

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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

Sec. 30. 24-A MRSA §1673, sub-§7, as amended by PL 1993, c. 221, §19, is further amended to read:

7. Experience. ~~If An applicant for a broker's license, the individual must have had experience be licensed 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 determined by for one year within 2 years prior to the date the application for license is filed with the superintendent reasonably necessary for competence in fulfilling the responsibilities of a broker.~~

Sec. 31. 24-A MRSA §1854, sub-§2, as enacted by PL 1969, c. 132, §1, is amended to read:

2. The bond ~~shall be~~ is continuous in form, and aggregate liability ~~thereon on the bond~~ may be limited to \$10,000 for an individual bond or \$25,000 for a blanket bond. If the adjuster qualifies for licensure with a blanket bond, the covered individual must be named on the bond.

Sec. 32. 24-A MRSA §1854, sub-§4, as amended by PL 1989, c. 168, §28, is repealed.

Sec. 33. 24-A MRSA §1878, as enacted by PL 1989, c. 31, §4, is amended to read:

§1878. Application for approval of program

1. Each application for approval of a continuing education program ~~shall~~ must be submitted according to the guidelines prescribed by the superintendent accompanied by the appropriate fee in section 601. The fee is nonrefundable. A fee is required only for original course submissions. Subsequent or renewal filings of approved courses are considered original if modified in any manner.

2. Courses and programs ~~shall~~ must be approved or disapproved by the superintendent, subject to prior review and nonbinding recommendations of the Continuing Education Advisory Committee. After reviewed and approved or disapproved, the submissions need not be maintained by the superintendent and may be destroyed. The superintendent may, by rule, establish criteria for the review and approval of courses and for the determination of the number of continuing education hours to be credited for completion of each course or program.

Sec. 34. 24-A MRSA §3104, as repealed and replaced by PL 1977, c. 330, is amended to read:

§3104. Notice of authorization to registers of probate

Whenever any surety insurer is authorized to transact business in this State, the superintendent shall maintain the name of such insurer and the names of all agents of such insurer who have been licensed by ~~him~~ the superintendent, their places of residence and the dates when their licenses will expire, ~~and the names and addresses of all attorneys in fact registered with him.~~

Sec. 35. 24-A MRSA §3105, as enacted by PL 1969, c. 132, §1, is amended to read:

§3105. Estoppel to deny corporate power

An insurer must attach a power of attorney to every bond it executes through an attorney-in-fact in this State; except that bonds executed by an officer of this insurer are exempt from this requirement. The power of attorney must identify the name and address of its attorney-in-fact who is authorized to act for the insurer within this State together with the scope of authority of the attorney-in-fact. Any insurer which shall execute any bond as surety under section 3102 shall be estopped in any proceedings to enforce the liability which it shall have assumed to incur, to deny its corporate power or the authority of its attorney in fact within the scope of ~~his~~ the power of attorney filed in accordance with this section 413, to execute such instrument or assume such liability or the authority of any licensed agent to countersign such instrument.

Sec. 36. Report. The Superintendent of Insurance must report to the joint standing committee of the Legislature having jurisdiction over banking and insurance matters on the financial effect of the license fee changes in this Act on or before May 1, 1996.

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

Effective April 7, 1994.

CHAPTER 638

S.P. 726 - L.D. 1947

**An Act to Establish an Alternative
Form of Telecommunications
Regulation in the State**

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

Sec. 1. 35-A MRSA §7101, sub-§3, as enacted by PL 1993, c. 410, Pt. 000, §1, is amended to read:

3. Report. The commission shall provide to the joint standing committee of the Legislature with having jurisdiction over utility matters and the joint standing committee of the Legislature having jurisdiction over housing and economic development matters a report on the status of the telecommunications industry in Maine the State no later than December 31, 1994. The report must include the following:

- A. The extent to which the dual communications policy goals of universal service and economic development are being achieved;
- B. The actions taken by the commission to further these goals, including the status of any alternative approaches to regulation; and
- C. Recommendations for legislation.

Sec. 2. 35-A MRSA c. 91 is enacted to read:

CHAPTER 91

ALTERNATIVE FORM OF REGULATION OF TELECOMMUNICATIONS SERVICES

§9101. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Alternative form of regulation. "Alternative form of regulation" means a form of regulation that includes, but need not be restricted to, the use of any index, formula, rate-stability plan, range-of-freedom plan or other streamlined form of regulation or deregulation of services or entities when regulation is not required to protect the public interest or to accomplish the specific objectives set forth in this chapter.

§9102. Adoption of alternative form of regulation

The commission may adopt, after public hearings and other processes the commission determines appropriate, an alternative form of regulation for any telephone utility in the State. The alternative form of regulation must conform to the requirements of chapters 71, 73, 75, 87 and 89, but need not conform with chapter 3 to the extent that the provisions of chapter 3 require the use of rate-base, rate-of-return or any other specific form of regulation of the rates of a telephone utility or to the extent that the provisions

of chapter 3 give any party, including the telephone utility, the right to petition to change rates for telecommunications services. This chapter may not be construed to limit the authority of the commission under section 1322.

