

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1730

H.P. 1272

House of Representatives, March 21, 2001

**An Act to Adopt the National Association of Insurance Commissioners'
Model Insurance Producer Licensing Act.**

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.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MAYO of Bath.
Cosponsored by Senator LaFOUNTAIN of York and
Representatives: CANAVAN of Waterville, CRESSEY of Baldwin, DUDLEY of Portland,
MARRACHE of Waterville, O'NEIL of Saco, SULLIVAN of Biddeford, YOUNG of
Limestone, Senator: ABROMSON of Cumberland.

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

Sec. 1. 24-A MRSA c. 16 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 16

PRODUCERS, ADJUSTERS AND CONSULTANTS

Sec. 2. 24-A MRSA §1401, sub-§1, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

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, viatical settlement providers and risk retention groups, except reinsurers.

Sec. 3. 24-A MRSA §1402, sub-§3, as amended by PL 1997, c. 592, §19, is repealed.

Sec. 4. 24-A MRSA §1402, sub-§3-A is enacted to read:

3-A. Business entity. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

Sec. 5. 24-A MRSA §1402, sub-§5, as amended by PL 1997, c. 592, §19, is repealed and the following enacted in its place:

5. Insurance producer. "Insurance producer" means a person required to be licensed under subchapter II-A to sell, solicit or negotiate insurance.

Sec. 6. 24-A MRSA §1402, sub-§6, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed.

Sec. 7. 24-A MRSA §1402, sub-§9, as amended by PL 1999, c. 270, §§1 and 2, is repealed.

Sec. 8. 24-A MRSA §1402, sub-§12, ¶C, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

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

2 Sec. 9. 24-A MRSA §1402, sub-§13, as enacted by PL 1997, c.
457, §23 and affected by §55, is repealed.

4 Sec. 10. 24-A MRSA c. 16, sub-c. II is amended by repealing the
subchapter headnote and enacting the following in its place:

6
8 SUBCHAPTER II

10 GENERAL LICENSING REQUIREMENTS FOR
PRODUCERS, ADJUSTERS, CONSULTANTS AND
12 BUSINESS ENTITIES

14 Sec. 11. 24-A MRSA §1410 is enacted to read:

16 §1410. Prelicensing requirements

18 1. Written examination. Unless exempt, prior to filing an
application for a license with the superintendent, an individual
20 applying for a resident insurance producer, adjuster or
consultant license must pass a written examination. The
22 examination must test the knowledge of the individual concerning
the kinds of insurance for which the application is made, the
24 duties and responsibilities of an insurance producer, adjuster or
consultant and the insurance laws and rules of this State.

26 2. Examination content. The examination may be
administered as a 2-part examination. If a 2-part examination is
28 administered, one part of the examination must test the
applicant's knowledge as to the kinds of insurance for which the
30 application is made and the other part must test the individual's
knowledge of the duties and responsibilities of an insurance
32 producer, adjuster or consultant and the insurance laws and rules
of this State. The producer examination must be administered in
34 accordance with subchapter II-A, the consultant examination in
accordance with subchapters III and V and the adjuster
36 examination in accordance with subchapters III and VI.

38 3. Outside testing service. The superintendent may make
arrangements, including contracting with an outside testing
40 service, for administering examinations. The applicant shall pay
any fees for the services of any independent testing service
42 designated by the superintendent. An individual who fails to
appear for the examination as scheduled or fails to pass the
44 examination shall reapply for an examination and remit all
required fees and forms before being rescheduled for another
46 examination.

48 4. Education requirements. An applicant for examination
for a resident producer license with any of the major lines of
50 authority pursuant to section 1420-F, subsection 1, paragraphs A

2 to F must have completed the education requirements prescribed by
4 either paragraph A or B within 2 years prior to the date the
6 application for license is filed with the superintendent.

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

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

26 5. Experience required. An applicant for examination for a
28 consultant license must have had not less than 5 years of actual
30 experience with respect to the kinds of insurance and contracts
32 to be covered by the license.

34 6. Examination results. Within 30 days after an individual
36 completes the examination, the superintendent or any independent
38 testing service designated by the superintendent shall inform the
40 individual whether or not the individual has passed. An
42 individual who fails the examination must remit the required fees
44 before being rescheduled for another examination. An individual
46 who fails one part of a 2-part examination must pay the full
48 examination fee but need only be examined on the part of the
50 examination that the individual failed. An individual who does
not apply for a license within 2 years after passing one part or
all of an examination must register and pay the fee for a
subsequent examination.

7. Separate examination for each category. An applicant
for more than one kind of license or for more than one authority
under a license must be separately examined for each category of
license or authority and shall pay a separate examination fee for
each examination. Nothing in this section prohibits the giving
of all required examinations to a particular applicant on the
same day.

8. Variable contract license. An applicant for a variable
contract license, in addition to passing an examination required
for a resident producer's license with life authority in
accordance with subchapter II-A, must have successfully completed
the minimum requirements of a national association of securities
dealers for the sale of variable contracts.

Sec. 12. 24-A MRSA §1411, sub-§1, as enacted by PL 1997, c.
457, §23 and affected by §55, is amended to read:

2 **1. Producer.** A person may not act as or purport to be an
4 insurance producer or limited insurance producer or engage in
6 producer activities with respect to insurance risks resident,
8 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~~ subchapter II-A.

10 **Sec. 13. 24-A MRSA §1412, sub-§§1 and 2,** as enacted by PL 1997,
c. 457, §23 and affected by §55, are amended to read:

12 **1. License revocation.** A person whose license as an
14 insurance producer, consultant or adjuster has been revoked,
suspended, denied for cause or voluntarily surrendered to avoid
16 prosecution in this State may not participate in any manner in
the conduct of an insurance business entity, whether an agency or
insurance brokerage, or consulting or adjusting business.

18 **2. Compensation.** A person whose license as an insurance
20 producer, consultant or adjuster has been revoked, suspended,
denied for cause or voluntarily surrendered to avoid prosecution
22 may not derive any compensation, by whatever name called, based
on the operation of the insurance ~~agency or other firm~~ business
24 entity in which the person was engaged or employed prior to the
revocation, suspension, denial or surrender of license. This
26 subsection does not prohibit a person from receiving compensation
for activities that the person engaged in prior to any loss of
28 license referred to in this section, nor does it prohibit any
person from divesting an interest in an insurance company or
30 agency for value.

