

Test Alert!

Maine

Property and Casualty Insurance

License Exam Manual

7/01/07

P&C

The information included in this release, in addition to your other Kaplan Financial materials, is designed to assist you in preparing for concepts that your exam may include. We urge you to read it carefully and take time to review the sample questions and rationale.

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KAPLAN FINANCIAL

Effective July 1, 2007, Maine has switched exam providers from Thomson-Prometric to Promissor. The following content appears on the Promissor exam outline and will be included in the state law chapter of the *Maine Property and Casualty Insurance License Exam Manual, 3rd Edition*.

AUTO INSURANCE

A. FINANCIAL RESPONSIBILITY GENERAL REQUIREMENTS [29-A S 1601, 1605, 1605-A]

- 1.** An operator or owner of a vehicle registered or required to be registered in Maine must maintain the following amounts of motor vehicle financial responsibility of 50/100/25:
 - For injury to or death of any one person, \$50,000
 - For one accident resulting in injury to or death of more than one person, \$100,000
 - For damage to property, \$25,000
- 2.** Maine also requires medical payments coverage of \$1,000. (After September 19, 2007, the limit will increase to \$2,000.)
- 3.** Evidence of insurance or financial responsibility
 - a.** When a law enforcement officer stops an operator for a moving violation or the operator is involved in an accident that must be reported, the officer will request the operator to produce evidence of liability insurance or financial responsibility.
 - b.** If a person fails to produce evidence of liability insurance or financial responsibility, this failure is prima facie evidence that the person is uninsured and in violation of this section.
 - c.** A person violates this section if that person produces evidence of liability insurance or financial responsibility that is not in effect.
- 4. Dismissal** A person served with a Violations Summons and Complaint charging a violation of this section may have the complaint dismissed if that person shows satisfactory evidence of liability insurance or financial responsibility that was in effect at the time of the alleged violation.
- 5. Penalty** Violation of financial responsibility regulations is a traffic infraction, for which a forfeiture of not less than \$100 and not more than \$500 may be assessed.

6. Suspension

- a. Thirty days after a person is determined to be in violation of this section, the Secretary of State will suspend:
 - the license of that person;
 - the registration of a vehicle owned by that person; or
 - the right to apply for a driver's license or vehicle registration.
- b. The suspension continues until that person provides proof of financial responsibility to the Secretary of State.

7. Agent immunity from liability An insurance agent, broker, or agency may not be held liable for an inaccurate insurance identification card if the card was issued based on information contained in the records of that person or was issued based on false or misleading statements made by the insured.

8. Exemptions Financial responsibility requirements do not apply to:

- a governmental vehicle;
- a vehicle owned or controlled by a dealer; or
- a vehicle registered as a vehicle for hire.

B. NOTICE OF AUTOMOBILE INSURANCE CANCELLATION, TERMINATION, OR LAPSE [29-A S 1601-A]

1. Notice to Secretary of State required A company insuring a motor vehicle registered in Maine must immediately notify the Secretary of State when that insurance coverage is canceled, terminated, or lapses. If the company knows that a replacement policy has been secured in place of the policy canceled, terminated, or lapsed, the company is not required to notify the Secretary of State.

2. Content of notice The notice must include:

- the name, address, and date of birth of the owner or owners of the motor vehicle; and
- the vehicle identification number.

3. Suspension Upon cancellation of a policy, the Secretary of State may suspend the owner's registration certificate and plates. The suspension continues until that person provides evidence of insurance to the Secretary of State.

4. This provision does not apply to commercial fleet automobile coverage.

C. DEMAND FOR PROOF; SUSPENSION [29-A S 1602]

1. Demand On receipt of an accident report, the Secretary of State may demand of the owner or operator proof of financial responsibility.

Demand for proof of financial responsibility does not apply to:

- a vehicle operated without the owner's consent or licensed by the Public Utilities Commission;
- an operator who is not at fault for an accident;
- an operator who is not the owner of the vehicle, who is covered by a policy in effect at the time of the accident; or
- an accident causing injury or damage only to the owner or operator.

2. Suspension If within 30 days of the date of demand the required proof has not been given, the Secretary of State may:

- suspend the license of that person;
- suspend the registration of a vehicle owned by that person; or
- suspend or deny the right to apply for a driver's license or vehicle registration.

3. The suspension or period of denial must continue until the person provides proof of financial responsibility.

4. Restricted license If the Secretary of State finds that suspension imposes an extreme hardship for which there is no other practical remedy and that the safety of the public will not be impaired and if judgment has not been rendered, the Secretary of State may issue a restricted license, subject to restrictions, conditions, and immediate suspension if misused.

D. GROUNDS FOR SUSPENSION [29-A S 1603]

1. Suspension of license or registration following conviction or adjudication On receipt of an abstract of conviction or adjudication of a person for a violation of a motor vehicle law other than operating under the influence (OUI), the Secretary of State may suspend the license of that person and the registration of a vehicle registered in the name of that person until that person gives proof of financial responsibility.

2. Suspension of license or registration following OUI convictions If the person has been previously convicted within a 10-year period of OUI, the Secretary of State may not reinstate the person's license until the person gives proof of financial responsibility. The period of suspension under this subsection may not be less than the original period of suspension imposed for the conviction.

3. Minimum After a conviction for a violation of a motor vehicle law, the person must maintain proof of financial responsibility for at least three years.

E. INSTALLMENT PAYMENTS [29-A s 1604]

1. Installment payment agreement The Secretary of State may restore licenses, plates, and registration certificates upon receipt of a court order permitting the judgment debtor to make installment payments on the judgment if any installment is not in default and the person files and maintains proof of financial responsibility with the Secretary of State.

- 2. Default** Following notice that the judgment debtor has failed to make any installment payment as specified by the order, the Secretary of State may suspend the license and registration certificates and plates of the judgment debtor. The suspension must continue until the judgment is completely satisfied or the debtor has secured a written release from the judgment creditor.

F. PROOF OF FINANCIAL RESPONSIBILITY [29-A S 1605]

- 1. Scope of proof** Insurance in the minimum amounts set by law must be furnished for each vehicle registered. Separate proof of financial responsibility is not required for a trailer, semitrailer, camp trailer, or mobile home.

2. Methods of giving proof

- a.** Proof of financial responsibility may be given by the following methods:
 - Filing with the Secretary of State a certificate from an insurance or surety company
 - The deposit of money or securities
 - For a corporation, by satisfying the Secretary of State that the corporation has financial ability to comply with financial responsibility law

- 3. Operating without giving proof** A person commits a Class E crime if that person is required to maintain proof of financial responsibility, and, without authorization from the Secretary of State and without that proof, operates a vehicle or knowingly permits a vehicle owned by that person to be operated by another on a public way.

- 4. Restricted license** When a person is required to maintain proof of financial responsibility, the Secretary of State may issue a restricted license to that person authorizing the operation of a vehicle as long as the owner maintains proof of financial responsibility.

G. COSTS AND ATTORNEY'S FEES [39-A S 325] (WORKERS' COMPENSATION)

- 1.** The maximum attorney's fees in a case tried to completion may not exceed 30% of the benefits accrued, after deducting reasonable expenses incurred on behalf of the employee, or be based on a weekly benefit amount after coordination that is higher than $\frac{2}{3}$ of the state average weekly wage at the time of injury. The board may allow attorney's fees to be increased above or decreased below the amount specified in the rule when in the discretion of the board that action is determined to be appropriate.

2. Attorney's fees for lump-sum settlements

- a.** Attorney's fees for lump-sum settlements must be determined as follows.

- 1.)** Before computing the fee, reasonable expenses incurred on the employee's behalf must be deducted from the total settlement.

- 2.) The computation of the fee, based on the amount resulting after deductions, may not exceed:
- 10% of the first \$50,000 of the settlement;
 - 9% of the first \$10,000 over \$50,000 of the settlement;
 - 8% of the next \$10,000 over \$50,000 of the settlement;
 - 7% of the next \$10,000 over \$50,000 of the settlement;
 - 6% of the next \$10,000 over \$50,000 of the settlement; and
 - 5% of any amount over \$90,000 of the settlement.

