MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1806

S.P. 639

In Senate, March 10, 1999

An Act to Clarify the Definition and Licensure of Insurance Consultants, Financial Planners and Investment Advisors.

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

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator LaFOUNTAIN of York. Cosponsored by Representative SAXL of Bangor.

	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 24-A MRSA §1402, sub-§4, ¶¶B and C, as enacted by PL
4	1997, c. 457, $\S 23$ and affected by $\S 55$, are repealed.
6	Sec. 2. 24-A MRSA §1402, sub-§4, ¶D, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:
8	
10	D. "Consultant" does not include:
12	(1) An attorney licensed to practice who is actively practicing law in this State;
14	(2) An insurance actuary and member or associate of the Society of Actuaries or American Academy of
16	Actuaries;
18	(3) A public accountant certified under Title 32, chapter 113 or a certified public accountant who is
20	certified under Title 32, chapter 113 and in active
22	public practice; ex
24	(4) A licensed insurance producer who receives a fee in lieu of a commission pursuant to section 1450 if the insurance producer receives a fee for the insurance
26	transaction and not for other services provided; er
28	(5) A financial institution or a financial institution holding company if the insurance advice is given as
30	part of its trust department rendering insurance advice in a fiduciary capacity. : or
32	in a fiductary capacity+ 7 VI
34	(6) A person authorized to act as an investment advisor in accordance with Title 32, sections 10303 and 10304.
36	702041
	Sec. 3. 24-A MRSA §1411, sub-§3, ¶B, as enacted by PL 1997, c.
38	457, $\S 23$ and affected by $\S 55$, is amended to read:
40	B. A licensed insurance producer offering advice concerning a kind of insurance for which the insurance producer is
42	licensed to transact business and doesnotreceive a separate fee forrenderingsuchadviceotherthan
44	eemmissiens-er-fees for the-sale-ef-an-insurance-er-annuity
46	•
48	Sec. 4. 24-A MRSA §1445, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

- 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 <u>fees</u> or 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 or for selling trust packages, if the producer also recommends the purchase of an insurance policy upon which the producer will receive commissions, unless the producer is licensed as a consultant acting in compliance with consultant licensing laws or provides the required documentation in accordance with section 1466, subsection 2.
 - Sec. 5. 24-A MRSA §1466, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:
 - 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-sensultant-shall offset--fees--against--first-year--commissions--received--as--an insurance-producer-on-the-sale-of-insurance-

36 SUMMARY

Financial planners and investment advisors are regulated under the Maine Revised Statutes, Title 32. This bill eliminates duplicative regulation of financial planners and investment advisors under Title 24-A and brings Maine's definition of "insurance consultant" into conformity with the majority of other states.