

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 223

H. P. 172

House of Representatives, January 12, 1981

Submitted by the Department of Human Services pursuant to Joint Rule 24.

Referred to the Committee on Energy and Natural Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Michael of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT to Clarify Plumbing and Subsurface Sewage Disposal Laws.**

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

**Sec. 1.** 22 MRSA § 42, sub-§ 3, first sentence, as amended by PL 1975, c. 760, § 3, is further amended to read:

The department shall adopt rules and regulations relating to plumbing and subsurface sewage disposal systems and the installation and inspection thereof consistent with Title 30, sections 3221 and 3225 and Title 32, sections 3301 to 3507; and shall hold hearings on the first Tuesday of February ~~and August~~ of each year for the purpose of considering changes in the rules and regulations pertaining to plumbing and subsurface sewage disposal systems and the installation and inspection thereof.

**Sec. 2.** 22 MRSA § 42, sub-§ 3, as last amended by PL 1977, c. 286, § 1, is further amended by adding after the first sentence a new sentence to read:

**The department may require a deed covenant or deed restriction when determined necessary.**

**Sec. 3.** 22 MRSA § 42, sub-§ 3-A, 2nd ¶, 2nd sentence, as repealed and replaced by PL 1977, c. 694, § 332, is repealed and the following enacted in its place:

**The department has the authority to grant or amend, modify or refuse to issue or renew a license in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter V.**

**Sec. 4. 30 MRSA § 3222, sub-§ 1, first ¶, as enacted by PL 1973, c. 521, § 4, is amended by adding at the end a new sentence to read:**

**An individual properly appointed as plumbing inspector and satisfactorily performing the duties may continue in that capacity after the term has expired until replaced.**

**Sec. 5. 30 MRSA § 4359, sub-§ 4, 2nd sentence is amended to read:**

**Any actual and direct expenses, to include reasonable attorney's fees if a municipality is the prevailing party, incurred by a municipality in the abatement of such nuisances may be recovered from the owner by a civil complaint.**

#### STATEMENT OF FACT

Section 1. The August public hearing traditionally has a poor attendance. It is not considered cost effective or necessary in view of the Maine Administrative Procedure Act procedure.

Section 2. The department has been requiring deed covenants or restrictions on severe variance requests. Legislative authority has been considered desirable.

Section 3. Present language implies the applicant may have a hearing if an examination for licensure is not passed. Proposed language is consistent with the Maine Administrative Procedure Act.

Section 4. Present law specifies a plumbing inspector is appointed for one year. This legislation would enable an inspector to continue indefinitely without being reappointed or to continue in a legal capacity after the one-year term has expired.

Section 5. Municipalities at present may not recover appropriate legal fees. This section would allow legal fees to be recovered and may encourage municipalities to have existing malfunctions corrected.