32 **Sec. 14. 24-A MRSA §1413,** as amended by PL 1999, c. 270, §3,
is further amended to read:

34 **§1413. License requirement for business entities**

36 **1. License required.** ~~An agency~~ A business entity, whether
38 it has a location in this State or not, must be licensed as an
insurance producer, adjuster or consultant agency business entity
40 in order to authorize individual licensees to act on the agency's
entity's behalf by engaging in insurance producer, adjuster or
42 consultant activities or in order to use the name of the agency
business entity in insurance-related advertising in the State.
44 ~~An agency~~ A business entity has no authority to act on its own
without an individual licensee. A license authority held by an
46 individual licensee employed by ~~an agency~~ a business entity does
not transfer to other employees within that agency business
48 entity. Licensure of a nonresident agency business entity does
not depend upon the agency's entity's maintaining ~~an agency a~~
50 business entity license in another state. Agency Business entity

licensees are subject to the standards of section 407, subsection 2, 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 June 11, 1997.~~

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

3. **Responsible person.** Each officer or director of a corporation, each officer and member of a limited liability company and each partner of a partnership who is acting as an insurance producer, adjuster or consultant shall obtain an insurance producer, adjuster, or consultant license. Officers, members and partners do not have to be individually licensed if they are not engaging in producer activities, are not acting as consultants or adjusters and are not being compensated based upon the volume of insurance business transacted. ~~At least one officer, member or partner must be licensed and individual licensee must be~~ designated responsible for the ~~organization's~~ business entity's compliance with the insurance laws and rules of this State. The responsible person shall ensure that every individual acting in the name of the agency entity does not act beyond the scope of that individual's license. The designated responsible person for each agency business entity 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 entity. The agency business entity shall notify the superintendent, within 14 days of every change of the designated licensed person responsible for the ~~organization's~~ entity's compliance with laws and rules of this State. The designated responsible person is responsible for all correspondence with the agency business entity from the superintendent. If the responsible person in an ~~agency~~ a business entity loses that person's license, the agency business entity license terminates if a new person is not designated as responsible for the agency business entity within 14 days. ~~If another officer, member or partner is not licensed as an insurance producer at the time the designated responsible person leaves the agency, the agency may designate another licensed person to be the responsible person for a period of 90 days or until another officer, member or partner becomes licensed, whichever is less. The superintendent may extend this time period for good cause.~~

4. **Authority.** Whenever an ~~agency~~ a business entity changes the individuals designated to act in the name of the agency entity, the agency entity shall notify the superintendent within 30 days of those changes.

2 **5. Resident branch offices.** A resident agency business
entity establishing more than one place of business in this State
4 must procure ~~an-agency~~ a business entity branch registration for
each location within the State. A resident branch office is any
6 office location other than the location of the licensed agency
business entity that regularly conducts insurance business or
8 that is advertised as a location where the public may contact the
agency business entity or its employees concerning insurance
10 services. An office location that meets this definition that is
itself a separate legal entity from the licensed agency business
12 entity must obtain a separate agency business entity license and
can not be registered as a branch office. The licensed person
14 designated as responsible for the agency business entity is
responsible for all branch locations.

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

26
 8. Motor vehicle rental company. A rental company that
28 primarily provides rental of motor vehicles to the public under a
rental agreement that includes travel, baggage, liability or
30 other related insurance coverage purchased by an individual in
connection with and incidental to the rental of a motor vehicle,
32 whether at the rental office or by preselection of coverage by
the individual, shall obtain a limited insurance producer license
34 under this chapter, and at least one employee at each office of
the rental company located in the State shall obtain a limited
36 insurance producer license.

38 **Sec. 15. 24-A MRSA §1414,** as enacted by PL 1997, c. 457, §23
and affected by §55, is repealed and the following enacted in its
40 place:

42 **§1414. Trade names**

44 A licensee doing business under any name other than the
licensee's legal name is required to notify the superintendent
46 prior to using the trade name.

48 **Sec. 16. 24-A MRSA §1415, sub-§1,** as amended by PL 1997, c.
592, §21, is further amended to read:

50

1. **Producer authorities.** An individual resident or nonresident insurance producer may receive the---following authorities---under---the---license+ any of the full license authorities pursuant to section 1420-F, subsection 1, paragraphs A to F, in addition to independent producer authority in accordance with section 1450, and surplus lines authority in accordance with chapter 19.

A+---Property-and-casualty+;

B+---Life-and-health+;

C+---Variable-contract+;

D+---Independent-producer+;-or

E+---Surplus-lines+.

Sec. 17. 24-A MRSA §1416, sub-§1, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

1. **Limited license.** The superintendent may issue to an applicant qualified under this chapter a limited insurance producer license as--defined-in-section-1402, in the areas of authority listed as such in section 1420-F.

Sec. 18. 24-A MRSA §1416-A is enacted to read:

§1416-A. License continuation or termination

1. **License for indefinite term.** Each license issued under this chapter continues in force continuously, unless suspended, revoked or otherwise terminated by the superintendent, as long as any applicable fee set forth in section 601 is paid and education requirements for resident licensees are met by the due date.

2. **Biennial license continuation fees.** Each nonresident adjuster and consultant must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by January 1st of even-numbered years. Each nonresident producer with an independent producer authority must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by February 1st of odd-numbered years. Each nonresident business entity must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by April 1st of odd-numbered years. Each resident adjuster, consultant and producer with independent producer authority must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by October 1st of even-numbered years. Each resident business

entity must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by December 1st of even-numbered years.

3. Suspension or revocation. Failure to pay the required fees by a licensee within 90 days from the due date results in suspension or revocation of the license pursuant to section 1417, for violating the insurance laws pursuant to section 1420-K, subsection 1, paragraph B.

Sec. 19. 24-A MRSA §1417, sub-§1, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

1. Suspension, revocation, probation, denial. Notwithstanding Title 5, chapter 375, subchapter VI, the superintendent may, after notice and opportunity for hearing, deny, revoke, suspend, place on probation or limit the permissible activities under any license issued under this chapter, including agency business entity licenses, or any surplus lines broker license if the superintendent finds that, as to the applicant or licensee, any of the following causes exist: that are listed in section 1420-K, and that for purposes of this section apply to adjusters and consultants as well as producers.

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

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

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

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

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

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

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

2 ~~H.---If-in-the-conduct-of-the-licensee's-affairs-under-the~~
3 ~~license,--the--licensee-has-used-fraudulent,--coercive,--or~~
4 ~~dishonest-practices,--or-has-been-shown-to-be-incompetent,~~
5 ~~untrustworthy,--financially--irresponsible--or--a--source--of~~
6 ~~injury-and-loss-to-the-public.~~

8 **Sec. 20. 24-A MRSA §1417, sub-§2,** as enacted by PL 1997, c.
9 457, §23 and affected by §55, is repealed.

10 **Sec. 21. 24-A MRSA §1417, sub-§4,** as amended by PL 1997, c.
11 592, §§22 and 23, is repealed.

12 **Sec. 22. 24-A MRSA §1418, sub-§§2 and 3,** as enacted by PL 1997,
13 c. 457, §23 and affected by §55, are amended to read:

14 **2. Ineligibility for relicensing.** A person whose license
15 has been revoked twice pursuant to section 1417 or section 1420-K
16 may not again be eligible for any license under this Title.

17 **3. Business entity relicensing.** If the license of an
18 agency a business entity is suspended or revoked pursuant to
19 section 1417 or section 1420-K, an officer, director or member of
20 that agency entity may not be licensed as an insurance producer,
21 adjuster or consultant during the period of that suspension or
22 revocation unless the superintendent determines that member,
23 officer or director was not personally at fault and did not
24 acquiesce in the matter for which the license was suspended or
25 revoked.

