

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

board by rule; or, if the applicant's educational qualifications include, a masters degree conferred by a college or university approved by the board, then only one year of experience in that practice or its equivalent is required. After October 1, 2002, for initial issuance of a certificate under this subsection, an applicant shall demonstrate 2 years of experience that was under the direction of a licensee under this subchapter and shall meet the other requirements prescribed by the board by rule. The applicant's experience must include the use of accounting or auditing skills, including the issuance of reports on financial statements, and at least one of the following: the provision of management advisory, financial advisory or consulting services; the preparation of tax returns; the furnishing of advice on tax matters; or equivalent activities defined by the board by rule. Board rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. To the extent the applicant's experience is as ~~an auditor engaged in the examination of financial statements for the Department of Audit~~ or as a revenue agent or in a similar position engaged in the examination of personal and corporate income tax returns for the Bureau of Revenue Services, the applicant receives credit at the rate of 50% toward the experience required by this subsection. To the extent the applicant's experience is as an examiner engaged in financial examinations for the Bureau of Insurance, the applicant receives credit under this subsection if that experience meets the following standards:

- A. Examinations are performed in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners;
- B. Working papers prepared by the examiners are in conformity with generally accepted auditing standards and are subject to a review by a supervisor who must be a certified public accountant;
- C. Written reports of examination are prepared in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners. All examiners working on the examinations must participate in the preparation of the report;
- D. Reports of examination are prepared in accordance with statutory accounting principles. All examiners working on the examinations must participate in the preparation of the financial statements and corresponding note disclosures; and
- E. All examiners assigned to an examination must participate in the planning of the examination and the planning phase conforms to the Ex-

aminers' Handbook and generally accepted auditing standards.

See title page for effective date.

CHAPTER 225

S.P. 639 - L.D. 1806

An Act to Clarify the Definition and Licensure of Insurance Consultants, Financial Planners and Investment Advisors

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

Sec. 1. 24-A MRSA §1402, sub-§4, ¶¶B and C, as enacted by PL 1997, c. 457, §23 and affected by §55, are repealed.

Sec. 2. 24-A MRSA §1402, sub-§4, ¶D, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

D. "Consultant" does not include:

- (1) An attorney licensed to practice who is actively practicing law in this State;
- (2) An insurance actuary and member or associate of the Society of Actuaries or American Academy of Actuaries;
- (3) A public accountant certified under Title 32, chapter 113 or a certified public accountant who is certified under Title 32, chapter 113 and in active public practice; ~~or~~
- (4) A licensed insurance producer who receives a fee in lieu of a commission pursuant to section 1450 if the insurance producer receives a fee for the insurance transaction and not for other services provided; ~~or~~
- (5) A financial institution or a financial institution holding company if the insurance advice is given as part of its trust department rendering insurance advice in a fiduciary capacity; ~~or~~
- (6) A person authorized to act as or on behalf of an investment advisor in accordance with Title 32, section 10303 and 10304, subsection 2-A to the extent such activities entail providing insurance advice incidental to financial planning advice.

Sec. 3. 24-A MRSA §1411, sub-§3, ¶B, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

B. A licensed insurance producer offering advice concerning a kind of insurance for which the insurance producer is licensed to transact business and does not receive a separate fee for rendering such advice other than commissions or fees for the sale of an insurance or annuity policy, except that this paragraph does not apply to a licensed insurance producer who is also authorized to act as or on behalf of an investment advisor pursuant to section 1402, subsection 4, paragraph D, subparagraph (6);

Sec. 4. 24-A MRSA §1445, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

2. Prohibited activities. A licensed insurance producer in this State may not:

A. Use knowledge gained as a result of the producer's insurance relationship with the insurance consumer for the producer's own personal gain, other than the receipt of fees or commissions allowed under section 1450, or use knowledge gained as a result of the relationship for the purpose of investing the insurance consumer's money in property or assets in which the insurance producer or the producer's relatives have or will have a personal ownership interest unless that activity is otherwise authorized under insurance, banking or securities laws or rules; or

B. Receive a fee for rendering advice on financial or estate planning or for selling trust packages, if the producer also recommends the purchase of an insurance policy upon which the producer will receive commissions, unless the producer is licensed as a consultant acting in compliance with consultant licensing laws or provides the required documentation in accordance with section 1466, subsection 2.

Sec. 5. 24-A MRSA §1466, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

2. Life and health consultant. A life and health consultant may charge a consulting fee and receive commissions for the sale of insurance as an insurance producer if both the consulting fee and the insurance commissions are provided for in a written agreement, in a form approved by the superintendent, signed by the client and the consultant. ~~A life consultant shall offset fees against first year commis-~~

~~sions received as an insurance producer on the sale of insurance.~~

See title page for effective date.

CHAPTER 226

S.P. 628 - L.D. 1793

An Act Regarding Funding for Applied Technology Centers

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

Sec. 1. 20-A MRSA §8404, sub-§3, ¶C, as amended by PL 1991, c. 716, §§6 and 7, is further amended to read:

C. Shall, in the event that the school boards of School Administrative District No. 27, School Administrative District No. 33 and Madawaska School Department enter into a cooperative agreement pursuant to section 8401 and a new applied technology center in Maine School Administrative District No. 33 becomes operational, devise a cost sharing formula for the center established thereby pertaining to the cost of applied technology educational programs ~~which~~ that exceed expenditures made for those programs in the base year as adjusted pursuant to section 15603, subsection 5 and to the local share of debt service costs attributable to construction of the center in School Administrative District No. 33; ~~and~~

Sec. 2. 20-A MRSA §8404, sub-§3, ¶D, as enacted by PL 1991, c. 518, §15, is amended to read:

D. May devise a formula for sharing costs of the center among the units served by that center. Such a formula or any amendment to the formula must be ratified by the school board of each unit or affiliated unit served by the center. Any such unit may withdraw, subject to obligations incurred by the unit for any debt issued previously by or for the benefit of the center, from such a cost-sharing formula at the end of any fiscal year following one year's written notice to all other units served by the center. Following withdrawal by such a unit, the center shall, if the unit wishes, continue to serve that unit under a financial arrangement approved by the center that does not assess the unit a per pupil assessment that exceeds the per pupil assessments of the other participating units.;

Sec. 3. 20-A MRSA §8404, sub-§3, ¶¶E, F, G and H are enacted to read: