

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**September 5, 1996 to September 7, 1996**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 1996 to March 27, 1997**

**FIRST SPECIAL SESSION**  
**March 27, 1997 to June 20, 1997**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 1997**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

2. Character references. Applicants must submit 2 completed character reference forms acceptable to the board.

3. Examination. Applicants for licensure as occupational therapists or occupational therapy assistants must pass an examination as provided for in section 2280-A.

4. Certification. Applicants, except those applying within 3 months of having taken the certification examination who have their examination scores sent directly to the board, must submit a verification of certification form, provided by either the board or NBCOT. All forms must be completed and signed by NBCOT.

5. Fee. Applicants must pay application and license fees according to this chapter.

6. Temporary license. Foreign-trained applicants must receive approval to sit for the examination from NBCOT in order to be eligible for a temporary license.

**Sec. 13.** 32 MRSA §2285, sub-§2, as enacted by PL 1983, c. 746, §2, is amended to read:

**2. Disposal of fees.** All fees received by the board shall must be paid to the Treasurer of State to be used for carrying out this chapter. Any balance of fees shall may not lapse but shall must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years. All fees are nonrefundable.

**Sec. 14.** 32 MRSA §2286, sub-§2, ¶B, as enacted by PL 1983, c. 746, §2, is amended to read:

B. Unprofessional conduct. A licensee shall be deemed to have has engaged in unprofessional conduct if he the licensee violates any standard of professional behavior which has been established in the practice for which the licensee is licensed as defined by the Occupational Therapy Code of Ethics, as adopted by AOTA;

See title page for effective date.

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**CHAPTER 295**

**H.P. 285 - L.D. 349**

**An Act to Modify the  
Prequalification Laws to Allow the  
Disqualification of Contractors for a  
Time Not to Exceed One Year**

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

**Sec. 1.** 5 MRSA §1747, as amended by PL 1993, c. 324, §1, is further amended to read:

**§1747. Questionnaire as prebid qualification**

The public official may require, from any person a firm proposing to bid on public work duly advertised, a standard form of questionnaire and financial statement, containing a complete statement of the person's financial ability and experience in performing public work, qualification statement and a letter from a licensed bonding company confirming that the firm has the financial capacity to perform the work before furnishing that person with plans and specifications for the proposed public work advertised.

The Director of the Bureau of Public Improvements General Services, after consultation with the appropriate department head or superintendent of schools, may refuse to release plans and specifications to a contractor for the purpose of bidding on a project:

**1. Untimely completion.** If, in the opinion of the director, there is evidence the contractor has not completed in a timely manner a prior construction project or projects and the resulting noncompletion clearly reflects disregard for the completion date and has created a hardship for the owner;

**2. Incomplete work.** If, in the opinion of the director, that there is evidence the contractor has a history of inability to complete similar work;

**3. Insufficient resources.** If, in the opinion of the director, there is evidence the contractor does not have sufficient resources to successfully complete the work; or

**4. Misconduct.** If the contractor has been convicted of collusion or fraud or any other civil or criminal violation relating to construction projects.

If a contractor is disqualified for any of the reasons stated in subsection 1, 2 or 4, the director may disallow the contractor from bidding on any similar public improvements for a period not to exceed one year.

See title page for effective date.

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**CHAPTER 296**

**H.P. 1111 - L.D. 1554**

**An Act to Eliminate Inconsistencies  
and Unnecessary Duplication  
Regarding the Training and  
Certification of Individuals Who  
Enforce Land Use Regulations**

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

**Sec. 1. 4 MRSA §807, sub-§3, ¶D**, as repealed and replaced by PL 1989, c. 755, is amended to read:

D. A person who is not an attorney, but is representing a municipality under:

- (1) Title 30-A, section 2671, subsection 3;
- ~~(2) Title 30-A, section 4221, subsection 2;~~
- (3) Title 30-A, section 4452, subsection 1; or
- (4) Title 38, section 441, subsection 2;

**Sec. 2. 12 MRSA §685-C, sub-§9**, as enacted by PL 1991, c. 688, §1, is amended to read:

**9. Representation in court.** The commission may authorize certified employees of the commission to serve civil process and represent the commission in District Court in the prosecution of violations of those laws enforced by the commission and set forth in Title 4, section 152, subsection 6-A. Certification of these employees must be as provided under Title 30-A, section 4221, ~~subsection 2, paragraph A~~ 4453.

**Sec. 3. 30-A MRSA §4221, sub-§1**, as amended by PL 1989, c. 104, Pt. A, §44 and Pt. C, §§8 and 10, is further amended to read:

**1. Appointment; compensation; removal.** In every municipality, the municipal officers shall appoint one or more inspectors of plumbing, who need not be residents of the municipality for which they are appointed. Plumbing inspectors ~~shall be~~ are appointed for a term of one year or more and ~~shall must~~ be sworn and the appointment recorded as provided in section 2526, subsection 9. An individual properly appointed as plumbing inspector and satisfactorily performing the duties may continue in that capacity after the term has expired until replaced. The municipal officers shall notify the department and the State Planning Office of the appointment of a plumbing inspector in writing within 30 days of the appointment.

Compensation of plumbing inspectors ~~shall be~~ is determined by the municipal officers and ~~shall be~~ paid by the respective municipalities.

The municipal officers may remove a plumbing inspector for cause, after notice and hearing.

**Sec. 4. 30-A MRSA §4221, sub-§2**, as amended by PL 1991, c. 688, §2, is repealed and the following enacted in its place:

**2. Certification requirements.** A person may not hold the office of plumbing inspector unless currently certified as qualified by the State Planning Office pursuant to section 4451. Certification is effective for a period of 5 years unless sooner revoked or suspended by the Administrative Court as provided for in section 4451.

**Sec. 5. 30-A MRSA §4451, sub-§1, ¶¶A and B**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

A. An individual other than an individual appointed as a plumbing inspector has 12 months after beginning employment to be trained and certified as provided in this section; ~~and~~

B. Whether or not any extension is available under paragraph A, the office may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual; and

**Sec. 6. 30-A MRSA §4451, sub-§1, ¶C** is enacted to read:

C. An individual may be temporarily authorized in writing by the Department of Human Services, Division of Health Engineering to be employed as a plumbing inspector for a period not to exceed 12 months.

**Sec. 7. 30-A MRSA §4451, sub-§3**, as amended by PL 1991, c. 163, is further amended to read:

**3. Training and certification of code enforcement officers.** In cooperation with the Maine Technical College System, the Department of Environmental Protection and the Department of Human Services, the office shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic and advanced training in the technical and legal aspects of code enforcement necessary for certification.

**Sec. 8. 30-A MRSA §4452, sub-§7**, as amended by PL 1995, c. 704, Pt. B, §1 and affected by Pt. C, §2, is further amended to read:

**7. Natural resources protection laws.** A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the State Planning Office under section ~~4221~~ 4453 as familiar with court procedures, may enforce the provisions of the natural resources protection laws, Title 38, chapter 3, subchapter I, article 5-A and Title 38, section 420-C, by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

**Sec. 9. 30-A MRSA §4453** is enacted to read:

**§4453. Certification for representation in court**

The office shall establish certification standards and a program to certify familiarity with court procedures for the following individuals:

**1. Code enforcement officers.** Code enforcement officers as set forth in sections 4451 and 4452 and Title 38, section 441;

**2. Plumbing inspectors.** Plumbing inspectors as set forth in sections 4221 and 4451;

**3. Department of Environmental Protection.** Department of Environmental Protection employees as set forth in Title 38, section 342, subsection 7; and

**4. Maine Land Use Regulation Commission.** Maine Land Use Regulation Commission employees as set forth in Title 12, section 685-C, subsection 9.

**Sec. 10. 38 MRSA §342, sub-§7**, as corrected by RR 1993, c. 2, §37, is amended to read:

**7. Representation in court.** The commissioner may authorize certified employees of the department to serve civil process and represent the department in District Court in the prosecution of violations of those laws enforced by the department and set forth in Title 4, section 152, subsection 6. Certification of these employees ~~shall~~ must be provided as under Title 30-A, section ~~4221, subsection 2~~ 4453.

**Sec. 11. 38 MRSA §441, sub-§2**, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

**2. Certification; authorization by municipal officers.** No person may serve as a code enforcement officer who is authorized by the municipal officers to represent the municipality in District Court unless ~~he~~ that person is currently certified under Title 30-A, section ~~4221, subsection 2~~ 4453, as being familiar with court procedures.

Upon written authorization by the municipal officers, a certified code enforcement officer may serve civil process on persons whom ~~he~~ that officer determines to be in violation of ordinances adopted pursuant to this chapter and, if authorized by the municipal officers, may represent the municipality in District Court in the prosecution of violations of ordinances adopted pursuant to this chapter.

See title page for effective date.

**CHAPTER 297**

**H.P. 251 - L.D. 315**

**An Act to Amend the Laws  
Regarding Fees Charged in the Elver  
Fishery**

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

**Sec. 1. 12 MRSA §6505-A, sub-§4**, as enacted by PL 1995, c. 536, Pt. A, §8, is amended to read:

**4. Fees.** Fees for elver fishing licenses are:

A. For a person who is a resident, ~~§33~~ §83; and

B. For a person who is a nonresident, ~~§334~~ §384.

Fifty dollars of each license fee collected under this subsection accrue to the Eel and Elver Management Fund established in section 6505-D.

**Sec. 2. 12 MRSA §6505-A, sub-§5**, as enacted by PL 1995, c. 536, Pt. A, §8, is amended to read:

**5. Gear.** ~~The A person issued a license under this section may utilize one elver fyke net, one Sheldon eel trap or one dip net to fish for or take elvers without paying the fee required for a first net or trap pursuant to section 6505-B. A license issued under this section must identify the number and types of nets for which that the license holder has paid fees may use pursuant to this section and section 6505-B.~~

**Sec. 3. 12 MRSA §6505-B, sub-§1, ¶¶A and B**, as enacted by PL 1995, c. 536, Pt. A, §8, are repealed and the following enacted in their place:

A. Fifty dollars per net or trap for the use of a first or 2nd elver fyke net or Sheldon eel trap, except that the fee under this paragraph does not apply to an elver fyke or Sheldon eel trap a person utilizes pursuant to section 6505-A, subsection 5. For the purposes of assessing fees under this subsection, an elver fyke net or Sheldon eel trap utilized pursuant to section 6505-A, subsection 5 is the first net or trap;

B. One hundred dollars per net or trap for the use of a 3rd elver fyke net or Sheldon eel trap; and

**Sec. 4. 12 MRSA §6505-B, sub-§1, ¶C** is enacted to read: