

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
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PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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

Sec. 1. **22 MRSA §3, 2nd ¶**, as enacted by PL 1987, c. 349, Pt. H, §12, is repealed and the following enacted in its place:

**1. Report.** The Department of Human Services shall prepare an annual report on all services contracted with community providers. The department shall deliver its report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 31st of each year. The report shall include:

A. A listing, by community agency, of all funds received from the State and a summary of the purposes for which those funds were expended;

B. A summary of the most recent year's allocations of all funds by bureau or office, service area, region and, if available, county;

C. An evaluation of additional funding needed to equalize funding among all regions by individual service areas, presented in prioritized order;

D. The department's assessment, by individual service area, of the outstanding service needs of the State. The assessment shall identify the funding source projected by the department to be available for the expansion of service, presented in prioritized order; and

E. Recommendations for changes in funding resulting from the department's planning and evaluation system presented in the following order of priority: greatest service need within existing funding scheme; equalization of regional funding with each service area; and new or outstanding needs.

Sec. 2. **34-B MRSA §1208, sub-§5**, as enacted by PL 1987, c. 349, Pt. H, §19, is repealed and the following enacted in its place:

**5. Annual report.** The Department of Mental Health and Mental Retardation shall prepare an annual report on all services contracted with community providers. The department shall deliver its report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 31st of each year. The report shall include:

A. A listing, by community agency, of all funds received from the State and a summary of the purposes for which those funds were expended;

B. A summary of the most recent year's allocations of all funds by bureau or office, service area, region and, if available, county;

C. An evaluation of additional funding needed to equalize funding among all regions by individual service areas, presented in prioritized order;

D. The department's assessment, by individual service area, of the outstanding service needs of the State. The assessment shall identify the funding source projected by the department to be available for the expansion of service, presented in prioritized order; and

E. Recommendations for changes in funding resulting from the department's planning and evaluation system presented in the following order of priority: greatest service need within existing funding scheme; equalization of regional funding with each service area; and new or outstanding needs.

See title page for effective date.

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## CHAPTER 168

S.P. 53 - L.D. 28

### An Act Relating to the Licensing of Insurance Agents, Brokers and Adjusters

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

Sec. 1. **5 MRSA §12004-I, sub-§72-A** is enacted to read:

<u>72-A. Occupations:</u>	<u>Adjuster License</u>	<u>Expenses</u>	<u>24-A MRSA</u>
<u>Insurance</u>	<u>Advisory Board</u>	<u>Only</u>	<u>§1525</u>

Sec. 2. **24-A MRSA §426**, as enacted by PL 1969, c. 132, §1, is repealed.

Sec. 3. **24-A MRSA §427**, as amended by PL 1987, c. 481, §1, is repealed.

Sec. 4. **24-A MRSA §1509**, as amended by PL 1973, c. 585, §12, is repealed and the following enacted in its place:

#### **§1509. "Adjuster" defined**

An adjuster is any person who, as an independent contractor or as an employee of an independent contractor, adjustment bureau, association, managing general agent, insurer or other firm for fee, commission or other compensation, investigate and settles on behalf of and reports to an insurer, workers' compensation self-insurer or insured relative to claims arising under the workers' compensation laws, insurance contracts or annuity contracts. The definition of adjuster does not include and a license as an adjuster shall not be required of:

1. Attorneys at law admitted to practice in this State;

2. Salaried employees of insurers who are authorized to settle and pay claims within a specified limit established by the insurer not to exceed \$2,500;

3. Licensed agents authorized to settle and pay claims within a specified limit established by the insurer not to exceed \$2,500;

4. Persons excepted from licensure as adjusters pursuant to Title 5, section 1727-A, and persons acting as adjusters solely on behalf of the State or counties, cities and towns thereof;

5. Persons adjusting only life and health insurance claims; and

6. Adjuster trainees pursuant to section 1509-A.

**Sec. 5. 24-A MRSA §1509-A** is enacted to read:

**§1509-A. "Adjuster trainee" defined**

An adjuster trainee is any person with less than 2 years total experience handling loss claims under insurance contracts or the workers' compensation laws. An adjuster trainee must be employed by and subject to the immediate personal supervision of an adjuster who is licensed in this State and who has been established in the business of adjusting for 3 years or more.

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

6. Until July 1, 1991, the requirements of this section shall not apply to adjusters who are employees of insurers, adjust workers' compensation self-insurance claims only or who adjust claims on behalf of the public.

**Sec. 7. 24-A MRSA §1512-B** is enacted to read:

**§1512-B. Report of superintendent**

By February 15, 1990, the Superintendent of Insurance shall make a recommendation to the joint standing committee of the Legislature having jurisdiction over business matters of the desirability and feasibility of excluding adjusters from licensure who have been in the business of adjusting for more than 5 years and requiring adjusters to fulfill continuing education requirements as a condition of license renewal.

**Sec. 8. 24-A MRSA §1513, sub-§3**, as amended by PL 1969, c. 177, §27-B, is further amended to read:

3. Any regular salaried officer or employee of an authorized insurer rendering assistance to or on behalf of a licensed agent or broker, if such officer or employee devotes substantially all of his that person's time to activities other than the solicitation of applications for insurance or annuity contracts, and receives no commission or other compensation directly dependent upon the amount of business obtained; except that a service representative shall be licensed as an agent when required by section 1507-; and

**Sec. 9. 24-A MRSA §1513, sub-§4** is enacted to read:

4. An adjuster trainee pursuant to section 1509-A.

**Sec. 10. 24-A MRSA §1520, sub-§3**, as amended by PL 1973, c. 585, §12, is further amended to read:

3. As to life insurers authorized to issue variable contracts under section 2537, applicants appointed by such insurers to solicit such variable contracts in this State, in addition to completing examinations required for a life agent's license, shall ~~take and pass successfully a separate examination covering the subject of variable contracts, in accordance with such reasonable rules and regulations as may be adopted by the superintendent, and pay a separate examination application fee therefor. Said rules and regulations may provide for several sections of the examination and several classifications of said variable contract license corresponding to the different types of variable contracts to be offered in this State, including, without limitation, variable annuity contracts and variable life insurance contracts~~ have successfully completed the minimum National Association of Securities Dealers requirements for the sale of variable contracts and provide the superintendent with a registration form as issued by the National Association of Securities Dealers. Such a registration shall be with the broker-dealer of the insurer appointing the applicant or with a broker-dealer with whom the insurer has a sales agreement.

**Sec. 11. 24-A MRSA §1522, sub-§2**, as enacted by PL 1969, c. 132, §1, is amended to read:

2. The examination for a broker license shall be more difficult than that for an agent license; the examination for a consultant license shall be substantially more difficult than that for a broker license and shall be a thorough testing of the applicant's competence to provide expert advice within the field covered by the license applied for; ~~and the examination for a life agent permanent license shall be substantially more difficult than the examination for initial license as a life agent as provided for in section 1674.~~

**Sec. 12. 24-A MRSA §1525, sub-§1**, as amended by PL 1985, c. 366, §8, is further amended to read:

1. The superintendent shall appoint ~~2~~ 3 advisory boards, as authorized and established by Title 5, section ~~12004~~ 12004-I, ~~subsection 10~~ subsections 71 to 72-A, to make recommendations to ~~him~~ the superintendent with respect to the scope, type and conduct of written examinations for license, the times and places within the State where examinations shall be held, and with respect to the other matters referred to in this section and in section 1526. ~~He shall appoint one board~~ One board shall be appointed with respect to general lines agent licensing, to be referred to as the "General Lines Agent Examination Advisory Board;" ~~he shall appoint the other such board~~ one board shall be appointed with respect to life agent licensing, to be referred to as the "Life Agent Examination Advisory Board-;" and one board shall be appointed with respect to adjuster licensing to be referred to as the "Adjuster License Advisory Board."

**Sec. 13. 24-A MRSA §1525, sub-§2**, as amended by PL 1973, c. 585, §12, is further amended to read:

2. Each ~~such~~ board shall consist of 5 members, to be appointed by the superintendent for terms of 3 years each, on a staggered term system so as to prevent the terms of more than 2 members from expiring in any one year. ~~No~~ Except as otherwise provided, no person shall may be eligible for appointment to such a board unless he or she that person is active on a full-time basis in the general lines insurance business, as to the general lines advisory board, or in the life insurance business, as to the life advisory board, and is a resident of this State. Except as otherwise provided, no person may be eligible for appointment to the Adjuster License Advisory Board unless active as an adjuster on a full-time basis and a resident of this State. No person may be reappointed to a board for more than one 3-year term.

**Sec. 14. 24-A MRSA §1525, sub-§5** is enacted to read:

5. In appointing members to the Adjuster License Advisory Board, the superintendent shall, so far as practicable, constitute the board so that it shall at all times include at least one adjuster who is an employee of an insurer, one public adjuster, one member or employee of an independent adjusting firm and one member who represents the public.

**Sec. 15. 24-A MRSA §1526**, as amended by PL 1983, c. 812, §150, is further amended to read:

**§1526. Functions; reports; expenses**

1. Each respective ~~such~~ advisory board shall meet with the superintendent twice during each calendar year at times and places to be designated by the superintendent, and on ~~such~~ other occasions as its members deem appropriate. The superintendent shall furnish to ~~the each~~ board ~~such~~ information, not otherwise designated by law as confidential, as its members may reasonably require with respect to the conduct, scope and results of examinations of ~~general lines agents, as to the general lines advisory board, or of life agents, as to the life advisory board with which it is concerned.~~

2. Each ~~such~~ board shall make at least one written annual report to the superintendent with respect to the matters within its province. In the report, or in addition thereto, the board shall provide the superintendent with its specific recommendations from time to time as to changes in the scope, format and nature of examinations with which it is concerned, as appear to its members desirable and in the best interest of the people of this State, ~~and of the property, casualty or surety insurance business, as to the general lines advisory board, or the life insurance business, as to the life advisory board, as conducted in this State.~~

3. The superintendent shall avail ~~himself and his~~ the bureau of all ~~such~~ recommendations and material ~~so~~ furnished by the respective ~~such~~ boards, and shall adopt or implement ~~such~~ portions ~~thereof~~ of the recommendations and material as appear ~~to him~~ appropriate and advisable.

4. Each board may, in addition, consult with the superintendent with respect to possible legislation or regulatory measures designed or intended to improve the quality

and nature of the ~~solicitation and servicing of property, casualty or surety insurance by licensed general lines agents, as to the general lines advisory board, or of life insurance by licensed life agents, as to the life advisory board, within this State lines of insurance and aspects of the insurance business within its concern;~~ but nothing in this section shall may be deemed to vest any authority in such a board other than on an advisory basis as stated.

5. The written reports of a board shall be matters of public record, and available from the superintendent upon request.

6. The members of the advisory boards, as established by Title 5, section ~~42004~~ 12004-I, ~~subsection 40~~ subsections 71 to 72-A, shall be compensated according to the provisions of Title 5, chapter 379.

**Sec. 16. 24-A MRSA §1528, sub-§1, ¶C**, as amended by PL 1975, c. 159, §§1 and 2, is further amended to read:

C. Except as provided in section 1531, an agent license must cover one or more of the following:

(1) General lines as defined in 1503, permanent;

~~(1-A) General lines as defined in 1503, initial;~~

~~(2) Life as defined in 1504, initial;~~

(3) Life as defined in 1504, permanent;

(4) Health as defined in 1505; or

(5) Variable contract as defined in 1520, subsection 3;

**Sec. 17. 24-A MRSA §1528, sub-§2-A** is enacted to read:

2-A. The superintendent may issue to an applicant qualified under this chapter one or more limited adjuster licenses as follows:

A. Claims arising under the workers' compensation laws only;

B. Property insurance claims only; and

C. Casualty insurance claims only.

**Sec. 18. 24-A MRSA §1532-A, sub-§6**, as enacted by PL 1983, c. 419, §8, is repealed.

**Sec. 19. 24-A MRSA §1532-A, sub-§8**, as amended by PL 1985, c. 366, §9, is further amended to read:

8. Each agent license, ~~other than an initial license,~~ issued under this Title which terminates on its expiration date; shall be automatically renewed for a further 2-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.

