

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

CHAPTER 219**S.P. 195 - L.D. 631****An Act to Protect Consumers of Cable Television**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, some cable television companies do not discontinue billing for a service until the company actually makes the physical disconnection; and

Whereas, this disconnection can take a considerable time; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 30-A MRSA §3010, sub-§1-A is enacted to read:

1-A. Service disconnection. A franchisee must discontinue billing a consumer for a service within 10 working days after the consumer requests that service disconnection unless the consumer unreasonably hinders access by the franchisee to equipment of the franchisee on the premises of the consumer to which the franchisee must have access to complete the requested disconnection.

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

Effective June 2, 1993.

CHAPTER 220**H.P. 490 - L.D. 648****An Act to Require That the Inspection and Investigation Responsibilities of the Electricians' Examining Board Receive Funding Priority**

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

Sec. 1. 32 MRSA §1152, first ¶, as amended by PL 1987, c. 395, Pt. B, §6, is further amended to read:

The Commissioner of Professional and Financial Regulation, with the advice and consent of the board,

~~shall be empowered to~~ may appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. At no time may there be fewer than 6 electrical inspectors to carry out the mandates of this chapter. The board shall raise funds as necessary to support the costs of its employees and their administrative support. Any person so employed ~~shall~~ must be located in the Department of Professional and Financial Regulation and under the administrative and supervisory direction of the Commissioner of Professional and Financial Regulation.

See title page for effective date.

CHAPTER 221**S.P. 361 - L.D. 1075****An Act to Clarify Ambiguous Language and Correct Errors in Licensing Procedures and Requirements for Licensees Regulated by the Superintendent of Insurance**

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

Sec. 1. 24-A MRSA §601, sub-§9, as amended by PL 1991, c. 334, §5, is repealed.

Sec. 2. 24-A MRSA §601, sub-§9-A is enacted to read:

9-A. Application. Application for license fees are:

A. Application filing fee, other than consultants \$15; and

B. Consultant application filing fee \$25.

Sec. 3. 24-A MRSA §601, sub-§11, as amended by PL 1991, c. 334, §5, is further amended to read:

11. Rating organizations and advisory organizations. Rating organizations and advisory organizations fees are:

License fee \$100 \$200; and

Biennial continuation of license \$200.

Sec. 4. 24-A MRSA §601, sub-§22 is enacted to read:

22. Managing general agents. Managing general agents fees are:

A. Original registration fee \$100; and

B. Annual continuation of registration fee \$100.

Sec. 5. 24-A MRSA §1512, sub-§3, as enacted by PL 1969, c. 132, §1, is amended to read:

3. Except as provided in section ~~1677 (excess or rejected risks)~~ 1615, ~~no~~ an agent ~~shall~~ may not place ~~any~~ insurance with ~~any~~ an insurer ~~as to~~ for which ~~he~~ the agent does not then hold a license and appointment as agent under this Title.

Sec. 6. 24-A MRSA §1518, sub-§1, as amended by PL 1973, c. 585, §12, is further amended to read:

1. Written application for an agent, broker, consultant or adjuster license ~~shall~~ must be made to the superintendent by the applicant; and accompanied by the applicable license application ~~and examination application~~ fees shown in section 601 (~~fee schedule~~), the cost of examination, if applicable, referred to in section 1520 and the investigation cost, if applicable, referred to in section 1519. The application fee is earned when paid and is not subject to refund. The application ~~shall~~ must be signed and duly sworn to by the applicant. An individual who applies for more than one category of license, as defined in section 1528, shall pay a separate application fee for each license requested.

Sec. 7. 24-A MRSA §1520, sub-§4, as enacted by PL 1969, c. 132, §1, is amended to read:

4. An applicant for license as both a life agent or broker and a general lines agent or broker ~~shall~~ must be separately examined ~~as to~~ for life insurance and ~~as to~~ such for general lines, and shall pay a separate examination application fee ~~as to~~ for each of ~~such~~ the 2 examinations.

Sec. 8. 24-A MRSA §1520, sub-§6, as amended by PL 1973, c. 585, §12, is repealed.

