

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2034

S.P. 756

In Senate, January 15, 1998

**An Act to Correct Errors and Inconsistencies in Licensing Requirements
for Licensed Insurance Professionals and Insurers.**

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

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York.

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

Sec. 1. 24 MRSA §2305, first ¶, as amended by PL 1973, c. 585, §12, is further amended to read:

The superintendent shall issue a certificate of authority on, which is continuous unless revoked or suspended by the superintendent, and collect payment of a fee, which shall be is the same as for an insurer as provided in Title 24-A, section 601, if the applicant meets the following requirements:

Sec. 2. 24 MRSA §2305-A is enacted to read:

§2305-A. Conditions of certificate of authority

1. Duration. A certificate of authority continues in force as long as the nonprofit hospital or medical service organization is entitled under this Title and until suspended or revoked by the superintendent or terminated at the organization's request.

2. Annual fee. The nonprofit hospital or medical service organization shall pay an annual fee, which is the same as for an insurer, as provided in Title 24-A, section 601.

3. Reinstatement. Upon payment by the nonprofit hospital or medical service organization of the fee for reinstatement specified in Title 24-A, section 601, the superintendent may, upon the organization's request made within 3 months after suspension, reinstate a certificate of authority that the superintendent suspended due to the organization's failure to pay the annual fee. Otherwise the organization may be granted another certificate of authority only after filing an application and meeting all other requirements as for an original certificate of authority in this State.

Sec. 3. 24 MRSA §2306, first ¶, as amended by PL 1993, c. 702, Pt. A, §3, is further amended to read:

Annually, on or before ~~April~~ March 1st, every corporation organized under this chapter shall file in the office of the superintendent a statement verified by at least 2 of the principal officers of that corporation showing its condition on the previous December 31st. The statement must be on an annual statement blank of the National Association of Insurance Commissioners for use by nonprofit hospital or medical service corporations, be prepared in accordance with the association's annual statement instructions, follow practices and procedures prescribed by the association's accounting practices and procedures manual and be accompanied by any useful or necessary

modification or adaptation and any additional information required by the superintendent.

Sec. 4. 24 MRSA §2314, as repealed and replaced by PL 1977, c. 694, §382, is amended to read:

§2314. Suspension or revocation of certificate of authority

The Notwithstanding Title 4, section 1151 and Title 5, section 10051, the superintendent may file a petition with the Administrative Court seeking the revocation of suspend or revoke a certificate of authority or license granted under this chapter for cause at any time pursuant to a hearing held in accordance with Title 5, chapter 375, subchapter IV.

Sec. 5. 24 MRSA §2317-A, as enacted by PL 1989, c. 556, Pt. D, §1, is amended to read:

§2317-A. Explanation and notice to parent of minor

Title 24-A, sections 421, 2713-A and 2823-A shall and chapter 16 apply to nonprofit hospital corporations, nonprofit medical service corporations and nonprofit health care plans to the extent not inconsistent with this chapter and the reasonable implications of this chapter.

Sec. 6. 24 MRSA §2332, sub-§§4 and 5, as amended by PL 1991, c. 334, §2, are further amended to read:

4. Notification of assessment. On or before July 1st of each year, the superintendent shall notify forward to each nonprofit hospital or medical service organization and health care plan of an itemized bill of the amount due for the annual assessment due, the amount due for the filing of the annual statement and the amount due for the certificate of authority annual fee pursuant to Title 24-A, section 601.

5. Time of payment. Payment for the annual assessment, the annual statement filing fee and the annual fee must be made on or before August 10th.

Sec. 7. 24 MRSA §2332, sub-§6, as enacted by PL 1985, c. 446, §1, is amended to read:

6. Revocation or suspension. If the assessment, annual statement filing fee or annual fee is not paid to the superintendent on or before the prescribed date, the certificate of authority of any nonprofit hospital or medical service organization or health care plan to transact business in this State may be revoked or suspended by the superintendent, after a

hearing thereon or upon waiver of hearing by the nonprofit hospital or medical service organization or health care plan, until the assessment is paid.

Sec. 8. 24 MRSA §2601, sub-§§5 and 6, as enacted by PL 1977, c. 492, §3, are repealed.

Sec. 9. 24-A MRSA §3, as amended by PL 1997, c. 457, §7, is repealed and the following enacted in its place:

§3. "Insurance" defined

"Insurance" means a contract under which one undertakes to pay or indemnify another as to loss from certain specified contingencies or perils, to pay or grant a specified amount or determinable benefit or annuity in connection with ascertainable risk contingencies or to act as surety, except that the following types of contracts are not considered insurance:

1. Charitable gift annuity. A charitable gift annuity agreement, as defined in section 703-A;

2. Road or tourist service contract. A road or tourist service contract, other than a contract issued by a licensed insurer, related to the repair, operation and care of automobiles or to the protection and assistance of automobile owners or drivers; and

3. Home service contract. A home service contract whereby, for a set fee and specified duration, a person agrees to defray the cost of repair or replacement or provide or arrange for the repair or replacement of all or any part of any structural component, appliance or system of a home necessitated by wear and tear, deterioration or inherent defect or by failure of an inspection to detect the likelihood of any such loss.

Sec. 10. 24-A MRSA §413, sub-§6, as amended by PL 1973, c. 585, §12, is further amended to read:

6. Appointment of the ~~superintendent~~ an agent pursuant to section 421 ~~as-its-attorney~~ to receive service of legal process;

Sec. 11. 24-A MRSA §415, as amended by PL 1995, c. 544, §§3 and 4, is further amended to read:

§415. Continuation of certificate of authority

1. A certificate of authority continues in force as long as the insurer is entitled under this Title and until suspended or

2 revoked by the superintendent or terminated at the insurer's
3 request.

4 3. The superintendent may, ~~in his discretion,~~ upon the
5 insurer's request made within 3 months after expiration
6 suspension, reinstate a certificate of authority which--the
7 insurer has inadvertently permitted to expire,--after the insurer
8 has--fully--cured--all--its--failures--which--resulted--in--the
9 expiration,--and that the superintendent suspended due to the
10 insurer's failure to pay the annual fee upon payment by the
11 insurer of the fee for reinstatement specified in section 601
12 (fee--schedule). Otherwise the insurer shall may be granted
13 another certificate of authority only after filing application
14 therefor and meeting all other requirements as for an original
15 certificate of authority in this State.

16 4. ~~When an insurer is issued a first-time certificate of~~
17 ~~authority and if its assigned biennial continuation date,--as a~~
18 ~~result of such assignment, will be less than one year hence,--the~~
19 ~~fee assessed for the certificate of authority shall not exceed~~
20 ~~1/2 the biennial continuation filing fees according to the fee~~
21 ~~schedule, subject to any applicable retaliatory provisions.~~

22 5. ~~The superintendent is authorized to issue continuation~~
23 ~~certificates for less than a 2-year term in order to implement~~
24 ~~the biennial continuation of insurers on biennial continuation~~
25 ~~dates established by the superintendent. If a continuation~~
26 ~~certificate is issued to an insurer for one year or less, the~~
27 ~~fees assessed for such certificate and annual statement filing~~
28 ~~shall be not more than 1/2 the applicable biennial fees according~~
29 ~~to the fee schedule.~~

30 Sec. 12. 24-A MRSA §421, sub-§1, as amended by PL 1997, c.
31 457, §10, is further amended to read:

32 1. Before the superintendent authorizes it to transact
33 insurance in this State, each insurer shall appoint a resident
34 attorney--as its an agent to receive service of legal process
35 issued against the insurer in this State. The insurer shall file
36 with the superintendent a copy of the appointment. The notice to
37 the superintendent must be accompanied by a copy of a resolution
38 of the board of directors or like governing body of the insurer,
39 if an incorporated insurer, showing that those officers who
40 executed the appointment were duly authorized to do so on behalf
41 of the insurer. The registered agent must consent to the
42 appointment.

43 Sec. 13. 24-A MRSA §421, sub-§5, as amended by PL 1997, c 457,
44 §14, is further amended to read:

5. At the time of application for a certificate of authority the insurer shall file the appointment with the superintendent, together with designation of the person to whom process against it served upon the appointed ~~attorney~~ agent is to be forwarded. The insurer may change such designation by a new filing.

Sec. 14. 24-A MRSA §601, first ¶, as amended by PL 1991, c. 334, §5, is further amended to read:

The superintendent shall collect in-advance, and persons so served shall pay to the superintendent, fees, licenses and miscellaneous charges as follows.

Sec. 15. 24-A MRSA §601, sub-§4, as amended by PL 1991, c. 334, §5, is repealed.

Sec. 16. 24-A MRSA §601, sub-§5, as amended by PL 1997, c. 457, §18 and affected by §55, is further amended to read:

5. Producers. Producers' license and appointment fees are:

A. Issuance fee for original resident producer license, including limited license \$30;

B. Appointment of resident producer, each insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group \$30;

~~Biennial continuation-of fee for appointment,~~ each insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group \$30;

C. Temporary license issuance fee \$50;

E. Issuance fee for original nonresident producer license \$70;

Appointment of such producer, each insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group \$70;

~~Biennial continuation-of fee for appointment,~~

2	<u>each insurer, health maintenance organization,</u>	
	<u>fraternal benefit society, nonprofit hospital</u>	
4	<u>or medical service organization, viatical</u>	
	<u>settlement provider risk retention group</u>	\$70;
6	F. Issuance fee for resident agency license	\$30;
8	Biennial continuation <u>fee</u>	\$30;
10	<u>Biennial fee for appointment, each insurer,</u>	
	<u>health maintenance organization, fraternal</u>	
12	<u>benefit society, nonprofit hospital or</u>	
	<u>medical service organization, viatical</u>	
14	<u>settlement provider or risk retention</u>	
	<u>group</u>	\$30;
16		
18	G. Issuance fee for nonresident agency license	\$70;
20	Biennial continuation <u>fee</u>	\$70; and
22	<u>Biennial fee for appointment, each insurer,</u>	
	<u>health maintenance organization, fraternal</u>	
24	<u>benefit society, nonprofit hospital or</u>	
	<u>medical service organization, viatical</u>	
26	<u>settlement provider or risk retention</u>	
	<u>group</u>	\$70; and
28		
30	H. Issuance fee for resident independent producer authority	\$70;
32	Biennial continuation	\$70;
34	Issuance fee for nonresident, independent producer authority	\$150;
36		
	Biennial continuation	\$150.
38		
40	Sec. 17. 24-A MRSA §601, sub-§7, as amended by PL 1993, c. 637, §§6 and 7, is further amended to read:	
42	7. Consultants. Consultant license fees are:	
44	A. Issuance fee for original resident consultant license	\$50;
46		
	Biennial continuation <u>fee</u>	\$50;
48		
50	B. Issuance fee for original nonresident consultant license	\$100;

2 Biennial ~~continuation~~ fee \$100;
4 C. Issuance fee for resident consultant
 ~~organization~~ agency license \$50;
6 Biennial ~~renewal~~ fee \$50; and
8 D. Issuance fee for nonresident consultant
10 ~~organization~~ agency license \$100;
12 Biennial ~~renewal~~ fee \$100.

14 **Sec. 18. 24-A MRSA §601, sub-§8,** as amended by PL 1993, c.
16 637, §8, is further amended to read:

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

20 A. Issuance fee for original resident adjuster
 license \$30;
22 Biennial ~~continuation~~ fee \$30;
24 B. Issuance fee for original nonresident
 adjuster license \$60;
26 Biennial ~~continuation~~ fee \$60;
28 C. Temporary license \$50;
30 D. Issuance fee for resident adjuster
32 ~~organization~~ agency license \$30;
34 Biennial ~~renewal~~ fee \$30; and
36 E. Issuance fee for nonresident adjuster
 ~~organization~~ agency license \$60;
38 Biennial ~~renewal~~ fee \$60.

40 **Sec. 19. 24-A MRSA §1402, sub-§§1, 2, 3, 4, 5 and 7,** as enacted by
42 PL 1997, c. 457, §23 and affected by §55, are amended to read:

44 **1. Adjuster.** "Adjuster" means any ~~person~~ individual who,
46 as an independent contractor or as an employee of an independent
 contractor, or as an employee of another organization, for fee,
48 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. 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;

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

F. Adjuster trainees.

2. **Adjuster trainee.** "Adjuster trainee" means any person individual with less than one year total experience handling loss claims under insurance contracts or the workers' compensation laws. ~~An "adjuster trainee" must be who is not licensed in this State as an adjuster and who is~~ employed by and subject to the immediate personal supervision of an adjuster who is licensed in this State and who has been established in the business of adjusting for 3 years or more.

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

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

A. "To advise" means to provide information relative to coverage, rights or interests under insurance or annuity contracts, or relative to the retention, exchange,

2 surrender, exercise of rights or other disposition of
insurance or annuity contracts.

4 B. "Consultant" includes a person who collects a fee from
the insured or potential insured for advice on financial
6 planning and as part of that planning sells or plans to sell
insurance policies under an insurance producer license on
8 which the producer will collect commissions.

10 C. "Consultant" includes a person who collects a fee from
the insured or potential insured for advice on estate
12 planning or for the sale of a trust package and as part of
the estate planning sells or plans to sell insurance
14 policies under an insurance producer license on which the
producer will collect commissions.

16 D. "Consultant" does not include:

18 (1) An attorney licensed to practice who is actively
20 practicing law in this State;

22 (2) An insurance actuary and member or associate of
the Society of Actuaries or American Academy of
24 Actuaries;

26 (3) A public accountant certified under Title 32,
chapter 113 or a certified public accountant who is
28 certified under Title 32, chapter 113 and in active
public practice; or

30 (4) A licensed insurance producer who receives a fee
32 in lieu of a commission pursuant to section 1450 if the
insurance producer receives a fee for the insurance
34 transaction and not for other services provided; or

36 (5) A financial institution or a financial institution
holding company if the insurance advice is given as
38 part of its trust department rendering insurance advice
in a fiduciary capacity.

40
42 **5. Insurance producer.** "Insurance producer" means a person
any individual who engages in insurance producer activities.
Unless the person receives commission for the service, this
44 definition does not include: a person whose insurance producer
activities are limited to taking applications for certificates
46 under group insurance contracts issued pursuant to sections 2603,
2605-A, 2606-A, 2804, 2805, and 2806; a person whose insurance
48 producer activities are limited to taking applications for
certificates of insurance under approved group contracts where
50 underwriting is not required and where certificates are issued to

members of the group without contribution from the members; or a person whose activities relate to enrolling participants in a credit life and health insurance policy to the extent authorized under chapter 37, a group life insurance policy to the extent authorized under chapter 31, a group health insurance policy to the extent authorized under chapter 35 or a group credit involuntary unemployment insurance policy.

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

This paragraph is repealed on July 1, 1998.

7. License. "License" means a document issued by the superintendent authorizing a person to act as an insurance producer, adjuster or consultant for elasses kinds of insurance specified in the document as authorized in this chapter. The license itself does not create any authority, actual, apparent or inherent, in the licensee to represent or commit any particular insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group.

