

# MAINE STATE LEGISLATURE

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**FIRE AGENT'S ABSTRACT OF LAWS AND DECISIONS  
GOVERNING THE TRANSACTION OF  
INSURANCE IN MAINE**

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**Insurance Companies**

In Maine, an insurance company must be incorporated in order to transact fire insurance. It may be incorporated by the State or by some other State or Country. Maine companies are known as domestic companies. All others are described as foreign. All business is transacted through local or travelling representatives known as agents and all policies must be signed by some person who has been licensed by the Insurance Department as agent for the company. Non-residents may be licensed as agents for domestic companies.

**Insurance Agents**

Every person who solicits, inspects, transmits an application or policy for, or in any way aids, the company in effecting insurance, is an agent and must procure a license from the State Department of Insurance. (R. S., Chap. 60, Sec. 122.) An agent is regarded as in the place of the company in all respects. (Me. Rep., 114-170; 116-117.) Notices or processes that may be served on the company can be served on its agent. (R. S., Chap. 60, Sec. 119.) The agent's knowledge of omissions and misdescriptions and all matters affecting the risk is the knowledge of the company as if noted in the policy. (Me. Rep., 54-170.) The agent's silence is the company's silence and his waiver is the waiver of the company itself. (Me. Rep., 118-417; 119-417.)

**Application**

The written request for insurance should contain all of those facts which are essential for the exact determination, continuance or enforcement of the policy obligations. The liability for a loss on a risk may be assumed by the agent in behalf of his company before the policy is written. This is called "binding a risk," and may be effected by a merely oral or spoken agreement. The unsatisfactory feature of this method of transacting insurance is the difficulty of proving the agreement. If the agent binds the risk without designating the assuming company he is personally liable to the assured for future loss.

The application should include the names of the parties, description of the property, the nature of the risk assumed by the

company, the beginning and end of the term of insurance, and an adequate premium.

An application drawn by the agent, or completed by him, after it has been signed by the assured, is the act of the company. (Me Rep. 109-323.)

### Policy

A policy of insurance is a voluntary agreement, unaffected by its legislative origin, to reimburse the insured for actual loss up to the maximum amount of indemnity specified therein. (Me. Rep., 104-372; 109-274.)

Mere inadequacy of price will not render the contract void where there are no inequitable incidents to the transaction and both parties, which intentionally make it, are in position to form independent judgments concerning its essential features, but a legal agreement will not be enforceable in equity where the plaintiff has so far over-reached as to take surreptitious advantage of the weakness or necessities of his adversary by gross imposition or undue influence, and when the inadequacy of price is so gross that it shocks the conscience and furnishes conclusive evidence of fraud. (Me. Rep., 113-550.)

The form of the insurance contract is prescribed in Maine by statute and known as the "Maine Standard Policy," which may be modified in some particulars by writing upon its face or attaching riders or slips thereto. (R. S., Chap. 60, Sec. 5.) A rider or slip must be printed in long primer type and may contain several additions or modifications, among which may be a reduction of the amount recoverable to less than the actual destructible value of the property insured, in spite of the specification of a maximum amount of indemnity in the statutory form. (Me. Rep., 106-345.)

A policy will be rendered void by the assured for the following reasons:

1. Misrepresentation of the facts.
2. Additional insurance.
3. Removal of the property.
4. Increased hazard.
5. Sale of the property.
6. Vacancy.
7. Suspension of manufacturing operations.
8. Overtime operation in manufacturing.
9. Attempt to defraud, before or after a loss.

10. Keeping explosives contrary to law.
11. Keeping combustible fluids in excess.

In case of conflict the policy will prevail over the by-laws as to the rights and liabilities of the parties, provided the powers of the company are not otherwise restricted (Me. Rep., 117-515), and the statute will prevail over the policy itself. (Me. Rep., 54-474.) An insurance contract is to be governed by the same legal principles applicable to general contracts (Me. Rep., 106-411) and becomes effective the instant the application for insurance has been accepted. (Me. Rep., 109-79.)

#### **Cancellation**

An insurance company, or its agent, may cancel any fire policy in so far as the insured or a mortgagee is concerned by giving ten days' written notice of such action and tendering the return premium.

