 24-A MRSA c. 17**, as amended, is repealed.

**Sec. 25. 24-A MRSA §1901, sub-§1, ¶K**, as enacted by PL 1989, c. 846, Pt. D, §2 and affected by Pt. E, §4, is amended to read:

K. A financial institution as defined in section 1514-A or a mortgage lender that collects and remits premiums to licensed insurance agents or authorized insurers concurrently or in connection with mortgage loan payments;

**Sec. 26. 24-A MRSA §1905, sub-§3**, as enacted by PL 1989, c. 846, Pt. D, §2 and affected by Pt. E, §4, is amended to read:

3. Sections ~~1539 to 1542~~ 1417 and 1418 apply to licenses issued under this chapter.

**Sec. 27. 24-A MRSA §1906, sub-§§10 and 11** are enacted to read:

**10.** When acting as an administrator, the acts of an insurance administrator are deemed to be the acts of the plan sponsor, health care service plan, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization or insurer.

**11.** In addition to any other applicable provisions of law, the plan sponsor, health care service plan, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization or insurer is accountable and may be penalized by the superintendent, as provided for in this Title, for the actions of its administrators.

**Sec. 28. 24-A MRSA §1907, sub-§1**, as enacted by PL 1989, c. 846, Pt. D, §2 and affected by Pt. E, §4, is amended to read:

1. For any of the grounds for suspension or revocation of a license set forth in section ~~1539~~ 1417; or

2           **Sec. 29. 24-A MRSA §1955, sub-§2**, as enacted by PL 1995, c.  
3 673, Pt. A, §3, is amended to read:

4  
5           **2. Licensing.** A person who solicits applications for  
6 insurance, negotiates insurance contracts or takes applications  
7 for insurance from enrollees on behalf of an alliance or on  
8 behalf of insurance carriers or health maintenance organizations  
9 that have contracted with the alliance must be licensed with the  
10 bureau in compliance with chapter 17 16.

11           **Sec. 30. 24-A MRSA §2012, sub-§4**, as enacted by PL 1969, c.  
12 132, §1, is amended to read:

13  
14           **4.** The license and licensee ~~shall be~~ are subject to the  
15 applicable provisions of chapter 17 16 (~~agents, brokers,~~  
16 ~~consultants and adjusters~~).

17           **Sec. 31. 24-A MRSA §2012, sub-§5** is enacted to read:

18  
19           **5.** A nonresident producer who is considered by the  
20 superintendent to be competent and trustworthy with respect to  
21 the handling of surplus lines may apply for licensure as a  
22 surplus lines broker under the following circumstances:

23           **A.** If the nonresident maintains a business location within  
24 this State and maintains all records of surplus lines  
25 transactions within this State; or

26           **B.** If the nonresident transacts only liability insurance  
27 business and only on behalf of a purchasing group registered  
28 with the superintendent and the nonresident agrees to  
29 produce surplus lines records in this State within 14 days  
30 from a request of the superintendent.

31           **Sec. 32. 24-A MRSA §2013, sub-§2**, as enacted by PL 1969, c.  
32 132, §1, is amended to read:

33  
34           **2.** The procedures provided by chapter 17 16 for suspension  
35 or revocation of licenses shall apply to suspension or revocation  
36 of a surplus lines broker's license.

37           **Sec. 33. 24-A MRSA §2015, sub-§2**, as amended by PL 1973, c.  
38 585, §12, is further amended to read:

39  
40           **2.** The record shall may not be removed from this State,  
41 except in the case of a nonresident licensed as a surplus lines  
42 broker for the purpose of transacting liability insurance  
43 business on behalf of a registered purchasing group, and shall  
44 must be open to examination by the superintendent at all times

2 within 5 years after issuance of the coverage to which it  
relates. For the purpose of investigation or examination by the  
3 superintendent, records may be maintained in electronic form.

4 **Sec. 34. 24-A MRSA §2016, sub-§1**, as enacted by PL 1991, c.  
6 674, §1, is amended to read:

8 1. Each broker shall ~~file on or before the 15th day of each~~  
9 ~~month~~ maintain in the broker's office within the State a monthly  
10 report with the superintendent showing the amount of insurance  
12 placed for any person or organization, the location of each risk,  
the gross premium charged, the name of each insurer with which  
14 the insurance was placed, the date and term of each insurance  
contract issued during the preceding month and any other  
pertinent information required by the superintendent. The report  
16 must show in the same detail each contract cancelled during the  
month covered by the report and the return premium on it. The  
18 monthly report must be made available to the superintendent for  
20 examination at the broker's office location in the State at any  
time or by delivery to the bureau upon 5 days' notice by the  
superintendent.