26 **Sec. 23. 24-A MRSA §1419,** as amended by PL 1997, c. 592, §24,
27 is further amended to read:

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

29 Unless a different time is set by another provision of law,
30 any change of business address, business telephone number, name
31 or other material change in the conditions or qualifications set
32 forth in the original application of a ~~producer,--adjuster,~~
33 ~~consultant--or--agency~~ licensee must be reported to the
34 superintendent no later than 30 days after the change. This
35 requirement includes any conviction of a crime other than a
36 traffic violation or any disciplinary action brought by an
37 insurance regulatory official of any other jurisdiction against
38 the licensee or against any officer, director, member or partner
39 in ~~an-agency~~ a business entity. A licensee shall report to the
40 superintendent any administrative action taken against the
41 licensee in another jurisdiction or by another governmental
42 agency in this State within 30 days of the final disposition of
43 the matter. This report must include a copy of the order,
44

consent to order or other relevant legal documents. Within 30 days of the initial pretrial hearing date, a licensee shall report to the superintendent any criminal prosecution of the licensee taken in any jurisdiction. The report must include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents. If any notice of the change required under this section is received after the prescribed time period, 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 previous consent order or agreement issued by the superintendent for failure to notify the superintendent of address change may be considered payment of a late fee and not considered a disciplinary action upon request by the licensee. This section does not negate the superintendent's authority to bring an action under any other applicable provision of law.~~

Sec. 24. 24-A MRSA c. 16, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

MAINE PRODUCER LICENSING ACT

§1420. Short title; scope and application

1. Short title. This subchapter may be known and cited as the "Maine Producer Licensing Act."

2. Scope and application. This subchapter governs the qualifications and procedures for the licensing of insurance producers. It simplifies and organizes some statutory language to improve efficiency, permits the use of new technology and reduces costs associated with issuing and renewing insurance licenses. This subchapter does not apply to excess and surplus lines agents and brokers required to be licensed as producers with surplus lines authority pursuant to chapter 19, except as provided in sections 1420-G and 1420-O.

§1420-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Business entity.** "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

2. **Home state.** "Home state" means the District of Columbia and any state or territory of the United States that is the location of an insurance producer's principal place of residence or principal place of business, and in which that person is licensed to act as an insurance producer.

3. **Insurance.** "Insurance" has the same meaning as in section 3, and as the context may require, means any of the lines of authority in chapter 9, subchapter I.

4. **Insurance producer.** "Insurance producer" means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance.

5. **Insurer.** "Insurer" means a person engaged in the business of entering into contracts of insurance, as defined in section 3, and includes a health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group.

6. **License.** "License" means a document issued by the superintendent authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

7. **Limited line credit insurance.** "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the superintendent determines should be designated a form of limited line credit insurance.

8. **Limited line credit insurance producer.** "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy.

9. **Limited lines insurance.** "Limited lines insurance" means those lines of insurance defined as limited lines in

2 section 1420-F, subsection 1 or any other line of insurance that
3 the superintendent determines necessary to recognize for the
4 purposes of complying with section 1420-G, subsection 5.

6 10. Limited lines producer. "Limited lines producer" means
7 a person authorized by the superintendent to sell, solicit or
8 negotiate limited lines insurance.

10 11. Negotiate. "Negotiate" means the act of conferring
11 directly with or offering advice directly to a purchaser or
12 prospective purchaser of a particular contract of insurance
13 concerning any of the substantive benefits, terms or conditions
14 of the contract, provided that the person engaged in that act
15 either sells insurance or obtains insurance from insurers for
16 purchasers.

18 12. Person. "Person" means an individual or a business
19 entity.

20 13. Sell. "Sell" means to exchange a contract of insurance
21 by any means, for money or its equivalent, on behalf of an
22 insurance company.

24 14. Solicit. "Solicit" means attempting to sell insurance
25 or asking or urging a person to apply for a particular kind of
26 insurance from a particular company.

28 15. Terminate. "Terminate" means the cancellation of the
29 relationship between an insurance producer and the insurer or the
30 termination of a producer's authority to transact insurance.

32 16. Uniform business entity application. "Uniform business
33 entity application" means the uniform business entity application
34 for resident and nonresident business entities authorized by the
35 National Association of Insurance Commissioners, or its successor
36 organization.

38 17. Uniform application. "Uniform application" means the
39 uniform application for resident and nonresident producer
40 licensing authorized by the National Association of Insurance
41 Commissioners or its successor organization.

42 **§1420-B. License required**

44 A person may not sell, solicit or negotiate insurance in
45 this State for any class or classes of insurance unless the
46 person is licensed for that line of authority in accordance with
47 this subchapter.

48 **§1420-C. Exceptions to licensing**

2 1. Insurers. This subchapter may not be construed to
3 require an insurer to obtain an insurance producer license. In
4 this section, "insurer" does not include an insurer's officers,
5 directors, employees, subsidiaries or affiliates.

6
7 2. Exceptions. A license as an insurance producer is not
8 required of the following:

9
10 A. An officer, director or employee of an insurer or of an
11 insurance producer, only if that officer, director or
12 employee does not receive any commission on policies written
13 or sold to insure risks residing, located or to be performed
14 in this State and:

15 (1) The activities of the officer, director or
16 employee are executive, administrative, managerial,
17 clerical or a combination of these and are only
18 indirectly related to the sale, solicitation or
19 negotiation of insurance;

20
21 (2) The functions of officer, director or employee
22 relate to underwriting, loss control, inspection or the
23 processing, adjusting, investigating or settling of a
24 claim on a contract of insurance; or

25 (3) The officer, director or employee is acting in the
26 capacity of a special agent or agency supervisor
27 assisting insurance producers when the person's
28 activities are limited to providing technical advice
29 and assistance to licensed insurance producers and do
30 not include the sale, solicitation or negotiation of
31 insurance;

32
33 B. A person who secures and furnishes information for the
34 purpose of group life insurance, group property and casualty
35 insurance, group annuities, group or blanket accident and
36 health insurance; a person who secures and furnishes
37 information for the purpose of enrolling individuals under
38 plans, issuing certificates under plans or otherwise
39 assisting in administering plans; or a person who performs
40 administrative services related to mass marketed property
41 and casualty insurance without being paid a commission for
42 the service;

43 C. An employer or association or its officers, directors or
44 employees, or the trustees of an employee trust plan, to the
45 extent that the employer, officers, employees, directors or
46 trustees are engaged in the administration or operation of a
47 program of employee benefits for the employer's or
48 association's employees;

2 association's own employees or the employees of its
4 subsidiaries or affiliates, which program involves the use
6 of insurance issued by an insurer, as long as the employer,
8 association, officers, directors, employees or trustees are
10 not in any manner compensated, directly or indirectly, by
12 the company issuing the contracts;

14 D. Employees of insurers or organizations employed by
16 insurers who are engaging in the inspection, rating or
18 classification of risks, or in the supervision of the
20 training of insurance producers, and who are not
22 individually engaged in the sale, solicitation or
24 negotiation of insurance;

26 E. A person whose activities in this State are limited to
28 advertising without the intent to solicit insurance in this
30 State through communications in printed publications or
32 other forms of electronic mass media, whose distribution is
34 not limited to residents of the State, if the person does
36 not sell, solicit or negotiate insurance that would insure
38 risks residing, located or to be performed in this State;

40 F. A person who is not a resident of this State who sells,
42 solicits or negotiates a contract of insurance for
44 commercial property and casualty risks to an insured with
46 risks located in more than one state insured under that
48 contract, provided that that person is otherwise licensed as
an insurance producer to sell, solicit or negotiate that
insurance in the state where the insured maintains its
principal place of business and the contract of insurance
insures risks located in that state; or

G. A salaried full-time employee who counsels or advises
that person's employer relative to the insurance interests
of the employer or of the subsidiaries or business
affiliates of the employer if the employee does not sell or
solicit insurance or receive a commission.