A policyholder can cancel his policy by surrendering his policy with a request for cancellation.

#### **Fire Rates**

Maine fire rates are made by the New England Insurance Exchange, and are known as "flat" or "reduced."

In case of flat rates the amount of insurance on the risk does not matter. But the "reduced," often called the 80%, rate applies to manufacturing or mercantile risks only and requires that the policyholder, in consideration for a material reduction in rate, shall pay a premium on at least 80% of the value of the property insured. In case he maintains the guaranteed percentage the policyholder's recovery will be the same under either rate, where the loss is in excess of 80%.

Of all partial losses below that percentage the policyholder is a self-insurer for the difference between the amount of insurance in force at the time of the fire and the amount he agreed to carry.

Example: If a policyholder has property worth \$1000 and insures it at the reduced rate for \$400, when he has agreed to carry \$800, he can only recover 400-800 of any partial loss under 80%. If the loss is \$200 in such case he can only recover \$100, or 400-800ths of the damage.

#### **Accounting**

The payment of premiums by the agent to his companies within the customary periods allowed by the latter, is an imperative duty and failure to account after thirty days' written demand by the company is statutory larceny, punishable by fine and imprisonment. Furthermore, neglect in payment of premiums due is a legal reason for revocation of any agent's licenses with all companies and may lead to non-renewal at expirations. (R. S., Chap. 60, Sec. 127.)

### **Suspension of the Payment of Losses**

In case of physical damage to property by fire it is provided that the process of adjustment shall be begun by the insurance company, or its authorized representative, within twenty days of the receipt of a statement of loss from the assured in conformity with that prescribed in the Maine Standard Policy; but no fire loss in excess of one hundred dollars shall be paid, without the approval of the Insurance Commissioner, until the expiration of forty-five days from the date of the execution of the affidavit of loss.

To obtain a waiver of the statutory limitation, application shall be made by the insurance company, or its authorized representative, to the Commissioner, who, when he waives the limitation for the petitioning company, must also grant simultaneous permits to all other insurance carriers involved in the loss.

A penalty, imposed by the commissioner, for the violation of this statute may be suspension of the authority of the offending company to transact business in the State for not exceeding one year for each offense. (R. S., 1930, Chap. 60, Sec. 9.)

The object of the statute was to discourage incendiarism by protecting unsecured claims of any creditors and to provide a period for investigation of suspicious losses.

### **Insurance Axioms**

1. Master the Insurance Laws.
2. Study human nature and your contracts.
3. Sell service and security.
4. Do not fall asleep with the assured.
5. Watch all risks all of the time.
6. Never mistake patience for perseverance.
7. Teach that insurance is "sharing one another's burdens."

### **ABSTRACT OF LAWS RELATING TO INSURANCE AGENTS (Chapter 60, R. S., 1930)**

**Sec. 1. Contract of insurance, defined; business carried on by corporations; Lloyd's.** A contract of insurance, life excepted, is an agreement by which one party for a consideration promises to pay money or its equivalent, or to do some act of value to the assured upon the destruction or injury of something in which the other party has an interest. And the business involving the issuance of such contracts in this state shall be carried on only by duly incorporated insurance companies. All incorporated insurance companies may exercise the powers and are subject to

the duties and liabilities contained herein and in chapter fifty-six, so far as consistent with their charters. Associations of individuals now formed or which may hereafter be formed, upon the plan known as Lloyd's, for the purpose of transacting marine insurance business, may exercise all rights, powers, and privileges granted under the laws of this state.

See § 95; 99 Me. 276; 101 Me. 297; 109 Me. 484.

### The Standard Fire Insurance Policy

**Sec. 4. Only policies of standard form may be issued; exceptions.** No fire insurance company shall issue fire insurance policies on property in this state, other than those of the standard form set forth in the following section, except as follows:

I. A company may print on or in its policies its name, location and date of incorporation, the amount of its paid up capital stock, the names of its officers and agents, the number and date of the policy, and, if it is issued through an agent, the words, "This policy shall not be valid until countersigned by the duly authorized agent of the company at \_\_\_\_\_."

