

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1717

H.P. 1270

House of Representatives, December 28, 2011

An Act To Establish a Preneed Life Insurance Producer License and Preneed Life Insurance Product for Prearranged Funeral Plans

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 23, 2011. Referred to the Committee on Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative McKANE of Newcastle.
Cosponsored by Representatives: CORNELL du HOUX of Brunswick, DRISCOLL of Westbrook, TUTTLE of Sanford, VOLK of Scarborough, Senators: ALFOND of Cumberland, SULLIVAN of York.

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

2 **Sec. 1. 24-A MRSA §1420-A, sub-§§8-A and 8-B** are enacted to read:

3 **8-A. Limited line preneed life insurance.** "Limited line preneed life insurance"
4 means a life insurance policy, certificate or annuity that is designated by the purchaser as
5 payment for a prearranged funeral or burial plan as described in Title 32, section 1401.

6 **8-B. Limited line preneed life insurance producer.** "Limited line preneed life
7 insurance producer" means a person who:

8 A. Is licensed by the State Board of Funeral Service for the practice of funeral
9 service under Title 32, chapter 21; and

10 B. Is licensed in accordance with section 1420-Q to sell, solicit and negotiate limited
11 line preneed life insurance coverage to individuals through a master, corporate, group
12 or individual policy.

13 **Sec. 2. 24-A MRSA §1420-F, sub-§1, ¶K,** as enacted by PL 2001, c. 259, §24,
14 is amended to read:

15 K. Automobile mechanical breakdown contracts, which are a limited line; ~~and~~

16 **Sec. 3. 24-A MRSA §1420-F, sub-§1, ¶L,** as repealed and replaced by PL 2007,
17 c. 51, §3, is amended to read:

18 L. Insurance offered, sold or solicited in connection with and incidental to the rental
19 of rental cars for a period of no more than 60 days, whether at the rental office or by
20 preselection of coverage in master, corporate, group or individual agreements, that is
21 nontransferable, applies only to the rental car that is the subject of the rental
22 agreement and is limited to the following kinds of insurance:

23 (1) Personal accident insurance for renters and other rental car occupants for
24 accidental death or dismemberment and for medical expenses resulting from an
25 accident that occurs with the rental car during the rental period;

26 (2) Liability insurance that provides protection to the renters and other
27 authorized drivers of a rental car for liability arising from the operation or use of
28 the rental car during the rental period;

29 (3) Personal effects insurance that provides coverage to renters and other vehicle
30 occupants for loss of, or damage to, personal effects in the rental car during the
31 rental period;

32 (4) Roadside assistance and emergency sickness protection insurance; and

33 (5) Any other coverage designated by the superintendent; and

34 **Sec. 4. 24-A MRSA §1420-F, sub-§1, ¶M** is enacted to read:

35 M. Limited line preneed life insurance, which is a limited line.

36 **Sec. 5. 24-A MRSA §1420-Q** is enacted to read:

1 **§1420-Q. Limited line preneed life insurance producer license**

2 Notwithstanding any provision of law to the contrary contained in this subchapter,
3 this section governs the licensing of limited line preneed life insurance producers.

4 **1. License.** The superintendent shall issue a license to an applicant to act as a
5 limited line preneed life insurance producer on receipt of certification from an insurer
6 authorized to write life insurance policies and fixed annuity contracts in the State that the
7 applicant:

8 A. Is licensed for the practice of funeral service by the State Board of Funeral
9 Service;

10 B. Has agreed to act as an agent for that insurer to sell, solicit or negotiate limited
11 line preneed life insurance;

12 C. Has completed a course of study and instruction pursuant to subsection 2; and

13 D. Has passed a written examination in accordance with subsection 3.

14 A license holder under this section may serve as an agent for more than one insurer
15 authorized to write life insurance policies and fixed annuity contracts in the State.

16 **2. Instruction.** An applicant for a license under this section must have successfully
17 completed a course of study and instruction on life insurance policies and fixed annuity
18 contracts that is offered by an insurer authorized to write life insurance policies and fixed
19 annuity contracts in the State that has received approval under subsection 4. The course
20 of study and instruction must be at least 8 hours in duration and include instruction on:

21 A. The life insurance policies and fixed annuity contracts that may be sold by
22 licensees under this section;

23 B. The laws governing prearranged funeral and burial plans, rules adopted by the
24 State Board of Funeral Service relating to prearranged funeral and burial plans and
25 the forms and filing requirements associated with those laws and rules; and

26 C. The requirements pertaining to disclosures and advertising of information relating
27 to prearranged funeral and burial plans, life insurance policies and fixed annuity
28 contracts.

29 **3. Examination.** The superintendent, following consultation with the State Board of
30 Funeral Service, shall develop a uniform written examination for applicants for licensure
31 that fairly tests knowledge of the information contained in the course of study and
32 instruction required under subsection 2.

33 **4. Approval to provide course and to conduct examination.** An insurer
34 authorized to write life insurance policies and fixed annuity contracts in the State may
35 request approval from the superintendent to provide the course of study and instruction
36 pursuant to subsection 2 and administer the examination under subsection 3 by submitting
37 a complete outline and description of the course and the proposed manner of conducting
38 the examination.

