

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

ployers, medium-sized employers and large employers; and

(10) The effect of the proposed mandate on cost-shifting between private and public payors of health care coverage and on the overall cost of the health care delivery system in this State:

See title page for effective date.

CHAPTER 259

H.P. 1272 - L.D. 1730

An Act to Adopt the National Association of Insurance Commissioners' Model Insurance Producer Licensing Act

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

Sec. 1. 24-A MRSA c. 16 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 16

PRODUCERS, ADJUSTERS AND CONSULTANTS

Sec. 2. 24-A MRSA §1401, sub-§1, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

1. Producers, consultants and adjusters. This chapter governs the qualifications, licensing and general requirements for producers, consultants and adjusters as to any and all kinds of insurance and types of insurers, nonprofit hospital or medical service organizations, health maintenance organizations and fraternal benefit societies, viatical settlement providers and risk retention groups, except reinsurers.

Sec. 3. 24-A MRSA §1402, sub-§3, as amended by PL 1997, c. 592, §19, is repealed.

Sec. 4. 24-A MRSA §1402, sub-§3-A is enacted to read:

3-A. Business entity. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

Sec. 5. 24-A MRSA §1402, sub-§5, as amended by PL 1997, c. 592, §19, is repealed and the following enacted in its place:

5. Insurance producer. "Insurance producer" means a person required to be licensed under subchapter II-A to sell, solicit or negotiate insurance.

Sec. 6. 24-A MRSA §1402, sub-§6, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed.

Sec. 7. 24-A MRSA §1402, sub-§9, as amended by PL 1999, c. 270, §§1 and 2, is repealed.

Sec. 8. 24-A MRSA §1402, sub-§12, ¶C, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

C. ~~An agency~~ A business entity either incorporated in this State or having its principal place of business in this State that is not licensed as a resident ~~agency~~ business entity elsewhere.

Sec. 9. 24-A MRSA §1402, sub-§13, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed.

Sec. 10. 24-A MRSA c. 16, sub-c. II is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER II

GENERAL LICENSING REQUIREMENTS FOR PRODUCERS, ADJUSTERS, CONSULTANTS AND BUSINESS ENTITIES

Sec. 11. 24-A MRSA §1410 is enacted to read:

§1410. Prelicensing requirements

1. Written examination. Unless exempt, prior to filing an application for a license with the superintendent, an individual applying for a resident insurance producer, adjuster or consultant license must pass a written examination. The examination must test the knowledge of the individual concerning the kinds of insurance for which the application is made, the duties and responsibilities of an insurance producer, adjuster or consultant and the insurance laws and rules of this State.

2. Examination content. The examination may be administered as a 2-part examination. If a 2-part examination is administered, one part of the examination must test the applicant's knowledge as to the kinds of insurance for which the application is made and the other part must test the individual's knowledge of the duties and responsibilities of an insurance producer, adjuster or consultant and the insurance laws and rules of this State. The producer examination must be administered in accordance with subchapter II-A, the consultant examination in accordance with subchap-

ters III and V and the adjuster examination in accordance with subchapters III and VI.

3. Outside testing service. The superintendent may make arrangements, including contracting with an outside testing service, for administering examinations. The applicant shall pay any fees for the services of any independent testing service designated by the superintendent. An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

4. Education requirements. An applicant for examination for a resident producer license with any of the major lines of authority pursuant to section 1420-F, subsection 1, paragraphs A to F must have completed the education requirements prescribed by either paragraph A or B within 2 years prior to the date the application for license is filed with the superintendent.

A. The applicant must have completed successfully such courses of instruction in insurance as the superintendent may reasonably require and approve. These courses may be either in attendance at or under the supervision and direction of or by correspondence with an educational institution or insurer, as approved by the superintendent.

B. The applicant must have had not less than 6 months of responsible duties and experience as a substantially full-time employee of an insurance producer or insurer.

5. Experience required. An applicant for examination for a consultant license must have had not less than 5 years of actual experience with respect to the kinds of insurance and contracts to be covered by the license.

6. Examination results. Within 30 days after an individual completes the examination, the superintendent or any independent testing service designated by the superintendent shall inform the individual whether or not the individual has passed. An individual who fails the examination must remit the required fees before being rescheduled for another examination. An individual who fails one part of a 2-part examination must pay the full examination fee but need only be examined on the part of the examination that the individual failed. An individual who does not apply for a license within 2 years after passing one part or all of an examination must register and pay the fee for a subsequent examination.

7. Separate examination for each category. An applicant for more than one kind of license or for more than one authority under a license must be

separately examined for each category of license or authority and shall pay a separate examination fee for each examination. Nothing in this section prohibits the giving of all required examinations to a particular applicant on the same day.

8. Variable contract license. An applicant for a variable contract license, in addition to passing an examination required for a resident producer's license with life authority in accordance with subchapter II-A, must have successfully completed the minimum requirements of a national association of securities dealers for the sale of variable contracts.

Sec. 12. 24-A MRS §1411, sub-§1, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

1. Producer. A person may not act as or purport to be an insurance producer or limited insurance producer or engage in producer activities with respect to insurance risks resident, located or to be performed in this State or elsewhere for any kind or kinds of insurance unless licensed for such a kind or kinds in accordance with ~~this chapter~~ subchapter II-A.

Sec. 13. 24-A MRS §1412, sub-§§1 and 2, as enacted by PL 1997, c. 457, §23 and affected by §55, are amended to read:

1. License revocation. A person whose license as an insurance producer, consultant or adjuster has been revoked, suspended, denied for cause or voluntarily surrendered to avoid prosecution in this State may not participate in any manner in the conduct of an insurance business entity, whether an agency or insurance brokerage, or consulting or adjusting business.

2. Compensation. A person whose license as an insurance producer, consultant or adjuster has been revoked, suspended, denied for cause or voluntarily surrendered to avoid prosecution may not derive any compensation, by whatever name called, based on the operation of the insurance ~~agency or other firm~~ business entity in which the person was engaged or employed prior to the revocation, suspension, denial or surrender of license. This subsection does not prohibit a person from receiving compensation for activities that the person engaged in prior to any loss of license referred to in this section, nor does it prohibit any person from divesting an interest in an insurance company or agency for value.