§1420-D. Application for examination

40 1. Written examination. A resident individual applying for
42 an insurance producer license must pass a written examination
44 unless exempt pursuant to section 1420-H. The examination must
46 test the knowledge of the individual concerning the lines of
48 authority applied for, the duties and responsibilities of an
insurance producer and the insurance laws and regulations of this
State. The superintendent may adopt rules regarding the
development and administration of examinations required by this
section. Rules adopted pursuant to this section are routine

technical rules as defined in Title 5, chapter 375, subchapter II-A.

2. Outside testing service. The superintendent may make arrangements, including contracting with an outside testing service, for administering examinations and collecting any applicable fee set forth in section 601.

3. Fees. Each individual applying for an examination shall remit any applicable fee as prescribed by the superintendent as set forth in section 601.

4. Rescheduling. An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and must remit all required fees and forms before being rescheduled for another examination.

§1420-E. Application for license

1. Uniform application. An individual applying for a resident insurance producer license shall apply to the superintendent on the uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the superintendent must find that the individual:

A. Is at least 18 years of age;

B. Has not committed any act that is a ground for denial, suspension or revocation set forth in section 1420-K;

C. When required by the superintendent, has completed the prelicensing requirements for the lines of authority for which the person has applied, as set forth in section 1410;

D. Has paid any required fees set forth in section 601; and

E. Has successfully passed the examinations for the lines of authority for which the person has applied.

2. Uniform business entity application. A business entity acting as an insurance producer is required to obtain an insurance producer license. Application must be made using the uniform business entity application. Before approving the application, the superintendent must find that:

A. The business entity has paid any required fees set forth in section 601; and

2 B. The business entity has designated a licensed producer
4 responsible for the business entity's compliance with the
 insurance laws, rules and regulations of this State.

6 3. Verification. The superintendent may require any
 documents reasonably necessary to verify the information
8 contained in an application.

10 4. Instruction. Each insurer that sells, solicits or
 negotiates any form of limited line credit insurance shall
12 provide to each individual whose duties will include selling,
 soliciting or negotiating limited line credit insurance a program
14 of instruction that may be approved by the superintendent.

16 **§1420-F. License**

18 1. Issuance; lines of authority. Unless denied licensure
 pursuant to section 1420-K, a person who has met the requirements
20 of sections 1420-D and 1420-E must be issued an insurance
 producer license. An insurance producer may receive qualification
22 for a license in one or more of the following lines of authority,
 as designated in this subsection for the purposes of this
24 subchapter:

26 A. Life, which is insurance coverage on human lives,
 including benefits of endowment and annuities, and may
28 include benefits in the event of death or dismemberment by
 accident and benefits for disability income;

30 B. Accident and health or sickness, which is insurance
 coverage for sickness, bodily injury or accidental death and
32 may include benefits for disability income;

34 C. Property, which is insurance coverage for the direct or
 consequential loss of or damage to property of every kind;
36

38 D. Casualty, which is insurance coverage against legal
 liability, including coverage for death, injury or
40 disability or damage to real or personal property;

42 E. Variable life and variable annuity products, which is
 insurance coverage provided under variable life insurance
44 contracts and variable annuities;

46 F. Personal lines, which is property and casualty insurance
 coverage sold to individuals and families for primarily
48 noncommercial purposes;

50 G. Credit, which is limited line credit insurance;

2 H. Travel accident and baggage insurance contracts, which
3 are a limited line;

4
5 I. Title insurance contracts, which are a limited line;

6
7 J. Annuities contracts, which are a limited line;

8
9 K. Automobile mechanical breakdown contracts, which are a
10 limited line; and

11 L. Liability insurance offered by a motor vehicle rental
12 company incidental to the rental of a motor vehicle for a
13 period not to exceed 60 days, which is a limited line.

14
15 2. Duration. An insurance producer license remains in
16 effect, unless revoked or suspended, as long as any applicable
17 fee set forth in section 601 is paid and education requirements
18 pursuant to subchapter VII for resident individual producers are
19 met by the due date.

20
21 3. Lapse. An individual insurance producer whose license
22 lapses may, within 12 months, reinstate the same license without
23 the necessity of passing a written examination.

24
25 4. Waiver. A licensed insurance producer who is unable to
26 comply with license continuation procedures due to military
27 service or some other extenuating circumstance, such as a
28 long-term medical disability, may request a waiver of those
29 procedures. The producer may also request a waiver of any
30 examination requirement or any other fine or sanction imposed for
31 failure to comply with continuation procedures.

32
33 5. Contents. The license must contain the licensee's name,
34 address, personal identification number, the date of issuance,
35 the lines of authority and any other information required by the
36 superintendent.

37
38 6. Change of name or address. A licensee shall inform the
39 superintendent by any means acceptable to the superintendent of a
40 change of address within 30 days of the change. Failure to
41 timely inform the superintendent of a change in legal name or
42 address results in a penalty pursuant to section 601.

43
44 7. Contract with other entities. In order to assist in the
45 performance of the superintendent's duties, the superintendent
46 may contract with nongovernmental entities, including the
47 National Association of Insurance Commissioners, its affiliates
48 or subsidiaries or its successor organization, to perform any
49 ministerial functions, including the collection of fees, related
50

to producer licensing that the superintendent and the
nongovernmental entity determine appropriate.

§1420-G. Nonresident licensing

1. Qualifications. Unless denied licensure pursuant to
section 1420-K, a nonresident person must be issued a nonresident
producer license if:

A. The person is currently licensed as a resident and in
good standing in that person's home state;

B. The person has submitted the proper request for
licensure and has paid any fees required by section 601;

C. The person has submitted or transmitted to the
superintendent the application for licensure submitted to
that person's home state, or in lieu of the same, a
completed uniform application; and

D. The person's home state awards nonresident producer
licenses to residents of this State on the same basis.

2. Verification. The superintendent may verify the
producer's licensing status through the producer database
maintained by the National Association of Insurance
Commissioners, its affiliates or subsidiaries or any successor
organization.

3. Change of address. A nonresident producer who moves
from one state to another state or a resident producer who moves
from this State to another state shall file a change of address
and provide certification from the new resident state within 30
days of the change of legal residence. A fee or license
application is not required.

4. Surplus lines; license in home state. Notwithstanding
any other provision of this subchapter, a person licensed as a
surplus lines producer in that person's home state must be issued
a nonresident surplus lines producer license pursuant to
subsection 1. Except as provided in subsection 1, nothing in
this section otherwise amends or supersedes any other provision
of chapter 19.

5. Limited lines; license in home state. Notwithstanding
any other provision of this subchapter, a person licensed as a
limited line credit insurance or other type of limited lines
producer in that person's home state must be issued a nonresident
limited lines producer license, pursuant to subsection 1,
granting the same scope of authority as granted under the license

issued by the producer's home state. For the purposes of this section, limited line insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 1420-F, subsection 1, paragraphs A to F.

§1420-H. Exemption from examination

1. Exemption. An individual who applies for an insurance producer license in this State who was previously licensed for the same lines of authority in another state is not required to complete any prelicensing education or examination pursuant to section 1410. This exemption is only available if the person is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state, or the state's producer database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization, indicate that the producer is or was licensed in good standing for the line of authority requested.

2. Application. A person licensed as an insurance producer in another state who moves to this State shall make application within 90 days of establishing legal residence to become a resident licensee pursuant to section 1420-E. Prelicensing education or examination pursuant to section 1410 is not required of that person to obtain any line of authority previously held in the prior state except when the superintendent determines otherwise by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

3. Additional exemptions. An examination is also not required of:

A. An applicant for a 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 1420-J. This exemption applies only to persons who have met the applicable continuing education requirements during the 2-year period, who voluntarily terminated their previous license 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;

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

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

8 D. An applicant for a license as a limited insurance
9 producer who solicits or sells mechanical breakdown
10 insurance; or

12 E. An applicant for a license as a limited insurance
13 producer employed by a motor vehicle rental company who
14 solicits or sells liability insurance in connection with and
15 incidental to the rental of a motor vehicle for a period not
16 to exceed 60 days.

18 **§1420-I. Assumed names**

20 An insurance producer doing business under any name other
21 than the producer's legal name is required to notify the
22 superintendent prior to using the assumed name.

24 **§1420-J. Temporary licensing**

26 1. License authorized. The superintendent may issue a
27 temporary insurance producer license for a period not to exceed
28 180 days without requiring an examination if the superintendent
29 determines that the temporary license is necessary for the
30 servicing of an insurance business in the following cases:

32 A. To the surviving spouse or court-appointed personal
33 representative of a licensed insurance producer who dies or
34 becomes mentally or physically disabled to allow adequate
35 time for the sale of the insurance business owned by the
36 producer or for the recovery or return of the producer to
37 the business or to provide for the training and licensing of
38 new personnel to operate the producer's business;

40 B. To a member or employee of a business entity licensed as
41 an insurance producer, upon the death or disability of an
42 individual designated in the business entity application or
43 the license;

44 C. To the designee of a licensed insurance producer
45 entering active service in the Armed Forces of the United
46 States; or

2 D. In any other circumstance when the superintendent
3 determines that the public interest will best be served by
4 the issuance of this license.

5 2. Limitations. The superintendent may by order limit the
6 authority of any temporary licensee in any way determined
7 necessary to protect insureds and the public. The superintendent
8 may require the temporary licensee to have a suitable sponsor who
9 is a licensed producer or insurer and who assumes responsibility
10 for all acts of the temporary licensee and may impose other
11 similar requirements designed to protect insureds and the
12 public. The superintendent may by order revoke a temporary
13 license if the interest of insureds or the public is endangered.
14 A temporary license may not continue after the owner or the
15 personal representative disposes of the business.

16 **§1420-K. License denial, nonrenewal or revocation**

17 1. Causes. The superintendent may place on probation,
18 suspend, revoke or refuse to issue or renew an insurance
19 producer's license or may levy a civil penalty in accordance with
20 section 12-A or take any combination of such actions, for any one
21 or more of the following causes:

22 A. Providing incorrect, misleading, incomplete or
23 materially untrue information in the license application;

24 B. Violating any insurance laws, or violating any rule,
25 regulation, subpoena or order of the superintendent or of
26 another state's insurance commissioner;

27 C. Obtaining or attempting to obtain a license through
28 misrepresentation or fraud;

29 D. Improperly withholding, misappropriating or converting
30 any money or properties received in the course of doing
31 insurance business;

32 E. Intentionally misrepresenting the terms of an actual or
33 proposed insurance contract or application for insurance;

34 F. Having been convicted of a criminal offense as provided
35 in Title 5, section 5301. Any revocation, suspension or
36 denial of license under this paragraph must be in accordance
37 with Title 5, sections 5302 to 5304;

38 G. Having admitted to or been found to have committed any
39 insurance unfair trade practice or fraud;

2 H. Using fraudulent, coercive or dishonest practices, or
4 demonstrating incompetence, untrustworthiness or financial
 irresponsibility in the conduct of business in this State or
 elsewhere;

6 I. Having an insurance producer license, or its equivalent,
8 denied, suspended or revoked in any other state, province,
 district or territory;

10 J. Forging another's name to an application for insurance
12 or to any document related to an insurance transaction;

14 K. Improperly using notes or any other reference material
 to complete an examination for an insurance license;

16 L. Knowingly accepting insurance business from an
18 individual who is not licensed;

20 M. Failing to comply with an administrative or court order
 imposing a child support obligation; or

22 N. Failing to pay state income tax or comply with any
24 administrative or court order directing payment of state
 income tax.

26 2. Notification. If the superintendent does not renew or
28 denies an application for a license, the superintendent shall
30 notify the applicant or licensee and advise, in writing, the
32 applicant or licensee of the reason for the denial or nonrenewal
34 of the applicant's or licensee's license. The applicant or
 licensee may make written demand upon the superintendent within
 30 days for a hearing before the superintendent to determine the
 reasonableness of the superintendent's action. The hearing must
 be held within 30 days of that written demand and pursuant to
 section 229.

36 3. Effect on business entity. The license of a business
38 entity may be suspended, revoked or refused if the superintendent
40 finds, after hearing, that an individual licensee's violation was
42 known or should have been known by one or more of the partners,
 officers or managers acting on behalf of the partnership or
 corporation and the violation was neither reported to the
 superintendent nor corrected.

44 4. Civil penalties. In addition to or in lieu of any
46 applicable denial, suspension or revocation of a license, a
48 person may, after hearing, be subject to a civil penalty
 according to section 12-A.

2 5. Enforcement powers. The superintendent retains the
3 authority to enforce the provisions of and impose any penalty or
4 remedy authorized by this Title, Title 24 or any other law
5 enforced by the superintendent against any person who is under
6 investigation for or charged with a violation of this Title,
7 Title 24 or any other law enforced by the superintendent, even if
8 the person's license has been surrendered or has lapsed by
9 operation of law.

10 **§1420-L. Commissions**

12 1. License required to pay. An insurance company or
13 insurance producer may not pay a commission, service fee,
14 brokerage or other valuable consideration to a person for
15 selling, soliciting or negotiating insurance in this State if
16 that person is required to be licensed under this subchapter and
17 is not so licensed.

18 2. License required to accept. A person may not accept a
19 commission, service fee, brokerage or other valuable
20 consideration for selling, soliciting or negotiating insurance in
21 this State if that person is required to be licensed under this
22 subchapter and is not so licensed.

23 3. Deferral. Renewal or other deferred commissions may be
24 paid to a person for selling, soliciting or negotiating insurance
25 in this State if the person was required to be licensed under
26 this subchapter at the time of the sale, solicitation or
27 negotiation and was so licensed at that time.

28 4. Assignments. An insurer or insurance producer may pay
29 or assign commissions, service fees, brokerages or other valuable
30 consideration to an insurance agency or to persons who do not
31 sell, solicit or negotiate insurance in this State, unless the
32 payment would violate chapter 23 or any other applicable
33 provision of this Title.

34 **§1420-M. Appointments**

35 1. Appointment. An insurance producer may not act as an
36 agent of an insurer unless the insurance producer becomes an
37 appointed agent of that insurer. An insurance producer who is
38 not acting as an agent of an insurer is not required to become
39 appointed.

40 2. Notice. To appoint a producer as its agent, the
41 appointing insurer shall file, in a format approved by the
42 superintendent, a notice of appointment within 15 days from the
43 date the agency contract is executed or the first insurance
44 application is submitted. An insurer may also elect to appoint a

2 producer to all or some insurers within the insurer's holding
3 company system or group by the filing of a single appointment
4 request.

5
6 3. Fee. An insurer shall pay an appointment fee, in the
7 amount and method of payment set forth in section 601, for each
8 insurance producer appointed by the insurer.

9
10 4. Renewal. An insurer shall remit, in a manner prescribed
11 by the superintendent, a renewal appointment fee in the amount
12 set forth in section 601.

13 **§1420-N. Notification to superintendent of termination**

14
15 1. Termination for cause. An insurer or authorized
16 representative of the insurer that terminates the appointment,
17 employment, contract or other insurance business relationship
18 with a producer shall notify the superintendent within 30 days
19 following the effective date of the termination, using a format
20 prescribed by the superintendent, if the reason for termination
21 is one of the reasons set forth in section 1420-K or the insurer
22 has knowledge the producer was found by a court, government body
23 or self-regulatory organization authorized by law to have engaged
24 in any of the activities in section 1420-K. Upon the written
25 request of the superintendent, the insurer shall provide
26 additional information, documents, records or other data
27 pertaining to the termination or activity of the producer.

28
29 2. Termination without cause. An insurer or authorized
30 representative of the insurer that terminates the appointment,
31 employment or contract with a producer for any reason not set
32 forth in section 1420-K shall notify the superintendent within 30
33 days following the effective date of the termination, using a
34 format prescribed by the superintendent. Upon written request of
35 the superintendent, the insurer shall provide additional
36 information, documents, records or other data pertaining to the
37 termination.

38
39 3. Ongoing notification requirement. The insurer or the
40 authorized representative of the insurer shall promptly notify
41 the superintendent in a format acceptable to the superintendent
42 if, upon further review or investigation, the insurer discovers
43 additional information that would have been reportable to the
44 superintendent in accordance with subsection 1 had the insurer
45 then known of its existence.

46
47 4. Copy of notification to be provided to producer.
48 Notification to the producer and comments by the producer must be
49 as follows.

2 A. Within 15 days after making the notification required by
4 subsections 1, 2 and 3, the insurer shall mail a copy of the
6 notification to the producer at the producer's last known
8 address. If the producer is terminated for cause for any of
10 the reasons listed in section 1420-K, the insurer shall
12 provide a copy of the notification to the producer at the
14 producer's last known address by certified mail, return
16 receipt requested, postage prepaid or by overnight delivery
18 using a nationally recognized carrier.

20 B. Within 30 days after the producer has received the
22 original or additional notification, the producer may file
24 written comments concerning the substance of the
26 notification with the superintendent. The producer shall,
28 by the same means, simultaneously send a copy of the
30 comments to the reporting insurer and the comments become a
32 part of the superintendent's file and accompany every copy
34 of a report distributed or disclosed for any reason about
36 the producer as permitted under subsection 6.

38 **5. Immunities.** This subsection governs immunities.

40 A. In the absence of actual malice, an insurer, the
42 authorized representative of the insurer, a producer, the
44 superintendent or an organization of which the
46 superintendent is a member that compiles the information
48 concerning the termination and makes it available to other
50 insurance commissioners or regulatory or law enforcement
52 agencies is not subject to civil liability, and a civil
54 cause of action of any nature may not arise against these
56 entities or their respective agents or employees as a result
58 of any statement or information required by or provided
60 pursuant to this section or any information relating to any
62 statement that may be requested in writing by the
64 superintendent from an insurer or producer; or as a result
66 of a statement by a terminating insurer or producer to an
68 insurer or producer limited solely and exclusively to
70 whether a termination for cause under subsection 1 was
72 reported to the superintendent, provided that the propriety
74 of any termination for cause under subsection 1 is certified
76 in writing by an officer or authorized representative of the
78 insurer or producer terminating the relationship.

80 B. In any action brought against a person that may have
82 immunity under paragraph A for making any statement required
84 by this section or providing any information relating to any
86 statement that may be requested by the superintendent, the
88 party bringing the action shall plead specifically in any
90 allegation that paragraph A does not apply because the

2 person making the statement or providing the information did
3 so with actual malice.

4 C. Paragraph A or B does not abrogate or modify any
5 existing statutory or common law privileges or immunities.

6 **6. Confidentiality.** Subject to limitations set out in this
7 subsection, any documents, materials or other information in the
8 control or possession of the bureau that is furnished by an
9 insurer, producer or an employee or agent acting on behalf of the
10 insurer or producer or obtained by the superintendent in an
11 investigation pursuant to this section is confidential by law and
12 privileged, is not subject to subpoena and is not subject to
13 discovery or admissible in evidence in any private civil action.

14 A. The superintendent is, however, authorized to use the
15 documents, materials or other information in the furtherance
16 of any regulatory or legal action brought as a part of the
17 superintendent's duties.

18 B. Neither the superintendent nor any person who received
19 documents, materials or other information while acting under
20 the authority of the superintendent may be permitted or
21 required to testify in any private civil action concerning
22 any confidential documents, materials or information subject
23 to paragraph A.

24 C. In order to assist in the performance of the
25 superintendent's duties under this subchapter, the
26 superintendent:

27 (1) May share documents, materials or other
28 information, including the confidential and privileged
29 documents, materials or information subject to
30 paragraph A, with other state, federal and
31 international regulatory agencies, with the National
32 Association of Insurance Commissioners, its affiliates
33 or subsidiaries or any successor organization, and with
34 state, federal and international law enforcement
35 authorities, provided that the recipient agrees to
36 maintain the confidentiality and privileged status of
37 the documents, materials or other information;

38 (2) May receive documents, materials or information,
39 including otherwise confidential and privileged
40 documents, materials or information, from the National
41 Association of Insurance Commissioners, its affiliates
42 or subsidiaries or any successor organization, and from
43 regulatory and law enforcement officials of other
44 foreign or domestic jurisdictions and shall maintain as

2 confidential or privileged any documents, materials or
4 information received with notice or the understanding
6 that it is confidential or privileged under the laws of
8 the jurisdiction that is the source of the documents,
10 materials or information; and

12 (3) May enter into agreements governing sharing and
14 use of information consistent with this subsection.

16 D. No waiver of any applicable privilege or claim of
18 confidentiality in the documents, materials or information
20 occurs as a result of disclosure to the superintendent under
22 this section or as a result of sharing as authorized in
24 paragraph C.

26 E. Nothing in this subchapter prohibits the superintendent
28 from releasing final, adjudicated actions including for
30 cause terminations that are open to public inspection
32 pursuant to Title 1, chapter 13, subchapter I to a database
34 or other clearinghouse service maintained by the National
36 Association of Insurance Commissioners, its affiliates or
38 subsidiaries or any successor organization.

40 7. Penalties for failing to report. An insurer, producer
42 or an employee or agent acting on behalf of the insurer or
44 producer that fails to report as required under the provisions of
46 this section or that is found to have reported with actual malice
48 by a court of competent jurisdiction may, after notice and
 hearing, have its license suspended or revoked and may be fined
 in accordance with section 12-A.