Sec. 20. 24-A MRSA §1413, sub-§§1 and 5, as enacted by PL 1997, c. 457, §23 and affected by §55, are amended to read:

1. License required. An agency, whether it has a location in this State or not, must be licensed as an insurance producer, adjuster or consultant agency in order to engage authorize individual licensees to act on the agency's behalf by engaging in insurance producer, adjuster or consultant activities or in order to use the name of the agency in insurance-related advertising in the State. An agency has no authority to act on its own without an individual licensee. A license authority held by an individual licensee employed by an agency does not transfer to other employees within that agency. Licensure of a nonresident agency does not depend upon the ~~agency~~ agency's maintaining an agency license in another state. Agency licensees are subject to the standards of section 407, subsection 2, where when 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~~ June 11, 1997.

5. Resident branch offices. A resident agency establishing more than one place of business in this State must procure an agency branch registration for each location within the State. A resident branch office is any office location other than the

location of the licensed agency that regularly conducts insurance business or that is advertised as a location where the public may contact the agency or its employees concerning insurance services. An office location that meets this definition that is itself a separate legal entity from the licensed agency must obtain a separate agency license and can not be registered as a branch office. ~~A place of residence need not be registered as a branch office so long as that address is filed with the superintendent.~~ The licensed person designated as responsible for the agency is responsible for all branch locations.

Sec. 21. 24-A MRSA §1415, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

§1415. License authorities

1. Producer authorities. A An individual resident or nonresident insurance producer may receive the following authorities under the license:

- A. Property and casualty;
- B. Life and health;
- C. Variable contract; ~~or~~
- D. Independent producer; or
- E. Surplus lines.

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

- A. Property and casualty; or
- B. Life and health.

3. Adjuster authorities. A resident or nonresident adjuster may receive the property and casualty authority under the license.

Sec. 22. 24-A MRSA §1417, sub-§4, ¶¶B and C, as enacted by PL 1997, c. 457, §23 and affected by §55, are amended to read:

B. The license has been issued upon the basis of a reciprocal agreement with another government and the action in this State is based upon evidence, in the form of a certified copy, that the authority issuing the license which

2 that provided the basis for reciprocal licensing in this
State has revoked or suspended the licensee's license; or

4 C. The health or physical safety of a person or persons is
6 in immediate jeopardy at the time of the superintendent's
action, and, acting in accordance with chapter 3 or Title 5,
8 chapter 375, subchapter IV or VI, the superintendent would
fail to adequately respond to a known risk, provided that
10 the revocation, suspension or refusal to renew does not
continue for more than 30 days.

12 **Sec. 23. 24-A MRSA §1417, sub-§4, ¶¶D and E** are enacted to
read:

14 D. The licensee has failed after being notified twice by
16 regular mail at the licensee's last known address to pay any
 money due the superintendent; or

18 E. The licensee has failed after being notified twice by
20 regular mail at the licensee's last known address to comply
22 within 60 days with continuing education requirements
 pursuant to section 1482.

24 **Sec. 24. 24-A MRSA §§1419 and 1421**, as enacted by PL 1997, c.
26 457, §23 and affected by §55, are amended to read:

28 **§1419. Duty to notify of changes; payment of late fee**

30 Any Unless a different time is set by another provision of
law, any change of business address, business telephone number,
32 name or other material change in the conditions or qualifications
set forth in the original application of a producer, adjuster,
34 consultant or agency must be reported to the superintendent no
later than 30 days after the change. This requirement includes
36 any conviction of a crime other than a traffic violation or any
disciplinary action brought by an insurance regulatory official
38 of any other jurisdiction against the licensee or against any
officer, director, member or partner in an agency. If notice of
40 the change is received after 30-days the prescribed time period,
the licensee shall pay the late fee for filing as prescribed in
42 section 601. The levying of this late fee by the superintendent
may be appealed pursuant to section 236. In the event the late
44 fee charge is appealed, it becomes a final agency action and the
superintendent shall issue an order. If the late fee charge is
46 not appealed, the payment of the fee is not considered a final
agency action and is not considered a disciplinary action. Every
48 previous consent order or agreement issued by the superintendent
for failure to notify the superintendent of address change may be
50 considered payment of a late fee and not considered a
disciplinary action upon request by the licensee. This section

2 does not negate the superintendent's authority to bring an action
under ~~section 12-A or section 1417~~ any other applicable provision
4 of law.

6 **§1421. Licensing forms**

8 The superintendent or an independent licensing service
designated by the superintendent shall prescribe, consistent with
10 the applicable requirements of this chapter, and furnish all
forms required under this chapter in connection with applications
12 for and issuance of licenses. The superintendent or an
independent testing service designated by the superintendent
14 shall prescribe and furnish all forms required in connection with
examinations for licenses.

16 **Sec. 25. 24-A MRSA §1423, sub-§1-A is enacted to read:**

18 **1-A. Examination content.** The examination may be
administered as a 2-part examination. If a 2-part examination is
20 administered, one part of the examination must test the
applicant's knowledge as to the kinds of insurance for which the
22 application is made and the other part must test the person's
knowledge of the duties and responsibilities of an insurance
24 producer, adjuster or consultant and the insurance laws and rules
of this State.

26 **Sec. 26. 24-A MRSA §1423, sub-§§5 and 6, as enacted by PL 1997,**
28 **c. 457, §23 and affected by §55, are amended to read:**

30 **5. Examination results.** Within 30 days after a person
completes the examination, the superintendent or any independent
32 testing service designated by the superintendent must shall
inform the person whether or not the person has passed. The test
34 may be a 2-part test. ~~One part of the test must test the~~
~~applicant's knowledge as to insurance industry practices and one~~
36 ~~part must test the applicant's knowledge of state insurance law.~~
A person who fails all or one part of the examination must remit
38 the required fees before being rescheduled for either one part or
all of another examination. A person who fails one part of a
40 2-part examination must pay the full examination fee but need
only be examined on the part of the examination that the person
42 failed. A person who does not apply for a license within 2 years
after passing one part or all of an examination must register and
44 pay the fee for a subsequent examination.

46 **6. Separate examination for each category.** An applicant
for more than one kind of license or for more than one authority
48 under a license must be separately examined for each category of
license or authority and shall pay a separate examination fee for
50 each examination. Nothing in this section prohibits the giving

of all required examinations to a particular applicant on the same day.

Sec. 27. 24-A MRSA §1424, sub-§§1, 4 and 7, as enacted by PL 1997, c. 457, §23 and affected by §55, are amended to read:

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

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

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

Sec. 28. 24-A MRSA §1424, sub-§8, ¶A is enacted to read:

A. Once the temporary licensee has evidence that the temporary licensee is no longer licensed as a resident in another state, the licensee may apply for a permanent license pursuant to this section.

Sec. 29. 24-A MRSA §1426, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

2 2. Fees. If the license is issued, the superintendent
4 shall notify the licensee of the applicable application and
6 issuance fees due pursuant to section 601. If the license is
8 refused, the superintendent shall notify the applicant of the
10 application fees for--application--for--an--insuranc--producer,
12 consultant--or--adjuster--license--are--not--refundable due. Failure
14 to pay the required fees by a licensee within 90 days results in
16 termination of the licensee's license pursuant to section 1417,
18 subsection 4. Failure to pay fees due by a nonlicensee may be
20 enforced pursuant to section 214.

22 Sec. 30. 24-A MRSA §1430, sub-§1, as enacted by PL 1997, c.
24 457, §23 and affected by §55, is repealed.

26 Sec. 31. 24-A MRSA §1430, sub-§1-A is enacted to read:

28 1-A. License for an indefinite term. Each license issued
30 under this chapter continues in force continuously unless
32 suspended, revoked or otherwise terminated by the superintendent.

34 Sec. 32. 24-A MRSA §1430, sub-§2, as enacted by PL 1997, c.
36 457, §23 and affected by §55, is repealed.

38 Sec. 33. 24-A MRSA §1430, sub-§2-A is enacted to read:

40 2-A. Biennial license fees. Each nonresident adjuster and
42 consultant must be billed by the superintendent a biennial fee as
44 provided in section 601 and must pay the fee due by January 1st
46 of even-numbered years. Each nonresident producer with an
48 independent producer authority must be billed by the
50 superintendent a biennial fee as provided in section 601 and must
52 pay the fee due by February 1st of odd-numbered years. Each
54 nonresident insurance agency must be billed by the superintendent
56 a biennial fee as provided in section 601 and must pay the fee
58 due by April 1st of odd-numbered years. Each resident adjuster,
60 consultant and producer with independent producer authority must
62 be billed by the superintendent a biennial fee as provided in
64 section 601 and must pay the fee due by October 1st of
66 even-numbered years. Each resident agency must be billed by the
68 superintendent a biennial fee as provided in section 601 and must
70 pay the fee due by December 1st of even-numbered years.

72 Sec. 34. 24-A MRSA §1430, sub-§3, as enacted by PL 1997, c.
74 457, §23 and affected by §55, is repealed.

76 Sec. 35. 24-A MRSA §1430, sub-§3-A is enacted to read:

2 3-A. Termination. Failure to pay the required fees by a
3 licensee within 90 days from the due date results in termination
4 of the license pursuant to section 1417, subsection 4.

6 Sec. 36. 24-A MRSA §§1431 and 1432, as enacted by PL 1997, c.
7 457, §23 and affected by §55, are repealed.

8 Sec. 37. 24-A MRSA §1441, sub-§1, as enacted by PL 1997, c.
9 457, §23 and affected by §55, is repealed.

10 Sec. 38. 24-A MRSA §1441, sub-§1-A is enacted to read:

12 1-A. Licensed producers. This subchapter applies to
13 licensed resident and nonresident producers.

16 Sec. 39. 24-A MRSA §§1441-A and 1441-B are enacted to read:

18 §1441-A. Appointment of insurance producers or agencies

20 1. Appointment. Each insurer, health maintenance
21 organization, fraternal benefit society, nonprofit hospital or
22 medical service organization, viatical settlement provider or
23 risk retention group appointing an insurance producer or agency
24 in this State shall appoint the producer or agency in writing,
25 specifying the kinds of insurance or annuity business to be
26 transacted by the insurance producer or agency for the insurer,
27 health maintenance organization, fraternal benefit society,
28 nonprofit hospital or medical service organization, viatical
29 settlement provider or risk retention group, and shall pay the
30 appointment fee at the rate specified in section 601. The
31 insurer, health maintenance organization, fraternal benefit
32 society, nonprofit hospital or medical service organization,
33 viatical settlement provider or risk retention group may forward
34 new appointment fees to the superintendent on a quarterly basis.
35 The insurer, health maintenance organization, fraternal benefit
36 society, nonprofit hospital or medical service organization,
37 viatical settlement provider or risk retention group need not
38 file the appointments with the superintendent but shall maintain
39 the appointments in the insurer's office. Upon request of the
40 superintendent, the insurer, health maintenance organization,
41 fraternal benefit society, nonprofit hospital or medical service
42 organization, viatical settlement provider or risk retention
43 group shall provide copies of appointments to the superintendent
44 within 14 days unless the request is part of an examination
45 pursuant to section 221. The insurer, health maintenance
46 organization, fraternal benefit society, nonprofit hospital or
47 medical service organization, viatical settlement provider or
48 risk retention group shall designate and maintain a list of each
49 insurance producer within an appointed agency that represents the
50 insurer, health maintenance organization, fraternal benefit

society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group. The fee for designation of an insurance producer within an agency is the same as for an appointment. The insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group shall pay the full appointment fee without regard to the effective date of the appointment. An insurance producer who qualifies to be licensed to sell variable annuity contracts pursuant to section 1411 must be separately appointed as to variable annuities and the insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group shall pay a separate appointment fee for the appointment.

§1441-B. Termination of producer or agency appointment

1. Termination. Subject to the producer's or agency's contract obligations and rights, if any, an insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider, risk retention group, agency or producer may terminate a producer's or agency's appointment at any time. If the insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group intends to terminate the producer's or agency's authority to represent the insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group for any kind of business, the insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group shall provide 90 days' advance written notice of the termination or modification to the producer or agency. A notice is not required when:

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

B. The producer or agency fails to pay money due the insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group;

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

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

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

4 F. The producer or agency is an employee of an insurer,
6 health maintenance organization, fraternal benefit society,
8 nonprofit hospital or medical service organization, viatical
10 settlement provider or risk retention group or when the
12 producer or agency by contractual agreement represents only
14 one insurer, health maintenance organization, fraternal
16 benefit society, nonprofit hospital or medical service
18 organization, viatical settlement provider or risk retention
20 group or a group of affiliated insurers and the property
22 rights in the renewals are owned by the insurer, health
 maintenance organization, fraternal benefit society,
 nonprofit hospital or medical service organization, viatical
 settlement provider or risk retention group or a group of
 affiliated insurers. An insurer, health maintenance
 organization, fraternal benefit society, nonprofit hospital
 or medical service organization, viatical settlement
 provider or risk retention group may not cancel or renew
 policies as a result of the termination of the producer's or
 agency's contract under this paragraph;

24 G. The producer has died or been adjudicated as incompetent
 if the producer is a natural person;

26 H. The agency or producer has dissolved if the agency or
28 producer is a corporation;

30 I. A date mutually agreed upon by an insurer, health
32 maintenance organization, fraternal benefit society,
34 nonprofit hospital or medical service organization, viatical
 settlement provider or risk retention group and the agency
 or producer has been reached;

36 J. An insurer, health maintenance organization, fraternal
38 benefit society, nonprofit hospital or medical service
40 organization, viatical settlement provider or risk retention
 group and the agency or producer have mutually agreed upon
 other terms; or

42 K. All insurers' licenses or appointments terminate or
 expire.

44 2. Notice. Notice of cancellation of an appointment must
46 be maintained in the insurer's office and must be forwarded to
 the superintendent within 14 days of a request from the
 superintendent.

48 3. Rights of insureds. The termination of an appointment
50 under this section does not affect the rights of insureds.

2 **Sec. 40. 24-A MRSA §1472, sub-§2, ¶C**, as enacted by PL 1997,
c. 457, §23 and affected by §55, is amended to read:

4 C. Must pass any written examination required for the
6 license under ~~this~~ subchapter III.

8 **Sec. 41. 24-A MRSA §1476** is enacted to read:

10 **§1476. Activities of insurance adjusters**

12 The following requirements govern the activities of
14 insurance adjusters.

16 1. Solicitation. An adjuster seeking to provide adjusting
18 services to an insured for a fee to be paid by the insured may
20 not solicit or offer an adjustment services contract to any
22 person for at least 36 hours after an accident or occurrence as a
24 result of which the person might have a potential claim.

26 2. Contract provision. Any such adjustment services
28 contract must contain a provision, prominently printed on the
30 first page of the contract, stating that the person contracting
32 with the adjuster has the option to rescind the contract within 2
34 business days after the contract is signed.

36 **Sec. 42. 24-A MRSA §1481-A** is enacted to read:

38 **§1481-A. Applicability of subchapter**

40 1. Applicability. This subchapter applies to licensed
42 producers and licensed consultants.

44 2. Exceptions. Except for limited licenses for the sale of
46 annuities, this subchapter does not apply to persons holding only
48 limited licenses under section 1416.

Sec. 43. 24-A MRSA §1482, as enacted by PL 1997, c. 457, §23
and affected by §55, is amended to read:

§1482. Educational requirements

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

2 **Sec. 44. 24-A MRSA §1483, sub-§1**, as enacted by PL 1997, c.
457, §23 and affected by §55, is amended to read:

4 **1. Application.** Each application for approval of a
6 continuing education program must be submitted according to the
guidelines prescribed by the superintendent accompanied by the
8 appropriate fee in section 601. The fee is nonrefundable. A fee
is required only for original course submissions. Subsequent or
10 renewal filings of approved courses are ~~not~~ considered original
if modified in any manner.

12 **Sec. 45. 24-A MRSA §1484**, as enacted by PL 1997, c. 457, §23
and affected by §55, is amended to read:

14 **§1484. Failure to comply**

16 The license of any insurance producer or consultant who
18 ~~fails--to--comply is out of compliance with this subchapter~~
~~terminates--upon--the--biennial--expiration--date,--The--insurance~~
20 ~~producer--may--have--the--license--reinstated--if--the--insurance~~
~~producer--complies--with--continuing--education--requirements--within~~
22 ~~60--days--from--the--date--the--license--terminates~~ for at least 60
days, is subject to suspension or revocation pursuant to section
24 1417, subsection 4.

26 **Sec. 46. 24-A MRSA §2002-A, sub-§3**, as enacted by PL 1993, c.
153, §16, is amended to read:

28 **3. Surplus--lines--brokers Producers with surplus lines**
30 **authority** may procure the following kinds of insurance from
eligible surplus lines insurers without adherence to the
32 procedures set forth in section 2004:

34 A. Wet marine and transportation insurance;

36 B. Insurance on subjects located, resident or to be
performed wholly outside of this State, or on vehicles or
38 aircraft owned and principally garaged outside this State;

40 C. Insurance on operations of railroads engaged in
transportation in interstate commerce and their property
42 used in such operations; or

44 D. Insurance on aircraft owned or operated by manufacturers
of aircraft or of aircraft operated in commercial interstate
46 flight, or cargo of such aircraft, or against liability
other than workers' compensation and employer's liability
48 arising out of the ownership, maintenance or use of such
aircraft.

2 Sec. 47. 24-A MRSA §2003, as enacted by PL 1969, c. 132, §1,
is amended to read:

4 **§2003. Definitions -- "producer," "export"**

6 1. ~~"Broker"~~ "Producer" as used in this chapter and unless
context otherwise requires, means a ~~surplus-lines-broker~~ producer
8 with surplus lines authority duly licensed as such under this
chapter.

10 2. To "export" means to place in an unauthorized insurer
12 under this Surplus Lines Law insurance covering a subject of
insurance resident, located or to be performed in Maine.

14 Sec. 48. 24-A MRSA §2004, sub-§1, as enacted by PL 1969, c.
16 132, §1, is amended to read:

18 1. The insurance must be procured through a licensed
producer with surplus lines broker authority.

20 Sec. 49. 24-A MRSA §2005, as amended by PL 1973, c. 585, §12,
22 is repealed.

24 Sec. 50. 24-A MRSA §2006, sub-§§1 and 2, as amended by PL 1973,
c. 585, §12, are further amended to read:

26 1. The superintendent may by order declare eligible for
28 export generally and without compliance with section 2004,
subsections 2, 3 and 4, ~~and section 2005,~~ any class or classes of
30 insurance coverage or risk for which ~~he~~ the superintendent finds,
after a hearing of which notice was given to each insurer
32 authorized to transact such class or classes in this State, that
there is not a reasonable or adequate market among authorized
34 insurers either as to acceptance of the risk, contract terms, or
premium or premium rate. Any such order shall continue in effect
36 during the existence of the conditions upon which predicated, but
subject to earlier termination by the superintendent.

38 2. The ~~broker~~ producer shall file with or as directed by
40 the superintendent a memorandum as to each such coverage placed
by ~~him~~ the producer in an unauthorized insurer, in such form and
42 context as the superintendent may reasonably require for the
identification of the coverage and determination of the tax
44 payable to the State relative thereto.

46 Sec. 51. 24-A MRSA §2006, sub-§3, as enacted by PL 1969, c.
132, §1, is amended to read:

48 3. ~~The broker, or a licensed Maine agent of the authorized~~
50 ~~insurer or a general lines broker,~~ A producer may also place with

2 authorized insurers any insurance coverage made eligible for
3 export generally under subsection 1, and without regard to rate
4 or form filings ~~which that~~ may otherwise be applicable as to the
5 authorized insurer. As to coverages so placed in an authorized
6 insurer the premium tax thereon shall must be reported and paid
by the insurer as required generally under the law of this State.

8 **Sec. 52. 24-A MRSA §2007**, as amended by PL 1973, c. 585, §12,
9 is further amended to read:

10 **§2007. Eligible surplus lines insurers**

12 1. A ~~broker-shall~~ producer may not knowingly place surplus
13 lines insurance with an insurer that is unsound financially, or
14 that is ineligible under this section.

16 2. The superintendent shall from time to time publish a
17 list of all surplus lines insurers ~~deemed determined~~ by ~~him the~~
18 superintendent to be eligible currently, and shall mail a copy of
19 such list to each ~~broker producer~~ at ~~his the producer's~~ office
20 last of record with the superintendent. This subsection shall
21 ~~not--be--deemed~~ may not be construed to cast upon the
22 superintendent the duty of determining the actual financial
23 condition or claims practices of any unauthorized insurer; and
24 the status of eligibility, if granted by the superintendent,
25 shall may indicate only that the insurer appears to be sound
26 financially and to have satisfactory claims practices, and that
27 the superintendent has no credible evidence to the contrary.
28 While any such list is in effect, the ~~broker producer~~ shall
29 restrict to the insurers so listed all surplus lines business
30 placed by ~~him the producer~~.

32 **Sec. 53. 24-A MRSA §2008**, as enacted by PL 1969, c. 132, §1,
33 is amended to read:

34 **§2008. Evidence of the insurance; changes; penalty**

36 1. Upon placing a surplus lines coverage, the ~~broker~~
37 producer shall promptly issue and deliver to the insured evidence
38 of the insurance consisting either of the policy as issued by the
39 insurer, or, if such policy is not then available, the surplus
40 lines ~~broker's producer's~~ certificate. Such a certificate shall
41 must be executed by the ~~broker producer~~ and shall show the
42 description and location of the subject of the insurance,
43 coverage, conditions and term of the insurance, the premium and
44 rate charged and taxes collected from the insured, and the name
45 and address of the insured and insurer. If the direct risk is
46 assumed by more than one insurer, the certificate shall must
47 state the name and address and proportion of the entire direct
48 risk assumed by each such insurer.
49
50

2 2. ~~No--broker--shall~~ A producer may not issue any such
4 certificate or any cover note, or purport to insure or represent
that insurance will be or has been granted by any unauthorized
6 insurer, unless he the producer has prior written authority from
the insurer for the insurance, or has received information from
8 the insurer in the regular course of business that such insurance
has been granted, or an insurance policy providing the insurance
10 actually has been issued by the insurer and delivered to the
insured.

12 3. If, after the issuance and delivery of any such
14 certificate, there is any change as to the identity of the
insurers, or the proportion of the direct risk assumed by an
insurer as stated in the broker's producer's original
16 certificate, or in any other material respect as to the insurance
evidenced by the certificate, the broker producer shall promptly
18 issue and deliver to the insured a substitute certificate
accurately showing the current status of the coverage and the
20 insurers responsible thereunder under the certificate.

22 4. If a policy issued by the insurer is not available upon
24 placement of the insurance and the broker producer has issued and
delivered his the certificate as hereinabove provided in this
section, upon request therefor--by of the insured the broker
26 producer shall as soon as reasonably possible procure from the
insurer its policy evidencing such the insurance and deliver such
28 the policy to the insured in replacement of the broker's
producer's certificate theretofore--issued.

30 5. Any producer with surplus lines broker authority who
32 knowingly or negligently issues a false certificate of insurance
or who fails promptly to notify the insured of any material
34 change with respect to such insurance by delivery to the insured
of a substitute certificate as provided in subsection 3, shall
36 upon conviction, be is subject to the penalty provided by section
12 or to any greater applicable penalty otherwise provided by law.

38 Sec. 54. 24-A MRSA §2009, as amended by PL 1973, c. 585, §12,
40 is further amended to read:

42 **§2009. Identification and notice on contract**

44 Every insurance contract procured and delivered as a surplus
lines coverage pursuant to this chapter shall have stamped upon
46 it, and bearing the name of the producer with surplus line-broker
lines authority who procured it, the following:

48

"This insurance contract is issued pursuant to the Maine Insurance Laws by an insurer neither licensed by nor under the jurisdiction of the Maine Insurance Bureau of Insurance."

Sec. 55. 24-A MRSA §2011, as enacted by PL 1969, c. 132, §1, is amended to read:

§2011. Insurer's liability for losses and unearned premiums

1. As to a surplus lines risk which that has been assumed by an unauthorized insurer pursuant to this chapter, and if the premium ~~thereon~~ has been received by the producer with surplus lines ~~broker~~ authority who placed such insurance, in all questions ~~thereafter~~ arising under the coverage as between the insurer and the insured the insurer ~~shall-be~~ is deemed to have received the premium due to it for such coverage; and the insurer ~~shall-be~~ is liable to the insured as to losses covered by such insurance, and for unearned premiums which that may become payable to the insured upon cancellation of such insurance, whether or not in fact the ~~broker~~ producer is indebted to the insurer with respect to ~~such the~~ insurance or for any other cause.

2. Each unauthorized insurer assuming a surplus lines risk under this chapter ~~shall-be~~ is deemed ~~thereby~~ to have subjected itself to the terms of this section.

Sec. 56. 24-A MRSA §2012, as amended by PL 1997, c. 457, §§33 and 34 and affected by §55, is further amended to read:

§2012. Surplus lines authority

1. Any person while licensed in this State as a resident ~~general-lines agent or as a general-lines broker~~, producer who is deemed determined by the superintendent to be competent and trustworthy with respect to the handling of surplus lines, and while maintaining an office at a designated location in this State, may be licensed as a producer with surplus lines ~~broker~~ authority.

2. Application for the ~~license-shall~~ authority must be made to the superintendent on forms as designated and furnished by the superintendent.

3. The ~~license~~ application and authority fee shall must be as specified in section 601 ~~(fee-schedule)~~.

4. The ~~license-and-licensee-are~~ producer with surplus lines authority is subject to the applicable provisions of chapter 16.

2 5. A nonresident producer who is considered by the
superintendent to be competent and trustworthy with respect to
4 the handling of surplus lines may apply for ~~licensure--as--a~~
surplus lines ~~broker~~ authority under the following circumstances:

6 A. If the nonresident maintains a business location within
this State and maintains all records of surplus lines
8 transactions within this State; or

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

16 **Sec. 57. 24-A MRSA §2013**, as amended by PL 1997, c. 457, §35
and affected by §55, is further amended to read:

18 **§2013. License suspension or revocation**

20 1. Notwithstanding Title 5, chapter 375, subchapter VI, the
22 superintendent may, after notice and opportunity for hearing,
deny, revoke, suspend or limit the permissible activities under
24 any surplus lines ~~broker's license~~ authority:

26 A. If the ~~broker~~ producer fails to remit the tax as
required by section 2016;

28 B. If the ~~broker~~ producer fails to maintain an office in
30 this State, or to keep the records, or to allow the
superintendent to examine those records as required by this
32 law, or if the ~~broker~~ producer removes those records from
the State when prohibited;

34 C. If the ~~broker~~ producer places a surplus lines coverage
36 in an insurer other than as authorized under section 2007;

38 D. For any other applicable cause for which a general lines
agent's license may be suspended or revoked; or

40 E. If the ~~broker~~ producer assists any person or persons not
42 licensed as producers with surplus lines ~~brokers~~ authority
by serving as a reporting ~~broker~~ producer for purposes of
44 section ~~2005~~, 2015 or 2016 with respect to insurance
coverage not procured by the ~~broker~~ producer.

46 2. The procedures provided by chapter 16 for suspension or
48 revocation of licenses apply to suspension or revocation of a
surplus lines ~~broker's license~~ authority.

3. Upon a ruling by the Administrative-Court superintendent
suspending or revoking a broker's producer's surplus lines
license authority the superintendent may file-a-complaint-with
the-Administrative-Court-seeking-the-suspension-or-revocation-of
suspend or revoke all other licenses or authorities held by the
same individual under this Title.

Sec. 58. 24-A MRSA §2014, as enacted by PL 1969, c. 132, §1,
is amended to read:

§2014. Producer's surety bond

A licensed producer with surplus lines broker authority may
accept and place surplus line business for any insurance agent-or
broker producer licensed in this State for the kind of insurance
involved, and may compensate the agent--or--broker--therefor
producer for the business.

Sec. 59. 24-A MRSA §2015, as amended by PL 1997, c. 457, §36,
is further amended to read:

§2015. Record of procured coverages

1. Each broker producer shall keep in his the producer's
office in this State a full and true record of each surplus lines
coverage procured by him the producer, including a copy of each
daily report, if any, a copy of each certificate of insurance
issued by-him, books of account in which financial entries are
recorded respecting these transactions and such of the following
items as may be applicable:

A. Amount of the insurance;

B. Gross premium charged;

C. Return premium paid, if any;

D. Rate of premium charged upon the several items of
property;

E. Effective date of the contract, and the terms thereof of
the contract;

F. Name and address of each insurer on the direct risk and
the proportion of the entire risk assumed by such insurer,
if less than the entire risk;

G. Name and address of the insured;

2 H. Brief general description of the property or risk
insured and where located or to be performed; and

4 I. Other information as may be required by the
superintendent.

6
8 2. The record may not be removed from this State, except in
the case of a nonresident licensed as a producer with surplus
lines ~~broker~~ authority for the purpose of transacting liability
10 insurance business on behalf of a registered purchasing group,
and must be open to examination by the superintendent at all
12 times within 5 years after issuance of the coverage to which it
relates. For the purpose of investigation or examination by the
14 superintendent, records may be maintained in electronic form.

16 **Sec. 60. 24-A MRSA §2016, sub-§1, as amended by PL 1997, c.**
457, §37, is further amended to read:

18
20 1. Each ~~broker~~ producer shall maintain in the ~~broker's~~
producer's office within the State a monthly report showing the
22 amount of insurance placed for any person or organization, the
location of each risk, the gross premium charged, the name of
24 each insurer with which 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
26 superintendent. The report must show in the same detail each
contract cancelled during the month covered by the report and the
28 return premium on it. The monthly report must be made available
to the superintendent for examination at the ~~broker's~~ producer's
30 office location in the State at any time or by delivery to the
bureau upon 5 days' notice by the superintendent.

32
34 Within 45 days of the end of each calendar quarter, the ~~broker~~
producer shall pay to the Treasurer of State 3% of the difference
36 between the gross premiums and the return premiums reported for
the business transacted during the preceding calendar quarter.

38 **Sec. 61. 24-A MRSA §2018, as amended by PL 1991, c. 674, §2,**
is further amended to read:

40 **§2018. Failure to file statement or pay tax**

42
44 If any ~~broker~~ producer fails to ~~file the monthly statement~~
~~or fails to~~ remit the tax provided by section 2016 within 30 days
46 after the tax is due, the superintendent may, following an
adjudicatory hearing, assess a penalty of not less than \$25 for
48 each day of delinquency. Any fine collected by the
superintendent must be paid to the Treasurer of State and
credited to the Insurance Regulatory Fund.