H. EXEMPTIONS FROM PROVISIONS [24-A S 2002-A] (SURPLUS LINES)

1. The following kinds of insurance must be procured from authorized insurers and are not eligible for export in the surplus lines market:
 - Life insurance
 - Health insurance
 - Employee benefit excess insurance
2. Surplus lines law may not be used to place reinsurance.
3. Producers with surplus lines authority may procure the following kinds of insurance from eligible surplus lines insurers without adherence to the standard conditions:
 - Wet marine and transportation insurance
 - Insurance on subjects located, resident, or to be performed wholly outside of Maine, or on vehicles or aircraft owned and principally garaged outside this state
 - Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations
 - Insurance on aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight, or cargo of such aircraft, or against liability other than workers' compensation and employer's liability

I. MINIMUM PAID-IN CAPITAL AND SURPLUS REQUIREMENTS [24-A S 410] (INSURER REGULATION)

To qualify for authority to transact insurance, an insurer must possess and maintain unimpaired paid-in capital stock, if a stock insurer, or unimpaired basic surplus, if a foreign mutual or a reciprocal insurer, and, when first so authorized, must possess initial free surplus of the same amount, as determined from the following table.

Life	\$1.5 million
Health	\$1.0 million
Life and Health	\$2.5 million
Casualty	\$1.5 million
Marine	\$1.5 million
Property	\$1.0 million
Property and Casualty	\$2.5 million
All lines	\$5.0 million

J. OVERDUE PAYMENTS; DISPUTED CLAIM; UNDISPUTED CLAIM [24-A S 2436]

- 1.** A claim for payment of benefits is payable within 30 days after proof of loss is received by the insurer.
- 2.** A claim that is neither disputed nor paid within 30 days is overdue. If, during the 30 days, the insurer, in writing, notifies the insured or beneficiary that reasonable additional information is required, the undisputed claim is not overdue until 30 days following receipt by the insurer of the additional required information. The time period applicable to a standard fire policy and to any portion of a policy providing coverages against the peril of fire must be 60 days.
- 3.** An insurer may dispute a claim by furnishing to the insured or beneficiary a written statement that the claim is disputed with a statement of the grounds upon which it is disputed. The statement must be based upon a reasonable investigation of the claim and must include sufficient detail to permit the insured or beneficiary to understand and respond to the insurer's position.
- 4.** If an insurer fails to pay an undisputed claim or any undisputed part of the claim when due, the amount of the overdue claim or part of the claim bears interest at the rate of 1½% per month after the due date.

K. INITIATION OF ACTION BY INSURED [24-A S 2436-A]

- 1. Civil actions** A person injured by any of the following actions taken by that person's own insurer may bring a civil action and recover damages together with costs and disbursements, reasonable attorney's fees, and interest on damages at the rate of 1-1/2% per month:
 - knowingly misrepresenting to an insured pertinent facts or policy provisions relating to coverage at issue;
 - failing to acknowledge and review claims, which may include payment or denial of a claim, within a reasonable time following receipt of written notice by the insurer of a claim by an insured arising under a policy;
 - threatening to appeal from an arbitration award in favor of an insured for the sole purpose of compelling the insured to accept a settlement less than the arbitration award;
 - failing to affirm or deny coverage within a reasonable time after having completed its investigation related to a claim; or
 - without just cause, failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.
- 2.** This section does not apply to workers' compensation claims.

L. REBATES: LIFE, HEALTH, AND ANNUITY [24-A S 2160]

1. Except as otherwise provided by law, no person may:

- knowingly allow any contract of life insurance, life annuity, or health insurance that is not plainly expressed in the contract issued; or
- pay as inducement to life or health insurance or life annuity
 - any rebate or premiums payable on the contract,
 - any special favor or advantage in the dividends or other benefits,
 - any paid employment or contract for services of any kind,
 - any valuable consideration or inducements not specified in the contract,
 - any stocks, bonds, or other securities,
 - interest present in or contingent on or measured by the agreement of any insurer or other corporation, association, or partnership, or
 - any dividends or profits accrued or to accrue on an agreement.

2. Benefit not associated with indemnification or loss Unless otherwise provided by law, a provision may not be included within an insurance policy if the sole intent of the provision is to give to the insured a benefit that is not associated with indemnification or loss. This subsection does not apply to annuities.

M. EXCEPTIONS [24-A S 2161] The following are not included under the definition of rebating:

- In any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums out of surplus accumulated from nonparticipating insurance
- In the case of life insurance policies issued on the debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount fairly representing the saving in collection expense
- Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience
- Reduction of premium rate for policies of large amounts
- Reduction in premium rates for life or health insurance policies or annuity contracts on salary savings, payroll deduction, preauthorized check, bank draft, or similar plans in amounts reasonably commensurate with the savings made by the use of such plans
- The issuance of policies of group insurance at rates less than the usual rate of premiums for individual policies or contracts as otherwise provided for by law
- Allowance to an agent or broker of commissions on insurance written on himself

N. INSURABLE INTEREST: PROPERTY INSURANCE [24-A S 2406] No contract of insurance of property may be enforceable except for the benefit of persons having an insurable interest in the things insured as at the time of the loss.

O. AGENT REPRESENTS INSURER [24-A S 2422]

1. An agent authorized by an insurer, if the name of such agent is borne on the policy, is the insurer's agent in all matters of insurance. Any notice required to be given by the insured to the insurer or any of its officers may be given in writing to such agent.
2. The authorized agent of an insurer may be regarded as in the place of the insurer in all respects regarding any insurance effected by him. The insurer is bound by his knowledge of the risk and all matters connected therewith. Omissions and misrepresentations known to the agent will be regarded as known to the insurer and waived by it as if noted in the policy.

P. IDENTIFICATION AND NOTICE ON CONTRACT Every insurance contract procured and delivered as a surplus lines coverage must have stamped upon it, bearing the name of the producer with surplus lines authority who procured it, the following:

This insurance contract is issued pursuant to the Maine insurance laws by an insurer neither licensed by nor under the jurisdiction of the Maine Bureau of Insurance.

Q. SURETY BOND FOR PRODUCER [24-A S 2020]

1. Every applicant for a surplus lines producer's authority must file with the Superintendent evidence of a bond of not less than \$20,000 in favor of the state executed by an authorized surety insurer.
2. The bond must remain in force until released by the Superintendent or until canceled by the surety.

R. ADVERSE UNDERWRITING DECISIONS: DISCLOSURE OF SPECIFIC REASONS [24-A S 2212] In the event of an adverse underwriting decision, the carrier or producer responsible for the decision must:

- comply with the Fair Credit Reporting Act;
- either provide the consumer with the specific reason or reasons for the adverse underwriting decision in writing or advise the consumer that, upon written request, the consumer may receive the specific reason or reasons in writing; and
- provide the consumer with a summary of the rights established under the act.

S. IMMUNITY FROM LIABILITY FOR STATEMENTS [24-A S 3056]

1. **Notices** Except as provided in the Fair Credit Reporting Act, no insurer, agent, or employee may be held liable in any civil action for statements made in a notice of cancellation or intent not to renew under this chapter if:
 - the statements were made in good faith;
 - the statements were reasonably related to the reason for cancellation or intent not to renew; and
 - in the case of a notice of cancellation, the reason for cancellation is permitted by law.

2. Hearings Except as provided in the Fair Credit Reporting Act, no person may be held liable in any civil action for statements made or information given at a hearing held under this chapter if:

- the information was given in good faith;
- information was reasonably related to the reason for cancellation or intent not to renew; and
- in the case of a hearing held on a notice of cancellation, the reason for cancellation is permitted by law.

T. PERSONAL LINES INSURANCE; EFFECT OF AGENCY TERMINATION ON POLICY RENEWAL [BULLETIN 316] The fact that a producer no longer represents an insurer is not a valid reason for policy nonrenewal under either the Maine Automobile Insurance Cancellation Control Act or the Maine Property Insurance Cancellation Control Act.

Unless the policyholder is properly advised, and chooses to change insurers, or unless independent grounds for nonrenewal or cancellation exist, insurers will be obligated to continue coverage.

U. CONTINUING EDUCATION [INSURANCE RULE CH. 542]

1. Minimum educational requirements

- a. Continuing education** As a condition of continued licensure, individuals with resident producer or consultant licenses must earn at least 24 credit hours each biennium through completion of approved courses. Of the 24 credit hours, at least 3 must cover ethics.
- b. First biennium of licensure** The continuing education requirement is waived for individuals who receive their license less than one year before their first compliance date.

2. Course and vendor approval

- a. Approval required** No person may falsely represent that a course of instruction has been approved for education credit in Maine or misrepresent the number of credit hours for which a course has been approved. A course which is intended to be given for credit may not be offered until the Superintendent has notified the vendor that the course has been approved.

b. Standards for approval

- 1.)** Courses that impart substantive knowledge relating to the field of insurance and are otherwise in compliance with this rule will be approved for credit. Courses in related fields, such as other segments of the financial services industry, will be approved for credit to the extent that they are otherwise in compliance with this rule and are shown to improve the abilities of students to act within the scope of their licenses. The following types of subject matter do not qualify for credit:

- Technical office skills, such as typing, speed reading, and the operation of office machines and equipment
- Motivation, psychology, sales promotion, time or stress management, or communications
- Office management, customer service, or the operation of the student's business if the course is general in focus and is not specifically directed towards the business of insurance
- Courses which primarily instruct the student in the promotion or sales of the products of a specific company

2.) However, courses which primarily convey general insurance knowledge through instruction in the design and appropriate application of products of specific companies may be considered for credit.

c. **Term of approval** Course approvals remain effective, unless terminated by request of the vendor, by order of the Superintendent, or termination of the vendor's approved status.

3. Standards for credit hour allowance

a. **Classroom setting** Courses given in a classroom setting will qualify for 1 credit hour for each 50 minutes of instruction, up to a maximum of 24 hours.

b. **Home study** Home study courses in which successful completion is demonstrated by passing an examination may be approved for the number of credit hours the Superintendent determines would be appropriate for the equivalent material if given in a classroom setting, up to a maximum of 16 hours, or a maximum of 24 hours if the course has a closed book examination that is proctored in a manner adequate to ensure the integrity of the testing process.

4. Failure to comply with educational requirement

a. **Civil penalty** Any licensee who does not complete the required credit hours by the compliance date must pay a civil penalty of \$25 for each credit hour that is not completed, up to a maximum of \$250, unless the Superintendent has granted the licensee an extension of time for good cause shown.

b. **License suspension** If a licensee has not completed required credit hours 60 days after the compliance date, the license is subject to suspension for a period of 60 days.

c. **License termination** If a licensee remains out of compliance at the conclusion of a suspension period, the license will be subject to termination.

Part II

New Sample Questions

There are no new sample questions at this time.

Part III

Answers and Rationales

There are no new answers and rationales at this time.

Part IV

Errata

1. **Unit 4 Quiz, Question #1**

Question stem should read “Which of the following statements concerning the commercial package policy are NOT correct?”

2. **Question #4**

This question applies to the businessowners policy and should appear in Unit 8.

3. **Unit 8 Quiz, Question # 9**

The correct answer is **B**. The rationale is incorrect. Employee vandalism, weather conditions, and negligent work are excluded on the BOP.

4. **Unit 10 Quiz, Question #1**

The answer is listed as **A**. The correct answer is **B**.

To submit comments or suggestions, please send an email to errata@kaplan.com.

KAPLAN FINANCIAL

www.kaplanfinancial.com
30 S. Wacker Drive, Ste. 2500, Chicago, IL 60606
800-824-8742