

§1402. Definitions

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

B. Property and casualty insurance adjusters who are employees of insurers or workers' compensation insurance adjusters who are employees of insurers; [PL 2017, c. 152, §1 (AMD); PL 2017, c. 152, §5 (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 \$10,000 or, temporarily under the same circumstance described in section 1475, \$20,000; [PL 2019, c. 591, §1 (AMD).]

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

E. Persons adjusting only life and health insurance claims; [PL 2011, c. 554, §1 (AMD).]

F. Adjuster trainees; or [PL 2011, c. 554, §1 (AMD).]

G. An individual who satisfies the following with regard to portable electronic device insurance as defined under section 7001, subsection 6, paragraph A:

(1) The individual collects claim information from, or furnishes claim information to, insureds or claimants and conducts data entry including entering data into an automated claims adjudication system; and

(2) The individual is an employee of an adjuster licensed under this chapter or the adjuster's affiliate.

No more than 25 individuals under the supervision of one licensed adjuster or insurance producer described under paragraph C may be exempt pursuant to this paragraph.

For purposes of this paragraph, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation and final resolution of portable electronic device insurance claims that is used by an adjuster, insurance producer or supervised individual operating pursuant to this paragraph; complies with all claims payment requirements of the Maine Insurance Code; and is certified as compliant with this paragraph by a licensed adjuster that is an officer of a business entity licensed under this chapter. [RR 2011, c. 2, §29 (COR).]
[PL 2019, c. 591, §1 (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.
[PL 1997, c. 592, §19 (AMD).]

3. Agency.

[PL 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.

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

B. [PL 1999, c. 225, §1 (RP).]

C. [PL 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, sections 16403 and 16404 to the extent such activities entail providing insurance advice incidental to financial planning advice. [RR 2021, c. 2, Pt. A, §70 (COR).]

[RR 2021, c. 2, Pt. A, §70 (COR).]

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

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

[PL 2001, c. 259, §5 (RPR).]

6. Insurance producer activities.

[PL 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.

[PL 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.

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

9. Limited insurance producer license.

[PL 2001, c. 259, §7 (RP).]

9-A. Multiple peril crop insurance adjuster. “Multiple peril crop insurance adjuster” means a person who adjusts crop insurance claims under the federal crop insurance program administered by the United States Department of Agriculture.

[PL 2009, c. 511, Pt. C, §2 (NEW).]

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

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

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

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

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

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

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

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

11-A. Property and casualty insurance adjuster. “Property and casualty insurance adjuster” means a person who adjusts property and casualty claims of any kind except for multiple peril crop insurance claims and workers' compensation claims.

[PL 2017, c. 152, §2 (AMD); PL 2017, c. 152, §5 (AFF).]

11-B. Workers' compensation insurance adjuster. “Workers' compensation insurance adjuster” means a person who adjusts workers' compensation claims governed by Title 39 or 39-A. Notwithstanding any provision of law to the contrary, a person who on January 1, 2018 is licensed as a property and casualty insurance adjuster is automatically granted workers' compensation authority on that date.

[PL 2017, c. 152, §3 (NEW); PL 2017, c. 152, §5 (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; [PL 1997, c. 457, §23 (NEW); PL 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 [PL 1997, c. 457, §23 (NEW); PL 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. [PL 2001, c. 259, §8 (AMD).]

[PL 2001, c. 259, §8 (AMD).]

13. Service representative.

[PL 2001, c. 259, §9 (RP).]

SECTION HISTORY

PL 1997, c. 457, §23 (NEW). PL 1997, c. 457, §55 (AFF). PL 1997, c. 592, §19 (AMD). PL 1999, c. 225, §§1,2 (AMD). PL 1999, c. 270, §§1,2 (AMD). PL 2001, c. 259, §§3-9 (AMD). PL 2005, c. 65, §C10 (AMD). PL 2009, c. 511, Pt. C, §§1-3 (AMD). RR 2011, c. 2, §29 (COR). PL 2011, c. 554, §§1, 2 (AMD). PL 2017, c. 152, §§1-3 (AMD). PL 2017, c. 152, §5 (AFF). PL 2019, c. 591, §1 (AMD). RR 2021, c. 2, Pt. A, §70 (COR).

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