2 **Sec. 62. 24-A MRSA §2019, sub-§§2 and 3**, as amended by PL 1973,
c. 585, §12, are further amended to read:

4 2. Before the surplus lines insurer may do business in this
6 State, each insurer shall appoint an agent to receive service of
7 legal process issued against it in this State. The insurer shall
8 file with the superintendent a copy of the appointment. The
9 notice to the superintendent must be accompanied by a copy of a
10 resolution of the board of directors or like governing body of
11 the insurer, if an incorporated insurer, showing that those
12 officers who executed the appointment were duly authorized to do
13 so on behalf of the insurer. Service of legal process against
14 the insurer may be made in any such action by service of 2 copies
15 thereof upon the superintendent, and payment of the service of
16 process fee specified in section 601 (fee schedule) the
17 designated agent. The superintendent shall forthwith mail a copy
18 of the process served to the person designated by the insurer in
19 the policy for the purpose, by prepaid registered or certified
20 mail with return receipt requested. If no such person agent is
21 so designated in the policy, the superintendent shall in like
22 manner mail, service of legal process against the insurer may be
23 made by mailing a copy of the process to the broker producer
24 through whom such insurance was procured, or to the insurer at
25 its principal place of business, addressed to the address of the
26 broker producer or insurer, as the case may be, last of record
27 with the superintendent. Upon service of process upon the
28 superintendent in accordance with this provision, the court shall
be is deemed to have jurisdiction in personam of the insurer.

30 3. An unauthorized insurer issuing such policy ~~shall be is~~
31 ~~deemed thereby to have authorized service of process against it~~
32 ~~in the manner and to the effect as provided in this section. Any~~
33 ~~such policy shall must contain a provision stating the substance~~
34 ~~of this section, and designating the person to whom the~~
35 ~~superintendent shall mail process must be served as provided in~~
36 ~~subsection 2 of this section.~~

38 **Sec. 63. 24-A MRSA §2020**, as amended by PL 1995, c. 329, §31,
is further amended to read:

40 **§2020. Producer's surety bond**

42 1. Every applicant for a surplus lines ~~broker's license~~
43 ~~producer's authority~~ shall file with the superintendent evidence
44 of a bond in favor of the State executed by an authorized surety
45 insurer. The bond is conditioned upon full accounting and due
46 payment to the person entitled to the bond of funds coming into
47 the surplus lines ~~broker's~~ producer's possession through
48 insurance transactions under the license. The bond may be

continuous in force and aggregate liability on the bond is limited to payment of not less than \$20,000.

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

Sec. 64. 24-A MRSA §2160, sub-§2, as enacted by PL 1997, c. 457, §38, is amended to read:

2. **Benefit not associated with indemnification or loss.** Unless otherwise provided by law, a provision may not be included within an insurance policy if the sole intent of the provision is to give to the insured a benefit that is not associated with indemnification or loss. This subsection does not apply to annuities.

Sec. 65. 24-A MRSA §2385-C, sub-§§2 to 4, as enacted by PL 1991, c. 885, Pt. B, §12 and affected by §13, are amended to read:

2. **Standards for workplace health and safety consultations.** The superintendent shall, in consultation with the Department of Labor, may adopt rules establishing the standards for approval of workplace health and safety consultations provided to employers by insurance carriers, including provision of adequate facilities, qualifications of persons providing the consultations, specialized techniques and professional services to be used and educational services to be offered to employers.

3. **Required coverage and premium.** All insurance carriers writing workers' compensation coverage in the State shall offer workplace health and safety consultations to each employer as part of the workers' compensation insurance policy. ~~The premium for the workplace health and safety consultation must be identified as a separate amount that must be paid.~~

4. **Optional purchase from another provider.** An employer may elect to purchase workplace health and safety consultation services from a provider other than the insurer. ~~Upon submission by the employer of a certificate of completion of workplace health and safety consultation services from another approved provider, the insurance carrier must refund to the employer the~~

2 ~~portion of the premium attributable to the workplace health and~~
3 ~~safety consultation.~~

4 Sec. 66. 24-A MRSA §4124, as repealed and replaced by PL
5 1977, c. 682, §5, is amended to read:

6
7 **§4124. Licenses**

8
9 ~~Societies which are now authorized to transact business in~~
10 ~~this State may continue such business until the first day of~~
11 ~~January, 1970. The authority of these societies and all societies~~
12 ~~hereafter licensed may thereafter be renewed biennially but in~~
13 ~~all cases to terminate on the first day of the succeeding July or~~
14 ~~at those other times which the Commissioner of Business~~
15 ~~Regulation shall designate. A license so issued shall continue~~
16 must be issued to each fraternal benefit society that qualifies
17 under this chapter. The license continues in full force and
18 effect until the new license is issued or specifically refused
19 suspended or revoked by the superintendent. For each license or
20 renewal Upon issuance of the license and annually thereafter the
21 society shall pay the superintendent a fee which shall be that is
22 the same as for an insurer as provided in section 601. A duly
23 certified copy or duplicate of such license shall be is prima
24 facie evidence that the licensee is a fraternal benefit society
25 within the meaning of this chapter. On or before July 1st of
26 each year, the superintendent shall forward to each fraternal
27 benefit society an itemized bill of the amount due for the filing
28 of the annual statement and the amount due for the certificate of
29 authority annual fee.

30
31 Sec. 67. 24-A MRSA §4129, as amended by PL 1997, c. 457, §49,
32 is further amended to read:

33 **§4129. Service of process**

34
35 Every society authorized to do business in this State shall
36 appoint in writing ~~a licensed attorney~~ an agent located in the
37 State ~~to act as its true and lawful attorney~~ upon whom all lawful
38 process in any action or proceeding against it is served and
39 shall agree in writing that any lawful process against it ~~which~~
40 that is served on the ~~attorney agent~~ is of the same legal force
41 and validity as if served upon the society and that the authority
42 continues in force so long as any liability remains outstanding
43 in this State. Copies of such appointment certified by the
44 appointed ~~attorney agent~~ are deemed sufficient evidence of the
45 appointment and may be admitted in evidence with the same force
46 and effect as the original.

47
48 Service may only be made upon the appointed ~~attorney~~ agent
49 or, if absent, upon the person in charge. It must be made in

duplicate and constitutes sufficient service upon the society. When legal process against a society is served upon the appointed attorney agent, the appointed attorney agent shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. Legal process may not be served upon a society except is as provided in this section.

Sec. 68. 24-A MRSA §4134, sub-§1, as amended by PL 1973, c. 585, §12, is further amended to read:

1. Every society transacting business in this State shall annually, on or before the 1st first day of March, unless for cause shown such time has been extended by the superintendent, file with the superintendent a true statement of its financial condition, transactions and affairs for the preceding calendar year ~~and pay a fee of \$50 for filing same~~. The statement shall must be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the superintendent. The fee for filing the annual statement is the same as for an insurer as provided in section 601.

Sec. 69. 24-A MRSA §4216, sub-§1, as amended by PL 1989, c. 842, §17, is further amended to read:

1. The Notwithstanding Title 4, section 1151 and Title 5, section 10051, the superintendent may file a complaint with the Administrative Court seeking the suspension or revocation of any suspend or revoke a certificate of authority issued to a health maintenance organization under this chapter if he the superintendent finds that any of the following conditions exist after a hearing held in accordance with Title 5, chapter 375, subchapter IV:

A. The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under section 4203, unless amendments to such submissions have been filed with and approved by the superintendent;

B. The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which that do not comply with the requirements of section 4207;

C. The health maintenance organization does not provide or arrange for basic health care services;

2 D. The Commissioner of Human Services certifies to the
superintendent that:

4 (1) The health maintenance organization does not meet
the requirements of section 4204, subsection 1,
6 paragraph B; or

8 (2) The health maintenance organization is unable to
fulfill its obligations to furnish health care
10 services;

12 E. The health maintenance organization is no longer
financially responsible and may reasonably be expected to be
14 unable to meet its obligations to enrollees or prospective
enrollees;

16 F. The health maintenance organization has failed to
implement a mechanism affording the enrollees an opportunity
18 to participate in matters of policy and operation under
section 4206;

20 G. The health maintenance organization has failed to
implement the complaint system required by section 4211 in a
22 manner to reasonably resolve valid complaints;

24 H. The health maintenance organization, or any person on
its behalf, has advertised or merchandised its services in
26 an untrue, misrepresentative, misleading, deceptive or
unfair manner;

28 I. The continued operation of the health maintenance
organization would be hazardous to its enrollees;

30 I-1. The health maintenance organization has failed to meet
the surplus requirements of section 4204-A; or

32 J. The health maintenance organization has otherwise failed
to substantially comply with this chapter.

34 Sec. 70. 24-A MRSA §4219, sub-§1, as repealed and replaced by
PL 1977, c. 694, §436, is amended to read:

36 1. When the superintendent has cause to believe that
38 grounds exist for ~~the filing of a complaint seeking~~ the
suspension or revocation of a certificate of authority, he the
40 superintendent shall notify the health maintenance organization
and the Commissioner of Human Services in writing specifically
42 stating the grounds for suspension or revocation. The
Commissioner of Human Services, or his the commissioner's
44 designated representative, shall participate in any disciplinary
46
48
50

proceedings. In the process of determining whether grounds for suspension or revocation exist the findings of the commissioner with respect to matters relating to the quality of health care services provided ~~shall-be~~ are conclusive and binding upon the Superintendent of Insurance. The duration of and conditions attached to any suspension ~~shall--be~~ are determined by the ~~Administrative--Court~~ superintendent after a hearing held in accordance with Title 5, chapter 375, subchapter IV.

Sec. 71. 24-A MRSA §6095, sub-§1, as enacted by PL 1987, c. 481, §3, is amended to read:

1. Notice of operations and designation of agent for service of process. Before offering insurance in this State, a risk retention group shall submit to the superintendent:

A. A statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, the date of chartering and organization, its principal place of business and such other information, including information on its membership, as the superintendent may require to verify that the risk retention group is qualified under section 6093, subsection 13;

B. A copy of its plan of operation or a feasibility study and applicable revisions of the plan or study submitted to its state of domicile, provided that the provision relating to the submission of a plan of operation or a feasibility study ~~shall~~ does not apply with respect to any line or classification of liability insurance ~~which that~~ was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and was offered before that date by any risk retention group ~~which that~~ had been chartered and operating for not less than 3 years before that date; and

C. A designation of the ~~superintendent as its~~ an agent for the purpose of receiving service of legal documents or process. That designation ~~shall--be~~ is subject to the provisions of section 421.

Sec. 72. 24-A MRSA §6098, sub-§2, as enacted by PL 1987, c. 481, §3, is amended to read:

2. Registration. The purchasing group shall register with ~~the superintendent~~ and designate ~~the--superintendent as--its~~ an agent solely for the purpose of receiving service of legal documents or process, except that the requirements ~~shall~~ do not apply in the case of a purchasing group:

A. ~~Which That~~ in any state of the United States:

- 2 (1) Was domiciled before April 2, 1986; and
4 (2) Is domiciled on and after October 27, 1986;

6 B. Which That:

- 8 (1) Before October 27, 1986, purchased insurance from
an insurance carrier licensed in any state; and
10
12 (2) Since October 27, 1986, purchased its insurance
from an insurance carrier licensed in any state;

14 C. Which That was a purchasing group under the requirements
of the Product Liability Retention Act of 1981 before
16 October 27, 1986; and

18 D. Which That does not purchase insurance that was not
authorized for purposes of an exemption under that Act, as
20 in effect before October 27, 1986. That designation shall
be subject to section 421.

22 Sec. 73. 24-A MRSA §6203, sub-§1, ¶B, as amended by PL 1995,
24 c. 625, Pt. A, §27, is further amended by amending subparagraph
(17) to read:

26 (17) A power of attorney duly executed by the
28 provider, if not domiciled in the State, appointing the
superintendent--as--the an agent for service of process
30 in any legal action brought;

32 Sec. 74. 24-A MRSA §6803, sub-§1, ¶D, as enacted by PL 1997,
c. 430, §1 and affected by §2, is amended to read:

34 D. A viatical settlement provider license issued to a
36 person authorizes all partners, officers and key management
personnel of that person to act on that person's behalf as
38 if these individuals are also licensed, unless such activity
requires a license under another provision of this Title.
These persons must be named in the application and any
40 supplements to the application and the authorization
terminates upon the expiration, suspension or revocation of
42 the license.

44 Sec. 75. 24-A MRSA §6803, sub-§§3 and 5, as enacted by PL 1997,
46 c. 430, §1 and affected by §2, are amended to read:

48 3. Renewal. A license for a viatical settlement provider
is renewed for one year upon payment of a continuous so long as
50 the licensee remains qualified. The viatical settlement provider

2 must pay an annual fee of \$400. Failure to pay the fee within
the terms prescribed may result in the revocation of the license
4 unless cured within 5 days of written notice of failure to pay to
the principal office of the licensee.

6 5. **Authority under license.** A license issued to any person
authorizes all officers, partners and key management personnel of
8 that person to act on behalf of the viatical settlement provider
~~or the independent viatical producer under the license , unless~~
10 such activity requires a license under another provision of this
Title. All officers, partners and key management personnel of
12 the person must be named in the application and any supplements
to the application. The licensed producer of a viatical
14 settlement provider must be regarded as in the place of the
viatical settlement provicer in all respects regarding the
16 solicitation of viatical settlements on behalf of the viatical
settlement provider. A producer authorized by a viatical
18 settlement provider is the provider's agent in all matters of
viatical settlements.

20
22 Sec. 76. 24-A MRSA §6803, sub-§7, ¶B, as enacted by PL 1997,
c. 430, §1 and affected by §2, is repealed.

24 Sec. 77. 24-A MRSA §6803, sub-§8, as enacted by PL 1997, c.
430, §1 and affected by §2, is amended to read:

26
28 8. **Nonresidents.** The superintendent may not issue a
license to a nonresident applicant unless a written designation
of an agent for service of process is filed and maintained with
30 the superintendent ~~or the applicant has filed with the~~
~~superintendent the applicant's written irrevocable consent that~~
32 ~~an action against the applicant may be commenced against the~~
~~applicant by service of process on the superintendent.~~

34
36 Sec. 78. 24-A MRSA §6803, sub-§9, as enacted by PL 1997, c.
430, §1 and affected by §2, is amended to read:

38 9. **List.** The superintendent shall maintain a complete list
of all viatical settlement providers ~~and independent viatical~~
40 ~~producers~~ licensed or with license pending in this State. The
list must be available upon request to the general public.

42
44 Sec. 79. 24-A MRSA §6806, sub-§1-A is enacted to read:

46 1-A. Fee for filing annual report. The fee for filing the
annual report is the same as for an insurer as provided in
section 601. On or before July 1st of each year, the
48 superintendent shall forward to each viatical settlement provider
an itemized bill for the amount due for the filing of the annual

statement and the amount due for the certificate of authority
annual fee.

SUMMARY

This bill corrects errors and inconsistencies and clarifies language in licensing laws for insurance licensees in the areas of service of process, fees, including failure to pay original or annual fees, agency licensing, examinations, surplus lines licensing and viatical settlements providers. The Maine Revised Statutes, Title 24-A, section 1431 has been repealed and similar language has been enacted as section 1441-A and section 1432 has been repealed and similar language has been enacted as section 1441-B. This bill also clarifies that a home service contract sold by a licensed real estate broker is not insurance and amends workplace health and safety policy provision requirements for insurers.