Sec. 14. 24-A MRS §1413, as amended by PL 1999, c. 270, §3, is further amended to read:

§1413. License requirement for business entities

1. License required. An ~~agency~~ A business entity, whether it has a location in this State or not, must

be licensed as an insurance producer, adjuster or consultant agency business entity in order to authorize individual licensees to act on the agency's entity's behalf by engaging in insurance producer, adjuster or consultant activities or in order to use the name of the agency business entity in insurance-related advertising in the State. An agency A business entity has no authority to act on its own without an individual licensee. A license authority held by an individual licensee employed by an agency a business entity does not transfer to other employees within that agency business entity. Licensure of a nonresident agency business entity does not depend upon the agency's entity's maintaining an agency a business entity license in another state. Agency Business entity licensees are subject to the standards of section 407, subsection 2, when applicable, and section 408, subsections 1 and 4. Agency licensees may advertise only in the names under which they are licensed. An agency may not be licensed with the word "company" in its name after June 11, 1997.

2. Officers; directors; members; partners. An agency A business entity shall notify the superintendent of its members, directors, officers or partners within 14 days of a request for such information by the superintendent.

3. Responsible person. Each officer or director of a corporation, each officer and member of a limited liability company and each partner of a partnership who is acting as an insurance producer, adjuster or consultant shall obtain an insurance producer, adjuster, or consultant license. Officers, members and partners do not have to be individually licensed if they are not engaging in producer activities, are not acting as consultants or adjusters and are not being compensated based upon the volume of insurance business transacted. At least one officer, member or partner must be licensed and individual licensee must be designated responsible for the organization's business entity's compliance with the insurance laws and rules of this State. The responsible person shall ensure that every individual acting in the name of the agency entity does not act beyond the scope of that individual's license. The designated responsible person for each agency business entity shall maintain a list of all current home addresses and home telephone numbers for each individual designated to act in the name of the agency entity. The agency business entity shall notify the superintendent, within 14 days of every change of the designated licensed person responsible for the organization's entity's compliance with laws and rules of this State. The designated responsible person is responsible for all correspondence with the agency business entity from the superintendent. If the responsible person in an agency a business entity loses that person's license, the agency business entity license terminates if a new person is not designated as responsible for the agency business entity within 14

days. If another officer, member or partner is not licensed as an insurance producer at the time the designated responsible person leaves the agency, the agency may designate another licensed person to be the responsible person for a period of 90 days or until another officer, member or partner becomes licensed, whichever is less. The superintendent may extend this time period for good cause.

4. Authority. Whenever an agency a business entity changes the individuals designated to act in the name of the agency entity, the agency entity shall notify the superintendent within 30 days of those changes.

5. Resident branch offices. A resident agency business entity establishing more than one place of business in this State must procure an agency a business entity branch registration for each location within the State. A resident branch office is any office location other than the location of the licensed agency business entity that regularly conducts insurance business or that is advertised as a location where the public may contact the agency business entity or its employees concerning insurance services. An office location that meets this definition that is itself a separate legal entity from the licensed agency business entity must obtain a separate agency business entity license and can not be registered as a branch office. The licensed person designated as responsible for the agency business entity is responsible for all branch locations.

6. Nonresident branch locations. A nonresident agency establishing a place of business entity doing business in this State shall procure an agency a business entity license for its principal location and a branch office registration for each location within doing business in the State. At least one branch location within the State must be staffed with a resident insurance producer, adjuster or consultant. The licensed person designated as responsible for the agency business entity is responsible for all such branch locations.

8. Motor vehicle rental company. A rental company that primarily provides rental of motor vehicles to the public under a rental agreement that includes travel, baggage, liability or other related insurance coverage purchased by an individual in connection with and incidental to the rental of a motor vehicle, whether at the rental office or by preselection of coverage by the individual, shall obtain a limited insurance producer license under this chapter, and at least one employee at each office of the rental company located in the State shall obtain a limited insurance producer license.

Sec. 15. 24-A MRSA §1414, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed and the following enacted in its place:

§1414. Trade names

A licensee doing business under any name other than the licensee's legal name is required to notify the superintendent prior to using the trade name.

Sec. 16. 24-A MRSA §1415, sub-§1, as amended by PL 1997, c. 592, §21, is further amended to read:

1. Producer authorities. An individual resident or nonresident insurance producer may receive ~~the following authorities under the license: any of the full license authorities pursuant to section 1420-F, subsection 1, paragraphs A to F, in addition to independent producer authority in accordance with section 1450, and surplus lines authority in accordance with chapter 19.~~

- A. ~~Property and casualty;~~
- B. ~~Life and health;~~
- C. ~~Variable contract;~~
- D. ~~Independent producer; or~~
- E. ~~Surplus lines.~~

Sec. 17. 24-A MRSA §1416, sub-§1, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

1. Limited license. The superintendent may issue to an applicant qualified under this chapter a limited insurance producer license ~~as defined in section 1402, in the areas of authority listed as such in section 1420-F.~~

Sec. 18. 24-A MRSA §1416-A is enacted to read:

§1416-A. License continuation or termination

1. License for indefinite term. Each license issued under this chapter continues in force continuously, unless suspended, revoked or otherwise terminated by the superintendent, as long as any applicable fee set forth in section 601 is paid and education requirements for resident licensees are met by the due date.

2. Biennial license continuation fees. Each nonresident adjuster and consultant must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by January 1st of even-numbered years. Each nonresident producer with an independent producer authority must be billed by the

superintendent a biennial fee as provided in section 601 and shall pay the fee due by February 1st of odd-numbered years. Each nonresident business entity must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by April 1st of odd-numbered years. Each resident adjuster, consultant and producer with independent producer authority must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by October 1st of even-numbered years. Each resident business entity must be billed by the superintendent a biennial fee as provided in section 601 and shall pay the fee due by December 1st of even-numbered years.