II. A company may print or use in its policies, printed forms of description and specification of the property insured.

III. A company insuring against damage by lightning may print, in the clause enumerating the perils insured against, the additional words, "Also any damage by lightning, whether fire ensues or not," and, in the clause providing for an apportionment of loss in case of other insurance, the words, "whether by fire, lightning or both."

IV. A company incorporated or formed in this state may print in its policies, any provisions which it is authorized or required by law to insert therein; and any company not incorporated or formed in this state may, with the approval of the insurance commissioner, so print any provision required by its charter or deed of settlement or by the laws of its own state or country, not contrary to the laws of this state; provided, that the insurance commissioner shall require any provision which, in his opinion, modifies the contract of insurance in such way as to affect the question of loss, to be appended to the policy by a slip or rider as hereinafter provided.

V. The blanks in said standard form may be filled in print or writing.

VI. A company may write upon the margin or across the face of a policy, or write, or print in type not smaller than long primer, upon separate slips or riders to be attached thereto, pro-

visions adding to or modifying those contained in the standard form; and all such slips, riders and provisions must be signed by the officers or agent of the company so using them.

VII. A company may print upon policies issued in compliance with the preceding provisions of this section, the words, "Maine Standard policy."

97 Me. 591; 100 Me. 486; 101 Me. 297; 106 Me. 347; 112 Me. 52, 530, 537; 114 Me. 416.

**Sec. 5. Form of standard policy.** The said standard form of policy shall be plainly printed, and no portion thereof shall be in type smaller than long primer, and shall be as follows:

"Number

\$

(Corporate name of the company or association, its principal place or places of business.)

This company shall not be liable beyond the actual value of the insured property at the time any loss or damage happens.

In consideration of                      dollars to it paid by the insured, hereinafter named, the receipt whereof is hereby acknowledged, does insure                      and                      legal representatives against loss or damage by fire, to the amount of                      dollars.

(Description of property insured.)

Bills of exchange, notes, accounts, evidences and securities of property of every kind, books, wearing apparel, plate, money, jewels, medals, patterns, models, scientific cabinets and collections, paintings, sculpture and curiosities are not included in said insured property, unless specially mentioned.

Said property is insured for the term of                      , beginning on the                      day of                      , in the year nineteen hundred and                      , at noon, and continuing until the                      day of                      in the year nineteen hundred and                      , at noon, against all loss or damage by fire originating from any cause except invasion, foreign enemies, civil commotions, riots or any military or usurped power whatever; the amount of said loss or damage to be estimated according to the actual value of the insured property at the time when such loss or damage happens, but not to include loss or damage caused by explosions of any kind unless fire ensues, and then to include that caused by fire only.

This policy shall be void if any material fact or circumstance stated in writing has not been fairly represented by the insured, or if the insured now has or shall hereafter make any other insurance on the said property without the assent in writing or in print of the company, or if, without such assent, the said property shall be removed, except that, if such removal shall be necessary for the preservation of the property from fire, this policy

shall be valid without such assent for five days thereafter, or if, without such assent, the situation or circumstances affecting the risk shall, by or with the knowledge, advice, agency, or consent of the insured, be so altered as to cause an increase of such risks, or if, without such assent, the said property shall be sold, or this policy assigned, or if the premises hereby insured shall become vacant by the removal of the owner or occupant, and so remain vacant for more than thirty days without such assent, or if it be a manufacturing establishment, running in whole or in part extra time, except that such establishments may run in whole or in part extra hours, not later than nine o'clock P. M., or if such establishments shall cease operations for more than thirty days without permission in writing indorsed hereon, or if the insured shall make any attempt to defraud the company, either before or after the loss, or if gun-powder or other articles subject to legal restriction, shall be kept in quantities or manner different from those allowed or prescribed by law, or if camphene, benzine, naphtha, or other chemical oils or burning fluids shall be kept or used by the insured on the premises insured, except that what is known as refined petroleum, kerosene, or coal oil may be used for lighting, and in dwelling-houses, kerosene oil stoves may be used for domestic purposes, to be filled when cold, by daylight, and with oil of lawful fire test only.

If the insured property shall be exposed to loss or damage by fire, the insured shall make all reasonable exertions to save and protect the same.

In case of any loss or damage under this policy, a statement in writing, signed and sworn to by the insured, shall be within a reasonable time rendered to the company setting forth the value of the property insured, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used and the time at which and manner in which the fire originated, so far as known to the insured. The company may also examine the books of account and vouchers of the insured, and make extracts from the same.

In case of any loss or damage, the company, within sixty days after the insured shall have submitted a statement, as provided in the preceding clause, shall either pay the amount for which it shall be liable, which amount if not agreed upon shall be ascertained by award of referees as hereinafter provided, or replace the property with other of the same kind and goodness, or it may, within fifteen days after such statement is submitted, notify the insured of its intention to rebuild or repair the premises, or any portion thereof separately insured by this policy, and shall thereupon enter upon said premises and proceed to rebuild or repair the same with reasonable expedition. It is, moreover,



understood that there can be no abandonment of the property insured to the company, and that the company shall not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

If there shall be any other insurance on the property insured, whether prior or subsequent, the insured shall recover on this policy no greater proportion of the loss sustained than the sum hereby insured bears to the whole amount insured. And whenever the company shall pay any loss, the insured shall assign to it, to the extent of the amount so paid, all rights to recover satisfaction for the loss or damage from any person, town, or other corporation, excepting other insurers; or the insured, if requested, shall prosecute therefor at the charge and for the account of the company.

If this policy shall be made payable to a mortgagee of the insured real estate, no act or default of any person other than such mortgagee or his agents, or those claiming under him, shall affect such mortgagee's right to recover in case of loss on such real estate; provided, that the mortgagee shall, on demand, pay according to the established scale of rates for any increase of risks not paid for by the insured; and whenever this company shall be liable to a mortgagee for any sum for loss under this policy, for which no liability exists as to the mortgagor or owner, and this company shall elect by itself, or with others, to pay the mortgagee the full amount secured by such mortgage, then the mortgagee shall assign and transfer to the companies interested, upon such payment, the said mortgage, together with the note and debt thereby secured.

This policy may be canceled at any time at the request of the insured, who shall thereupon be entitled to a return of the portion of the above premium remaining, after deducting the customary monthly short rates for the time this policy shall have been in force. The company also reserves the right, after giving written notice to the insured, and to any mortgagee to whom this policy is made payable, and tendering to the insured a ratable proportion of the premium, to cancel this policy as to all risks subsequent to the expiration of ten days from such notice, and no mortgagee shall then have the right to recover as to such risks.

In case of loss under this policy and a failure of the parties to agree as to the amount of loss, it is mutually agreed that the amount of such loss shall be referred to three disinterested men, the company and the insured each choosing one out of the three persons to be named by the other, and the third being selected by the two so chosen; the award in writing by a majority of the referees shall be conclusive and final upon the parties as to the amount of loss or damage, and such reference unless waived by

the parties, shall be a condition precedent to any right of action in law or equity to recover for such loss; but no person shall be chosen or act as a referee against the objection of either party, who has acted in a like capacity within four months.

No suit or action against this company for the recovery of any claim by virtue of this policy shall be sustained in any court of law or equity in this state unless commenced within two years from the time the loss occurred.

In witness whereof, the said \_\_\_\_\_ company has caused this policy to be signed by its president, and attested by its secretary, or by such proper officers as may be designated, at their office, in \_\_\_\_\_ Date \_\_\_\_\_”

Maine Standard Form, 97 Me. 591; 104 Me. 372; 106 Me. 321; 109 Me. 80.

Alienation, 107 Me. 320; 117 Me. 432.

Arbitration, 85 Me. 73; 87 Me. 193; 95 Me. 486; 97 Me. 591; 101 Me. 297; 104 Me. 372; 105 Me. 58; 106 Me. 309; 112 Me. 53; 118 Me. 192; 123 Me. 77.

Cancellation, 89 Me. 32; 106 Me. 231; 107 Me. 367; 108 Me. 508; 112 Me. 530; 115 Me. 196.

