

**Maine Revised Statute Title 24-A, Chapter 16:
PRODUCERS, ADJUSTERS AND CONSULTANTS**

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Subchapter 1: SCOPE OF CHAPTER AND
DEFINITIONS HEADING: PL 1997, C. 457, §23 (NEW)

24-A §1401. SCOPE OF CHAPTER

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, fraternal benefit societies, viatical settlement providers and risk retention groups, except reinsurers.

[2001, c. 259, §2 (AMD) .]

2. Agents and brokers.

[T. 24-A, §1401, sub-§2 (RP) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §2 (AMD). MRSA T.24A ., §1401/2 (AMD).

24-A §1402. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

1. Adjuster. "Adjuster" means any individual who, as an independent contractor or as an employee of an independent contractor, or as an employee of another organization, for fee, commission or other compensation, investigates for, settles on behalf of and reports to an insurer, fraternal benefit society, workers' compensation self-insurer or insured relative to claims arising under the workers' compensation laws or other types of insurance contracts. "Adjuster" does not include:

A. Attorneys admitted to practice in this State; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

B. Employees of insurers; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

C. Licensed producers authorized by contract to settle and pay claims within a specified limit established by the insurer or fraternal benefit society not to exceed \$5,000; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

D. Persons excepted from licensure as adjusters pursuant to Title 5, section 1727-A and persons acting as adjusters solely on behalf of the State or counties, cities and towns; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

E. Persons adjusting only life and health insurance claims; or [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

F. Adjuster trainees. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

[1997, c. 592, §19 (AMD) .]

2. Adjuster trainee. "Adjuster trainee" means any individual with less than one year total experience handling loss claims under insurance contracts or the workers' compensation laws who is not licensed in this State as an adjuster and who is employed by and subject to the immediate personal supervision of an adjuster who is licensed in this State and who has been established in the business of adjusting for 3 years or more.

[1997, c. 592, §19 (AMD) .]

3. Agency.

[2001, c. 259, §3 (RP) .]

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

[2001, c. 259, §4 (NEW) .]

4. Consultant. "Consultant" means any individual who, for a fee, advises or offers to advise any person insured or seeking insurance or named or to be named as beneficiary, or having or to have any interest in or insured under any property and casualty or life and health insurance contract or annuity contract, existing or proposed.

A. "To advise" means to provide information relative to coverage, rights or interests under insurance or annuity contracts, or relative to the retention, exchange, surrender, exercise of rights or other disposition of insurance or annuity contracts. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

B. [1999, c. 225, §1 (RP) .]

C. [1999, c. 225, §1 (RP) .]

D. "Consultant" does not include:

- (1) An attorney licensed to practice who is actively practicing law in this State;
- (2) An insurance actuary and member or associate of the Society of Actuaries or American Academy of Actuaries;
- (3) A public accountant certified under Title 32, chapter 113 or a certified public accountant who is certified under Title 32, chapter 113 and in active public practice;
- (4) A licensed insurance producer who receives a fee in lieu of a commission pursuant to section 1450 if the insurance producer receives a fee for the insurance transaction and not for other services provided;
- (5) A financial institution or a financial institution holding company if the insurance advice is given as part of its trust department rendering insurance advice in a fiduciary capacity; or
- (6) A person authorized to act as or on behalf of an investment advisor in accordance with Title 32, section 16403 and 16404 to the extent such activities entail providing insurance advice incidental to financial planning advice. [2005, c. 65, Pt. C, §10 (AMD) .]

[2005, c. 65, Pt. C, §10 (AMD) .]

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

A. [1997, c. 457, §23 (NEW); T. 24-A, §1402, sub-§5, ¶ A (RP) .]

[2001, c. 259, §5 (RPR) .]

6. Insurance producer activities.

[2001, c. 259, §6 (RP) .]

7. License. "License" means a document issued by the superintendent authorizing a person to act as an insurance producer, adjuster or consultant for kinds of insurance specified in the document as authorized in this chapter. The license itself does not create any authority, actual, apparent or inherent, in the licensee to represent or commit any particular insurer, health maintenance organization, fraternal benefit society, nonprofit hospital or medical service organization, viatical settlement provider or risk retention group.

[1997, c. 592, §19 (AMD) .]

8. Life and health consultant. "Life and health consultant" means a person licensed as a consultant to advise on life contracts, annuity contracts and health insurance contracts.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

9. Limited insurance producer license.

[2001, c. 259, §7 (RP) .]

10. Nonresident. "Nonresident" means a person other than a resident of this State.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

11. Property and casualty consultant. "Property and casualty consultant" means a person licensed as a consultant to advise on any one or more of the following kinds of insurance:

A. Casualty insurance; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

B. Property insurance; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

C. Surety insurance; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

D. Marine and transportation insurance; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

E. Title insurance; or [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

F. Legal services insurance. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

12. Resident. "Resident" means any of the following:

A. An individual who is domiciled in this State and who is not licensed elsewhere as a resident producer, consultant or adjuster; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

B. An individual whose principal place of business is located in this State and who is not licensed elsewhere as a resident producer, consultant or adjuster; or [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

C. 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 business entity elsewhere. [2001, c. 259, §8 (AMD).]

[2001, c. 259, §8 (AMD) .]

13. Service representative.

[2001, c. 259, §9 (RP) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §19 (AMD). 1997, c. 457, §55 (AFF). 1999, c. 225, §§1,2 (AMD). 1999, c. 270, §§1,2 (AMD). 2001, c. 259, §§3-9 (AMD). 2005, c. 65, §C10 (AMD). MRSA T.24A ., §1402/5/A (AMD).

**Subchapter 2: GENERAL LICENSING REQUIREMENTS FOR
PRODUCERS, ADJUSTERS, CONSULTANTS AND BUSINESS ENTITIES
HEADING: PL 1997, C. 457, §23 (NEW); 2001, C. 259, §10 (RPR)**

24-A §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.

[2001, c. 259, §11 (NEW) .]

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

[2001, c. 259, §11 (NEW) .]

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.

[2001, c. 259, §11 (NEW) .]

4. Education requirements.

[2007, c. 51, §1 (RP) .]

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.

[2001, c. 259, §11 (NEW) .]

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.

[2001, c. 259, §11 (NEW) .]

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.

[2001, c. 259, §11 (NEW) .]

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.

[2001, c. 259, §11 (NEW) .]

SECTION HISTORY

2001, c. 259, §11 (NEW). 2007, c. 51, §1 (AMD).

24-A §1411. LICENSE REQUIRED

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 subchapter II-A.

[2001, c. 259, §12 (AMD) .]

2. Consultant; adjuster. A person may not act as or purport to be a consultant with respect to insurance risks resident, located or to be performed in this State or elsewhere unless licensed as a consultant under this chapter. A person may not act as or purport to be an adjuster unless licensed as an adjuster under this chapter, except as provided in section 1475.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

3. Insurance business. A person may not for a fee or commission engage in the business of offering any advice, counsel, opinion or similar service with respect to the benefits, advantages or disadvantages under any policy of insurance that is issued in this State unless that person is:

A. Engaged or employed as an attorney licensed in this State to practice law; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

B. A licensed insurance producer offering advice concerning a kind of insurance for which the insurance producer is licensed to transact business and does not receive a separate fee for rendering such advice other than commissions or fees for the sale of an insurance or annuity policy, except that this paragraph does not apply to a licensed insurance producer who is also authorized to act as or on behalf of an investment advisor pursuant to section 1402, subsection 4, paragraph D, subparagraph (6); [1999, c. 225, §3 (AMD) .]

C. An actuary or a certified public accountant engaged or employed in a consulting capacity, performing duties incidental to that position; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

D. A licensed adjuster acting within the scope of the license; or [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

E. A licensed insurance consultant acting within the scope of the license. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

[1999, c. 225, §3 (AMD) .]

4. Liability. A licensee is personally liable under any insurance contract made by or through the licensee that is outside the scope of the license authority. An insurance contract issued on an application solicited, received or forwarded by an unlicensed person and otherwise valid is not thereby rendered invalid.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 1999, c. 225, §3 (AMD). 2001, c. 259, §12 (AMD).

24-A §1412. PROHIBITED ACTIVITIES

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.

[2001, c. 259, §13 (AMD) .]

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 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.

[2001, c. 259, §13 (AMD) .]

3. Relicensure. Nothing in this section prohibits any rights a person may have to seek relicensure under section 1418.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

4. Violations. Any person violating this section is guilty of a Class E crime and may be punished upon conviction, by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not more than 6 months, or by both.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §13 (AMD).

24-A §1413. LICENSE REQUIREMENT FOR BUSINESS ENTITIES

1. License required. A business entity, whether it has a location in this State or not, must be licensed as an insurance producer, adjuster or consultant business entity in order to authorize individual licensees to act on the entity's behalf by engaging in insurance producer, adjuster or consultant activities or in order to use the name of the business entity in insurance-related advertising in the State. 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 a business entity does not transfer to other employees within that business entity. Licensure of a nonresident business entity does not depend upon the entity's maintaining a business entity license in another state. Business entity licensees are subject to the standards of section 407, subsection 2, when applicable, and section 408, subsections 1 and 4.

[2001, c. 259, §14 (AMD) .]

2. Officers; directors; members; partners. 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.

[2001, c. 259, §14 (AMD) .]

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 individual licensee must be designated responsible for the 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 entity does not act beyond the scope of that individual's license. The designated responsible person for each 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 entity. The business entity shall notify the superintendent, within 14 days of every change of the designated licensed person responsible for the entity's compliance with laws and rules of this State. The designated responsible person is responsible for all correspondence with the business entity from the superintendent. If the responsible person in a business entity loses that person's license, the business entity license terminates if a new person is not designated as responsible for the business entity within 14 days.

[2001, c. 259, §14 (AMD) .]

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

[2001, c. 259, §14 (AMD) .]

5. Resident branch offices. A resident business entity establishing more than one place of business in this State must procure 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 business entity that regularly conducts insurance business or that is advertised as a location where the public may contact the 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 business entity must obtain a separate business entity license and can not be registered as a branch office. The licensed person designated as responsible for the business entity is responsible for all branch locations.

[2001, c. 259, §14 (AMD) .]

6. Nonresident branch locations. A nonresident business entity doing business in this State shall procure a business entity license for its principal location and a branch office registration for each location doing business in the State. The licensed person designated as responsible for the business entity is responsible for all such branch locations.

[2001, c. 259, §14 (AMD) .]

7. Applications.

[T. 24-A, §1413, sub-§7 (RP) .]

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.

[1999, c. 270, §3 (NEW) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §20 (AMD). 1997, c. 457, §55 (AFF). 1999, c. 270, §3 (AMD). 2001, c. 259, §14 (AMD). MRSA T.24A . , §1413/7 (AMD).

24-A §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. [2001, c. 259, §15 (RPR).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §15 (RPR).

24-A §1415. LICENSE AUTHORITIES

1. Producer authorities. An individual resident or nonresident insurance producer may receive 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. [2001, c. 259, §16 (RP).]

B. [2001, c. 259, §16 (RP).]

C. [2001, c. 259, §16 (RP).]

D. [2001, c. 259, §16 (RP).]

E. [2001, c. 259, §16 (RP).]

[2001, c. 259, §16 (AMD) .]

2. Consultant categories. A resident or nonresident consultant may receive the following authorities under the license:

A. Property and casualty; or [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

B. Life and health. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]
[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

3. Adjuster authorities. A resident or nonresident adjuster may receive the property and casualty authority under the license.

[1997, c. 592, §21 (NEW) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §21 (AMD). 1997, c. 457, §55 (AFF). 2001, c. 259, §16 (AMD).

24-A §1416. LIMITED INSURANCE LICENSES

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

[2001, c. 259, §17 (AMD) .]

2. Fee. The fee for a limited insurance producer license is specified in section 601.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §17 (AMD).

24-A §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.

[2001, c. 259, §18 (NEW) .]

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 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 and consultant 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.

[2005, c. 43, §1 (AMD) .]

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.

[2001, c. 259, §18 (NEW) .]

SECTION HISTORY

2001, c. 259, §18 (NEW). 2005, c. 43, §1 (AMD).

24-A §1417. SUSPENSION; REVOCATION; REFUSAL OF LICENSE

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 business entity licenses, or any surplus lines broker license if the superintendent finds that, as to the applicant or licensee, any of the 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. [2001, c. 259, §19 (RP).]
- B. [2001, c. 259, §19 (RP).]
- C. [2001, c. 259, §19 (RP).]
- D. [2001, c. 259, §19 (RP).]
- E. [2001, c. 259, §19 (RP).]
- F. [2001, c. 259, §19 (RP).]
- G. [2001, c. 259, §19 (RP).]
- H. [2001, c. 259, §19 (RP).]

[2001, c. 259, §19 (AMD) .]

2. Agency suspension.

[2001, c. 259, §20 (RP) .]

3. Voluntary surrender. The superintendent may, after notice and opportunity for a hearing under this section, deem the license suspended or revoked of a previously licensed person who voluntarily surrendered an insurance license.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

4. Exceptional circumstances.

[2001, c. 259, §21 (RP) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §§22,23 (AMD). 1997, c. 457, §55 (AFF). 2001, c. 259, §§19-21 (AMD).

24-A §1418. RELICENSING AFTER REVOCATION; REFUSAL OF LICENSE

1. Relicensing. The superintendent may not issue a license under this Title to a person whose license has been revoked until at least one year has expired from the effective date of that revocation. If the licensee pursues an appeal from the superintendent's decision, the superintendent may not consider issuance of a new license until at least one year from the date of a final court order affirming that revocation. The license applicant shall reestablish qualification for the license in accordance with the applicable provisions of this Title. The superintendent may refuse any such new license applications unless the applicant shows good cause why the prior revocation should not be deemed a bar to the issuance of a new license.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

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.

[2001, c. 259, §22 (AMD) .]

3. Business entity relicensing. If the license of a business entity is suspended or revoked pursuant to section 1417 or section 1420-K, an officer, director or member of that 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.

[2001, c. 259, §22 (AMD) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §22 (AMD).

24-A §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 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 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 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. [2001, c. 259, §23 (AMD) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §24 (AMD). 1997, c. 457, §55 (AFF). 2001, c. 259, §23 (AMD).

Subchapter 2-A: MAINE PRODUCER LICENSING ACT HEADING: PL 2001, C. 259, §24 (NEW)

24-A §1420. SHORT TITLE; SCOPE AND APPLICATION

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

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW).

24-A §1420-A. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2001, c. 259, §24 (NEW).]

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

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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

[2001, c. 259, §24 (NEW) .]

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

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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. [2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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.

[2001, c. 259, §24 (NEW) .]

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; [2001, c. 259, §24 (NEW) .]

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; [2001, c. 259, §24 (NEW) .]

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; [2001 , c. 259 , §24 (NEW) .]

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 producers, and who are not individually engaged in the sale, solicitation or negotiation of insurance; [2001 , c. 259 , §24 (NEW) .]

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; [2001 , c. 259 , §24 (NEW) .]

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 [2001 , c. 259 , §24 (NEW) .]

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. [2001 , c. 259 , §24 (NEW) .]

[2001 , c. 259 , §24 (NEW) .]

SECTION HISTORY

2001 , c. 259 , §24 (NEW) .

24-A §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.

[2001 , c. 259 , §24 (NEW) .]

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.

[2001 , c. 259 , §24 (NEW) .]

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

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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; [2001, c. 259, §24 (NEW) .]
- B. Has not committed any act that is a ground for denial, suspension or revocation set forth in section 1420-K; [2001, c. 259, §24 (NEW) .]
- C. [2007, c. 51, §2 (RP) .]
- D. Has paid any required fees set forth in section 601; and [2001, c. 259, §24 (NEW) .]
- E. Has successfully passed the examinations for the lines of authority for which the person has applied. [2001, c. 259, §24 (NEW) .]

[2007, c. 51, §2 (AMD) .]

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 [2001, c. 259, §24 (NEW) .]
- 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. [2001, c. 259, §24 (NEW) .]

[2001, c. 259, §24 (NEW) .]

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

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW). 2007, c. 51, §2 (AMD).

24-A §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; [2001, c. 259, §24 (NEW).]
- B. Accident and health or sickness, which is insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income; [2001, c. 259, §24 (NEW).]
- C. Property, which is insurance coverage for the direct or consequential loss of or damage to property of every kind; [2001, c. 259, §24 (NEW).]
- D. Casualty, which is insurance coverage against legal liability, including coverage for death, injury or disability or damage to real or personal property; [2001, c. 259, §24 (NEW).]
- E. Variable life and variable annuity products, which is insurance coverage provided under variable life insurance contracts and variable annuities; [2001, c. 259, §24 (NEW).]
- F. Personal lines, which is property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; [2001, c. 259, §24 (NEW).]
- G. Credit, which is limited line credit insurance; [2001, c. 259, §24 (NEW).]
- H. Travel accident and baggage insurance contracts, which are a limited line; [2001, c. 259, §24 (NEW).]
- I. Title insurance contracts, which are a limited line; [2001, c. 259, §24 (NEW).]
- J. [2005, c. 43, §2 (RP).]
- K. Automobile mechanical breakdown contracts, which are a limited line; and [2001, c. 259, §24 (NEW).]
- L. Insurance offered, sold or solicited in connection with and incidental to the rental of rental cars for a period of no more than 60 days, whether at the rental office or by preselection of coverage in master, corporate, group or individual agreements, that is nontransferable, applies only to the rental car that is the subject of the rental agreement and is limited to the following kinds of insurance:
 - (1) Personal accident insurance for renters and other rental car occupants for accidental death or dismemberment and for medical expenses resulting from an accident that occurs with the rental car during the rental period;
 - (2) Liability insurance that provides protection to the renters and other authorized drivers of a rental car for liability arising from the operation or use of the rental car during the rental period;
 - (3) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period;
 - (4) Roadside assistance and emergency sickness protection insurance; and

(5) Any other coverage designated by the superintendent. [2007, c. 51, §3 (RPR).]

[2007, c. 51, §3 (AMD).]

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.

[2001, c. 259, §24 (NEW).]

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.

[2001, c. 259, §24 (NEW).]

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.

[2001, c. 259, §24 (NEW).]

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.

[2001, c. 259, §24 (NEW).]

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.

[2001, c. 259, §24 (NEW).]

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.

[2001, c. 259, §24 (NEW).]

SECTION HISTORY

2001, c. 259, §24 (NEW). 2005, c. 43, §2 (AMD). 2007, c. 51, §3 (AMD).

24-A §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;

[2001, c. 259, §24 (NEW).]

B. The person has submitted the proper request for licensure and has paid any fees required by section 601; [2001, c. 259, §24 (NEW).]

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 [2001, c. 259, §24 (NEW) .]

D. The person's home state awards nonresident producer licenses to residents of this State on the same basis. [2001, c. 259, §24 (NEW) .]

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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 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.

[2007, c. 51, §4 (AMD) .]

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. An 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 2-A.

[2007, c. 51, §4 (AMD) .]

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; [2001, c. 259, §24 (NEW) .]
- B. An applicant for a license as a limited insurance producer who solicits or sells travel and baggage insurance; [2001, c. 259, §24 (NEW) .]
- 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; [2001, c. 259, §24 (NEW) .]
- D. An applicant for a license as a limited insurance producer who solicits or sells mechanical breakdown insurance; or [2001, c. 259, §24 (NEW) .]
- E. An applicant for a license as a limited insurance producer employed by a motor vehicle rental company who solicits or sells insurance in connection with and incidental to the rental of a motor vehicle for a period not to exceed 60 days in accordance with section 1420-F, subsection 1, paragraph L. [2007, c. 51, §4 (AMD) .]

[2007, c. 51, §4 (AMD) .]

SECTION HISTORY

2001, c. 259, §24 (NEW). 2007, c. 51, §4 (AMD).

24-A §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. [2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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; [2001, c. 259, §24 (NEW) .]

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; [2001, c. 259, §24 (NEW) .]

C. To the designee of a licensed insurance producer entering active service in the Armed Forces of the United States; or [2001, c. 259, §24 (NEW) .]

D. In any other circumstance when the superintendent determines that the public interest will best be served by the issuance of this license. [2001, c. 259, §24 (NEW) .]

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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; [2001, c. 259, §24 (NEW) .]

B. Violating any insurance laws, or violating any rule, regulation, subpoena or order of the superintendent or of another state's insurance commissioner; [2001, c. 259, §24 (NEW) .]

C. Obtaining or attempting to obtain a license through misrepresentation or fraud; [2001, c. 259, §24 (NEW) .]

D. Improperly withholding, misappropriating or converting any money or properties received in the course of doing insurance business; [2001, c. 259, §24 (NEW) .]

E. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance; [2001, c. 259, §24 (NEW) .]

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; [2001, c. 259, §24 (NEW) .]

G. Having admitted to or been found to have committed any insurance unfair trade practice or fraud; [2001, c. 259, §24 (NEW) .]

H. Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere; [2001, c. 259, §24 (NEW) .]

I. Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory; [2001, c. 259, §24 (NEW) .]

J. Forging another's name to an application for insurance or to any document related to an insurance transaction; [2001, c. 259, §24 (NEW) .]

K. Improperly using notes or any other reference material to complete an examination for an insurance license; [2001, c. 259, §24 (NEW) .]

L. Knowingly accepting insurance business from an individual who is not licensed; [2001, c. 259, §24 (NEW) .]

M. Failing to comply with an administrative or court order imposing a child support obligation; or [2001, c. 259, §24 (NEW) .]

N. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax. [2001, c. 259, §24 (NEW) .]

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

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. [2001, c. 259, §24 (NEW) .]

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. [2001, c. 259, §24 (NEW) .]

[2001, c. 259, §24 (NEW) .]

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. [2001, c. 259, §24 (NEW) .]

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. [2001, c. 259, §24 (NEW).]

C. Paragraph A or B does not abrogate or modify any existing statutory or common law privileges or immunities. [2001, c. 259, §24 (NEW).]

[2001, c. 259, §24 (NEW) .]