1 **5. Investigation.** The superintendent may investigate as the superintendent
2 determines necessary the manner of instruction and the examination administered by an
3 insurer that has been approved pursuant to subsection 4.

4 **6. Revocation of approval.** The superintendent may revoke approval granted to an
5 insurer pursuant to subsection 4 after providing 30 days' notice to that insurer.

6 **7. Limit of authority.** A limited line preneed life insurance producer licensed under
7 this section may not write any coverage or combination of coverages with initial
8 guaranteed death benefits on any life that exceed the total cost of the prearranged funeral
9 or burial plan as described in Title 32, section 1401.

10 **8. Revocation; notification.** A license issued under this section is revoked if the
11 license holder ceases to act as an agent for the insurer that provided certification under
12 subsection 1 for the license holder. Not later than the 15th day after the date on which the
13 license holder ceases to act as an agent for an insurer, the insurer or license holder shall
14 send written notification of the revocation to the superintendent.

15 **9. Information regarding new products.** An insurer who provides certification
16 under subsection 1 for a license holder shall provide education to that license holder
17 regarding new products the license holder may sell, solicit or negotiate to fund
18 prearranged funeral and burial plans.

19 **10. Rules.** The superintendent may adopt rules to implement this section. Rules
20 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
21 chapter 375, subchapter 2-A.

22 **Sec. 6. 24-A MRSA §2176**, as amended by PL 1999, c. 258, §1, is repealed.

23 **Sec. 7. 32 MRSA §1400, sub-§7** is enacted to read:

24 **7. Solicit; solicitation.** "Solicit" means to engage in uninvited telephone or
25 door-to-door contact. "Solicitation" means the action or instance of soliciting.

26 **Sec. 8. 32 MRSA §1401, sub-§1-A, ¶B**, as enacted by PL 2003, c. 109, §3, is
27 amended to read:

28 B. An agreement under paragraph A must be in writing and a copy must be furnished
29 to the person or the person's legal representative by the mortuary trustee when the
30 agreement is executed. The agreement must identify the parties to the agreement and
31 must be signed by a person licensed for the practice of funeral service on behalf of
32 the funeral home or funeral establishment. The agreement may be revocable or
33 irrevocable; however, if the agreement is irrevocable, there must be a provision to
34 allow for the transfer of the trust account by the appointment of successor trustees.
35 The agreement must clearly state terms providing for disposition of excess funds after
36 funeral goods and services have been provided. The agreement must clearly state any
37 fees that may be charged against the trust account. Fees must be reasonable, as
38 defined by the board, and may be charged only:

39 (1) Upon transfer of a trust account by the appointment of a successor trustee;

- 1 (2) Upon revocation of the agreement if the agreement is revocable; and
- 2 (3) For the actual financial and tax administration of the trust account.

3 **Sec. 9. 32 MRSA §1401, sub-§2**, as enacted by PL 1999, c. 258, §2 and affected
4 by §3, is amended to read:

5 **2. Rulemaking.** The board shall adopt rules regarding prearranged funeral
6 agreements, including, but not limited to:

- 7 A. The form, format and content of trust agreements;
- 8 B. Standards regarding when service contracts are required in conjunction with trust
9 agreements and the form, format and content of the service contracts;
- 10 C. The establishment of reasonable fees that may be charged only pursuant to
11 subsection 1, paragraph D; ~~and~~
- 12 D. Inspection of trust agreements, account information and any related
13 documentation; and
- 14 E. Rules to coordinate with provisions under Title 24-A, section 1420-Q relating to
15 limited line preneed life insurance and limited line preneed life insurance producers.

16 Rules adopted pursuant to this ~~section~~ subsection are routine technical rules under ~~the~~
17 ~~Maine Revised Statutes~~, Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

18 **Sec. 10. 32 MRSA §1402**, as amended by PL 1983, c. 413, §55, is further
19 amended to read:

20 **§1402. Solicitation of prearranged funerals and funeral business prohibited**

21 ~~No~~ A funeral home, funeral establishment or person holding a license under this
22 chapter ~~shall~~ may not as, or through, an agent or principal solicit a prearranged funeral
23 service or plan for any person or persons. "Prearranged funeral service or plan" ~~shall~~
24 ~~mean~~ means any funeral service or plan ~~which~~ that is arranged, planned or determined
25 prior to the demise of a person or persons for whom the funeral service is to be
26 performed. Funeral homes, funeral establishments and licensees under this chapter may
27 enter into contracts or agreements for prearranged funeral services or plans ~~provided that~~
28 as long as they do not in any manner either as, or through, principals or agents solicit
29 ~~such~~ that contract or agreement.

30 ~~No~~ A funeral home, funeral establishment or person licensed under this chapter ~~shall~~
31 may not pay or cause to be paid, directly or indirectly, any money or other thing of value
32 to a person not responsible for payment for the funeral as a commission or gratuity for the
33 securing of business for such funeral home, establishment or licensee. Nothing in this
34 section limits or precludes the payment of a commission earned in connection with the
35 sale of limited line preneed life insurance by producers of those products who are
36 licensed to make sales of those products pursuant to Title 24-A, section 1420-Q.

37 Any person who violates this section is guilty of a Class E crime.