Collection of Assessments, 37 Me. 137; 38 Me. 439; 100 Me. 481; 107 Me. 323.

Fraud and Perjury, 82 Me. 270; 88 Me. 498; 90 Me. 350; 91 Me. 290; 92 Me. 279; 100 Me. 112; 108 Me. 402; 127 Me. 182.

Identification of Premises, 108 Me. 218.

Increase of Risk, 100 Me. 484; 112 Me. 261; 113 Me. 18; 114 Me. 365; 127 Me. 182.

Other Insurance, 94 Me. 43; 107 Me. 320; 109 Me. 81; 114 Me. 420; 119 Me. 418.

Policy Rider, 100 Me. 484; 106 Me. 347; 107 Me. 367; 114 Me. 131.

Vacancy and Non-Occupancy, 100 Me. 486; 109 Me. 324; 111 Me. 277; 114 Me. 176; 117 Me. 475; 122 Me. 488.

Waiver, 108 Me. 510.

**Sec. 8. Proceedings in case parties fail to agree as to amount of loss.** In case of loss under any fire insurance policy, issued on property in this state, in the standard form set forth in section five, and the failure of the parties to agree as to the amount of loss, if the insurance company shall not, within ten days after a written request to appoint referees under the provision for arbitration in such policy, name three men under such provision, each of whom shall be a resident of this state, and willing to act as one of such referees; or if such insurance company shall not, within ten days after receiving the names of three men named by the insured under such provision, make known to the insured its choice of one of them to act as one of such referees, it shall be deemed to have waived the right to an arbitration under such policy, and be liable to suit thereunder, as though the same contained no provision for arbitration as to the amount of loss or damage. And in case of the failure of two referees, chosen, re-

spectively by the insurance company and the insured, to agree upon and select within ten days from their appointment a third referee willing to act in said capacity, either of the parties may within twenty days from the expiration of said ten days make written application setting forth the facts to the insurance commissioner to appoint such third referee, and said commissioner shall thereupon make such appointment and shall send written notification thereof to the parties.

101 Me. 294; 106 Me. 309; 112 Me. 54; 118 Me. 191; 120 Me. 1.

**Sec. 31. Person deemed agent; notice to him, binding.** An agent authorized by an insurance company, whose name is borne on the policy, is its agent in all matters of insurance; any notice required to be given to said company or any of its officers, by the insured, may be given to such agent.

See § 119; 47 Me. 386; 49 Me. 203; 52 Me. 324; 54 Me. 170; 56 Me. 379; 59 Me. 433; 69 Me. 410; 70 Me. 539; 77 Me. 149; 88 Me. 107; 114 Me. 12, 170.

**Sec. 38. Liability of agents of domestic fire companies; company required to procure licenses for agents.** Any person who solicits insurance on behalf of any domestic mutual fire insurance company, or transmits for a person other than himself, an application for, or a policy of insurance to, or from such company, or in any manner acts in the negotiation of such insurance, or in the inspection or valuation of the property insured shall be deemed the agent of such company and, except as hereinafter provided, shall become liable to all the duties, requirements, liabilities and penalties to which an agent of any insurance company is subject. Said companies shall procure licenses for their agents as provided in section one hundred and twenty-two of this chapter, but no fee shall be required by the insurance commissioner for licenses issued to the agents of such companies.

#### **Lien of Mortgagees**

**Sec. 69. Lien of mortgage upon policy.** The mortgagee of any real estate or the mortgagee of any personal property shall have a lien upon any policy of insurance against loss by fire procured thereon by the mortgagor, to take effect from the time he files with the secretary of the company a written notice, briefly describing his mortgage, the estate conveyed thereby, and the sum remaining unpaid thereon. If the mortgagor, by a writing by him signed, and filed with the secretary, consents that the whole of the sum secured by the policy, or so much as is required to discharge the amount due on the mortgage at the time when a loss occurs, shall be applied to the payment of the mortgage, it shall be so paid by the company, and the mortgagee's receipt therefor shall be a sufficient discharge of the company.

29 Me. 339; 45 Me. 453; 47 Me. 237; 51 Me. 71; 52 Me. 128; 64 Me. 217; 68 Me. 364; 76 Me. 588; 80 Me. 104; 86 Me. 521; 102 Me. 504; 125 Me. 465.