§9103. Conditions of alternative form of regulation

Unless the commission specifically finds that the following objectives are not in the best interests of ratepayers, the commission shall ensure that any alternative form of regulation it adopts under section 9102 is consistent with the following objectives.

1. Alternative regulation; period. For the period of the alternative form of regulation, which may not be less than 5 years nor exceed 10 years without affirmative reauthorization by the commission, ratepayers as a whole, and residential and small business ratepayers in particular, may not be required to pay more for local telephone services as a result of the implementation of an alternative form of regulation than they would under traditional rate-base or rate-of-return regulation.

2. Costs. The costs of regulation of telephone utilities must be less under the alternative form of regulation than under rate-base or rate-of-return regulation.

3. Mandates. The alternative form of regulation preserves the ability of the commission to ensure that all legislative and commission mandates directed to the telephone utility are properly executed.

4. Safeguards. The alternative form of regulation must provide adequate safeguards to ensure that risks associated with the development, deployment and offering of telecommunications and related services offered by the telephone utility, other than local telephone services, are not borne by the local telephone service subscribers of the telephone utility and that the utility continues to offer a flat-rate, voice-only local service option.

5. Reasonable charges. The alternative form of regulation must ensure that customers pay only reasonable charges for local telephone services.

6. Reasonable return. The alternative form of regulation must ensure that the telephone utility has, over the period of the alternative form of regulation, a reasonable opportunity to earn a fair return on the investment necessary to provide local telephone services.

7. Encourage telecommunications services. The alternative form of regulation must encourage the development, deployment and offering of new telecommunications and related services in the State.

8. Nondiscriminatory charges. The alternative form of regulation must ensure that another telephone utility pays the telephone utility providing local telephone service reasonable and nondiscriminatory charges for any service used by the other telephone utility to provide its competing service.

9. General safeguards. The alternative form of regulation must include consumer and competitive safeguards.

§9104. Implementation

The commission may adopt an alternative form of regulation under the following conditions.

1. Completion by May 15, 1995. If the commission concludes a proceeding adopting an alternative form of regulation pursuant to section 9102 on or before May 15, 1995, the rule or order adopting the alternative form of regulation takes effect 90 days after the adjournment of the First Regular Session of the 117th Legislature.

2. Completion by February 1, 1996. If the commission fails to complete a proceeding adopting an alternative form of regulation pursuant to section 9102 on or before May 15, 1995, the commission must conclude any proceeding it undertakes to adopt an alternative form of regulation under that section by February 1, 1996. Any rule or order providing for an alternative form of regulation adopted after May 15, 1995 takes effect 90 days after the adjournment of the Second Regular Session of the 117th Legislature.

3. Report to Legislature. The commission shall submit a report by May 16, 1995 to the joint standing committee of the Legislature having jurisdiction over utility matters on the status of any proceedings it has undertaken under this chapter and must submit any rule or order the commission has adopted in accordance with subsection 1. The commission shall submit a 2nd report by February 2, 1996 to the joint standing committee of the Legislature having jurisdiction over utility matters on the status of any actions it has undertaken under this chapter and must submit any rule or order the commission has adopted in accordance with subsection 2.

The joint standing committee of the Legislature having jurisdiction over utility matters may report out legislation regarding telecommunications regulation to the First or Second Regular Session of the 117th Legislature.

This chapter may not be construed to require the commission to adopt any alternative form of regulation.

§9105. Report to Legislature

The commission shall provide to the joint standing committee of the Legislature having jurisdiction over utility matters, on an annual basis beginning September 1, 1996, a report describing the activities of the commission pursuant to this chapter and the extent to which the alternative form of regulation has achieved the objectives of this chapter.

See title page for effective date.

CHAPTER 639

H.P. 1428 - L.D. 1953

An Act to Designate Certain Lands under the Constitution of Maine, Article IX, Section 23

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

Sec. 1. 12 MRSA c. 202-D is enacted to read:

CHAPTER 202-D

DESIGNATED LANDS

§598. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Lands or land. "Lands" or "land" means real estate held by the State.

2. Proceeds. "Proceeds" means money arising or obtained from the sale of designated lands, excluding the costs of the sale.

3. Real estate held by the State. "Real estate held by the State" means real estate wholly owned by the State by fee simple title. "Real estate held by the State" does not mean land partially owned by the State or land owned by someone other than the State in which the State holds an easement, right-of-way or covenant.

4. Reduced. "Reduced" means a reduction in the acreage of an individual parcel or lot of designated land under section 598-A. "Reduced" does not mean a reduction in the value of the property.

5. Substantially altered. "Substantially altered" means changes in the use of designated lands that significantly alter its physical characteristics in a way that frustrates the essential purposes for which that land is held by the State. The essential purposes