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. [2001, c. 259, §24 (NEW).]

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. [2001, c. 259, §24 (NEW).]

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. [2001, c. 259, §24 (NEW).]

D. No waiver of any applicable privilege or claim of confidentiality in the documents, materials 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. [2001, c. 259, §24 (NEW).]

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. [2001, c. 259, §24 (NEW).]

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

24-A §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.

[2001, c. 259, §24 (NEW) .]

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.

[2001, c. 259, §24 (NEW) .]

SECTION HISTORY

2001, c. 259, §24 (NEW) .

Subchapter 3: APPLICATION PROCEDURE FOR
ADJUSTERS AND CONSULTANTS HEADING: PL
1997, C. 457, §23 (NEW); 2001, C. 259, §25 (RPR)

24-A §1421. LICENSING FORMS

The superintendent or an independent licensing service designated by the superintendent shall prescribe, consistent with the applicable requirements of this chapter, and furnish all forms required under this chapter in connection with applications for and issuance of licenses. The superintendent or an independent testing service designated by the superintendent shall prescribe and furnish all forms required in connection with examinations for licenses. [1997, c. 592, §24 (AMD).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §24 (AMD). 1997, c. 457, §55 (AFF).

24-A §1422. LICENSE TO BE ISSUED ONLY ON COMPLIANCE

The superintendent may not issue or permit any license of an applicant who is not in compliance with or who has not established qualifications in accordance with the applicable provisions of this chapter. [2001, c. 259, §26 (AMD).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §26 (AMD).

24-A §1423. APPLICATION FOR EXAMINATION

(REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §§25,26 (AMD). 1997, c. 457, §55 (AFF). 2001, c. 259, §27 (RP).

24-A §1424. APPLICATION FOR LICENSE

(REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §§27,28 (AMD). 1997, c. 457, §55 (AFF). 2001, c. 259, §28 (RP).

24-A §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; [2001, c. 259, §29 (NEW).]
- B. Has not committed any act that is a ground for denial, suspension or revocation set forth in sections 1417 and 1420-K; [2001, c. 259, §29 (NEW).]
- C. Has completed any preclicensing requirements for the license for which the person has applied, as specified in subchapter II; [2001, c. 259, §29 (NEW).]
- D. Has paid any required fees set forth in section 601; and [2001, c. 259, §29 (NEW).]

E. Has successfully passed the examinations for the license for which the person, if a resident, has applied. [2001, c. 259, §29 (NEW).]

[2001, c. 259, §29 (NEW) .]

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 [2001, c. 259, §29 (NEW).]

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. [2001, c. 259, §29 (NEW).]

[2001, c. 259, §29 (NEW) .]

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

[2001, c. 259, §29 (NEW) .]

SECTION HISTORY

2001, c. 259, §29 (NEW).

24-A §1425. INVESTIGATION OF LICENSE APPLICANTS

When an application for license under this chapter is submitted, the superintendent may investigate the applicant's character, financial responsibility, experience, background and fitness for the license applied for. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1426. ISSUANCE; REFUSAL OF LICENSE; REFUNDS OF FEES

1. Issuance. If the superintendent finds that the application is complete, the applicant has passed any required examination and that the applicant is otherwise qualified for the license applied for, the superintendent shall promptly issue the license; otherwise, the superintendent may not issue the license and shall promptly notify the applicant of such refusal stating the grounds for denial.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

2. Fees.

[2001, c. 259, §30 (RP) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §29 (AMD). 1997, c. 457, §55 (AFF). 2001, c. 259, §30 (AMD).

24-A §1427. EXEMPTION FROM EXAMINATION REQUIREMENT

(REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §§30,31 (AMD). 1997, c. 457, §55 (AFF). 1999, c. 270, §§4-6 (AMD). 2001, c. 259, §31 (RP).

24-A §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.

[2001, c. 259, §32 (NEW) .]

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.

[2001, c. 259, §32 (NEW) .]

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.

[2001, c. 259, §32 (NEW) .]

SECTION HISTORY

2001, c. 259, §32 (NEW).

24-A §1428. TEMPORARY LICENSE AS INSURANCE PRODUCER

(REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §33 (RP).

24-A §1429. INSURANCE VENDING MACHINES

(REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §33 (RP).

24-A §1430. LICENSE CONTINUATION OR TERMINATION

(REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §§32-37 (AMD). 1997, c. 457, §55 (AFF). 2001, c. 259, §34 (RP). MRSA T.24A ., §1430/5 (AMD).

24-A §1431. APPOINTMENT OF INSURANCE PRODUCERS OR AGENCIES

(REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 1997, c. 592, §38 (RP).

24-A §1432. TERMINATION OF PRODUCER OR AGENCY APPOINTMENT

(REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 1997, c. 592, §38 (RP).

Subchapter 4: PRODUCERS HEADING: PL 1997, C. 457, §23 (NEW)

24-A §1441. APPLICABILITY

1. Licensed resident producers.

[1997, c. 592, §39 (RP) .]

1-A. Licensed producers. This subchapter applies to licensed resident and nonresident producers.

[1997, c. 592, §40 (NEW) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §§39,40 (AMD). 1997, c. 457, §55 (AFF).

24-A §1441-A. APPOINTMENT OF INSURANCE PRODUCERS OR AGENCIES

(REPEALED)

SECTION HISTORY

1997, c. 592, §41 (NEW). 2001, c. 259, §35 (RP).

24-A §1441-B. TERMINATION OF PRODUCER OR AGENCY APPOINTMENT

(REPEALED)

SECTION HISTORY

1997, c. 592, §41 (NEW). 2001, c. 259, §35 (RP).

24-A §1442. AUTHORITY OF INSURANCE PRODUCER

1. Licensed insurance producer. A licensed insurance producer in this State may:

A. Engage in insurance producer activities throughout this State within the authority granted the insurance producer by the insurer, health maintenance organization, fraternal benefit society, or nonprofit hospital or medical service organization and the scope of the producer's license; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

B. Adjust the losses of the insurer or fraternal benefit society within the authority granted the insurance producer by the insurer or fraternal benefit society; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

C. Not place or seek to place insurance coverage, other than with an insurer, health maintenance organization, fraternal benefit society or nonprofit hospital association for which the insurance producer holds an appointment, except as provided under section 1450, subsection 2. A licensed resident or a nonresident insurance producer may not place or seek to place insurance coverage other than in an authorized insurer, health maintenance organization, fraternal benefit society or nonprofit hospital or medical service organization, except as provided in chapter 19; and [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

D. Enter into a contract or arrangement with a financial institution for the purpose of participating in a finance program with the financial institution. In this case, the financial institution need not be licensed as a producer, as long as the purpose of the arrangement is to authorize an insurance producer to facilitate, direct or refer insureds, prospective insureds or other customers to the financial institution for loans or for the purpose of authorizing an insurance producer to facilitate arrangements for leases, loans or credit applications with the financial institution. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1443. EXCEPTIONS TO LICENSING REQUIREMENT *(REPEALED)*

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §36 (RP).