**Sec. 119. Notices and processes, how served; company bound by agent's knowledge of risk.** All notices and processes which, under any law, by-law or provision of a policy, any person has occasion to give or serve on any such company, may be given to or served on its agent, or on the commissioner, as provided in the preceding section, with like effect as if given or served on the principal. Such agents and the agents of all domestic companies shall be regarded as in the place of the company in all respects regarding any insurance effected by them. The company is bound by their knowledge of the risk and of all matters connected therewith. Omissions and misdescriptions known to the agent shall be regarded as known by the company, and waived by it as if noted in the policy.

See § 31; 69 Me. 411; 72 Me. 310; 81 Me. 248; 87 Me. 382; 88 Me. 107; 89 Me. 271, 275; 92 Me. 277; 106 Me. 278, 413; 108 Me. 433; 109 Me. 324; 111 Me. 294; 112 Me. 101; 114 Me. 6, 170; 116 Me. 355; 117 Me. 244, 567; 119 Me. 417; 127 Me. 361.

### **Insurance Agents and Brokers**

**Sec. 122. Licenses to agents; agent personally liable for unlawful contracts.** The insurance commissioner may issue a license to any person to act as an agent of a domestic insurance company, upon his filing with the commissioner a certificate from the company or association, or its authorized agent, empowering him so to act; and to any resident of the state to act as an agent of any foreign insurance company, which has received a license to do business in the state as provided in section one hundred and five or section one hundred forty-six, upon his filing such certificate. Such license shall continue until the first day of the next July. If any person solicits, receives or forwards any risk or application for insurance to any company, without first receiving such license, or fraudulently assumes to be an agent and thus procures risks and receives money for premiums, he shall be punished by a fine not exceeding two hundred dollars, or imprisonment not exceeding sixty days for each offense; but any policy issued on such application binds the company if otherwise valid. Agents of duly authorized insurance companies may place risks with agents of other duly authorized companies when necessary for the adequate insurance of property, persons or interests. An insurance agent shall be personally liable on all contracts of insurance unlawfully made by or through him, directly or indirectly, for or in behalf of any company not authorized to do business in the state. Nothing herein contained shall require a duly licensed insurance agent or broker to obtain any license for an employee doing only clerical office work in the office of said agent or broker.

See c. 12, § 56; 61 Me. 335; 70 Me. 544; 80 Me. 288; 81 Me. 508, 510; 88 Me. 105; 95 Me. 36; 110 Me. 69.

**Sec. 123. Commissioner may license insurance brokers; pen-**

alty for acting without license; may revoke license for cause or upon request of company. The insurance commissioner may license any person as broker to negotiate contracts of insurance for others than himself for a compensation, by virtue of which license he may effect insurance with any domestic company or its agents; or any resident of the state to negotiate such contracts and effect insurance with the agents of any foreign company who have been licensed to do business in this state as provided in sections one hundred and five and one hundred and twenty-two, but with no others; said license shall remain in force one year unless revoked as hereinafter provided. Whoever, without such license, assumes to act as such broker, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not more than sixty days for each offense. The insurance commissioner, after reasonable notice, may revoke the license of any agent or broker for violation of the insurance laws; or the license of any agent upon receipt of written request therefor from the company filed in the office of said commissioner.

81 Me. 509; 88 Me. 105.

**Sec. 124. Firms and corporations may be licensed as insurance agents and brokers.** The insurance commissioner may issue licenses to firms and corporations in the manner provided in the two preceding sections, authorizing said firms and corporations to act as insurance agents and brokers. The application for said license shall, in case of a firm, give the name of the firm by which the business is to be transacted, and the name and residence of each individual member thereof, and in case of a corporation, the corporate name in which the business is to be transacted, and the name and residence of each officer or member of such corporation authorized to transact business therefor; the license issued to such firm shall give the firm name, and the name of each individual member thereof, and the license issued to such corporation shall give the corporate name, and the name of each officer or member thereof authorized to transact business therefor under such license, and such licenses shall authorize the persons named therein to transact business for and in the name of the firm or corporation only.