32 §1420-O. Reciprocity

34 1. Reciprocity. The superintendent shall waive any
36 requirements for a nonresident license applicant with a valid
38 license from that person's home state, except the requirements
40 imposed by section 1420-G, if the applicant's home state awards
42 nonresident licenses to residents of this State on the same basis.

44 2. Continuing education. Satisfaction of a nonresident
46 producer's home state's continuing education requirements for
48 licensed insurance producers constitutes satisfaction of this
 State's continuing education requirements if the nonresident
 producer's home state recognizes the satisfaction of its
 continuing education requirements imposed upon producers from
 this State on the same basis.

48 §1420-P. Reporting of actions

2 1. Administrative actions. A producer shall report to the
superintendent any administrative action taken against the
4 producer in another jurisdiction or by another governmental
agency in this State within 30 days of the final disposition of
the matter. This report must include a copy of the order,
6 consent to order or other relevant legal documents.

8 2. Criminal actions. Within 30 days of the initial
pretrial hearing date, a producer shall report to the
10 superintendent any criminal prosecution of the producer taken in
any jurisdiction. The report must include a copy of the initial
12 complaint filed, the order resulting from the hearing and any
other relevant legal documents.

14 Sec. 25. 24-A MRSA c. 16, sub-c. III is amended by repealing the
subchapter headnote and enacting the following in its place:

18 SUBCHAPTER III

20 APPLICATION PROCEDURE FOR ADJUSTERS
22 AND CONSULTANTS

24 Sec. 26. 24-A MRSA §1422, as enacted by PL 1997, c. 457, §23
and affected by §55, is amended to read:

26 §1422. License to be issued only on compliance

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

32 Sec. 27. 24-A MRSA §1423, as amended by PL 1997, c. 592, §§25
34 and 26, is repealed.

36 Sec. 28. 24-A MRSA §1424, as amended by PL 1997, c. 592, §§27
and 28, is repealed.

38 Sec. 29. 24-A MRSA §1424-A is enacted to read:

40 §1424-A. Application for license

42 1. Application. An individual applying for an insurance
44 adjuster or consultant license shall apply to the superintendent
on a form as determined by the superintendent and declare under
46 penalty of refusal, suspension or revocation of the license that
the statements made in the application are true, correct and
48 complete to the best of the individual's knowledge and belief.

Before approving the application, the superintendent must find that the individual:

A. Has complied with the requirements of subchapter V in the case of consultants and subchapter VI in the case of adjusters;

B. Has not committed any act that is a ground for denial, suspension or revocation set forth in sections 1417 and 1420-K;

C. Has completed any prelicensing requirements for the license for which the person has applied, as specified in subchapter II;

D. Has paid any required fees set forth in section 601; and

E. Has successfully passed the examinations for the license for which the person, if a resident, has applied.

2. Business entity. A business entity acting as an insurance adjuster or consultant is required to obtain an adjuster or consultant license. Application must be made using the uniform business entity application. Before approving the application, the superintendent must find that:

A. The business entity has paid any required fees set forth in section 601; and

B. The business entity has designated a licensed person responsible for the business entity's compliance with the insurance laws, rules and regulations of this State.

3. Verification. The superintendent may require any documents reasonably necessary to verify the information contained in an application.

Sec. 30. 24-A MRSA §1426, sub-§2, as amended by PL 1997, c. 592, §29, is repealed.

Sec. 31. 24-A MRSA §1427, as amended by PL 1999, c. 270, §§4 to 6, is repealed.

Sec. 32. 24-A MRSA §1427-A is enacted to read:

§1427-A. Exemption from examination requirement

1. Exemption. An individual who applies for an adjuster or consultant license in this State who was previously licensed as such in another state is not required to complete any

prelicensing education or examination pursuant to section 1410. This exemption is only available if the person is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state, or the state's producer database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization, indicate that the adjuster or consultant is or was licensed in good standing for the type of license requested.

2. Application. A person licensed as an adjuster or consultant in another state who moves to this State must apply within 90 days of establishing legal residence to become a resident licensee. Prelicensing education or examination is not required of that person to obtain the adjuster or consultant license type previously held in the prior state except when the superintendent determines otherwise by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

3. Other exemptions. An examination is not required of an applicant for the same type of license that the applicant previously held in this State within the past 2 years, other than a temporary license. This exemption applies only to persons who have met the applicable continuing education requirements during the 2-year period, who voluntarily terminated their previous license, 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 subsection.

Sec. 33. 24-A MRSA §§1428 and 1429, as enacted by PL 1997, c. 457, §23 and affected by §55, are repealed.

Sec. 34. 24-A MRSA §1430, as amended by PL 1997, c. 592, §§32 to 37, is repealed.

Sec. 35. 24-A MRSA §§1441-A and 1441-B, as enacted by PL 1997, c. 592, §41, are repealed.

Sec. 36. 24-A MRSA §1443, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed.

Sec. 37. 24-A MRSA §1443-A, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

2. Licensing. A financial institution or credit union authorized to do business in this State, financial institution holding company or the subsidiary or affiliate of any of those

2 entities or an officer, employee, agent or representative of a
3 financial institution, credit union, financial institution
4 holding company or the subsidiary of any of those entities may be
5 licensed as an insurance producer or consultant in this State or
6 may act as an insurance producer or consultant in this State.
7 These organizations are not required to become licensed as
8 insurance producers or consultants with respect to: credit life
9 and credit health insurance to the extent authorized by chapter
10 37 when the insured is enrolled in the policy; group health
11 insurance to the extent authorized by chapter 35 when the insured
12 is enrolled in the policy; and group life insurance to the extent
13 authorized by chapter 31 when the insured is enrolled in the
14 policy; credit property insurance; credit involuntary
15 unemployment insurance; forced placed property insurance; a
16 vendor's single interest policy; and any other insurance product
17 as determined by the superintendent. In addition, a financial
18 institution, credit union, financial institution holding company
19 or a subsidiary or employee of any such entity may sell
20 annuities, arrange for the sale of annuities or share commissions
21 in connection with the sale of annuities to the extent authorized
22 by Title 9-B, section 443, subsection 11, if the entity has been
23 licensed pursuant to this chapter and if that activity includes
24 the sale of variable annuity contracts, a national association of
25 securities dealers registration form must be submitted to the
26 superintendent as required by the provisions of section 1423
1410, subsection 7 8.

28 Sec. 38. 24-A MRSA §1444, as enacted by PL 1997, c. 457, §23
29 and affected by §55, is repealed.

30 Sec. 39. 24-A MRSA §1444-A is enacted to read:

32 **§1444-A. Insurance vending machines**

34 **1. Vending machines.** A licensed insurance producer may
35 solicit and issue personal travel accident insurance policies by
36 means of a mechanical vending machine supervised by the insurance
37 producer and placed at an airport or similar place of convenience
38 to the traveling public if the superintendent finds:

40 **A. That the policy to be sold provides reasonable coverage**
41 **and benefits, is reasonably suited for sale and issuance**
42 **through a vending machine and that use of such a machine in**
43 **a proposed location would be of convenience to the public;**

44 **B. That the type of vending machine proposed to be used is**
45 **reasonably suitable for the purpose;**
46
47
48

2 C. That reasonable means are provided for informing
3 prospective purchasers of policy coverages and restrictions;
4 and

5 D. That reasonable means are provided for refund of money
6 inserted in a defective machine when no insurance or a
7 lesser amount than that paid for is actually received.