3. Suspension or revocation. Failure to pay the required fees by a licensee within 90 days from the due date results in suspension or revocation of the license pursuant to section 1417, for violating the insurance laws pursuant to section 1420-K, subsection 1, paragraph B.

Sec. 19. 24-A MRSA §1417, sub-§1, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

1. Suspension, revocation, probation, denial. Notwithstanding Title 5, chapter 375, subchapter VI, the superintendent may, after notice and opportunity for hearing, deny, revoke, suspend, place on probation or limit the permissible activities under any license issued under this chapter, including agency business entity licenses, or any surplus lines broker license if the superintendent finds that, as to the applicant or licensee, any of the ~~following~~ causes exist: that are listed in section 1420-K, and that for purposes of this section apply to adjusters and consultants as well as producers.

- A. ~~For any cause for which issuance of the license could have been refused had it then existed and been known to the superintendent;~~
- B. ~~For a violation or noncompliance with any applicable provision of this Title or for willful violation of any rule or order of the superintendent;~~
- C. ~~For obtaining or attempting to obtain any license through misrepresentation, failure to disclose a material fact required to be disclosed in the application or fraud;~~
- D. ~~For misappropriation or conversion of money belonging to others to the applicant's or licensee's own use or for illegal withholding of money or failure under the license to remit money received in the conduct of business belonging to policyholders, insurers, beneficiaries or others;~~

~~E. For material misrepresentation of the terms of any existing or proposed insurance contract;~~

~~F. For willful over insurance of property located in this State;~~

~~G. For holding at the same time licenses as a resident insurance producer in this State and any other state; or~~

~~H. If in the conduct of the licensee's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has been shown to be incompetent, untrustworthy, financially irresponsible or a source of injury and loss to the public.~~

Sec. 20. 24-A MRS §1417, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed.

Sec. 21. 24-A MRS §1417, sub-§4, as amended by PL 1997, c. 592, §§22 and 23, is repealed.

Sec. 22. 24-A MRS §1418, sub-§§2 and 3, as enacted by PL 1997, c. 457, §23 and affected by §55, are amended to read:

2. Ineligibility for relicensing. A person whose license has been revoked twice pursuant to section 1417 or section 1420-K may not again be eligible for any license under this Title.

3. Business entity relicensing. If the license of an agency a business entity is suspended or revoked pursuant to section 1417 or section 1420-K, an officer, director or member of that agency entity may not be licensed as an insurance producer, adjuster or consultant during the period of that suspension or revocation unless the superintendent determines that member, officer or director was not personally at fault and did not acquiesce in the matter for which the license was suspended or revoked.

Sec. 23. 24-A MRS §1419, as amended by PL 1997, c. 592, §24, is further amended to read:

§1419. Duty to notify of changes; payment of late fee

Unless a different time is set by another provision of law, any change of business address, business telephone number, name or other material change in the conditions or qualifications set forth in the original application of a producer, adjuster, consultant or agency licensee must be reported to the superintendent no later than 30 days after the change. This requirement includes any conviction of a crime other than a traffic violation or any disciplinary action brought by an insurance regulatory official of any other jurisdiction against the licensee or against any officer,

director, member or partner in an agency a business entity. A licensee shall report to the superintendent any administrative action taken against the licensee in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report must include a copy of the order, consent to order or other relevant legal documents. Within 30 days of the initial pretrial hearing date, a licensee shall report to the superintendent any criminal prosecution of the licensee taken in any jurisdiction. The report must include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents. If any notice of the change required under this section is received after the prescribed time period, the licensee shall pay the late fee for filing as prescribed in section 601. The levying of this late fee by the superintendent may be appealed pursuant to section 236. In the event the late fee charge is appealed, it becomes a final agency action and the superintendent shall issue an order. If the late fee charge is not appealed, the payment of the fee is not considered a final agency action and is not considered a disciplinary action. Every previous consent order or agreement issued by the superintendent for failure to notify the superintendent of address change may be considered payment of a late fee and not considered a disciplinary action upon request by the licensee. This section does not negate the superintendent's authority to bring an action under any other applicable provision of law.

Sec. 24. 24-A MRS c. 16, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

MAINE PRODUCER LICENSING ACT

§1420. Short title; scope and application

1. Short title. This subchapter may be known and cited as the "Maine Producer Licensing Act."

2. Scope and application. This subchapter governs the qualifications and procedures for the licensing of insurance producers. It simplifies and organizes some statutory language to improve efficiency, permits the use of new technology and reduces costs associated with issuing and renewing insurance licenses. This subchapter does not apply to excess and surplus lines agents and brokers required to be licensed as producers with surplus lines authority pursuant to chapter 19, except as provided in sections 1420-G and 1420-O.

§1420-A. Definitions

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

1. Business entity. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity.

2. Home state. "Home state" means the District of Columbia and any state or territory of the United States that is the location of an insurance producer's principal place of residence or principal place of business, and in which that person is licensed to act as an insurance producer.

3. Insurance. "Insurance" has the same meaning as in section 3, and as the context may require, means any of the lines of authority in chapter 9, subchapter I.

4. Insurance producer. "Insurance producer" means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance.

5. Insurer. "Insurer" means a person engaged in the business of entering into contracts of insurance, as defined in section 3, and includes a health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group.

6. License. "License" means a document issued by the superintendent authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

7. Limited line credit insurance. "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the superintendent determines should be designated a form of limited line credit insurance.

8. Limited line credit insurance producer. "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy.

9. Limited lines insurance. "Limited lines insurance" means those lines of insurance defined as limited lines in section 1420-F, subsection 1 or any other line of insurance that the superintendent determines necessary to recognize for the purposes of complying with section 1420-G, subsection 5.

10. Limited lines producer. "Limited lines producer" means a person authorized by the superintendent to sell, solicit or negotiate limited lines insurance.

