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**Addendum: for use with Maine Life online ExamFX course and study guide version 27828en, per exam content outline updates effective 12/15/2023.**

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The following are **content additions** to supplement your existing text unless otherwise indicated.

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## **Maine Laws and Rules Common to All Lines**

### **B. Superintendent of Insurance**

#### **1. Broad Powers**

The Superintendent may conduct an investigation at any time if any person is suspected of violating provisions of the Insurance Code. Insurers and producers must respond to an inquiry by the Superintendent within **10 business days** of receipt of the inquiry. Follow-up inquiries must be submitted to the Superintendent within **5 business days** of receipt.

### **C. Licensing Requirements and Limitations**

#### **1. Types of Licenses**

##### **Producer**

To qualify for a producer license, an applicant must meet the following requirements:

- Be at least 18 years of age;
- Have not committed any act that is ground for denial, suspension, or revocation;
- Have paid the fees set forth in the Insurance Code; and
- Have successfully passed the examination for the line or lines of authority for which the person has applied.

##### **Consultant**

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



A **property and casualty consultant** 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. This regulation 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.

Consultants must maintain a record of all contracts with clients for at least **3 years** of contracts being terminated. For the purpose of investigation or examination by the superintendent, contracts may be maintained in electronic form.

## **Business Entity**

**Business entity** means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity. In order for its producers, adjusters, and consultants to perform duties on behalf of a business entity, the entity must first be licensed and pay required fees.

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.

Business entities must **designate at least one licensee** to be responsible for the entity's compliance with state law. Duties of the designated license include, but are not limited to, ensuring that every person who engages in the sale of insurance does not act beyond the scope of their license, maintaining the home addresses and phone numbers of each licensee, and being the intermediary between the entity and Superintendent. Whenever a business entity changes the individuals designated to act in the name of the entity, they must notify the Superintendent **within 30 days** of the change. If the designated person's license is revoked or suspended, the entity must replace the licensee within 14 days; otherwise, the business entity's license will be terminated.

Nonresident business entities that do business in this state must maintain a license in their home state.

## **Maine Laws and Rules Pertinent to Life Only**

### **D. Viatical and Life Settlements**

The Superintendent An insured may be contacted by the settlement provider or its authorized representative to access their health status. The frequency of contact is determined by the insured's life expectancy:

- Once every 3 months if life expectancy is over 1 year; or
- Once per month if life expectancy is 1 year or less.

**Settlement providers** must provide viators with a disclosure, no later than the date the settlement is signed. This disclosure must include:

- The affiliation between the settlement provider and issuer of the policy;
- The name, address, and telephone number of the settlement provider;
- Information regarding possible loss of coverage on other lives under the policy, if issued as a joint policy or involves a family rider;
- The dollar amount of current death benefits payable to the settlement provider;
- The name, address, and telephone number of an independent third-party escrow agent and the fact that the viator may request trust agreements and documents from the agent;
- A list of persons compensated by the settlement provider for the settlement contract, as well as the amount of compensation;
- A notice that the insured may be contacted to determine the insured's health status;
- An offer to disclose life expectancy estimates obtained from a medical provider; and
- A notice that complaints or inquiries can be submitted to the Superintendent.

**Settlement producers** must also provide a disclosure form to the viator no later than the date the settlement contract is signed by all parties. This disclosure form must include the following:

- A notice that the producer exclusively represents the viator and must fulfill all fiduciary obligations on behalf of the viator;
- A description of all offers, counteroffers, acceptances, and rejections related to the settlement contract;

- The identity of anyone compensated by the producer for the settlement contract, including the compensation amount; and
- A notice that complaints or inquiries can be submitted to the Superintendent.

If a settlement provider transfers ownership or changes the beneficiary of a policy, the provider must provide notice of the change to the policyowner or beneficiary to the insured within **20 days** of the change.

The Superintendent is responsible for developing an informational brochure that informs consumers of their rights as policyowners. The brochure must be made available at no cost to all insurance companies and life insurance producers and written in terms that consumers will understand. This brochure must include common definitions and terms, possible alternatives to the lapse of a policy, and a statement that consumers have a right to seek additional financial advice prior to purchasing a policy.

If an insured under a life insurance policy is age 60 or older, an insurer must provide the brochure upon the policyowner requesting to surrender the policy, requesting an accelerated death benefit, sending notice that a policy may lapse, or for any other circumstance required by the Superintendent.

## **E. Suitability and Replacement**

In addition, in the state of Maine, **replacing insurers** are required to do the following:

- Confirm that all required forms are received;
- Notify the existing insurer within **5 days** of the replacement being identified or the receipt of a completed application for replacement;
- Mail available illustrations, policy summaries, and disclosure documents to the existing insurer within **5 days** of a request;
- Maintain all replacement notifications received for a period of at least **5 years** or until the next examination by the Department; and
- Provide the policyowner with notice of the right to return the policy within **30 days** of delivery for a full refund of premiums.

**Duties of the existing insurer:**

- Maintain all replacement notifications received for a period of at least **5 years** or until the next examination by the Department; and
- Provide policyowners with a letter explaining the right to receive policy information, no later than **5 days** from the receipt of replacement request.

Replacement regulations do not apply to the following:

- Credit life;
- Group life or group annuities (if there is no direct solicitation);
- An application for insurance to an insured's existing insurer, if:
  - A contractual change occurs;
  - The existing policy or annuity is being replaced by the same insurer (under a program approved by the Superintendent); or
  - A term conversion is exercised among corporate affiliates;
- Proposed coverage that replaces insurance under a binding or conditional receipt (with the same insurer);
- Life insurance or annuities used to fund:
  - Employee pension or welfare benefit plan (covered by ERISA);
  - Certain plans under ERISA that are established or maintained by an employer;
  - A governmental, church, or other tax-exempt plan;
  - A nonqualified deferred compensation plan established or maintained by an employer; and
  - Any other benefit plan with premiums that qualify for income tax deductibility;
- New coverage, if the cost is entirely covered by the employer or another association;
- Existing nonconvertible term life insurance that will expire in less than 5 years;
- Immediate annuities purchased with proceeds from an existing annuity contract; or
- Structured settlements.



During the replacement of an insurance policy, it is **the responsibility of the replacing insurer** to uphold all regulations set forth by the Superintendent. The following violations would result in the forfeiture of commissions or compensations, suspension or revocation of license, or penalty fees:

- Providing deceptive or misleading information in sales material;
- Failing to ask the applicant pertinent questions regarding the possibility of financing or replacement;
- Intentionally recording incorrect information;
- Advising the applicant to respond negatively to replacement questions, in the hopes of preventing notice to the existing insurer; and
- Advising the policyowner to write directly to the existing insurer, in the hopes of obscuring the identity of the replacing insurer.