8
9 **2. Special license.** For each machine to be used, the
10 superintendent may issue to the insurance producer a special
11 vending machine license. The license must specify the name and
12 address of the insurer, health maintenance organization,
13 fraternal benefit society or nonprofit hospital or medical
14 service organization and the name and address of the insurance
15 producer, the name of the policy to be sold, the serial number of
16 the machine and the place where the machine is to be in
17 operation. The license is subject to termination, suspension or
18 revocation coincidentally with the license of the insurance
19 producer. The superintendent shall also revoke the license for
20 any machine for which the superintendent finds that the license
21 qualifications no longer exist. The license fee for each
22 respective vending machine is established in section 601. Proof
23 of the existence of a license must be displayed on or about each
24 machine in use in the manner that the superintendent reasonably
25 requires.

26
27 **Sec. 40. 24-A MRSA §1446**, as enacted by PL 1997, c. 457, §23
28 and affected by §55, is repealed.

29 **Sec. 41. 24-A MRSA §1447, sub-§1**, as amended by PL 1999, c.
30 50, §1, is further amended to read:

31
32 **1. Records.** The insurance producer or agency business
33 entity shall keep or make accessible at the producer's or
34 agency's business entity's place of business a copy of the
35 written appointment or designation from each insurer, health
36 maintenance organization, fraternal benefit society or nonprofit
37 hospital or medical service organization with which the insurance
38 producer or agency business entity has an appointment. The
39 insurance producer or agency business entity shall keep at the
40 producer's or agency's business entity's place of business
41 complete records of transactions under the license. If a
42 producer engages in transactions on behalf of an--agency a
43 business entity and subsequently maintains a different place of
44 business, the agency business entity shall maintain the records
45 of those transactions. If a producer engages in transactions
46 independent of any agency business entity, the producer shall
47 maintain the records of those transactions. For the purpose of
48 examination or investigation by the superintendent, records may
49 be maintained in electronic form. As to each insurance policy or
50

2 contract placed through or sold by the licensee, the records must
show:

- 4 A. The names of the insurer, health maintenance
organization, fraternal benefit society or nonprofit
6 hospital or medical service organization;
- 8 B. The number and expiration date of the policy or contract;
- 10 C. The premium payable as to the policy or contract;
- 12 D. The name and address of the insured;
- 14 E. The date and time of every binder made by the insurance
producer; and
- 16 F. Such other information as the superintendent may
18 reasonably require.

20 **Sec. 42. 24-A MRSA §1448**, as enacted by PL 1997, c. 457, §23
and affected by §55, is repealed.

22 **Sec. 43. 24-A MRSA §1450, sub-§1**, as enacted by PL 1997, c.
24 457, §23 and affected by §55, is amended to read:

26 **1. Commissions.** An Except as provided in section 1420-L,
an insurer, health maintenance organization, fraternal benefit
28 society or nonprofit hospital or medical service organization may
not pay to any unlicensed person, either directly or indirectly,
30 any commission on a sale of a contract of insurance issued on a
risk located or to be performed within this State unless at the
32 time of the taking of the application for the insurance the
person was duly licensed by this State as an insurance producer
34 as to the kind or kinds of insurance involved. An unlicensed
person or agency business entity may not receive or accept any
36 commission or compensation for insurance unless licensed pursuant
to this chapter.

38 **Sec. 44. 24-A MRSA §1472, sub-§2, ¶C**, as amended by PL 1997,
40 c. 592, §42, is further amended to read:

42 C. Must pass any written examination required for the
license under subchapter ~~III~~ II.

44 **Sec. 45. 24-A MRSA §1484**, as amended by PL 1997, c. 592, §47,
46 is further amended to read:

48 **§1484. Failure to comply**

2 The license of any insurance producer or consultant who is
out of compliance with this subchapter for at least 60 days, is
subject to suspension or revocation pursuant to section 1417,
4 ~~subsection-4~~ 1420-K, subsection 1, paragraph B.

6 **Sec. 46. 24-A MRSA §2012, sub-§5, ¶¶A and B,** as enacted by PL
1997, c. 457, §34, are amended to read:

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

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

18
20 **Sec. 47. 24-A MRSA §2012, sub-§5, ¶C** is enacted to read:

22 C. The license is to be issued on a reciprocal basis
pursuant to sections 1420-G and 1420-O.

24 **Sec. 48. 24-A MRSA §2013, sub-§1, ¶¶A and B,** as amended by PL
1997, c. 592, §59, are further amended to read:

26
28 A. If the producer fails to remit the tax as required by
section ~~2016~~ 2018;

30 B. If ~~the a~~ producer ~~fails-to~~ who is required to maintain
an office in this State fails to do so, or to keep the
32 records, or to allow the superintendent to examine those
records as required by this law, or if the producer removes
34 those records from the State when prohibited;

36 **Sec. 49. 24-A MRSA §2013, sub-§1, ¶D,** as amended by PL 1985,
c. 564, §3, is further amended to read:

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

42 **Sec. 50. Superintendent of Insurance's review; cross-references.**
The Superintendent of Insurance shall review the Maine Revised
44 Statutes and submit a bill to the Second Regular Session of the
120th Legislature by January 4, 2002 that includes any sections
46 necessary to correct and update any cross-references in the
statutes to provisions of law repealed in this Act.

SUMMARY

2

4 This bill adopts the Producer Licensing Model Act of the
6 National Association of Insurance Commissioners in order to help
8 create a system of national reciprocity for insurance producer
10 licensing, create uniform standards for key areas of producer
12 licensing and preserve the authority of states to license
14 insurance producers, under Federal Public Law 106-102, known as
16 the Gramm-Leach-Bliley Act.

18

20 The model act is the result of an extensive initiative
22 coordinated by the National Association of Insurance
24 Commissioners, with the goal of achieving reciprocity among the
26 states and uniformity as to key areas, regarding producer
28 licensing. Adoption of such standards by a majority of the
30 states is necessary to preserve their authority to license
insurance producers.

32

34 The Gramm-Leach-Bliley Act's specific mandate is that a
36 majority of the states must either enact uniform laws and
38 regulations governing the licensing of individuals and entities
40 authorized to sell and solicit the purchase of insurance within
the states or achieve reciprocity regarding these issues. If
states do not enact uniform laws and regulations or enact a
system of reciprocal licensing by November 12, 2002, the National
Association of Registered Agents and Brokers would be established
to provide a mechanism through which uniform licensing,
appointment, continuing education and other insurance producer
sales qualification requirements and conditions would be adopted
and applied on a multistate basis.

32

34 This bill adopts the model act as a new subchapter in the
36 Maine Revised Statutes, Title 24-A, chapter 16. It also revises
38 corresponding provisions regarding adjuster and consultant
40 licensing, to avoid having 2 licensing procedures in place,
thereby maintaining internal uniformity as well. The bill also
reorganizes some of the structure of the existing Title 24-A,
chapter 16, so that the flow of the process will remain logical
with the addition of the new subchapter, and makes technical
changes to existing law to ensure consistency with the model act.