Sec. 9. 24-A MRSA §1533, sub-§1, as amended by PL 1973, c. 585, §12, is further amended to read:

1. Each insurer appointing an agent in this State shall file with the superintendent the appointment in writing, specifying the kinds of insurance or annuity business to be transacted by the agent for the insurer, and pay the appointment fee; at the rate specified in section 601 (~~fee schedule~~). The insurer shall pay the full appointment fee if the agent's appointment precedes the sponsoring insurer's biennial continuation date by a period of more than one year. If the agent's appointment precedes the sponsoring insurer's biennial continuation date by a period less than one year, 1/2 the applicable appointment fee is charged. An agent ~~required~~ who qualifies to take a be licensed to sell variable annuity ~~examination~~ contracts pursuant to section 1520 ~~shall~~ must be separately appointed as to variable annuities and the insurer shall pay a separate appointment fee ~~therefor~~ for the appointment.

Sec. 10. 24-A MRSA §1533, last ¶, as enacted by PL 1975, c. 767, §18, is repealed.

Sec. 11. 24-A MRSA §1534, sub-§2, as repealed and replaced by PL 1975, c. 767, §19, is amended to read:

2. The superintendent shall notify every insurer of the expiration date of ~~its~~ the insurer's agents' appointments and the fees that are required for continuation of an agent's appointment for a 2-year period. The notice ~~shall~~ must be mailed to the insurer at least 30 days in advance of the expiration date of ~~its~~ the insurer's agents' appointments. At least 15 days before ~~such~~ the expiration date, the insurer shall file with the superintendent an alphabetical list of the names and addresses of all ~~its~~ the insurer's agents in this State whose appointments are to remain in effect ~~as to~~ for the kinds of insurance or annuity business for which the respective agents are ~~so~~ appointed, accompanied by payment of the biennial continuation of appointment fee; as specified in section 601; ~~fee schedule~~. Fees submitted with the alphabetical list are earned when paid and are not subject to refund. If an insurer's continuation of appointment is not accompanied by payment of the required fee, the appointment is considered expired at midnight on the insurer's biennial continuation date. At the same time, the insurer shall also file with the superintendent an alphabetical list of the names and addresses of all ~~its~~ the insurer's agents whose appointments in this State are not to remain in effect. An appointment not so continued and not otherwise expressly terminated ~~shall be deemed to have~~ is considered expired at midnight on the insurer's biennial continuation date.

Sec. 12. 24-A MRSA §1535, sub-§1, as repealed and replaced by PL 1991, c. 112, §1, is amended to read:

1. Subject to the general lines agent's contract obligations and rights, if any, an insurer or agent may terminate an agency appointment at any time. If the appointment is by written agreement and the insurer intends to terminate the written agreement with the agent or modify the agreement to delete that agent's authority to represent the insurer for any line of business, the insurer shall provide 90 days advance written notice of the termination or modification to the agent. A notice is not required when:

- A. The agent is subject to suspension or revocation of license under section 1539;
- B. The agency fails to pay money due the company;
- C. There is a sale or a merging of the agency;
- D. There is an insolvency or bankruptcy of the agency;

E. The agent holds a limited license under section 1531, subsection 1; or

F. The agent is an employee of an insurer or the agent by contractual agreement represents only one insurer or group of affiliated insurers, if the property rights in the renewal are owned by the insurer or group of affiliated insurers. Cancellation or termination of the agent's contract under this paragraph may not result in the cancellation or nonrenewal of the policies.

~~The list of appointments not being continued under section 1534 constitutes notice to the superintendent of the terminations listed. The superintendent may require of the insurer reasonable proof that the insurer has given notice to the agent.~~

Sec. 13. 24-A MRSA §1535, sub-§2, as amended by PL 1973, c. 585, §12, is further amended to read:

2. Notice of cancellation of an agent's appointment must be given to the superintendent in writing at the same time notice is given to the agent. The list of appointments not being continued under section 1534 constitutes notice to the superintendent of an agent's termination only if the termination takes effect on the agent's renewal date. The superintendent may require of the insurer reasonable proof that the insurer has given notice to the agent pursuant to this section. Accompanying the notice of termination given the superintendent, the insurer shall file with ~~him~~ the superintendent a statement of the cause, if any, for termination. Any information, document, record or statement so disclosed or furnished to the superintendent ~~shall be deemed is considered~~ an absolutely privileged communication and ~~shall is~~ not be admissible as evidence in any action or proceeding.

