

MAINE STATE LEGISLATURE

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N I N E T Y - T H I R D L E G I S L A T U R E

Legislative Document

No. 666

H. P. 1026

House of Representatives, February 11, 1947

Referred to the Committee on Mercantile Affairs and Insurance, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Bowker of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT Relating to the Licensing of Life Insurance Agents.

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

R. S., c. 56, §§ 252-A - 252-P, additional. Chapter 56 of the revised statutes is hereby amended by adding thereto 16 new sections to be numbered 252-A to 252-P, to read as follows:

Qualifications of Life Insurance Agents

Sec. 252-A. Life insurance agent defined.

I. The term "life insurance agent" means any authorized or acknowledged agent of an insurer, and any sub-agent of such agent, who acts as such in the solicitation of, negotiation for, or procurement or making of a life insurance or annuity contract; except that the term "life insurance agent" shall not include any regular salaried officer or employee of a licensed insurer, or of a licensed life insurance agent, who does not solicit or accept from the public applications for any such contract. A regular salaried officer or employee of an insurer authorized to do business in this state shall not be deemed to be a "life insurance agent" by reason of rendering assistance to, or on behalf of a licensed life insurance agent, provided that such salaried officer or employee devotes substantially all of his time to activities other than the solicitation of appli-

cations for life insurance or annuity contracts and receives no commission or other compensation directly dependent upon the amount of business obtained.

II. The term "sub-agent" means any person, except as provided in subsection I, who acts for or on behalf of a licensed life insurance agent in the solicitation of, negotiation for, or procurement or making of a life insurance or annuity contract, whether or not he is designated by such agent as a sub-agent or a solicitor or by any other title, including the members of a partnership and the officers, directors, or stockholders of a corporation named in the license issued to a partnership or corporation as hereinafter provided. Each sub-agent shall be deemed to be a life insurance agent, as defined above, and wherever, in the following sections, the term "life insurance agent" is used, it shall include sub-agents, whether or not they are specifically mentioned. Each such person shall individually file an application for license and submit to a written examination as hereinafter provided for applicants for a life insurance agent's license.

III. Any resident of this state, or any partnership or corporation located in this state may be licensed as a life insurance agent upon compliance with the provisions of this law; provided, however, that the articles of partnership or incorporation shall authorize the partnership or corporation applying for such license specifically to engage in such business. The application for a license by, and the license issued to a partnership or corporation shall name the members of such partnership or the officers, directors, or stockholders of such corporation who are authorized to act as agents thereunder, and no such license shall be issued unless and until the persons named in the application therefor have qualified for individual licenses as hereinafter provided.

Sec. 252-B. Acting for unauthorized companies prohibited.

I. No person, partnership or corporation shall, within this state, solicit, procure, receive, or forward applications for life insurance or annuities, or issue or deliver policies for, or in any manner secure, help, or aid in the placing of any contract of life insurance or annuity for any person other than himself, directly or indirectly, with any insurer not authorized to do business in this state.

II. Any person, partnership or corporation shall be liable, personally, for the full amount of any loss sustained on any contract of life insurance or annuity made by or through him or it, directly or indirectly, with any insurer not authorized to do business in this state and, in addi-

tion, for any premium taxes which may become due under any law of this state by reason of such contract.

Sec. 252-C. Acting as agent without license prohibited; no commissions to be paid to unlicensed persons.

I. No person, partnership, or corporation shall act as a life insurance agent within this state until he shall have procured a license as required by the laws of this state.

II. No insurer or licensed life insurance agent or insurance broker doing business in this state shall pay directly or indirectly any commission, brokerage or other valuable consideration to any person, partnership or corporation for services as a life insurance agent within this state, unless such person, partnership or corporation shall hold a current valid license to act as a life insurance agent or an insurance broker as required by the laws of this state; nor shall any person, partnership or corporation, other than a duly licensed life insurance agent or insurance broker accept any such commission, brokerage or other valuable consideration; provided, however, that the provisions of this section shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person, partnership or corporation solely because such person, partnership or corporation has ceased to hold a license to act as a life insurance agent.

Sec. 252-D. Application for license.

I. Each applicant for a license to act as a life insurance agent within this state shall file with the insurance commissioner his written application on forms furnished by the commissioner. The application shall be signed and duly sworn to by the applicant. The prescribed form shall require the applicant to state his full name, residence, age, occupation and place of business for 5 years preceding date of the application; whether applicant has ever held a license to solicit life, or any other insurance in any state; whether he has been refused, or has had suspended or revoked a license to solicit life, or any other insurance in any state; what insurance experience, if any, he has had; what instruction in life insurance and in the insurance laws of this state he has had or expects to have; whether any insurer or general agent claims applicant is indebted under an agency contract or otherwise, and if so, the name of the claimant, the nature of the claim and the applicant's defense thereto; whether applicant has had an agency contract canceled and, if so, when, by what company or general agent and the reasons therefor; whether

applicant will devote all or part of his efforts to acting as a life insurance agent, and, if part only, how much time he will devote to such work, and in what other business or businesses he is engaged or employed; whether, if applicant is a married woman, her husband has ever applied for or held a license to solicit life, or any other insurance in any state and whether such license has been refused, suspended or revoked; such other information as the insurance commissioner in his discretion may require.

II. The application shall be accompanied by a certificate on forms furnished by the insurance commissioner and signed by an officer or properly authorized representative of the insurer stating that the insurer has investigated the character and background of the applicant and is satisfied that he is trustworthy and qualified to act as its agent and to hold himself out in good faith to the general public as a life insurance agent and that the insurer desires that the applicant be licensed as a life insurance agent to represent it in this state.

III. The application, when filed, shall be accompanied by the annual license fee in the amount of \$2 and, in the case of applicants required to take an examination as hereinafter prescribed, by an examination fee in the amount of \$5, and such examination fees shall be used solely for the purpose of conducting such examinations as are required by law. In the event an applicant fails to qualify for, or is refused a license, the annual license fee shall be returned to him; the examination fee shall not be returned for any reason.

Sec. 252-E. Examination of applicant for license.

I. Each applicant for a license to act as a life insurance agent within this state shall submit to a personal written examination to determine his competence with respect to life insurance and annuity contracts and his familiarity with the pertinent provisions of the laws of this state, and shall pass the same to the satisfaction of the insurance commissioner; except that no such written examination shall be required of:

A. An applicant for a renewal license, unless the insurance commissioner determines that such examination is necessary to establish the competency or trustworthiness of such individual; or unless a license had not been issued to such applicant within 2 years preceding the date of filing his application;

B. An applicant who is a ticket selling agent or other representative of a public carrier and who shall act under a restricted license only as

an agent with respect to accident insurance tickets covering risks of travel;

C. In the discretion of the insurance commissioner an applicant whose license to do business or act as a life insurance agent in this state was suspended less than 1 year prior to the date of application.

II. The insurance commissioner may establish rules and regulations with respect to the scope, type and conduct of such written examinations and the times and places within this state where they shall be held; provided, that applicants shall be permitted to take such examinations at least once in each week at the principal office of the insurance commissioner.

III. No person who shall have taken and failed to pass 2 examinations given pursuant to this section shall be entitled to take any further examination until after the expiration of 6 months from the date of the last examination in which he failed. If such person shall thereafter fail to pass two more such examinations he shall not be eligible to take any further examination until after the expiration of 1 year from the date of his last unsuccessful examination. No examination fee shall be paid for a second examination within any 6-month period.

IV. The insurance commissioner shall appoint an advisory board to make recommendations to him with respect to the scope, type and conduct of written examinations and the times and places within the state where they shall be held. This advisory board shall consist of citizens of this state experienced in the life insurance business, and may include life insurance company officers and employees, general agents and managers, and licensed life insurance agents. The members of the board shall serve without pay but, upon the authorization of the insurance commissioner, shall be reimbursed for their reasonable expenses in attending meetings of the advisory board.

Sec. 252-F. Issuance or refusal of license. If the insurance commissioner is satisfied that the applicant is trustworthy and competent and the applicant, if required, has passed his written examination, a license shall be issued forthwith, limited to the insurer and kind of insurance for which the agent is to be appointed. If the applicant has not passed his written examination, or for any of the reasons set forth in section 252-L, the insurance commissioner shall notify the applicant and the insurer in writing that a license will not be issued to him.

Sec. 252-G. Non-residents may be licensed.

I. A person not resident in this state may be licensed as a life insurance agent upon compliance with the provisions of sections 252-A to 252-P, inclusive, provided that the state in which such person resides will accord the same privilege to a citizen of this state.

II. The insurance commissioner is further authorized to enter into reciprocal agreements with the appropriate official of any other state waiving the written examination of any applicant resident in such other state, provided:

A. That a written examination is required of applicants for a life insurance agent's license in such other state;

B. That the appropriate official of such other state certifies that the applicant holds a currently valid license as a life insurance agent in such other state and either passed such written examination or was the holder of a life insurance agent's license prior to the time such written examination was required;

C. That the applicant has no place of business within this state nor is an officer, director, stockholder or partner in any corporation or partnership doing business in this state as a life insurance agent;

D. That in such other state, a resident of this state is privileged to procure a life insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state.

Sec. 252-H. Agent may be licensed to represent additional insurers.

I. Any life insurance agent licensed in this state may apply to the insurance commissioner, at any time while his license is in force, for an additional license or licenses authorizing him to act as a life insurance agent for an additional insurer or insurers. Such application shall set forth each insurer which the applicant is then licensed to represent; a certificate from the insurer to be named in each additional license applied for that it desires to appoint the applicant as its agent; and such other information as the insurance commissioner may require. Upon receipt of each such application the insurance commissioner may issue such additional license without examination of, or further investigation concerning the applicant. Any life insurer may file a request with the insurance commissioner for notification that any life insurance agent authorized to represent it has been appointed to represent another life insurer. Pur-

suant to such request for notice, the insurance commissioner shall notify such insurer of such additional appointments.

II. Agents of duly authorized life insurance companies may place risks with agents of other duly authorized life insurance companies when necessary for the adequate insurance of property, persons or interests.

Sec. 252-I. Expiration and renewal of agent's license.

I. Each license issued to a life insurance agent shall expire on July 1 following the date of issue, unless prior thereto it is revoked or suspended by the insurance commissioner or the authority of the agent to act for the insurer is terminated.

II. In the absence of a contrary ruling by the insurance commissioner, license renewals may be issued from year to year upon request of the insurer, without further action on the part of the agent.

III. Each request for renewal of license shall show whether the agent devotes all or part of his efforts to acting as a life insurance agent, and, if part only, how much time he devotes to such work and in what other business or businesses he is engaged or employed.

IV. Upon the filing of a request for renewal of license and payment of the required fees prior to its date of expiration, the current license shall continue in force until the renewal license is issued by the insurance commissioner or until the insurance commissioner has refused for cause to issue such renewal license, as provided in section 252-L, and has given notice of such refusal in writing to the insurer and the agent.

Sec. 252-J. Temporary license in case of death. The insurance commissioner, if he is satisfied with the honesty and trustworthiness of the applicant, may issue a temporary life insurance agent's license without requiring the applicant to pass a written examination, as follows:

I. To the executor or administrator of the estate of a deceased person who at the time of his death was a licensed life insurance agent;

II. To a surviving next of kin of such a deceased person, if no administrator or executor has been appointed and qualified, but any license issued under this subsection shall be revoked upon issuance of a license to an executor or administrator under subsection I;

III. No license issued under the provisions of this section shall be effective for more than 90 days. The insurance commissioner, in his discretion, may renew such license once upon proper application and for good cause.

Sec. 252-K. Company to notify commissioner of termination of contract; communications privileged.

I. Every insurer shall, upon termination of the appointment of any life insurance agent, immediately file with the insurance commissioner a statement of the facts relative to the termination of the appointment and the date and cause thereof. The commissioner shall thereupon terminate the license of such agent to represent such insurer in this state.

II. Any information, document, record or statement required to be made or disclosed to the insurance commissioner pursuant to the provisions of this section shall be deemed a privileged communication and shall not be used as evidence in any court action or proceeding.

Sec. 252-L. Refusal, suspension, or revocation of licenses.

I. A license may be refused, or a license duly issued may be suspended or revoked or the renewal thereof refused by the insurance commissioner if, after notice and hearing as hereinafter provided, he finds that the applicant for, or holder of such license:

A. Has wilfully violated any provision of the insurance laws of this state; or

B. Has intentionally made a material misstatement in the application for such license; or

C. Has obtained, or attempted to obtain, such license by fraud or misrepresentation; or

D. Has misappropriated or converted to his own use or illegally withheld money belonging to an insurer or an insured or beneficiary; or

E. Has otherwise demonstrated lack of trustworthiness or competence to act as a life insurance agent; or

F. Has been guilty of fraudulent or dishonest practices; or

G. Has materially misrepresented the terms and conditions of life insurance policies or contracts; or

H. Has made or issued, or caused to be made or issued, any statement misrepresenting or making incomplete comparisons regarding the terms or conditions of any life insurance or annuity contract legally issued by any insurer, for the purpose of inducing or attempting to induce the owner of such contract to forfeit or surrender such contract or allow it to lapse for the purpose of replacing such contract with another; or

I. Has obtained, or attempted to obtain such license, not for the purpose of holding himself out to the general public as a life insurance agent, but primarily for the purpose of soliciting, negotiating or procuring life insurance or annuity contracts covering himself or members of his family, or the officers, directors, stockholders, partners, employees, or debtors of a partnership, association, or corporation of which he or a member of his family is an officer, director, stockholder, partner or employee.

II. Before any license shall be refused (except for failure to pass a required written examination), or suspended or revoked, or the renewal thereof refused hereunder, the insurance commissioner shall give notice of his intention to do so, by registered mail, to the applicant for, or holder of such license and the insurer whom he represents or who desires that he be licensed, and shall set a date not less than 20 days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the insurer may appear to be heard and produce evidence. In the conduct of such hearing, the insurance commissioner, or any regular salaried state employee specially designated by him for such purpose, shall have power to administer oaths, to require the appearance of, and examine any person under oath, and to require the production of books, records or papers relevant to the inquiry upon his own initiative or upon the request of the applicant or licensee. Upon termination of such hearing, findings shall be reduced to writing and, upon approval by the insurance commissioner, shall be filed in his office and notice of the findings sent by registered mail to the applicant or licensee and the insurer concerned.

III. No licensee whose license has been revoked hereunder shall be entitled to file another application for a license as a life insurance agent within 1 year from the effective date of such revocation or, if judicial review of such revocation is sought, within 1 year from the date of final court order or decree affirming such revocation. Such application, when filed, may be refused by the insurance commissioner unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

Sec. 252-M. Judicial review of acts of commissioner. Any person aggrieved by an act of the insurance commissioner under the provisions of sections 252-A to 252-P may appeal therefrom within 30 days after receipt of notice thereof to any court of competent jurisdiction. Thereafter, such proceeding shall proceed as in the case of any other civil cause.

Sec. 252-N. Change of address of agent. Every licensed life insurance agent shall inform the insurance commissioner promptly in writing of a change of his principal business address.

Sec. 252-O. Penalty. Any person, partnership, association or corporation violating any of the provisions of sections 252-A to 252-P, inclusive, shall, in addition to any other penalty specifically provided, be guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$500 or by imprisonment for not more than 6 months, or by both such fine and imprisonment, each such violation being a separate offense hereunder. In addition, if such offender holds a license as a life insurance agent, such license may be suspended or revoked as hereinbefore provided.

Sec. 252-P. Commissioner may establish rules and regulations. The insurance commissioner is authorized to establish, and from time to time to amend reasonable rules and regulations concerning all matters included in sections 252-A to 252-O, inclusive.