

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 1-452

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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12 MRSA §6671, sub-§4-A is enacted to read:

4-A. State parks. The commissioner shall consult with the Commissioner of Conservation in review of any municipal ordinance that affects intertidal areas located within state parks. The commissioner may not approve any ordinance that threatens any important resources or provides insufficient opportunity for recreational shellfish harvesting within state parks.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 10, 1983.

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## CHAPTER 419

H.P. 1242 - L.D. 1654

AN ACT to Amend the Licensing Provisions of the Maine Insurance Code and to Require Filing Fees for Fraternal Benefit Organizations.

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

Sec. 1. 24-A MRSA §416, as amended by PL 1977, c. 694, §§399 and 400, is further amended to read:

§416. Petition for suspension or revocation of certificate of authority; mandatory grounds

1. The superintendent shall file a complaint with the Administrative Court, which may be pursuant to Title 47, section 1153, seeking suspension or revocation of an insurer's certificate of authority on any of the following grounds Notwithstanding Title 4, section 1151, and Title 5, section 10051, the superintendent shall refuse to continue or shall suspend or revoke an insurer's certificate of authority:

A. If such action is required by any provision of this Title; ~~or~~

B. If a foreign insurer and it no longer meets the requirements for a certificate of authority, on account of deficiency of capital or surplus or otherwise; ~~or~~

C. If a domestic insurer and it has failed to cure an impairment of capital or surplus within the time allowed therefor by the superintendent under this Title or is otherwise no longer qualified for the certificate of authority; or

D. If the insurer's certificate of authority to transact insurance therein is suspended or revoked by its state of domicile, or state of entry into the United States, if an alien insurer; or

E. For failure of the insurer to pay taxes on its premiums as required by law.

2. In all cases in which the superintendent files a complaint seeking suspension or revocation of an insurer's certificate of authority, the Administrative Court proceeding will be held pursuant to Title 4, chapter 25. Except in case of insolvency or impairment of required capital or surplus, or suspension or revocation by another state as referred to in subsection 1, paragraph D, the superintendent shall give the insurer at least 20 days notice in advance of any such refusal, suspension or revocation under this section and of the particulars of the reasons therefor. If the insurer requests a hearing thereon within the 20 days, the request shall automatically stay the superintendent's proposed action until his order is made on that hearing. Hearings held pursuant to this subsection shall be held in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

3. If an action initiated by the superintendent to suspend or revoke an insurer's certificate of authority is based on subsection 1, paragraphs B or C, a sworn statement of financial condition of the insurer signed by an officer of the insurer which indicates that the insurer no longer meets the requirements for a certificate of authority shall be prima facie proof that the requirements for a certificate of authority are not met.

Sec. 2. 24-A MRSA §417, as amended by PL 1977, c. 694, §§401 to 403, is further amended to read:

§417. Suspension or revocation of certificate of authority; discretionary and special grounds

1. The Notwithstanding Title 4, section 1151, and Title 5, section 10051, the superintendent may, in his discretion, file a complaint with the Administrative Court seeking suspension or revocation or refuse to continue or may suspend or revoke an insurer's certificate of authority, if he finds, after a hearing thereon or upon waiver of hearing by

the insurer, that the insurer has violated or failed to comply with any lawful order of the superintendent, or has willfully violated or willfully failed to comply with any lawful regulation rule of the superintendent, or has violated any provision of this Title other than those for violation of which a petition for suspension or revocation is mandatory.

2. The superintendent shall, pursuant to Title 47 section 1153 or otherwise, file a complaint with the Administrative Court seeking to suspend or revoke an insurer's certificate of authority on any of the following grounds, if a finding is made he finds after a hearing held in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, that the insurer:

A. Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this State currently or prospectively hazardous or injurious to policyholders or to the public; or

B. With such frequency as to indicate its general business practice in this State, has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person; or, with like frequency, without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or an insured to secure full payment or settlement of such claims; or

C. Refuses to be examined, or if its directors, officers, employees or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the superintendent when required, or refuse to perform any legal obligation relative to the examination; or

D. Has failed to pay any final judgment rendered against it in this State upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within 30 days after the judgment became final or within 30 days after dismissal of an appeal before final determination, whichever date is the later.

3. The Notwithstanding Title 4, sections 1151 and 1153, and Title 5, section 10051, the superintendent may, in his discretion, file with the Administrative Court a complaint seeking immediate revoca-

tion or suspension of an insurer's certificate of authority pursuant to Title 4, section 1153, if without notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced against the insurer in any state by the public official charged with supervising the insurance industry in that state. Upon suspending a certificate of authority under this subsection, the superintendent shall promptly schedule a hearing on the matter, to be held within 30 days of the suspension. The superintendent shall make a determination within 30 days after the conclusion of that hearing.

Sec. 3. 24-A MRSA §418, as repealed and replaced by PL 1977, c. 694, §404, is amended to read:

§418. Power to amend, modify or refuse to renew certificates of authority

Notwithstanding the authority of the Administrative Court to order suspension or revocation, the superintendent has the authority to may amend, modify or refuse to renew any insurer's certificate of authority for cause pursuant to procedures in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.

Sec. 4. 24-A MRSA §418-A is enacted to read:

§418-A. Order, notice of suspension or, revocation; publication; effect upon agents' authority

1. All suspensions or revocations of, or refusals to continue, an insurer's certificate of authority shall be by the superintendent's order, given to the insurer by personal delivery or by certified or registered mail, addressed to the insurer at its last address of record with the superintendent. Notice by mail shall be deemed given when so mailed.

2. Upon issuance of the order, the superintendent shall forthwith give notice thereof to the insurer's agents in this State of record in the bureau, and shall likewise suspend or revoke the authority of those agents to represent the insurer.

Sec. 5. 24-A MRSA §419, as amended by PL 1977, c. 694, §§405 and 406, is further amended to read:

§419. Duration of suspension; insurer's obligation during suspension period; reinstatement

1. The suspension of an insurer's certificate of

authority shall be for such period as determined by the Administrative Court, consistent with Title 4, chapter 25 the superintendent specifies in the order of suspension, but not to exceed one year. During the suspension period, the superintendent may rescind or shorten the suspension period by further order.

2. During the suspension period, the insurer shall not solicit or write any new business in this State, but shall file its annual statement, pay fees, licenses and taxes as required under this Title, and may service its business already in force in this State, as if the certificate of authority had continued in full force.

3. Upon expiration of the suspension period, if within that period the certificate of authority has not terminated, the insurer's certificate of authority shall reinstate unless the procedures of the Administrative Court mandate to the contrary. The suspension shall not terminate if the Administrative Court the superintendent finds that the causes of the suspension are continuing, or that the insurer is otherwise not in compliance with the requirements of this Title.

4. Upon reinstatement of the insurer's certificate of authority, the authority of its agents in this State to represent the insurer shall likewise reinstate. The superintendent shall promptly notify the insurer and its agents in this State, of record in the bureau, of such that reinstatement.

Sec. 6. 24-A MRSA §1512-A is enacted to read:

1512-A. Prohibited activities

1. No person whose license as an insurance agent, broker, consultant or adjuster has been revoked, suspended, denied for cause or voluntarily surrendered to avoid prosecution may in this State participate in any manner in the conduct of an insurance agency or insurance brokerage, consulting or adjusting business.

2. No person whose license as an insurance agent, broker, consultant or adjuster has been revoked, suspended, denied for cause or voluntarily surrendered to avoid prosecution, may derive, or continue to derive, any compensation, by whatever name called, except as provided in this section, based on the operation of the insurance agency or other firm in which the person was engaged or employed prior to the revocation, suspension, denial or surrender of license.



3. This section shall not prohibit the receipt of compensation by a person for activities that the person engaged in prior to any loss of license referred to in this section, nor shall it prohibit any person from divesting himself from an interest in an insurance company or firm for value.

4. Nothing in this section prohibits any rights a person may have to seek relicensure under section 1542.

5. Any person violating this section shall, upon conviction, be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for less than one year, or by both.

Sec. 7. 24-A MRSA §1532, as amended by PL 1977, c. 682, §§ 3 and 4, is repealed.

Sec. 8. 24-A MRSA §1532-A is enacted to read:

§1532-A. Continuation; expiration of license

1. Each broker, resident or nonresident, license issued under this Title shall continue in force until 12:01 a.m. on January 1st of the biennium for which it was issued, unless prior thereto it has been suspended, revoked or otherwise terminated.

2. Each consultant license issued under this Title shall continue in force until 12:01 a.m. on March 1st of the biennium for which it was issued, unless prior thereto it has been suspended, revoked or otherwise terminated.

3. Each adjuster license issued under this Title shall continue in force until 12:01 a.m. on January 1st of the biennium for which it was issued, unless prior thereto it has been suspended, revoked or otherwise terminated.

4. The superintendent shall notify each broker, consultant and adjuster licensed under this Title of the expiration date of the licensee's license and the fee that is required for renewal for a 2-year period. The notice shall be mailed to that person at least 30 days in advance of the expiration date of the license.

5. Any broker, consultant or adjuster may apply to renew a license issued under this chapter by written request and payment to the superintendent of the applicable renewal fee as stated in section 601. As a condition of or in connection with the renewal of any broker, consultant or adjuster license, the superintendent may require the licensee to file with him information as for application for the license or

as to the use made of the license during the current or next preceding license year.

Upon the filing of the information required by this subsection, the superintendent shall issue a renewal license for the ensuing biennium, unless, following a hearing, the superintendent determines that any reason or condition exists which is specified in section 1539 for the suspension or revocation of a license.

6. An initial license as a life agent or a general lines agent shall be for a term of one year and shall not be subject to renewal, continuation or reissuance. An individual holding such an initial license may represent as many insurers as may appoint that individual, pursuant to this chapter.

7. An agent license, other than an initial license, shall continue in force until 12:01 a.m. on April 1st next following issuance, unless prior thereto it has been suspended, revoked or otherwise terminated, while there is in effect as to the license, as shown by the superintendent's records, an appointment or appointments as agent of authorized insurers covering collectively all the kinds of insurance included in the agent's license. Upon termination of all the licensee's agency appointments, as to a particular kind of insurance, and failure to replace those appointments within 60 days thereafter, the license shall thereupon expire and terminates as to those kinds of insurance and the licensee shall promptly deliver his license to the superintendent for reissuance, without fee or charge as to these kinds of insurance, if any, covered by the remaining agency appointments. Upon termination of all the licensee's agent appointments, the license shall immediately terminate.

8. Each agent license, other than an initial license, issued under this Title which terminates on its expiry date, shall be automatically renewed for a further one-year period, unless, following a hearing, the superintendent determines that any reason or condition exists which is specified in section 1539 for the suspension or revocation of a license.

As a condition of or in connection with the renewal of any agent license, the superintendent may require the licensee to file with him information as for application for the license, or as to the use made of the license during the current or next preceding license year. The superintendent shall forward to each licensee, whose agents license is automatically renewed, a notice of renewal.

Sec. 9. 24-A MRSA §1539, sub-§§3 and 4 are enacted to read:

3. Notwithstanding subsections 1 and 2, the superintendent may revoke, suspend or refuse to renew any license issued under this chapter, pursuant to Title 5, section 10004, without proceeding in conformity with chapter 3 or Title 5, chapter 375, subchapter IV or VI, when:

A. The decision to take that action is based solely upon a conviction in court of any offense denominated in Title 5, section 5301, subsection 2, or a conviction in the courts of any other state or any country of an offense which would be denominated under Title 5, section 5301, had the offense occurred in this State. Any revocation, suspension or denial of license under this paragraph shall be in accordance with Title 5, sections 5302 to 5304;

B. The Maine license has been issued upon the basis of a reciprocal agreement with another government and the Maine action is based upon evidence, in the form of a certified copy, that the authority issuing the license which provided the basis for reciprocal licensing in this State has revoked or suspended its license; or

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

Sec. 10. 24-A MRSA §1804, sub-§1, as repealed and replaced by PL 1979, c. 341, is amended to read:

1. Has had not less than 5 years of actual experience as a ~~licensed agent or broker~~ with respect to the kinds of insurance and contracts to be covered by the license;

Sec. 11. 24-A MRSA §4120, first ¶, as amended by PL 1973, c. 585, §12, is further amended to read:

No life benefit certificate shall may be delivered or issued for delivery in this State unless a copy of the form shall have been filed with the superintendent and approved by him as conforming to the requirements of this section and not inconsistent with any other provisions of law applicable thereto. For each such form filing, the society shall pay the superintendent a fee which shall be the same as for

an insurer, as provided in section 601. A certificate shall be deemed approved unless disapproved by the superintendent within 60 days from the date of such that filing.

Sec. 12. 24-A MRSA §4121, as amended by PL 1977, c. 694, §430, is further amended to read:

§4121. Accident and health insurance and total and permanent disability insurance certificates

No society ~~shall~~ may issue or deliver in this State any certificate or other evidence of any contract or accident insurance or health insurance or of any total and permanent disability insurance contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, ~~shall~~ has been filed with the superintendent and approved by him as conforming to reasonable rules and ~~regulations~~ from time to time made by him and as not inconsistent with any other provisions of law applicable thereto. For each such form filing, the society shall pay the superintendent a fee which shall be the same as for an insurer, as provided in section 601. The superintendent shall, within a reasonable time after the filing of any such form, notify the society filing the same form either of his approval or of his disapproval of ~~such that~~ form. The superintendent may approve any such form which in his opinion contains provisions on any one or more of the several requirements made by him which are more favorable to the members than the one or ones so required. The superintendent ~~shall have power, from time to time, to~~ may make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to chapter 33. Where the superintendent deems inapplicable, either in part or in their entirety, the provisions of the foregoing sections, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member. Any filing made ~~hereunder~~ under this section shall be deemed approved unless disapproved within 60 days from the date of such filing. The procedures governing all rules and ~~regulations~~ promulgated under authority of this section shall conform to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.