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No. 1486

H.P. 1025

House of Representatives, April 19, 2017

**An Act To Clarify the Status of the Financial Industry Regulatory
Authority and the National Association of Registered Agents and
Brokers under the Maine Insurance Code**

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FOLEY of Wells.

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

2 **Sec. 1. 24-A MRSA §216, sub-§5**, as repealed and replaced by PL 2013, c. 238,
3 Pt. A, §1 and affected by §34, is amended to read:

4 **5.** In order to assist the superintendent in the regulation of insurers in this State, it is
5 the duty of the superintendent to maintain as confidential a document or information
6 received from the National Association of Insurance Commissioners or International
7 Association of Insurance Supervisors, public officials of other jurisdictions and members
8 of supervisory colleges in which the superintendent participates pursuant to section 222,
9 subsection 7-B, agencies of the Federal Government, the Financial Industry Regulatory
10 Authority, the National Association of Registered Agents and Brokers or political
11 subdivisions or other agencies of this State, if the document or the information has been
12 provided to the superintendent with notice that it is confidential under the laws of the
13 jurisdiction that is the source of the document or information.

14 A. Any information furnished pursuant to this subsection by or to the superintendent
15 that has been designated confidential by the official, agency or other entity furnishing
16 the information remains the property of the agency furnishing the information and
17 must be held as confidential by the recipient of the information, except as authorized
18 by the official, agency or other entity furnishing the information to the
19 superintendent, with prior notice to interested parties and consistent with other
20 applicable laws. The authority of the superintendent, pursuant to paragraph B, to
21 permit further disclosure to a 3rd party or to the public of information shared by the
22 superintendent is subject to the same requirements and conditions that apply if the
23 superintendent discloses the information directly to a 3rd party or to the public.

24 B. The superintendent may share information, including otherwise confidential
25 information, with the National Association of Insurance Commissioners or
26 International Association of Insurance Supervisors, public officials of other
27 jurisdictions and members of supervisory colleges in which the superintendent
28 participates pursuant to section 222, subsection 7-B, agencies of the Federal
29 Government, the Financial Industry Regulatory Authority, the National Association
30 of Registered Agents and Brokers or political subdivisions or other agencies of this
31 State, if the recipient of the information agrees to maintain the same level of
32 confidentiality as is available under Maine law and has demonstrated that it has the
33 legal authority to do so.

34 C. The superintendent may enter into one or more written agreements with the
35 National Association of Insurance Commissioners governing sharing and using
36 information under this subsection that:

37 (1) Specify procedures and protocols regarding the confidentiality and security
38 of information shared with the National Association of Insurance Commissioners
39 and its affiliates and subsidiaries pursuant to this paragraph, including procedures
40 and protocols for sharing by the National Association of Insurance
41 Commissioners with other state, federal or international insurance regulators;

42 (2) Specify that ownership of information shared with the National Association
43 of Insurance Commissioners and its affiliates and subsidiaries pursuant to this

1 paragraph remains with the superintendent and that the use of information by the
2 National Association of Insurance Commissioners is subject to the direction of
3 the superintendent;

4 (3) Require prompt notice to be given by the National Association of Insurance
5 Commissioners to any insurer whose confidential information is in the possession
6 of the National Association of Insurance Commissioners pursuant to this
7 paragraph when that information is the subject of a request or subpoena for
8 disclosure or production; and

9 (4) Require the National Association of Insurance Commissioners and its
10 affiliates and subsidiaries to consent to intervention by an insurer in any judicial
11 or administrative action in which the National Association of Insurance
12 Commissioners and its affiliates and subsidiaries may be required to disclose
13 confidential information about the insurer shared with the National Association
14 of Insurance Commissioners and its affiliates and subsidiaries pursuant to this
15 paragraph.

16 D. This subsection does not alter prohibitions or restrictions applicable to ex parte
17 contacts in the course of an adjudicatory proceeding in which a state agency is a
18 party.

19 E. For purposes of this subsection, "other agencies of this State" includes bureau
20 personnel and consultants designated as serving in an advocacy capacity in an
21 adjudicatory proceeding before the superintendent.

22 **Sec. 2. 24-A MRSA §601, sub-§5, ¶E**, as corrected by RR 2003, c. 1, §20, is
23 amended to read:

24 E. Issuance fee for original nonresident producer license or for a nonresident
25 producer acting pursuant to a national nonresident producer license issued through
26 the National Association of Registered Agents and Brokers \$70;

27 Appointment of such producer, each insurer, health maintenance organization,
28 fraternal benefit society, nonprofit hospital or medical service organization, viatical
29 settlement provider or risk retention group \$70;

30 Biennial fee for appointment, each insurer, health maintenance organization, fraternal
31 benefit society, nonprofit hospital or medical service organization, viatical settlement
32 provider or risk retention group \$70;

33 **Sec. 3. 24-A MRSA §1420-M, sub-§1**, as enacted by PL 2001, c. 259, §24, is
34 amended to read:

35 **1. Appointment.** An insurance producer, including a nonresident producer acting
36 pursuant to a national nonresident producer license issued through the National
37 Association of Registered Agents and Brokers, may not act as an agent of an insurer
38 unless the insurance producer becomes an appointed agent of that insurer. An insurance
39 producer who is not acting as an agent of an insurer is not required to become appointed.

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SUMMARY

2 This bill requires the Superintendent of Insurance to maintain as confidential a
3 document or information received from the Financial Industry Regulatory Authority or
4 the National Association of Registered Agents and Brokers if the document or
5 information has been provided to the superintendent with notice that it is confidential
6 under the laws of the jurisdiction that is the source of the document or information.

7 The bill authorizes the Bureau of Insurance to enter into agreements for the sharing of
8 otherwise confidential information with the Financial Industry Regulatory Authority and
9 the National Association of Registered Agents and Brokers if the recipient of the
10 information agrees to maintain the same level of confidentiality as is available under
11 Maine law and has demonstrated that it has the legal authority to do so. The bill sets
12 license fees for nonresidents acting in this State as insurance producers pursuant to a
13 national nonresident insurance producer license issued by the National Association of
14 Registered Agents and Brokers and requires them to be appointed by the insurers they
15 represent according to the procedures otherwise applicable to appointment of producers,
16 including the payment of appointment fees.