24-A §1443-A. LICENSING OF FINANCIAL INSTITUTIONS AND RELATED PARTIES

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliate" means any of the following entities:

- (1) A subsidiary of a financial institution or credit union authorized to do business in this State or of a financial institution holding company;
- (2) An employee, an officer other than a director, or licensed 3rd-party producer of a financial institution or credit union authorized to do business in this State, a financial institution holding company or any institution listed in subparagraph (1);
- (3) A person or entity possessing 5% or more of the ownership interests of a financial institution or credit union authorized to do business in this State, or of a financial institution holding company or of any institution listed in subparagraph (1); or

(4) An insurer or insurance producer or consultant utilizing space in the retail area of a financial institution or credit union authorized to do business in this State or of a financial institution holding company or an institution listed in subparagraph (1) in order to engage in the transaction of insurance when payments for use of the space are made to the that institution pursuant to a space-sharing agreement based directly or indirectly upon a percentage of the volume of business conducted by the insurer, insurance agent, broker or consultant. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

B. "Credit union authorized to do business in this State" or "credit union" has the same meaning as defined in Title 9-B, section 131, subsection 12-A. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

C. "Financial institution authorized to do business in this State" or "financial institution" has the same meaning as defined in Title 9-B, section 131, subsection 17-A. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

D. "Financial institution holding company" has the same meaning as defined in Title 9-B, section 1011 and includes a mutual holding company as defined in Title 9-B, section 1052. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

E. "Licensed 3rd-party producer" means a licensed insurance producer or consultant who engages in authorized insurance activities related to insurance products directly on behalf of a specified licensed insurance entity through an independent contractor relationship. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

F. "Ownership interest" includes general partnership shares, limited partnership shares and shares of stock that possess any voting rights. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

G. "Subsidiary" means any corporation, partnership, association or other business entity in which either:

(1) One or more financial institutions or credit unions authorized to do business in this State, financial institution holding companies or any officers, employees, agents or representatives of the financial institutions or credit unions authorized to do business in this State or financial institution holding companies possess directly or indirectly, singly or in the aggregate, an ownership interest of at least 25%; or

(2) It is determined by the superintendent after notice and opportunity for hearing that one or more financial institutions or credit unions authorized to do business in this State, financial institution holding companies or any officers, employees, agents or representatives of financial institutions or credit unions authorized to do business in this State or financial institution holding companies, singly or in the aggregate, exercise a controlling influence over the management and policies of the entity. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

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 1410, subsection 8.

[2001, c. 259, §37 (AMD) .]

3. Rulemaking. The superintendent, the Superintendent of Financial Institutions and the Superintendent of Consumer Credit Protection may, pursuant to this subsection, Title 9-A, section 4-407 and Title 9-B, section 448, subsection 5, undertake joint rulemaking to carry out the purpose of this section, including issues regarding signs, the physical location of sales of insurance and identification of producers affiliated with financial institutions, credit unions, financial institution holding companies or supervised lenders. In adopting rules pursuant to this section, the superintendent, the Superintendent of Financial Institutions and the Superintendent of Consumer Credit Protection shall consider the possibility of confusion and perception of coercion among the insurance-consuming public, the need for cost-effective delivery of insurance products to insurance consumers and the importance of parity among producers affiliated with federally chartered and state-chartered financial institutions and credit unions. Any rule adopted may not interfere significantly with the ability of a producer to solicit or negotiate the sale of an insurance product, whether or not that producer is affiliated with a financial institution, credit union, financial institution holding company or supervised lender, except when no other reasonable alternative exists to protect the insurance-consuming public. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. Nothing in this section is intended to restrict or interfere with the ability of the bureau, the Bureau of Financial Institutions or the Bureau of Consumer Credit Protection to adopt rules with respect to areas in which the respective agencies have independent jurisdiction.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF); 2001, c. 44, §11 (AMD); 2001, c. 44, §14 (AFF); 2007, c. 695, Pt. A, §47 (AFF); 2007, c. 273, Pt. B, §§5, 6 (REV) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 44, §11 (AMD). 2001, c. 259, §37 (AMD). 2001, c. 44, §14 (AFF). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 695, Pt. A, §47 (AFF). 2007, c. 273, Pt. B, §§5, 6 (REV).

24-A §1444. APPOINTMENT REQUIRED; REPORT AND FEES REQUIRED (REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §38 (RP).

24-A §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; [2001, c. 259, §39 (NEW) .]

B. That the type of vending machine proposed to be used is reasonably suitable for the purpose; [2001, c. 259, §39 (NEW) .]

C. That reasonable means are provided for informing prospective purchasers of policy coverages and restrictions; and [2001, c. 259, §39 (NEW).]

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. [2001, c. 259, §39 (NEW).]

[2001, c. 259, §39 (NEW) .]

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.

[2001, c. 259, §39 (NEW) .]

SECTION HISTORY

2001, c. 259, §39 (NEW).

24-A §1445. RESPONSIBILITY OF INSURER, HEALTH MAINTENANCE ORGANIZATION, FRATERNAL BENEFIT SOCIETY, OR NONPROFIT HOSPITAL OR MEDICAL SERVICE ORGANIZATION; PROHIBITED ACTIVITIES

1. Responsibilities for training and supervision. In addition to any other applicable provisions of law, the insurer, health maintenance organization, fraternal benefit society or nonprofit hospital or medical service organization:

A. Shall ensure adequate training for its appointed producers; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

B. Shall provide supervision of its appointed producers who sell insurance on its behalf; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

C. Is responsible for injuries to consumers resulting from the actions of its appointed producers to the extent of restitution, reimbursement of money or payment of interest to the consumer; and [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

D. Is accountable and may be penalized by the superintendent, as provided for in this Title, for the actions of its producers. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

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

A. Use knowledge gained as a result of the producer's insurance relationship with the insurance consumer for the producer's own personal gain, other than the receipt of fees or commissions allowed under section 1450, or use knowledge gained as a result of the relationship for the purpose of investing the insurance consumer's money in property or assets in which the insurance producer or the producer's relatives have or will have a personal ownership interest unless that activity is otherwise authorized under insurance, banking or securities laws or rules; or [1999, c. 225, §4 (AMD).]

B. Receive a fee for rendering advice on financial or estate planning or for selling trust packages, if the producer also recommends the purchase of an insurance policy upon which the producer will receive commissions, unless the producer is licensed as a consultant acting in compliance with consultant licensing laws or provides the required documentation in accordance with section 1466, subsection 2. [1999, c. 225, §4 (AMD).]

[1999, c. 225, §4 (AMD) .]

3. Common law principles. Nothing in this chapter abrogates the common law principles of apparent or implied authority as available remedies or defenses.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 1999, c. 225, §4 (AMD).

24-A §1446. PLACE OF BUSINESS

(REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §40 (RP).

24-A §1447. RECORDS

1. Records. The insurance producer or business entity shall keep or make accessible at the producer's or 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 business entity has an appointment. The insurance producer or business entity shall keep at the producer's or business entity's place of business complete records of transactions under the license. If a producer engages in transactions on behalf of a business entity and subsequently maintains a different place of business, the business entity shall maintain the records of those transactions. If a producer engages in transactions independent of any 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 nonprofit hospital or medical service organization; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

B. The number and expiration date of the policy or contract; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

C. The premium payable as to the policy or contract; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

D. The name and address of the insured; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

E. The date and time of every binder made by the insurance producer; and [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

F. Such other information as the superintendent may reasonably require. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

[2001, c. 259, §41 (AMD) .]

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

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 1999, c. 50, §1 (AMD). 2001, c. 259, §41 (AMD).

24-A §1448. QUALIFICATIONS FOR INSURANCE PRODUCER LICENSE (REPEALED)

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §42 (RP).

24-A §1449. REPORTING AND ACCOUNTING FOR PREMIUMS

All premiums and return premiums received by an insurance producer are trust funds received by the licensee in a fiduciary capacity in accordance with this section. [2003, c. 35, §1 (RPR).]

1. Return premiums; accounting and payment to an insured. The licensee shall account for and pay the return premiums to the insured or apply the return premiums to outstanding balances of any insured within 30 days from the date of receipt. The date of receipt is the date the money is actually received or the date the credit is posted by the insurer, health maintenance organization, fraternal benefit society or nonprofit hospital or medical service organization to the licensee's account.

[2003, c. 35, §1 (NEW) .]

2. Premiums; accounting and payment to an insurer. The licensee shall promptly account for and pay premiums to the insurer, health maintenance organization, fraternal benefit society or nonprofit hospital or medical service organization in accordance with the contract between the insurer, health maintenance organization, fraternal benefit society or nonprofit hospital or medical service organization and the licensee.

[2003, c. 35, §1 (NEW) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2003, c. 35, §1 (RPR).

24-A §1450. COMMISSIONS; PAYMENT; ACCEPTANCE

1. Commissions. 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 business entity may not receive or accept any commission or compensation for insurance unless licensed pursuant to this chapter.

[2001, c. 259, §43 (AMD) .]

2. Shared commissions. If an insurance producer does not have an appointment with an insurer, the insurance producer may place with that insurer, through a duly licensed and appointed producer of such insurer, an insurance coverage necessary for the adequate protection of a subject of insurance and share in the commission on that insurance, if each producer is licensed as to the kinds of insurance involved. If an insurance producer does not have an appointment with an insurer, the insurance producer may place an insurance coverage with that insurer without placing through an agent of the insurer, and accept or share in the commission as long as:

A. The producer represents the insured and does not represent the insurer; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

B. The producer has the authority under the license to act as an independent producer; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

C. The producer does not, on a regular basis, normally place business with that insurer; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

D. The producer does not also receive a fee from the insured for the service; and [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

E. The producer is licensed as to the kinds of insurance involved. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

3. Rules. With respect to the sale of property and casualty insurance sold to large commercial insurance risks, producers may be compensated by fees paid by or on behalf of the insured, by commissions paid by an insurer or by a combination of both. The superintendent may adopt rules to establish standards for determining large commercial insurance risks. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 2001, c. 259, §43 (AMD).

Subchapter 5: CONSULTANTS HEADING: PL 1997, C. 457, §23 (NEW)

24-A §1461. SCOPE OF SUBCHAPTER

1. Scope. This subchapter applies to consultants as defined in section 1402.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

2. Definition. Unless the context otherwise requires, "consultant," as used in this subchapter, means both property and casualty consultants and life and health consultants as defined in section 1402.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1462. LICENSE REQUIRED

A person may not act as a consultant in this State without first obtaining a license from the superintendent in accordance with this subchapter. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1463. QUALIFICATIONS FOR LICENSE

A license may not be issued pursuant to this subchapter unless the applicant has satisfactorily passed a written examination administered by the superintendent and has filed a bond as required by section 1464. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1464. CONSULTANT'S BOND

1. Bond. Every applicant for license as a consultant shall file with the license application and maintain in effect while licensed a bond issued by an authorized surety insurer in this State, continuous in form and providing for aggregate liability of \$20,000.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

2. Indemnification. The bond must indemnify any person damaged by any fraudulent act or conduct of the licensee in transactions under the license, and must likewise be conditioned upon faithful accounting and application of all money coming into the licensee's possession in connection with activities as such a licensee.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

3. Release. The bond remains in force until released by the superintendent or until canceled by the surety. Without prejudice to any liability previously incurred, the surety may cancel the bond upon 30 days advance written notice to the licensee and the superintendent. Upon cancellation by the surety and failure to procure a satisfactory replacement bond prior to cancellation, the consultant's license terminates.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1465. CONSULTING CONTRACT REQUIRED

A licensee may not act in any further capacity for which a license is required without having first entered into a written contract with a client. The contract must include, without limitation, the amount and basis of any consulting fee and the duration of employment and must be in a form approved by the superintendent. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1466. COMMISSIONS AND FEES

1. Property and casualty consultant. A property and casualty consultant and any person in which the consultant has an interest may not, directly or indirectly, charge a consultant fee and receive or share in any commission for the sale of insurance as a producer on any policy or certificate of insurance unless the advice given by the producer for the insurance occurs at least 12 months before or after the period of employment as a consultant as specified in the contract required by section 1465. This subsection does not prevent a licensed property and casualty insurance producer from receiving a fee rather than commission on the sale of property and casualty insurance in accordance with section 1450 and rules adopted by the superintendent.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

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

[1999, c. 225, §5 (AMD) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF). 1999, c. 225, §5 (AMD).

24-A §1467. OBLIGATION TO SERVE INTEREST OF CLIENT

A consultant is obligated, under the license, to serve with objectivity and complete loyalty the interests of the client and to render to the client such information, counsel and service that, within the knowledge, understanding and opinion in good faith of the consultant, best serves the client's insurance or annuity needs and interests. A consultant may not use knowledge gained as a result of the consultant's insurance relationship with the client for the consultant's own personal gain, other than the receipt of fees or commissions allowed under section 1450, or use knowledge gained as a result of the relationship for the purpose of investing the client's money in property or assets in which the consultant, or any person in which the consultant has a pecuniary interest or a familial relationship, has or will have a personal ownership interest unless such activity is otherwise specifically authorized under insurance, banking, or securities laws. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1468. RECORDS

The consultant shall keep at the consultant's place of business all contracts with clients for a period of 3 years from the termination of the contracts. For the purpose of investigation or examination by the superintendent, contracts may be maintained in electronic form. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

Subchapter 6: ADJUSTERS HEADING: PL 1997, C. 457, §23 (NEW)

24-A §1471. SCOPE OF THIS SUBCHAPTER

This subchapter applies only to insurance adjusters as defined in section 1402. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1472. QUALIFICATIONS FOR ADJUSTER LICENSE

1. Issuance of license. The superintendent may not issue, continue or permit to exist any license as an adjuster, except in compliance with this chapter or unless the person meets the requirements of subsection 2.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

2. Qualifications. In order to be licensed as an insurance adjuster, a person:

A. Must be at least 18 years of age; [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

B. Must be competent, trustworthy, financially responsible, and of good personal and business reputation; and [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

C. Must pass any written examination required for the license under subchapter II. [2001, c. 259, §44 (AMD) .]

[2001, c. 259, §44 (AMD) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §42 (AMD). 1997, c. 457, §55 (AFF). 2001, c. 259, §44 (AMD).

24-A §1473. ADOPTION OF RULES

The superintendent may adopt rules to establish the standards for performance of the duties of the adjuster. In addition to the causes set forth in section 1417, the superintendent may suspend, revoke or refuse a license of an adjuster for failure to perform the duties of the adjuster in accordance with the standards in this subchapter and in accordance with the standards adopted by rules. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1474. RECORDS

1. Record of each transaction. Each adjuster shall keep at the adjuster's business address shown on the license a record of all transactions under the license. For the purpose of investigation or examination by the superintendent, records may be maintained in electronic form.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

2. Information. The record must include:

A. A copy of all investigations or adjustments undertaken or consummated; and [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

B. A statement of any fee, commission or other compensation received or to be received by the adjuster on account of the investigation or adjustment. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

3. Retention. The adjuster shall make records available for examination by the superintendent at all times and shall retain the records for at least 3 years.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1475. CATASTROPHE INVESTIGATIONS AND ADJUSTMENTS

An adjuster license is not required for an adjuster sent into this State on behalf of an authorized insurer or fraternal benefit society for the investigation or adjustment of a particularly unusual or extraordinary loss or of a series of losses resulting from a catastrophe common to all such losses. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1476. ACTIVITIES OF INSURANCE ADJUSTERS

The following requirements govern the activities of insurance adjusters. [1997, c. 592, §43 (NEW).]

1. Solicitation. An adjuster seeking to provide adjusting services to an insured for a fee to be paid by the insured may not solicit or offer an adjustment services contract to any person for at least 36 hours after an accident or occurrence as a result of which the person might have a potential claim.

[1997, c. 592, §43 (NEW) .]

2. Contract provision. Any such adjustment services contract must contain a provision, prominently printed on the first page of the contract, stating that the person contracting with the adjuster has the option to rescind the contract within 2 business days after the contract is signed.

[1997, c. 592, §43 (NEW) .]

SECTION HISTORY

1997, c. 592, §43 (NEW).

Subchapter 7: CONTINUING EDUCATION HEADING: PL 1997, C. 457, §23 (NEW)

24-A §1481. CONTINUING EDUCATION ADVISORY COMMITTEE

The Continuing Education Advisory Committee is established and consists of 6 members appointed by the superintendent for terms of 3 years each, on a staggered-term basis to prevent the terms of more than 2 members from expiring in any one year. A person may not be reappointed to the committee for more than one

3-year term. A person is ineligible for appointment to the committee unless that person is an active, full-time insurance producer or consultant. Committee members are eligible for reimbursement of expenses. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

24-A §1481-A. APPLICABILITY OF SUBCHAPTER

1. Applicability. This subchapter applies to licensed producers and licensed consultants.

[1997, c. 592, §44 (NEW) .]

2. Exceptions. Except for limited licenses for the sale of annuities, this subchapter does not apply to persons holding only limited licenses under section 1416.

[1997, c. 592, §44 (NEW) .]

SECTION HISTORY

1997, c. 592, §44 (NEW).

24-A §1482. EDUCATIONAL REQUIREMENTS

As a prerequisite to maintaining a license, licensees must complete a continuing education requirement every 2 years in programs or courses approved by the superintendent. The superintendent may establish by rule the amount of continuing education credit hours, not to exceed 30 hours, required under this section. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. The superintendent may, for good cause shown, grant an extension of time to any person to allow that person to comply with this subchapter. [2005, c. 43, §3 (AMD).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §45 (AMD). 1997, c. 457, §55 (AFF). 2005, c. 43, §3 (AMD).

24-A §1483. APPLICATION FOR APPROVAL OF PROGRAM

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

[1997, c. 592, §46 (AMD) .]

2. Review. Courses and programs must be approved or disapproved by the superintendent, subject to prior review and nonbinding recommendations of the Continuing Education Advisory Committee or another 3rd-party selected by the superintendent. After review and approval or disapproval, the submissions need not be maintained by the superintendent and may be destroyed. The superintendent may, by rule, establish criteria for the review and approval of courses and for the determination of the number of continuing education hours to be credited for completion of each course or program. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF) .]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §46 (AMD). 1997, c. 457, §55 (AFF).

24-A §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 1420-K, subsection 1, paragraph B. [2001, c. 259, §45 (AMD).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 592, §47 (AMD). 1997, c. 457, §55 (AFF). 2001, c. 259, §45 (AMD).

24-A §1485. RULE-MAKING AUTHORITY

The superintendent may establish by rule reasonable procedures and standards to fulfill the purposes of this subchapter and may contract with third parties for the purpose of fulfilling responsibilities under this subchapter. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [1997, c. 457, §23 (NEW); 1997, c. 457, §55 (AFF).]

SECTION HISTORY

1997, c. 457, §23 (NEW). 1997, c. 457, §55 (AFF).

Subchapter 8: MANAGING GENERAL AGENTS

HEADING: PL 1997, C. 573, §1 (NEW)

24-A §1491. SHORT TITLE

This subchapter may be known and cited as the "Managing General Agents Act." [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

SECTION HISTORY

1997, c. 573, §1 (NEW). 1997, c. 573, §2 (AFF).

24-A §1492. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

1. Actuary. "Actuary" means a person who is a member in good standing of the American Academy of Actuaries.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

2. Insurer. "Insurer" means a person engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance who holds an existing certificate of authority to transact insurance in this State pursuant to section 404.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

3. Managing general agent or MGA. "Managing general agent" or "MGA" means a person who negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department or underwriting office, and acts as a producer for the insurer, whether known as a managing general agent, manager or other similar term; and who, with or without the authority, either separately or together with affiliates, directly or

indirectly, produces and underwrites an amount of gross direct written premium equal to or more than 5% of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter of the year following the last annual statement and adjusts or pays claims in excess of an amount determined by the superintendent or negotiates reinsurance on behalf of the insurer, or both. The term does not include:

- A. An employee of the insurer; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]
- B. A manager of a branch of an alien insurer that is located in the United States; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]
- C. An underwriting manager who, pursuant to contract, manages all or part of the insurance operations of the insurer, is under common control with the insurer, subject to section 222 and whose compensation is not based on the volume of premiums written; and [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]
- D. The attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange under powers of attorney. [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

4. Underwrite. "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

SECTION HISTORY

1997, c. 573, §1 (NEW). 1997, c. 573, §2 (AFF).

24-A §1493. LICENSE AND REGISTRATION REQUIREMENT

1. In-state risks. A person may not act in the capacity of an MGA with respect to risks located in this State for an insurer licensed in this State unless that person holds a valid Maine producer license and appointment authorizing the producer to sell the applicable kinds of insurance and unless registered with the superintendent as a managing general agent pursuant to subsection 5.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

2. Out-of-state risks. A person may not act in the capacity of an MGA representing an insurer domiciled in this State with respect to risks located outside this State unless that person holds a valid Maine producer license and appointment in this State and unless registered with the superintendent as a managing general agent pursuant to subsection 5.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

3. Bond. The superintendent may require a bond in an amount acceptable to the superintendent for the protection of the insurer.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

4. Errors and omissions policy. The superintendent may require the MGA to maintain an errors and omissions policy.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

5. Application. Each managing general agent shall file with the superintendent an application for registration as a managing general agent and shall pay the fee in section 601.

A. The superintendent shall prescribe, consistent with the applicable requirements of this subchapter, and furnish forms required under this subchapter in connection with application for an issuance of registration certificates and for notification of termination of contracts pursuant to section 1495.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

B. The application for registration must include the name and address of the insurer with whom the producer has an appointment pursuant to section 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. [2001, c. 259, §46 (AMD).]

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

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

[2001, c. 259, §46 (AMD) .]

6. Duration. Unless notification of termination of contract is received pursuant to section 1495, the certificate of registration remains in effect as long as the registrant continues to hold a valid Maine producer license and as long as the registrant complies with the provisions of this subchapter. A certificate of registration expires upon receipt by the superintendent of notification of termination of contract pursuant to section 1495 or upon notification of termination of the producer's license and the registrant shall promptly deliver the certificate of registration to the superintendent.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

SECTION HISTORY

1997, c. 573, §1 (NEW). 1997, c. 573, §2 (AFF). 1999, c. 127, §A37 (AMD). 1999, c. 127, §A38 (AFF). 2001, c. 259, §46 (AMD).

24-A §1494. REQUIRED CONTRACT PROVISIONS

A person acting in the capacity of an MGA may not place business with an insurer unless there is in force a written contract between the parties that sets forth the responsibilities of each party and, when both parties share responsibility for a particular function, specifies the division of those responsibilities. The contract must contain the following minimum provisions. [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

1. Termination. The insurer may terminate the contract for cause upon written notice to the MGA. The insurer may suspend the underwriting authority of the MGA during the pendency of any dispute regarding the cause for termination. However, the suspension of an MGA does not relieve the MGA of the responsibility to service business in existence at the time of the suspension.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

2. Accounting. The MGA shall render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

3. Bank as fiduciary. All funds collected for the account of an insurer must be held by the MGA in a fiduciary capacity in a bank that is a member of the Federal Reserve System. This account must be used for all payments on behalf of the insurer. The MGA may retain no more than 3 months' estimated claims payments and allocated loss adjustment expenses.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

4. Records. Separate records of business written by the MGA must be maintained. The insurer must have access and may copy all accounts and records related to its business in a form usable by the insurer. The superintendent must have access to all books, bank accounts and records of the MGA in a form usable to the superintendent. These records must be retained according to section 3408.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

5. Nonassignable. The contract may not be assigned in whole or part by the MGA.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

6. Guidelines. The contract must include appropriate underwriting guidelines including:

- A. The maximum annual premium volume; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]
- B. The basis of the rates to be charged; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]
- C. The types of risks that may be written; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]
- D. Maximum limits of liability; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]
- E. Applicable exclusions; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]
- F. Territorial limitations; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]
- G. Policy cancellation provisions; and [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]
- H. The maximum policy period. [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

The insurer has the right to cancel or not to renew any policy of insurance subject to all applicable laws and rules regarding the cancellation and nonrenewal of insurance policies.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

7. Settlement authority. If the contract permits the MGA to settle claims on behalf of the insurer:

- A. All claims must be reported to the insurer in a timely manner; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]
- B. A copy of the claim file must be sent to the insurer at its request or as soon as it becomes known that the claim:
 - (1) Has the potential to exceed an amount determined by the superintendent or exceeds the limit set by the insurer, whichever is less;
 - (2) Involves a coverage dispute;
 - (3) May exceed the MGA's claims settlement authority;
 - (4) Is open for more than 6 months; or

(5) Is closed by payment of an amount awarded as a result of a judicial proceeding or an amount set by the insurer, whichever is less; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

C. All claim files must be the joint property of the insurer and MGA; except that, upon an order of liquidation of the insurer, the files become the sole property of the insurer or its estate. The MGA must have reasonable access to and may copy the files on a timely basis; and [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

D. Any settlement authority granted to the MGA may be terminated for cause upon written notice by the insurer to the MGA or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination. Upon termination of the MGA's authority to settle claims, the MGA shall desist from any draw on funds of the insurer and shall immediately forward to the insurer all claims files with the MGA's immediate possession and any claims received thereafter. The MGA shall promptly transfer to the insurer any funds owed to the insurer or to any policyholder and shall transfer to the insurer any property of the insurer that is within the MGA's actual or constructive possession. [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

8. Transmission. When electronic claims files are in existence, the contract must address the timely transmission of the data.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

9. Interim profits. If the contract provides for a sharing of interim profits by the MGA and the MGA has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments or in any other manner, interim profits may not be paid to the MGA until one year after they are earned for property insurance business and 5 years after they are earned on casualty business and not until the profits have been verified pursuant to section 1495.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

10. Prohibitions. The MGA may not:

A. Bind reinsurance or retrocessions on behalf of the insurer, except that the MGA may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for reinsurance both assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

B. Commit the insurer to participate in insurance or reinsurance syndicates; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

C. Make use of any producer without ensuring that the producer is lawfully licensed in this State to transact the kind of insurance for which the producer is used; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

D. Without prior approval of the insurer, pay or commit the insurer to pay a claim over an amount specified by the insurer, net of reinsurance, which may not exceed 1% of the insurer's policyholder surplus as of December 31st of the preceding year; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

E. Collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded to the insurer; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

F. Make use of any producer who serves on the insurer's board of directors; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

G. Jointly employ an individual who is employed with the insurer; or [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

H. Assign specific duties under a contract with an insurer to other parties. [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

SECTION HISTORY

1997, c. 573, §1 (NEW). 1997, c. 573, §2 (AFF).

24-A §1495. DUTIES OF INSURERS

1. Records for each MGA. The insurer shall require and maintain on file an independent financial examination of current origin prepared on the basis of statutory accounting prescribed or permitted by the superintendent respecting each MGA with which the insurer has done business.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

2. Actuarial review. If an MGA establishes loss reserves, the insurer shall annually obtain the opinion of an actuary or actuaries who specialize in the type of insurance under consideration, attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the MGA. This requirement is in addition to any other required loss reserve certification.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

3. On-site review. The insurer shall periodically and at least semiannually conduct an on-site review of the underwriting and claims processing operations of the MGA.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

4. Binding authority. Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates rests with an officer of the insurer, who may not be affiliated with the MGA.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

5. Notice of termination. Within 30 days of termination of a contract with an MGA, the insurer shall provide written notification of that termination to the superintendent.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

6. Quarterly review. An insurer shall review its books and records each quarter to determine if any producer has become, by operation of section 1492, subsection 3, an MGA as defined in that section. If the insurer determines that its producer has become an MGA, the insurer shall promptly notify the producer and the superintendent of that determination and the insurer and producer must fully comply with the provisions of this subchapter within 30 days.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

7. Board member qualifications. An insurer may not appoint to its board of directors an officer, director, employee, producer or controlling shareholder of its managing general agents. This subsection does not apply to relationships governed by section 222 or chapter 77 to the extent that control of an insurer is permissible under section 222 or chapter 77.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

SECTION HISTORY

1997, c. 573, §1 (NEW). 1997, c. 573, §2 (AFF).

24-A §1496. ACTS OF MGA CONSIDERED ACTS OF INSURER; EXAMINATION AUTHORITY

The acts of the MGA are deemed to be the acts of the insurer on whose behalf it is acting. An MGA may be examined as if it were the insurer. [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

SECTION HISTORY

1997, c. 573, §1 (NEW). 1997, c. 573, §2 (AFF).

24-A §1497. PENALTIES AND LIABILITIES

1. Penalties. If the superintendent finds after a hearing conducted in accordance with section 229 that any person has violated any provision of this subchapter, the superintendent may order:

A. For each separate violation, any penalty provided for by section 12-A; [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

B. Revocation or suspension of the producer's license or the insurer's certificate of authority; and [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

C. The MGA to reimburse the insurer, the rehabilitator or liquidator of the insurer for any losses incurred by the insurer caused by a violation of this subchapter committed by the MGA. [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

2. Effect of order. The decision, determination or order of the superintendent pursuant to subsection 1 is subject to judicial review as provided by section 236.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

3. Penalties. Nothing contained in this section affects the right of the superintendent to impose any other penalties provided for in this Title.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

4. Rights of others. Nothing contained in this subchapter limits or restricts the rights of policyholders, claimants and auditors.

[1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF) .]

SECTION HISTORY

1997, c. 573, §1 (NEW). 1997, c. 573, §2 (AFF).

24-A §1498. RULES

The superintendent may adopt reasonable rules for the implementation and administration of this subchapter. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [1997, c. 573, §1 (NEW); 1997, c. 573, §2 (AFF).]

SECTION HISTORY

1997, c. 573, §1 (NEW). 1997, c. 573, §2 (AFF).

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