**Sec. 125. Personal examination of applicants required in certain cases.** Before an agent or broker is licensed as provided in the three preceding sections he shall file with the insurance commissioner a statement under oath, giving his name, residence, present occupation, his occupation for the five years next preceding the date of such statement and such other information, if any, as the insurance commissioner may require. After the statement herein provided for is filed, the insurance commissioner may, if he is satisfied that the appointee is a suitable

person, issue to him a license in accordance with said sections; provided, however, that it shall not be necessary for an applicant qualifying as an agent or broker for any particular company to re-qualify. The insurance commissioner may at any time after granting such license, for cause shown, and after a hearing, determine any person so appointed, or any person theretofore appointed as agent, to be unsuitable to act as such agent, and shall thereupon revoke such license and notify both the company and the agent of such revocation. Before any person is licensed as hereinbefore provided as a first-time agent of any foreign fire insurance company or as a first-time insurance broker, he shall appear in person at such time and place as the insurance commissioner, his deputy, or any person delegated by the insurance commissioner or his deputy shall designate in writing for that purpose, for a personal examination as to his character and qualifications to act as such agent or broker. The examiner shall be satisfied that such person is of good character and is otherwise qualified for the license he desires; that he intends to hold himself out in good faith as an insurance agent or broker, and that no part of the commission on the business of such agent or broker shall be paid to any person, firm or corporation other than a duly licensed agent, broker, or insurance company.

**Sec. 126. Insurance commissioner may issue licenses to special insurance brokers; conditions upon which insurance may be procured; licensees shall keep account of business done and report to commissioner; shall give bond.** The insurance commissioner may annually issue licenses to citizens of this state, already agents of one or more duly authorized fire insurance companies subject to revocation at any time, permitting the person named therein to procure policies of fire insurance on property in this state in foreign insurance companies not authorized to transact business in this state. The person named in such a license shall in each case make application to the insurance commissioner setting forth his reasons for desiring to insure the particular risk with companies not authorized in Maine, and said commissioner shall, if he deems it advisable, grant permission to procure such insurance. He shall give notice to the insurance commissioner not later than five days after the risk is insured, giving the name of the owner, location of the property, name of the company or companies issuing policies thereon. In case the insurance commissioner finds that any company named by a special broker under the provisions of this act is not financially sound and is not believed to be a responsible and reliable company he shall so notify the special broker who shall forthwith substitute another company, submitting the name of the substitute company to the insurance commissioner for approval. Each person so licensed shall keep a separate account

of the business done under the license which shall be open to the inspection of the insurance commissioner or his representative. He shall monthly file with the insurance commissioner a statement showing the amount of insurance placed for any person, firm or corporation, the location of each risk, the gross premium charged thereon, the companies in which the insurance is placed, the date of the policies and the term thereof and such further information as the insurance commissioner may require. He shall also report in the same detail all policies canceled during the month covered by the report showing the return premiums thereon. Before receiving such license he shall execute and deliver to the treasurer of state a bond in the penal sum of one thousand dollars, with such sureties as the insurance commissioner shall approve, with a condition that the licensee will faithfully comply with all the requirements of this section, and will file with the treasurer of state, in January of each year a sworn statement of the gross premiums charged for insurance procured or placed and the gross returned premiums on such insurance canceled under such license during the year ending on the thirty-first day of December next preceding, and at the time of filing such statement will pay into the treasury of state a sum equal to two per cent, of such gross premiums, less such returned premiums so reported.

**Sec. 127. License may be revoked for violation of law, or for misrepresentation.** Whenever the insurance commissioner shall become satisfied that any insurance agent licensed in this state has wilfully violated any of the insurance laws of this state, or has wilfully over-insured property located in this state, or has wilfully misrepresented any policy of fire insurance, or has dealt unjustly with or wilfully deceived any citizen in this state in regard to any fire insurance policies, or has failed or refused to pay either to the company which he represents, or has represented, any money or property in the hands of such agent belonging to the company, when demanded, or has in any other way become unfit for such position, he may, after a hearing, revoke the license of such agent for all the companies which he represents in this State for such length of time as he may decide, not exceeding one year; provided, however, that the insurance commissioner shall give said agent ten days' notice of such revocation of license or licenses and the reasons therefor.