22 Within 45 days of the end of each calendar quarter, the broker  
24 shall pay to the Treasurer of State 3% of the difference between  
the gross premiums and the return premiums reported for the  
26 business transacted during the preceding calendar quarter.

28 **Sec. 35. 24-A MRSA §2160**, as enacted by PL 1969, c. 132, §1,  
is repealed and the following enacted in its place:

30 **§2160. Rebates -- life, health and annuity contracts**

32 **1. Limitation.** Except as otherwise provided by law, no  
34 person may:

36 A. Knowingly permit or offer to make or make any contract  
38 of life insurance, life annuity or health insurance or  
agreement concerning that contract that is not plainly  
expressed in the contract issued;

40 B. Pay or allow or give or offer to pay, allow or give  
42 directly or indirectly as inducement to life or health  
insurance or life annuity:

44 (1) Any rebate of premiums payable on the contract;

46 (2) Any special favor or advantage in the dividends or  
48 other benefits;



2           (3) Any paid employment or contract for services of  
3           any kind; or

4           (4) Any valuable consideration or inducements not  
5           specified in the contract; or

6  
7           C. Directly or indirectly give or sell or purchase or offer  
8           or agree to give, sell, purchase or allow as inducement to  
9           life or health insurance or life annuity or in connection  
10           with the insurance or annuity or any agreement, whether or  
11           not specified in the policy or contract, of any form or  
12           nature promising:

13           (1) Returns or profits;

14           (2) Any stocks, bonds or other securities;

15           (3) Interest present in or contingent on or measured  
16           by the agreement of any insurer or other corporation,  
17           association or partnership; or

18           (4) Any dividends or profits accrued or to accrue on  
19           an agreement.

20  
21           2. Benefit not associated with indemnification or loss.

22           Unless otherwise provided by law, a provision may not be included  
23           within an insurance policy if the sole intent of the provision is  
24           to give to the insured a benefit that is not associated with  
25           indemnification or loss.

26  
27           **Sec. 36. 24-A MRSA §2161, sub-§1, ¶D, as enacted by PL 1969,**  
28           **c. 132, §1, is amended to read:**

29  
30           D. Reduction of premium rate for policies of large amount,  
31           but not exceeding savings in issuance and administration  
32           expenses reasonably attributable to such policies as  
33           compared with policies of similar plan issued in smaller  
34           amounts. Payment to a policyholder for administration of  
35           the policy is a reduction of premium. The reduction in  
36           premium may not exceed 10% of premiums;

37  
38           **Sec. 37. 24-A MRSA §2162, sub-§1, ¶¶A and B are enacted to**  
39           **read:**

40  
41           A. Unless otherwise provided by law, a provision may not be  
42           included within an insurance policy if the sole intent of  
43           the provision is to give to the insured a benefit that is  
44           not associated with indemnification or loss.

2           B. Notwithstanding any other provision of law, the  
3           superintendent may approve filings allowing reductions in  
4           premium associated with savings in issuance and  
5           administrative expenses.

6  
7           **Sec. 38. 24-A MRSA §2163**, as enacted by PL 1969, c. 132, §1,  
8           is repealed and the following enacted in its place:

9  
10          **§2163. Receipt of rebate, illegal inducement prohibited**

11           **1. Limitations.** No person may knowingly receive or accept,  
12           directly or indirectly:

13           A. Any rebate of premium or part of a premium;

14           B. Any producer's commission on a premium or part of a  
15           premium payable on any policy of insurance or annuity  
16           contract;

17           C. Any special favor or advantage in the dividend or other  
18           benefits to accrue; or

19           D. Anything of value as inducement to any policy of  
20           insurance or annuity contract or in connection with any  
21           policy of insurance or annuity contract that is not  
22           specified, promised or provided for in the policy or  
23           contract, except as otherwise provided by law.