Sec. 14. 24-A MRSA §§1544 to 1548 are enacted to read:

§1544. Change of address

Every licensed agent, broker, adjuster, consultant and organization shall promptly notify the superintendent in writing of every change of principal place of business or change of residence.

§1545. Authority of agent; limitation as to surety bonds

1. A licensed agent resident in this State of an authorized insurer may:

A. Solicit, sell and make binding insurance contracts throughout this State within the authority granted the agent by the insurer and the scope of the agent's license; and

B. Adjust the losses of the insurer within the authority granted the agent by the insurer.

2. An agent who is also a judge of probate, register of probate or an employee in the office of either may not write surety bonds or share in the commissions on surety bonds.

3. A licensed resident or a nonresident agent may not place or seek to place insurance coverage, other than in an authorized insurer, except as provided in chapter 19. An agent may place or seek to place insurance coverage, other than with an insurer for which the agent holds an appointment or in accordance with chapter 19, to the extent permitted by section 1615.

§1546. Broker's authority; commissions

1. A person licensed as a resident or nonresident broker may negotiate insurance contracts within the scope of that person's license and related to risks resident, located or to be performed in this State, with any authorized insurer. A broker may seek the placement of coverage with other than an authorized insurer only through a licensed surplus lines broker as provided for in chapter 19.

2. A broker as such is not an agent or other representative of an insurer and does not have power by the broker's own acts to obligate the insurer upon any risk or with reference to any insurance transaction.

3. An insurer or agent has the right to pay to a broker licensed under this chapter the customary commissions upon insurance placed through the broker.

§1547. Place of business

Every resident agent and broker shall have and maintain in this State a place of business accessible to the public where the licensee principally conducts transactions under the license. Nothing in this section prohibits maintenance of such a place in the licensee's residence in this State.

§1548. Records

1. The agent or broker shall keep at the agent's or broker's place of business complete records of transactions under the license. The records must show, as to each insurance policy or contract placed through or sold by the licensee, not less than:

A. The names of the insurer and insured;

B. The number and expiration date of the policy or contract;

C. The premium payable as to the policy or contract;

D. The date, time, insurer, insured and coverage of every binder made by the agent; and

E. Such other information as the superintendent may reasonably require.

2. The records must be kept available for inspection by the superintendent for a period of at least 3 years after completion of the respective transactions.

Sec. 15. 24-A MRSA §1605, as amended by PL 1985, c. 564, §1, is repealed.

Sec. 16. 24-A MRSA §1607, as amended by PL 1985, c. 564, §2, is repealed.

Sec. 17. 24-A MRSA §§1609 and 1610, as amended by PL 1973, c. 585, §12, are repealed.

Sec. 18. 24-A MRSA §§1671 and 1672, as enacted by PL 1969, c. 132, §1, are amended to read:

§1671. Short title

This subchapter may be ~~referred to~~ known and cited as the “Life and Health Agent and Broker Law.”

§1672. Applicability of Life and Health Agent Broker Law

1. This subchapter applies only as to:

- A. Life agents as defined in section 1504; ;
- B. Life brokers as defined in section 1506; ; and
- C. Health agents as defined in section 1505.

2. As used in this subchapter, “agent” means life or health agent; and “broker” means life broker.

Sec. 19. 24-A MRSA §1673, as amended by PL 1973, c. 585, §12, is further amended to read:

§1673. Qualifications for life agent, health agent and life broker licenses

For the protection of the people of this State, the superintendent ~~shall~~ may not issue, continue or permit to exist any agent or broker license except in compliance with this chapter, or as to any individual unless qualified therefor for the license as follows: .

1. **Age.** ~~Must~~ The individual must be 18 years ~~or more~~ of age or older.

2. **Residence.** If the individual is to be licensed as a resident agent or resident broker, the individual must be a resident of this State or have ~~his~~ the individual's principal place of business located in this State and may

not be licensed as a resident agent or resident broker of another state.

3. **Competence.** ~~Must~~ The individual must be competent, trustworthy, financially responsible; and of good personal and business reputation.

4. **Examination.** ~~Must~~ The individual must have passed any written examination required for the license under this chapter.

5. **Purpose.** ~~Must~~ The individual may not seek or use the license for the purpose of writing controlled business, ~~as~~ referred to in section 1514.

6. **Appointment.** If for an agent's license, the individual must have been appointed an agent by an authorized insurer ~~as to~~ for the kinds of insurance to be covered by the license, subject to issuance of the license.

7. **Experience.** If for a broker's license, the individual must have had experience as a life agent or broker, or managing general agent; or other special experience, education or training in the life insurance business, all of sufficient content and duration as ~~deemed~~ determined by the superintendent reasonably necessary for competence in fulfilling the responsibilities of a broker.

Sec. 20. 24-A MRSA §1675, sub-§1, as enacted by PL 1969, c. 132, §1, is amended to read:

1. Section 1606 (broker's bond); and

Sec. 21. 24-A MRSA §1675, sub-§2, as enacted by PL 1969, c. 132, §1, is repealed.

Sec. 22. 24-A MRSA §1676, as enacted by PL 1969, c. 132, §1, is amended to read:

§1676. Commissions: life agents, life brokers and health agents

1. ~~No~~ An insurer, life agent or broker ~~shall~~ or health agent may not pay directly or indirectly any commission, brokerage or other valuable consideration to any person for services as a life agent ~~or~~, life broker ~~within~~ or health agent in this State; unless ~~such~~ the person held at the time ~~such~~ the services were performed a valid license to act as a life agent ~~or~~, life broker or health agent as required by the laws of this State and, if an agent, was duly appointed as an agent of the insurer as provided in section 1533; nor shall may any person, other than a person duly licensed as a life agent ~~or~~, life broker or health agent by this State at the time ~~such~~ the services were performed, accept any ~~such~~ commission, brokerage or other valuable consideration. This provision does not apply to business placed pursuant to section 1677-A.

2. This section ~~shall~~ does not prevent payment or receipt of renewal or other deferred commissions to or

by any person entitled ~~thereto~~ to the commission under subsection 1, even though at the time of ~~such~~ the payment or receipt ~~such~~ the person had ceased to hold a license as life agent ~~or~~, life broker or health agent.

Sec. 23. 24-A MRSA §1677, as enacted by PL 1969, c. 132, §1, is repealed.

Sec. 24. 24-A MRSA §1677-A is enacted to read:

§1677-A. Shared commissions

Section 1615 applies to life agents, life brokers and health agents.

Sec. 25. 24-A MRSA §1678, as enacted by PL 1969, c. 132, §1, is amended to read:

§1678. Fiduciary responsibility: life agents, life brokers and health agents

Section 1613 ~~shall likewise apply as~~ applies to life agents ~~and~~, life brokers and health agents.

Sec. 26. 24-A MRSA §1680, as amended by PL 1989, c. 168, §25, is further amended to read:

§1680. Nonresident life agents, health agents and life brokers; service of process

1. An individual not resident in this State may be licensed as a life agent, health agent or life broker if the state or Canadian province of ~~his~~ the individual's domicile ~~will accord~~ accords the same privilege to a resident of this State.

2. The superintendent is authorized to enter into reciprocal agreements with the appropriate official of any other state or Canadian province waiving the written examination of an applicant resident in ~~such that~~ other state or province; if:

A. A written examination is required of applicants for a life agent's, health agent's or life broker's license in ~~such that~~ other state or province;

B. The appropriate official of ~~such that~~ other state or province certifies that the applicant holds a currently valid license as a life agent, health agent or life broker, as the case may be, in ~~such that~~ other state or province and either passed ~~such the~~ written examination or was the holder of ~~such~~ a license prior to the time ~~such the~~ written examination was required;

C. The applicant has no place of business ~~within~~ in this State, and is not an officer, director, stockholder or partner in any corporation or firm doing

business in this State as a life or health insurance agency or broker; and

D. In ~~such that~~ other state or province, a resident of this State is privileged to procure a life agent's, health agent's or life broker's license, as the case may be, upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of ~~such that~~ other state or province.

3. Section 1617 (service of process) ~~shall also apply as~~ applies to nonresidents licensed under this section.

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 state-specific portion of the license examination.

Sec. 27. 24-A MRSA §1681, as amended by PL 1973, c. 585, §12, is repealed.