**Sec. 127. Penalty for violation of § 126.** Any person thus licensed, who shall procure or act in procurement or negotiation of insurance in any unauthorized foreign company, and shall neglect to make and file the statements and affidavits herein required, or shall wilfully make a false affidavit or statement, shall forfeit his license and be punished by a fine not exceeding one hundred dollars, or by imprisonment not more than sixty days;

and whoever without such license, assumes to act as a special insurance broker, shall incur like punishment.

**Sec. 129. Adjusters of losses by fire must be licensed; revocation of license.** No insurance company transacting fire insurance business in this state shall permit any representative to adjust a loss until such representative has been licensed in accordance with the provisions of this section, but a license as an adjuster shall not be required of a duly licensed fire insurance agent residing in this state. The insurance commissioner may issue a license to any person to act as an adjuster of losses by fire upon receipt of an application in such form as may be required by him. Before issuing a license to any adjuster the insurance commissioner shall satisfy himself that the applicant is a suitable person to act as an adjuster. The insurance commissioner may at any time after the granting of such license, for cause shown, and after a hearing, determine that any person so licensed is unsuitable to act as an adjuster and shall thereupon revoke such license and shall notify the adjuster of such revocation.

**Sec. 130. Discrimination or rebates on premiums for fire or liability insurance declared unlawful.** No insurance company transacting fire or liability insurance in this state, and no agent or broker transacting fire or liability insurance, either personally or by any other party, shall offer, promise, allow, give, set-off or pay, directly or indirectly, as an inducement to fire or liability insurance on any risk in this state, now or hereafter to be written, any rebate of or part of the premium payable on any policy or of the agent's commission thereon; nor shall any such company, agent or broker, personally or otherwise, offer, promise, allow, give, set-off or pay directly or indirectly, as an inducement to such fire or liability insurance any earning, profit, dividends or other benefit, founded, arising, accruing or to accrue on such insurance, or therefrom, or other valuable consideration, or any special favor which is not specified, promised or provided for in the policy of insurance; nor shall any such company, agent or broker, personally or otherwise, offer, promise, give or sell as an inducement to such insurance any stocks, bonds, securities or property, or any dividends or profits accruing or to accrue thereon, nor, except as specified in the policy, offer, promise or give any other thing of value whatsoever, or purchase any stocks, bonds, securities or other property, for which shall be paid or agreed to be paid more than the fair and reasonable value thereof.

**Sec. 131. Transactions between companies or agents shall be lawful, also dividends to policy-holders.** The preceding section shall not prevent any insurance company from paying to another insurance company, or to any duly authorized agent or broker



of this or any other state who holds himself out and carries on an insurance business in good faith as such, or prevent an insurance company, agent or broker from receiving, a commission on any policy under which it, itself, or he, himself, is insured, or any mutual company from paying dividends duly earned to policy-holders.

**Sec. 132. Punishment for violation of § 130.** Any insurance company, agent or broker who violates any provision of section 130 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars for each and every violation, or in the discretion of the court, by imprisonment not exceeding six months. The insurance commissioner may revoke the license of any company, agent or broker violating said section.

**R. S., 1930, Chap. 131, Sec. 10. Larceny by one entrusted with property; insurance, or other agent, appropriating money to his own use.** Whoever embezzles, or fraudulently converts to his own use, or secretes with intent to embezzle or fraudulently convert to his own use, money, goods or property delivered to him, or any part thereof, which may be the subject of larceny, shall be deemed guilty of larceny, and shall be punished accordingly. And any insurance agent, or agent of any corporation doing business in the state, who fraudulently appropriates to his own use any money, or substitutes for money, received by him as such agent, or refuses or neglects to pay over and deliver the same to the party entitled to receive it, for thirty days after written demand upon him therefor, is guilty of larceny, and shall be punished accordingly.

33 Me. 131; 91 Me. 111; 95 Me. 182; 99 Me. 70; 126 Me. 230.

(Issue of 1930)