**Sec. 20. 24-A MRSA §1611**, as amended by PL 1973, c. 585, §12, is repealed.

**Sec. 21. 24-A MRSA §1612**, as enacted by PL 1969, c. 132, §1, is repealed.

**Sec. 22. 24-A MRSA §1616, sub-§2**, as amended by PL 1973, c. 585, §12, is further amended to read:

2. The superintendent may waive the taking of a written examination by the nonresident applicant for such a license, if a similar privilege is extended by the other state or province to Maine residents and if ~~he~~ the superintendent finds that the applicant has already met qualification requirements and standards in the applicant's domiciliary state or province which are substantially as high as those applicable under this chapter to Maine residents applying for a similar license. Any nonresident agent or broker licensed under this section who becomes a resident and applies for licensing status as a resident is subject to the State-specific portion of the license examination.

**Sec. 23. 24-A MRSA §1619**, as amended by PL 1975, c. 159, §4, is repealed.

**Sec. 24. 24-A MRSA §1674**, as amended by PL 1975, c. 159, §5, is repealed.

**Sec. 25. 24-A MRSA §1680, sub-§4** is enacted to read:

4. Any nonresident agent or broker licensed under this section who becomes a resident and applies for licensing status as a resident is subject to the State-specific portion of the license examination.

**Sec. 26. 24-A MRSA §1853, first ¶**, as amended by PL 1973, c. 585, §12, is further amended to read:

For the protection of the people of this State, the superintendent shall not issue, continue or permit to exist any license as an adjuster or limited license as a workers' compensation, property insurance or casualty insurance adjuster, except in compliance with this chapter; or, as to any individual not qualified ~~therefor~~, as follows:

**Sec. 27. 24-A MRSA §1853, sub-§3**, as enacted by PL 1969, c. 132, §1, is further amended to read:

3. Must pass any written examination required for the license under this chapter; except that with respect to adjusters employed by insurers and persons acting as public adjusters in this State as of September 1, 1989, this subsection will not apply until July 1, 1991;

**Sec. 28. 24-A MRSA §1854, sub-§4**, as amended by PL 1973, c. 585, §12, is further amended to read:

4. No bond may be required with respect to an adjuster who is an employee of an insurer. The superintendent may waive the requirement of a separate bond as to a licensee employed or to be employed by a licensed firm or corporation adjuster which has posted with the superintendent a general bond covering all such licensees in such aggregate liability amount in excess of \$10,000 as the superintendent deems reasonable.

**Sec. 29. 39 MRSA §23, sub-§8-A** is enacted to read:

8-A. Qualifications for claims personnel. Persons who investigate, settle or negotiate the settlement of claims on behalf of self-insurers or employees of self-insurers shall be required to be licensed as insurance adjusters pursuant to Title 24-A, chapter 17, subchapters I and IV.

**Sec. 30. Allocation.** The following funds are allocated from Other Special Revenue Fund to carry out the purposes of this Act.

	1989-90	1990-91
<b>PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF</b>		
<b>Bureau of Insurance</b>		
All Other	\$1,500	\$1,500
Provides funds for the expenses of members of the Adjusters License Advisory Board.		
See title page for effective date.		

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## CHAPTER 169

H.P. 651 - L.D. 885

### An Act Concerning The Passamaquoddy Tribal Court

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

**Sec. 1. 30 MRSA §6209, sub-§1, ¶A**, as amended by PL 1987, c. 756, §§1 and 2, is further amended to read:

A. Criminal offenses against a person or property for which the maximum potential term of imprisonment does not exceed 6 months and the maximum potential fine does not exceed \$500 and which are committed on the Indian reservation of the respective tribe or nation by a member of either tribe or nation against another member of either tribe or nation or against the property of another member of either tribe or nation.