Sec. 28. 24-A MRSA §1853, sub-§4, as amended by PL 1973, c. 625, §140, is further amended to read:

4. Must have ~~had at least 2 years' experience; been employed as an adjuster trainee as defined in section 1509-A for a period of no less than one year or must have had special training with respect to in handling of loss claims under insurance contracts; of sufficient duration and scope reasonably to make him competent to fulfill the responsibilities of an adjuster; or, in lieu of such experience or training, is to be employed by and subject to the immediate personal supervision of a licensed adjuster in this State who has been so established in business for not less than 3 years next preceding date of application for the license. Special training means successfully completing courses of instruction that may be reasonably required and approved by the superintendent. Courses of instruction may be completed successfully by attendance at an educational institution or by correspondence with or under the supervision and direction of an educational institution or insurer. This subsection shall does not apply as to persons holding subsisting licenses as adjuster in this State immediately prior to January 1, 1970; ; and~~

Sec. 29. 24-A MRSA §1883, sub-§5, as enacted by PL 1991, c. 828, §23, is amended to read:

5. **Application.** Each managing general agent shall file with the superintendent an application for registration as a managing general agent, accompanied by the applicable registration fee shown in section 601.

A. The superintendent shall prescribe, consistent with the applicable requirements of this subchapter, and furnish forms required under this subchapter

in connection with application for and issuance of registration certificates and for notification of termination of contracts pursuant to section 1885.

B. The application for registration must include the name and address of the insurer with whom the agent has an appointment pursuant to section 1533 and with whom the agent has a written contract pursuant to section 1884, a statement of the duties that the agent is expected to perform on behalf of the insurer, the lines of insurance for which the agent is to be authorized to act; and any other information the superintendent may request.

C. If the superintendent finds that the application is complete, the superintendent shall promptly issue a certificate of registration to the agent; otherwise, the superintendent shall refuse to issue the registration and promptly notify the agent and the insurer of the refusal, stating the grounds for refusal. The agent may request a hearing on the superintendent's denial pursuant to section 229.

Sec. 30. 24-A MRSA §6098, sub-§1, as enacted by PL 1987, c. 481, §3, is amended to read:

1. Notice. A purchasing group which that intends to do business in this State shall, prior to doing business, pay the appropriate fee at the rate specified in section 601 and furnish notice to the superintendent who shall to:

A. Identify the state in which the group is domiciled;

B. Specify the lines and classifications of liability insurance which that the purchasing group intends to purchase;

C. Identify the insurance company from which the group intends to purchase its insurance and the domicile of that company;

D. Specify the method by which, and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this State;

E. Identify the principal place of business of the group; and

F. Provide such other information as may be required by the superintendent to verify that the purchasing group is qualified under section 6093, subsection 11.

See title page for effective date.

CHAPTER 222

H.P. 855 - L.D. 1160

An Act Pertaining to the Appointment of Code Enforcement Officers

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

Sec. 1. 30-A MRSA §2601-A is enacted to read:

§2601-A. Appointment of code enforcement officers

Municipal officers may appoint code enforcement officers trained and certified in accordance with section 4451 to serve for fixed terms of one year or more, and may remove those code enforcement officers only for cause after notice and hearing. Compensation for code enforcement officers is determined by the municipal officers and paid by the respective municipalities.

Code enforcement officers need not be residents of the municipality for which they are appointed.

See title page for effective date.

CHAPTER 223

H.P. 941 - L.D. 1270

An Act to Amend the State Contribution to Pollution Abatement and Overboard Discharge Replacement Laws

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

Sec. 1. 38 MRSA §411, first ¶, as amended by PL 1991, c. 824, Pt. A, §83, is further amended to read:

The commissioner may pay an amount not to exceed 80% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an unorganized township or plantation authorized by the county commissioners. The commissioner may make payments to the Maine Municipal Bond Bank to supply the State's share of the revolving loan fund established by Title 30-A, section 6006-A. The commissioner may pay up to 90% of the expense of a municipal or quasi-municipal pollution abatement construction program or a pollution abatement construction program in an unorganized township or plantation authorized by the county commissioners in which the construction cost of the project does not exceed \$100,000 as long as total expenditures for the small projects do not exceed \$1,000,000 in any fiscal year and