11. Negotiate. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

12. Person. "Person" means an individual or a business entity.

13. Sell. "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

14. Solicit. "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

15. Terminate. "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.

16. Uniform business entity application. "Uniform business entity application" means the uniform business entity application for resident and nonresident business entities authorized by the National Association of Insurance Commissioners, or its successor organization.

17. Uniform application. "Uniform application" means the uniform application for resident and nonresident producer licensing authorized by the National Association of Insurance Commissioners or its successor organization.

§1420-B. License required

A person may not sell, solicit or negotiate insurance in this State for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this subchapter.

§1420-C. Exceptions to licensing

1. Insurers. This subchapter may not be construed to require an insurer to obtain an insurance producer license. In this section, "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.

2. Exceptions. A license as an insurance producer is not required of the following:

A. An officer, director or employee of an insurer or of an insurance producer, only if that officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this State and:

(1) The activities of the officer, director or employee are executive, administrative, managerial, clerical or a combination of these and are only indirectly related to the sale, solicitation or negotiation of insurance;

(2) The functions of officer, director or employee relate to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or

(3) The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers when the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;

B. A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; a person who secures and furnishes information for the purpose of enrolling individuals under plans, issuing certificates under plans or otherwise assisting in administering plans; or a person who performs administrative services related to mass marketed property and casualty insurance without being paid a commission for the service;

C. An employer or association or its officers, directors or employees, or the trustees of an employee trust plan, to the extent that the employer, officers, employees, directors or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employer, association, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

D. Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance produc-

ers, and who are not individually engaged in the sale, solicitation or negotiation of insurance;

E. A person whose activities in this State are limited to advertising without the intent to solicit insurance in this State through communications in printed publications or other forms of electronic mass media, whose distribution is not limited to residents of the State, if the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this State;

F. A person who is not a resident of this State who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

G. A salaried full-time employee who counsels or advises that person's employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer if the employee does not sell or solicit insurance or receive a commission.

§1420-D. Application for examination

1. Written examination. A resident individual applying for an insurance producer license must pass a written examination unless exempt pursuant to section 1420-H. The examination must test the knowledge of the individual concerning the lines of authority applied for, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this State. The superintendent may adopt rules regarding the development and administration of examinations required by this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

2. Outside testing service. The superintendent may make arrangements, including contracting with an outside testing service, for administering examinations and collecting any applicable fee set forth in section 601.

3. Fees. Each individual applying for an examination shall remit any applicable fee as prescribed by the superintendent as set forth in section 601.

4. Rescheduling. An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination

and must remit all required fees and forms before being rescheduled for another examination.

§1420-E. Application for license

1. Uniform application. An individual applying for a resident insurance producer license shall apply to the superintendent on the uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the superintendent must find that the individual:

- A. Is at least 18 years of age;
- B. Has not committed any act that is a ground for denial, suspension or revocation set forth in section 1420-K;
- C. When required by the superintendent, has completed the preclicensing requirements for the lines of authority for which the person has applied, as set forth in section 1410;
- D. Has paid any required fees set forth in section 601; and
- E. Has successfully passed the examinations for the lines of authority for which the person has applied.

2. Uniform business entity application. A business entity acting as an insurance producer is required to obtain an insurance producer license. Application must be made using the uniform business entity application. Before approving the application, the superintendent must find that:

- A. The business entity has paid any required fees set forth in section 601; and
- B. The business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of this State.

3. Verification. The superintendent may require any documents reasonably necessary to verify the information contained in an application.

4. Instruction. Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited line credit insurance a program of instruction that may be approved by the superintendent.

§1420-F. License

1. Issuance; lines of authority. Unless denied licensure pursuant to section 1420-K, a person who has met the requirements of sections 1420-D and 1420-E must be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority, as designated in this subsection for the purposes of this subchapter:

A. Life, which is insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

B. Accident and health or sickness, which is insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income;

C. Property, which is insurance coverage for the direct or consequential loss of or damage to property of every kind;

D. Casualty, which is insurance coverage against legal liability, including coverage for death, injury or disability or damage to real or personal property;

E. Variable life and variable annuity products, which is insurance coverage provided under variable life insurance contracts and variable annuities;

F. Personal lines, which is property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

G. Credit, which is limited line credit insurance;

H. Travel accident and baggage insurance contracts, which are a limited line;

I. Title insurance contracts, which are a limited line;

J. Annuities contracts, which are a limited line;

K. Automobile mechanical breakdown contracts, which are a limited line; and

L. Liability insurance offered by a motor vehicle rental company incidental to the rental of a motor vehicle for a period not to exceed 60 days, which is a limited line.

2. Duration. An insurance producer license remains in effect, unless revoked or suspended, as long as any applicable fee set forth in section 601 is paid and education requirements pursuant to subchapter VII for resident individual producers are met by the due date.

3. Lapse. An individual insurance producer whose license lapses may, within 12 months, reinstate the same license without the necessity of passing a written examination.

4. Waiver. A licensed insurance producer who is unable to comply with license continuation procedures due to military service or some other extenuating circumstance, such as a long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with continuation procedures.

5. Contents. The license must contain the licensee's name, address, personal identification number, the date of issuance, the lines of authority and any other information required by the superintendent.

6. Change of name or address. A licensee shall inform the superintendent by any means acceptable to the superintendent of a change of address within 30 days of the change. Failure to timely inform the superintendent of a change in legal name or address results in a penalty pursuant to section 601.

7. Contract with other entities. In order to assist in the performance of the superintendent's duties, the superintendent may contract with nongovernmental entities, including the National Association of Insurance Commissioners, its affiliates or subsidiaries or its successor organization, to perform any ministerial functions, including the collection of fees, related to producer licensing that the superintendent and the nongovernmental entity determine appropriate.

§1420-G. Nonresident licensing

1. Qualifications. Unless denied licensure pursuant to section 1420-K, a nonresident person must be issued a nonresident producer license if:

A. The person is currently licensed as a resident and in good standing in that person's home state;

B. The person has submitted the proper request for licensure and has paid any fees required by section 601;

C. The person has submitted or transmitted to the superintendent the application for licensure submitted to that person's home state, or in lieu of the same, a completed uniform application; and

D. The person's home state awards nonresident producer licenses to residents of this State on the same basis.

2. Verification. The superintendent may verify the producer's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization.