24  
25          **Sec. 39. 24-A MRSA §2163-A** is enacted to read:

26  
27          **§2163-A. Permitted activities**

28           Notwithstanding any other provision in sections 2160 to  
29           2163, an insurer, employee of an insurer or producer may offer to  
30           give gifts in connection with marketing for the sale or retention  
31           of contracts of insurance provided the cost does not exceed \$20  
32           per year per policy or quote, and conduct raffles or drawings, so  
33           long as there is no participation costs to entrants, in which  
34           prizes may be valued in excess of \$20. Nothing in sections 2160  
35           to 2163 may be construed to prohibit an insurance producer from  
36           receiving a fee rather than commission on the sale of property  
37           and casualty insurance in accordance with section 1450 and rules  
38           adopted by the superintendent.

39          **Sec. 40. 24-A MRSA §2411-A** is enacted to read:

40          **§2411-A. Payment of fees for filings**

2 The superintendent may require insurers to pay filing fees  
3 for form and rate approval on a quarterly, biannual or annual  
4 basis.

6 **Sec. 41. 24-A MRSA §2434, first ¶**, as enacted by PL 1969, c.  
7 132, §1, is amended to read:

8 Any person having a claim against any foreign insurer may  
9 bring a trustee action or any other appropriate action therefor  
10 in the courts of this State. Service of process upon such an  
11 insurer shall must be made as provided in ~~sections~~ section 421  
12 and-422.

14 **Sec. 42. 24-A MRSA §3354, sub-§5**, as amended by PL 1973, c.  
15 585, §12, is further amended to read:

16 5. Solicitation for such qualifying applications for  
17 insurance shall must be by licensed agents of the corporation,  
18 and the superintendent shall, upon the corporation's application  
19 therefor, issue temporary agent's licenses expiring on the date  
20 specified pursuant to subsection 3, paragraph C to individuals  
21 qualified as for a resident agent's license except as to the  
22 taking or passing of an examination. The superintendent may  
23 suspend or revoke any such license for any of the causes and  
24 pursuant to the same procedures as are applicable to suspension  
25 or revocation of licenses of agents in general under chapter 17  
26 16.

28 **Sec. 43. 24-A MRSA §3628, first ¶**, as enacted by PL 1969, c.  
29 132, §1, is amended to read:

32 All agents of insurers subject to this chapter shall ~~be~~ are  
33 subject to the applicable requirements of chapter 17 16 (~~agents,~~  
34 ~~brokers,~~ ~~consultants,~~ ~~adjusters~~), except that:

36 **Sec. 44. 24-A MRSA §3629, sub-§9**, as enacted by PL 1969, c.  
37 132, §1, is amended to read:

38 9. Chapter 17 16 (~~agents,~~ ~~brokers,~~ ~~consultants,~~ ~~adjusters~~);

40 **Sec. 45. 24-A MRSA §3863, sub-§1**, as amended by PL 1973, c.  
41 585, §12, is further amended to read:

44 1. Legal process shall must be served upon a domestic  
45 reciprocal insurer by serving the insurer's attorney at ~~his~~ that  
46 attorney's principal offices or by serving the superintendent as  
47 the insurer's process agent under ~~sections~~ section 421 and-422.

48 **Sec. 46. 24-A MRSA §4128, first ¶**, as repealed and replaced by  
49 PL 1977, c. 446, §1, is amended to read:

2 Agents Insurance producers of societies shall must be  
3 licensed in accordance with chapter ~~17~~ 16 provided the  
4 examination requirements, of chapter ~~17~~ 16 are not be  
5 applicable to any agent insurance producer who was in the service  
6 of a society on January 1, 1978, and provided that no insurance  
7 agent's producer's license shall ~~be~~ is required of the following:

8  
9 **Sec. 47. 24-A MRSA §4129**, as amended by PL 1973, c. 585, §12,  
10 is further amended to read:

11 **§4129. Service of process**

12  
13 Every society authorized to do business in this State shall  
14 appoint in writing the ~~superintendent and each successor in~~  
15 ~~office to be~~ a licensed attorney located in the State to act as  
16 its true and lawful attorney upon whom all lawful process in any  
17 action or proceeding against it shall ~~be~~ is served, and shall  
18 agree in such writing that any lawful process against it which is  
19 served on said the attorney shall ~~be~~ is of the same legal force  
20 and validity as if served upon the society, and that the  
21 authority shall ~~continue~~ continues in force so long as any  
22 liability remains outstanding in this State. Copies of such  
23 appointment, certified by the superintendent, ~~shall be~~ appointed  
24 attorney are deemed sufficient evidence thereof of the  
25 appointment and shall may be admitted in evidence with the same  
26 force and effect as the original ~~thereof might be admitted.~~

27  
28 Service shall may only be made upon the superintendent  
29 appointed attorney, or if absent, upon the person in charge of  
30 ~~his office.~~ It shall must be made in duplicate and shall  
31 ~~constitute~~ constitutes sufficient service upon the society. When  
32 legal process against a society is served upon the superintendent  
33 appointed attorney, ~~he~~ the appointed attorney shall forthwith  
34 forward one of the duplicate copies by registered mail, prepaid,  
35 directed to the secretary or corresponding officer. Legal process  
36 shall may not be served upon a society except ~~in the manner~~  
37 herein is provided in this section. ~~At the time of serving any~~  
38 ~~process upon the superintendent, the plaintiff or complainant in~~  
39 ~~the action shall pay to the superintendent a fee of \$5.~~

40  
41 **Sec. 48. 24-A MRSA §4222-B, sub-§7**, as enacted by PL 1995, c.  
42 332, Pt. O, §8, is amended to read:

43  
44 **7.** The requirements of sections section 421 and 422 apply  
45 to health maintenance organizations.

46  
47 **Sec. 49. 24-A MRSA §4361, first ¶**, as amended by PL 1973, c.  
48 585, §12, is further amended to read:

2 A certified copy of any order to show cause issued under  
3 section 4360, and a copy of the petition upon which the same is  
4 made, shall must be served upon the insurer by delivering the  
5 same to its president, vice-president, secretary, treasurer,  
6 director or to its managing agent or attorney in fact, if a  
7 reciprocal insurer; or if no such officer or functionary can  
8 readily be found in this State, then such process may be served  
9 upon the insurer by service thereof upon the superintendent  
10 pursuant to ~~sections~~ section 421 and-422.

11 **Sec. 50. 24-A MRSA c. 63**, as amended, is repealed.

12 **Sec. 51. 24-A MRSA §6402, sub-§7**, as enacted by PL 1991, c.  
13 828, §33, is amended to read:

14 **7. Producer.** "Producer" means an insurance agent-~~or-broker~~  
15 producer licensed pursuant to chapter ~~17~~ 16.

16 **Sec. 52. 39-A MRSA §403, sub-§12**, as amended by PL 1995, c.  
17 594, §5, is further amended to read:

18 **12. Qualifications for claims personnel.** Persons who  
19 investigate, settle or negotiate the settlement of claims on  
20 behalf of self-insurers or employees of self-insurers are  
21 required to be licensed as insurance adjusters pursuant to Title  
22 24-A, ~~chapter--17,--subchapters-I-and-V~~ chapter 16.

23 **Emergency clause.** In view of the emergency cited in the  
24 preamble, this Act takes effect when approved unless indicated  
25 otherwise.

## 32 SUMMARY

33 This bill removes the appointment of the Superintendent of  
34 Insurance by insurers and other nonresident licensees for service  
35 of process of legal actions and provides that licensees must  
36 appoint an attorney located in the State as agent for service of  
37 process. It allows the superintendent to bill insurers on a  
38 periodic basis for filings rather than requiring licensees to pay  
39 with each filing, clarifies provisions in 3rd-party administrator  
40 law related to insurer responsibility, reduces reporting  
41 requirements for surplus lines brokers, modifies rebating laws to  
42 allow the payment of fees for services rather than commissions,  
43 modifies rebating laws to allow gifts valued at less than \$20 to  
44 be given to insured customers, revises the law to allow insurance  
45 agents and insurers to arrange financing for insureds, and  
46 repeals chapter 63 of the Maine Insurance Code, removing the  
47 regulation of road or tourist service companies from the Bureau  
48 of Insurance. It repeals chapter 17 of the Maine Insurance Code  
49  
50

2 and enacts chapter 16. The bill results in the following changes  
in licensing laws.

4 1. It clarifies that the licensing laws apply to health  
maintenance organizations, fraternal benefit societies and  
6 nonprofit hospital or medical service organizations as well as  
insurers.

8 2. It eliminates the need for a license if an adjuster is  
10 employed by an insurer, health maintenance organization,  
nonprofit hospital or medical service organization or fraternal  
12 benefit society.

14 3. It changes the law to allow licensed producers, formerly  
defined as agents and brokers, to adjust claims for insurers,  
16 health maintenance organizations, fraternal benefit societies and  
nonprofit hospital or medical service organizations up to \$5,000  
18 instead of \$2,500.

20 4. It strengthens consumer protection in consultant  
licensing.

22 5. It eliminates the agent and broker categories of  
24 licensure and creates one license category, a "producer."

26 6. It adopts a definition for limited insurance producer.  
It extends the definition to require a limited license for a  
28 person that enrolls others in most group insurance contracts and  
a person selling mechanical break-down contracts when an insurer  
30 is underwriting the contract and part of the money received for  
the contract becomes a premium for a policy. This, in  
32 combination with the repeal of the controlled business law,  
allows organizations that are group policyholders to become  
34 licensed and share in commissions. It will allow persons  
enrolling to collect commissions if licensed.

36 7. It changes the definition of "organization" to the more  
38 commonly used term "agency."

40 8. It changes the definition of "resident" to accommodate  
residents of other states or provinces who work in Maine full  
42 time and to accommodate Maine residents who work in other states  
or provinces full time.

44 9. It eliminates the "controlled business" law.

46 10. It requires that an officer of an agency be licensed  
48 and designated as responsible for the agency and that a change in  
the responsible person be forwarded to the superintendent within  
50 14 days of the change. It also requires that the responsible

2 person will be responsible for all correspondence with the  
superintendent and must notify the superintendent within 30 days  
4 of every change in individuals designated to act in the name of  
the agency. It further requires that if the responsible person  
6 in an agency loses that person's license, the agency license will  
terminate if a new person is not designated as responsible within  
14 days.

8  
10 11. It requires all branch offices, resident or  
nonresident, to be registered, but eliminates the need to have a  
different manager at each location.

12  
14 12. It clarifies that an agency cannot be licensed with the  
word "company" in the name.

16 13. It requires, for residents and nonresidents, that  
18 notice of changes in officers, directors, partners and members be  
sent to the superintendent within 14 days of request from the  
20 superintendent and eliminates the need to send changes as they  
occur.

22 14. It incorporates the holding from Wood vs.  
24 Superintendent. "Voluntary surrender outside context of  
disciplinary proceeding does not immunize licensee from  
26 subsequent disciplinary action." Wood v. Superintendent of Ins.  
(1994) Me., 638 A.2d 67.

28 15. It eliminates the need for insurers to file  
appointments of representatives of insurance companies.

30  
32 16. It requires notice of material change in the  
application to be sent to the superintendent within 30 days.

34 17. It allows a person to retest for the part of the  
36 examination failed, rather than the entire examination. Most  
tests for licensure are 2-part. Under current law, if a person  
fails one part, the person must take the entire exam again.

38  
40 18. It allows a nonresident to obtain a temporary license  
after passing the law portion of the exam, eliminating a  
42 nonresident being out of work while waiting for a letter of  
clearance from another state.

44 19. It clarifies that individuals that have passed  
46 examinations to become licensed must become licensed within 2  
years after passing the test.

48 20. It allows a producer to work for a fee rather than a  
50 commission on large commercial accounts, but leaves the standards  
for this to be established through rulemaking.

2           21. It allows a licensee to maintain a principal place of  
business in this State if a resident in another state or country.

4           22. It retains the requirement that a resident licensee  
6 have a place of business accessible to the public, but allows  
that place of business to be in a contiguous state or province.

8           23. It provides that return premiums must be forwarded to  
10 insureds or credited to outstanding balances of the insured  
within 10 days from receipt and establishes a definition of  
12 receipt.

14           24. It provides that premiums due the insurer, health  
maintenance organization, fraternal benefit society and nonprofit  
16 hospital or medical service organization be forwarded promptly to  
the insurer in accordance with the contract between the insurer,  
18 health maintenance organization, fraternal benefit society and  
nonprofit hospital or medical service organization and the  
20 licensee.

22           25. It raises the amount of a consultant bond to \$20,000  
from \$10,000.

24           26. It allows a licensee that has been disciplined for  
26 failure to notify the superintendent of address change to remove  
that action from the licensee's record.