3. Change of address. A nonresident producer who moves from one state to another state or a resident producer who moves from this State to another state shall file a change of address and provide certification from the new resident state within 30 days of the change of legal residence. A fee or license application is not required.

4. Surplus lines; license in home state. Notwithstanding any other provision of this subchapter, a person licensed as a surplus lines producer in that person's home state must be issued a nonresident surplus lines producer license pursuant to subsection 1. Except as provided in subsection 1, nothing in this section otherwise amends or supersedes any other provision of chapter 19.

5. Limited lines; license in home state. Notwithstanding any other provision of this subchapter, a person licensed as a limited line credit insurance or other type of limited lines producer in that person's home state must be issued a nonresident limited lines producer license, pursuant to subsection 1, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this section, limited line insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 1420-F, subsection 1, paragraphs A to F.

§1420-H. Exemption from examination

1. Exemption. An individual who applies for an insurance producer license in this State who was previously licensed for the same lines of authority in another state is not required to complete any prelicensing education or examination pursuant to section 1410. This exemption is only available if the person is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state, or the state's producer database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization, indicate that the producer is or was licensed in good standing for the line of authority requested.

2. Application. A person licensed as an insurance producer in another state who moves to this State shall make application within 90 days of establishing legal residence to become a resident licensee pursuant

to section 1420-E. Prelicensing education or examination pursuant to section 1410 is not required of that person to obtain any line of authority previously held in the prior state except when the superintendent determines otherwise by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

3. Additional exemptions. An examination is also not required of:

A. An applicant for a license covering the same kind or kinds of insurance for which the applicant was licensed under a similar license in this State within the past 2 years, other than a temporary license issued pursuant to section 1420-J. This exemption applies only to persons who have met the applicable continuing education requirements during the 2-year period, who voluntarily terminated their previous license and who continue to be fully qualified for the license. A person whose previous license was revoked or suspended may not become relicensed pursuant to this paragraph;

B. An applicant for a license as a limited insurance producer who solicits or sells travel and baggage insurance;

C. An applicant for a license as a resident title insurance producer who is an attorney at law duly licensed to practice law in this State;

D. An applicant for a license as a limited insurance producer who solicits or sells mechanical breakdown insurance; or

E. An applicant for a license as a limited insurance producer employed by a motor vehicle rental company who solicits or sells liability insurance in connection with and incidental to the rental of a motor vehicle for a period not to exceed 60 days.

§1420-I. Assumed names

An insurance producer doing business under any name other than the producer's legal name is required to notify the superintendent prior to using the assumed name.

§1420-J. Temporary licensing

1. License authorized. The superintendent may issue a temporary insurance producer license for a period not to exceed 180 days without requiring an examination if the superintendent determines that the temporary license is necessary for the servicing of an insurance business in the following cases:

A. To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business;

B. To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;

C. To the designee of a licensed insurance producer entering active service in the Armed Forces of the United States; or

D. In any other circumstance when the superintendent determines that the public interest will best be served by the issuance of this license.

2. Limitations. The superintendent may by order limit the authority of any temporary licensee in any way determined necessary to protect insureds and the public. The superintendent may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The superintendent may by order revoke a temporary license if the interest of insureds or the public is endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

§1420-K. License denial, nonrenewal or revocation

1. Causes. The superintendent may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with section 12-A or take any combination of such actions, for any one or more of the following causes:

A. Providing incorrect, misleading, incomplete or materially untrue information in the license application;

B. Violating any insurance laws, or violating any rule, regulation, subpoena or order of the superintendent or of another state's insurance commissioner;

C. Obtaining or attempting to obtain a license through misrepresentation or fraud;

D. Improperly withholding, misappropriating or converting any money or properties received in the course of doing insurance business;

E. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

F. Having been convicted of a criminal offense as provided in Title 5, section 5301. Any revocation, suspension or denial of license under this paragraph must be in accordance with Title 5, sections 5302 to 5304;

G. Having admitted to or been found to have committed any insurance unfair trade practice or fraud;

H. Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere;

I. Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

J. Forging another's name to an application for insurance or to any document related to an insurance transaction;

K. Improperly using notes or any other reference material to complete an examination for an insurance license;

L. Knowingly accepting insurance business from an individual who is not licensed;

M. Failing to comply with an administrative or court order imposing a child support obligation; or

N. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

2. Notification. If the superintendent does not renew or denies an application for a license, the superintendent shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the superintendent within 30 days for a hearing before the superintendent to determine the reasonableness of the superintendent's action. The hearing must be held within 30 days of that written demand and pursuant to section 229.

3. Effect on business entity. The license of a business entity may be suspended, revoked or refused if the superintendent finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partner-

ship or corporation and the violation was neither reported to the superintendent nor corrected.

4. Civil penalties. In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil penalty according to section 12-A.

5. Enforcement powers. The superintendent retains the authority to enforce the provisions of and impose any penalty or remedy authorized by this Title, Title 24 or any other law enforced by the superintendent against any person who is under investigation for or charged with a violation of this Title, Title 24 or any other law enforced by the superintendent, even if the person's license has been surrendered or has lapsed by operation of law.

§1420-L. Commissions

1. License required to pay. An insurance company or insurance producer may not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this State if that person is required to be licensed under this subchapter and is not so licensed.

2. License required to accept. A person may not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this State if that person is required to be licensed under this subchapter and is not so licensed.

3. Deferral. Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this State if the person was required to be licensed under this subchapter at the time of the sale, solicitation or negotiation and was so licensed at that time.

4. Assignments. An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this State, unless the payment would violate chapter 23 or any other applicable provision of this Title.

§1420-M. Appointments

1. Appointment. An insurance producer may not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

2. Notice. To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the superintendent, a notice of appointment within

15 days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

3. Fee. An insurer shall pay an appointment fee, in the amount and method of payment set forth in section 601, for each insurance producer appointed by the insurer.

4. Renewal. An insurer shall remit, in a manner prescribed by the superintendent, a renewal appointment fee in the amount set forth in section 601.

§1420-N. Notification to superintendent of termination

1. Termination for cause. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the superintendent within 30 days following the effective date of the termination, using a format prescribed by the superintendent, if the reason for termination is one of the reasons set forth in section 1420-K or the insurer has knowledge the producer was found by a court, government body or self-regulatory organization authorized by law to have engaged in any of the activities in section 1420-K. Upon the written request of the superintendent, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

2. Termination without cause. An insurer or authorized representative of the insurer that terminates the appointment, employment or contract with a producer for any reason not set forth in section 1420-K shall notify the superintendent within 30 days following the effective date of the termination, using a format prescribed by the superintendent. Upon written request of the superintendent, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

3. Ongoing notification requirement. The insurer or the authorized representative of the insurer shall promptly notify the superintendent in a format acceptable to the superintendent if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the superintendent in accordance with subsection 1 had the insurer then known of its existence.

4. Copy of notification to be provided to producer. Notification to the producer and comments by the producer must be as follows.

A. Within 15 days after making the notification required by subsections 1, 2 and 3, the insurer shall mail a copy of the notification to the producer at the producer's last known address. If the producer is terminated for cause for any of the reasons listed in section 1420-K, the insurer shall provide a copy of the notification to the producer at the producer's last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

B. Within 30 days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the superintendent. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer and the comments become a part of the superintendent's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection 6.

5. Immunities. This subsection governs immunities.

A. In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the superintendent or an organization of which the superintendent is a member that compiles the information concerning the termination and makes it available to other insurance commissioners or regulatory or law enforcement agencies is not subject to civil liability for making this information available, and a civil cause of action may not arise against these entities or their respective agents or employees as a result of reporting or providing information under this section.

B. In any action brought against a person that may have immunity under paragraph A for making any statement required by this section or providing any information relating to any statement that may be requested by the superintendent, the party bringing the action shall plead specifically in any allegation that paragraph A does not apply because the person making the statement or providing the information did so with actual malice.

C. Paragraph A or B does not abrogate or modify any existing statutory or common law privileges or immunities.

6. Confidentiality. Subject to limitations set out in this subsection, any documents, materials or other information in the control or possession of the bureau that is furnished by an insurer or producer or

an employee or agent acting on behalf of the insurer or producer or that is obtained by the superintendent in an investigation pursuant to this section is confidential, is not subject to subpoena and is not subject to discovery or admissible in evidence in any private civil action except by a court order for good cause.

A. The superintendent is, however, authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the superintendent's duties.

B. Neither the superintendent nor any person who received documents, materials or other information while acting under the authority of the superintendent may be permitted or required to testify in any private civil action concerning any confidential documents, materials or information except as ordered by a court for good cause.

C. In order to assist in the performance of the superintendent's duties under this subchapter, the superintendent:

(1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to paragraph A, with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality of the documents, materials or other information;

(2) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any documents, materials or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials or information; and

(3) May enter into agreements governing sharing and use of information consistent with this subsection.

D. No waiver of any applicable privilege or claim of confidentiality in the documents, mate-

rials or information occurs as a result of disclosure to the superintendent under this section or as a result of sharing as authorized in paragraph C.

E. Nothing in this subchapter prohibits the superintendent from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to Title 1, chapter 13, subchapter I to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization.

7. Penalties for failing to report. An insurer, producer or an employee or agent acting on behalf of the insurer or producer that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license suspended or revoked and may be fined in accordance with section 12-A.

§1420-O. Reciprocity

1. Reciprocity. The superintendent shall waive any requirements for a nonresident license applicant with a valid license from that person's home state, except the requirements imposed by section 1420-G, if the applicant's home state awards nonresident licenses to residents of this State on the same basis.

2. Continuing education. Satisfaction of a nonresident producer's home state's continuing education requirements for licensed insurance producers constitutes satisfaction of this State's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this State on the same basis.

§1420-P. Reporting of actions

1. Administrative actions. A producer shall report to the superintendent any administrative action taken against the producer in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report must include a copy of the order, consent to order or other relevant legal documents.

2. Criminal actions. Within 30 days of the initial pretrial hearing date, a producer shall report to the superintendent any criminal prosecution of the producer taken in any jurisdiction. The report must include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

Sec. 25. **24-A MRSA c. 16, sub-c. III** is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER III

APPLICATION PROCEDURE FOR ADJUSTERS AND CONSULTANTS

Sec. 26. **24-A MRSA §1422**, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

§1422. License to be issued only on compliance

The superintendent may not issue or permit any license of an ~~insurance producer, consultant or adjuster applicant~~ who is not in compliance with or who has not established qualifications in accordance with the applicable provisions of this chapter.

Sec. 27. **24-A MRSA §1423**, as amended by PL 1997, c. 592, §§25 and 26, is repealed.

Sec. 28. **24-A MRSA §1424**, as amended by PL 1997, c. 592, §§27 and 28, is repealed.

Sec. 29. **24-A MRSA §1424-A** is enacted to read:

§1424-A. Application for license

1. Application. An individual applying for an insurance adjuster or consultant license shall apply to the superintendent on a form as determined by the superintendent and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the superintendent must find that the individual:

A. Has complied with the requirements of subchapter V in the case of consultants and subchapter VI in the case of adjusters;

B. Has not committed any act that is a ground for denial, suspension or revocation set forth in sections 1417 and 1420-K;

C. Has completed any prelicensing requirements for the license for which the person has applied, as specified in subchapter II;

D. Has paid any required fees set forth in section 601; and

E. Has successfully passed the examinations for the license for which the person, if a resident, has applied.

2. Business entity. A business entity acting as an insurance adjuster or consultant is required to obtain an adjuster or consultant license. Application must be made using the uniform business entity application. Before approving the application, the superintendent must find that:

A. The business entity has paid any required fees set forth in section 601; and

B. The business entity has designated a licensed person responsible for the business entity's compliance with the insurance laws, rules and regulations of this State.

3. Verification. The superintendent may require any documents reasonably necessary to verify the information contained in an application.

Sec. 30. **24-A MRSA §1426, sub-§2**, as amended by PL 1997, c. 592, §29, is repealed.

Sec. 31. **24-A MRSA §1427**, as amended by PL 1999, c. 270, §§4 to 6, is repealed.

Sec. 32. **24-A MRSA §1427-A** is enacted to read:

§1427-A. Exemption from examination requirement

1. Exemption. An individual who applies for an adjuster or consultant license in this State who was previously licensed as such in another state is not required to complete any prelicensing education or examination pursuant to section 1410. This exemption is only available if the person is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state, or the state's producer database records, maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization, indicate that the adjuster or consultant is or was licensed in good standing for the type of license requested.

2. Application. A person licensed as an adjuster or consultant in another state who moves to this State must apply within 90 days of establishing legal residence to become a resident licensee. Prelicensing education or examination is not required of that person to obtain the adjuster or consultant license type previously held in the prior state except when the superintendent determines otherwise by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

3. Other exemptions. An examination is not required of an applicant for the same type of license that the applicant previously held in this State within the past 2 years, other than a temporary license. This exemption applies only to persons who have met the applicable continuing education requirements during the 2-year period, who voluntarily terminated their previous license, and who continue to be fully qualified for the license. A person whose previous license was revoked or suspended may not become relicensed pursuant to this subsection.

Sec. 33. 24-A MRSA §§1428 and 1429, as enacted by PL 1997, c. 457, §23 and affected by §55, are repealed.

Sec. 34. 24-A MRSA §1430, as amended by PL 1997, c. 592, §§32 to 37, is repealed.

Sec. 35. 24-A MRSA §§1441-A and 1441-B, as enacted by PL 1997, c. 592, §41, are repealed.

Sec. 36. 24-A MRSA §1443, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed.

Sec. 37. 24-A MRSA §1443-A, sub-§2, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

2. Licensing. A financial institution or credit union authorized to do business in this State, financial institution holding company or the subsidiary or affiliate of any of those entities or an officer, employee, agent or representative of a financial institution, credit union, financial institution holding company or the subsidiary of any of those entities may be licensed as an insurance producer or consultant in this State or may act as an insurance producer or consultant in this State. These organizations are not required to become licensed as insurance producers or consultants with respect to: credit life and credit health insurance to the extent authorized by chapter 37 when the insured is enrolled in the policy; group health insurance to the extent authorized by chapter 35 when the insured is enrolled in the policy; and group life insurance to the extent authorized by chapter 31 when the insured is enrolled in the policy; credit property insurance; credit involuntary unemployment insurance; forced placed property insurance; a vendor's single interest policy; and any other insurance product as determined by the superintendent. In addition, a financial institution, credit union, financial institution holding company or a subsidiary or employee of any such entity may sell annuities, arrange for the sale of annuities or share commissions in connection with the sale of annuities to the extent authorized by Title 9-B, section 443, subsection 11, if the entity has been licensed pursuant to this chapter and if that activity includes the sale of variable annuity contracts, a

national association of securities dealers registration form must be submitted to the superintendent as required by the provisions of section ~~1423~~ 1410, subsection 7 8.

Sec. 38. 24-A MRSA §1444, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed.

Sec. 39. 24-A MRSA §1444-A is enacted to read:

§1444-A. Insurance vending machines

1. Vending machines. A licensed insurance producer may solicit and issue personal travel accident insurance policies by means of a mechanical vending machine supervised by the insurance producer and placed at an airport or similar place of convenience to the traveling public if the superintendent finds:

A. That the policy to be sold provides reasonable coverage and benefits, is reasonably suited for sale and issuance through a vending machine and that use of such a machine in a proposed location would be of convenience to the public;

B. That the type of vending machine proposed to be used is reasonably suitable for the purpose;

C. That reasonable means are provided for informing prospective purchasers of policy coverages and restrictions; and

D. That reasonable means are provided for refund of money inserted in a defective machine when no insurance or a lesser amount than that paid for is actually received.

2. Special license. For each machine to be used, the superintendent may issue to the insurance producer a special vending machine license. The license must specify the name and address of the insurer, health maintenance organization, fraternal benefit society or nonprofit hospital or medical service organization and the name and address of the insurance producer, the name of the policy to be sold, the serial number of the machine and the place where the machine is to be in operation. The license is subject to termination, suspension or revocation coincidentally with the license of the insurance producer. The superintendent shall also revoke the license for any machine for which the superintendent finds that the license qualifications no longer exist. The license fee for each respective vending machine is established in section 601. Proof of the existence of a license must be displayed on or about each machine in use in the manner that the superintendent reasonably requires.

Sec. 40. 24-A MRSA §1446, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed.

Sec. 41. 24-A MRSA §1447, sub-§1, as amended by PL 1999, c. 50, §1, is further amended to read:

1. Records. The insurance producer or ~~agency business entity~~ shall keep or make accessible at the producer's or ~~agency's business entity's~~ place of business a copy of the written appointment or designation from each insurer, health maintenance organization, fraternal benefit society or nonprofit hospital or medical service organization with which the insurance producer or ~~agency business entity~~ has an appointment. The insurance producer or ~~agency business entity~~ shall keep at the producer's or ~~agency's business entity's~~ place of business complete records of transactions under the license. If a producer engages in transactions on behalf of ~~an agency a business entity~~ and subsequently maintains a different place of business, the ~~agency business entity~~ shall maintain the records of those transactions. If a producer engages in transactions independent of any ~~agency business entity~~, the producer shall maintain the records of those transactions. For the purpose of examination or investigation by the superintendent, records may be maintained in electronic form. As to each insurance policy or contract placed through or sold by the licensee, the records must show:

- A. The names of the insurer, health maintenance organization, fraternal benefit society or non-profit hospital or medical service organization;
- B. The number and expiration date of the policy or contract;
- C. The premium payable as to the policy or contract;
- D. The name and address of the insured;
- E. The date and time of every binder made by the insurance producer; and
- F. Such other information as the superintendent may reasonably require.

Sec. 42. 24-A MRSA §1448, as enacted by PL 1997, c. 457, §23 and affected by §55, is repealed.

Sec. 43. 24-A MRSA §1450, sub-§1, as enacted by PL 1997, c. 457, §23 and affected by §55, is amended to read:

1. Commissions. ~~An~~ Except as provided in section 1420-L, an insurer, health maintenance organization, fraternal benefit society or nonprofit hospital or medical service organization may not pay to any unlicensed person, either directly or indirectly, any commission on a sale of a contract of insurance issued on a risk located or to be performed within this State unless at the time of the taking of the application

for the insurance the person was duly licensed by this State as an insurance producer as to the kind or kinds of insurance involved. An unlicensed person or ~~agency business entity~~ may not receive or accept any commission or compensation for insurance unless licensed pursuant to this chapter.

Sec. 44. 24-A MRSA §1472, sub-§2, ¶C, as amended by PL 1997, c. 592, §42, is further amended to read:

C. Must pass any written examination required for the license under subchapter ~~III~~ II.

Sec. 45. 24-A MRSA §1484, as amended by PL 1997, c. 592, §47, is further amended to read:

§1484. Failure to comply

The license of any insurance producer or consultant who is out of compliance with this subchapter for at least 60 days, is subject to suspension or revocation pursuant to section ~~1417, subsection 4~~ 1420-K, subsection 1, paragraph B.

Sec. 46. 24-A MRSA §1493, sub-§5, ¶B, as amended by PL 1999, c. 127, Pt. A, §37 and affected by §38, is further amended to read:

B. The application for registration must include the name and address of the insurer with whom the producer has an appointment pursuant to section ~~1441-A~~ 1420-M and with whom the producer has a written contract pursuant to section 1494, a statement of the duties that the producer is expected to perform on behalf of the insurer, the lines of insurance for which the producer is to be authorized to act and any other information the superintendent requests.

Sec. 47. 24-A MRSA §2012, sub-§5, ¶¶A and B, as enacted by PL 1997, c. 457, §34, are amended to read:

A. If the nonresident maintains a business location within this State and maintains all records of surplus lines transactions within this State; ~~or~~

B. If the nonresident transacts only liability insurance business and only on behalf of a purchasing group registered with the superintendent and the nonresident agrees to produce surplus lines records in this State within 14 days from a request of the superintendent; ~~or~~

Sec. 48. 24-A MRSA §2012, sub-§5, ¶C is enacted to read:

C. The license is to be issued on a reciprocal basis pursuant to sections 1420-G and 1420-O.

Sec. 49. 24-A MRSA §2013, sub-§1, ¶¶A and B, as amended by PL 1997, c. 592, §59, are further amended to read:

A. If the producer fails to remit the tax as required by section ~~2016~~ 2018;

B. If ~~the a~~ producer fails to who is required to maintain an office in this State fails to do so, or to keep the records, or to allow the superintendent to examine those records as required by this law, or if the producer removes those records from the State when prohibited;

Sec. 50. 24-A MRSA §2013, sub-§1, ¶D, as amended by PL 1985, c. 564, §3, is further amended to read:

D. For any other applicable cause for which a ~~general lines agent's~~ producer's license may be suspended or revoked; or

See title page for effective date.

CHAPTER 260

H.P. 1278 - L.D. 1738

An Act to Clarify Certain Professional and Occupational Licensing Requirements

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

PART A

Sec. A-1. 10 MRSA §9002, sub-§6, as amended by PL 1979, c. 436, is repealed and the following enacted in its place:

6. Installation. "Installation" means:

A. The affixing of manufactured housing on foundations or supports at a building site; and

B. The assembly and fastening of structural components of manufactured housing, including the completed roof system, as specified by the manufacturer's installation instructions and in accordance with the rules of the board.

For manufactured housing as defined in subsection 7, paragraphs A and C, "installation" also includes the connection to existing electrical, oil, gas, water, sewage and similar systems that are necessary for the use of the manufactured housing for dwelling purposes.

PART B

Sec. B-1. 32 MRSA §1071, first ¶, as amended by PL 1999, c. 124, §1, is further amended to read:

~~Until January 1, 2001, the~~ The Board of Dental Examiners, established by Title 5, section 12004-A, subsection 10, and in this chapter called the "board," consists of 8 members, appointed by the Governor as follows: five members of the dental profession, one dental hygienist, one dentist and one representative of the public. ~~After January 1, 2001, the board consists of 7 members, appointed by the Governor as follows: 5 members of the dental profession, one dental hygienist and one representative of the public.~~

Sec. B-2. 32 MRSA §1071, sub-§3-A is enacted to read:

3-A. Denturist. The denturist must be qualified pursuant to subchapter VI, must be a legal resident of the State and for appointments made after January 1, 2006, the denturist must have practiced in the State for at least 6 years immediately preceding appointment. The denturist member of the board is a full-voting member of the board. The term of the denturist is 5 years. A denturist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board.

Sec. B-3. 32 MRSA §1085, as amended by PL 1995, c. 590, §1, is further amended to read:

§1085. Endorsement; fees

The board is authorized, at its discretion, without the examination as provided, to issue a license to an applicant who furnishes proof, satisfactory to the board, that the applicant has been licensed to practice dentistry in another state after full compliance with the requirements of its dental laws. If an applicant is licensed to practice dentistry in another state, that applicant's professional education may not be less than is required in this State and the applicant must have been at least ~~5~~ 3 years in actual practice in the state in which the license was granted. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or members of the board, prior to being issued a license. Every license of this type issued by the board must state upon its face the grounds upon which it is issued and the applicant may be required to furnish proof upon affidavit. The fee for the license is determined by the board, but may not be more than \$300.

Sec. B-4. 32 MRSA §1100-E, sub-§4, as amended by PL 1995, c. 590, §7, is further amended to read: