

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

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J.S. McCarthy Company
Augusta, Maine
1999

CHAPTER 425

H.P. 643 - L.D. 893

An Act to Amend the Laws Relating to Notaries Public

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

Sec. 1. 4 MRSA §954-A, as corrected by RR 1997, c. 2, §6, is amended to read:

§954-A. Conflict of interest if notary related

A notary public may not perform any notarial act for any person if that person is the notary public's spouse, parent, sibling, child, spouse's parent, spouse's sibling, spouse's child or child's spouse, except that a notary public may solemnize the marriage of the notary public's parent, sibling, child ~~or~~ spouse's parent ~~if the ceremony is witnessed and the marriage certificate signed by another notary public unrelated by marriage or blood to the parties, spouse's sibling or spouse's child.~~ This section does not affect or apply to notarial acts performed before August 4, 1988.

Sec. 2. 4 MRSA §959, as enacted by PL 1991, c. 465, §5, is repealed.

Sec. 3. Application. Notarial acts performed by a notary public for that notary public's spouse's child or spouse's sibling are not a conflict of interest if performed before the effective date of this Act.

See title page for effective date.

CHAPTER 426

H.P. 510 - L.D. 717

An Act to Amend the Election Laws

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

Sec. 1. 21-A MRSA §1, sub-§51, as enacted by PL 1985, c. 161, §6, is amended to read:

51. Write-in candidate. "Write-in candidate" means a person whose name does not appear on the ballot under the office designation to which a voter may wish to elect ~~him~~ the candidate and who has filed a declaration to be a write-in candidate pursuant to section 722-A.

Sec. 2. 21-A MRSA §101, first ¶, as amended by PL 1997, c. 436, §13, is repealed.

Sec. 3. 21-A MRSA §101, sub-§2, as amended by PL 1997, c. 436, §15, is repealed and the following enacted in its place:

2. Appointment. The municipal officers of each municipality shall appoint in writing a qualified registrar of voters by January 1st of each odd-numbered year. The registrar shall serve for 2 years and until a successor is appointed and sworn. The municipal clerk may be appointed to serve as registrar, but the term of the clerk has no effect on the term of the registrar.

Sec. 4. 21-A MRSA §103, sub-§2, as amended by PL 1995, c. 459, §7, is repealed.

Sec. 5. 21-A MRSA §103, sub-§6, as repealed and replaced by PL 1995, c. 459, §9, is amended to read:

6. Hours. Upon receipt of a complaint by a person aggrieved by the decision of the registrar, the chair of the registration appeals board shall immediately fix a time and place for the board to meet for a prompt hearing. After hearing, the board may affirm, modify or reverse the decision of the registrar of voters. The aggrieved person may appeal the decision of the board to the ~~District Superior~~ Court in accordance with Rule 80B of the Rules of Civil Procedure.

Sec. 6. 21-A MRSA §121, sub-§1-A, as amended by PL 1997, c. 436, §22, is further amended to read:

1-A. Identification and proof. Registration applications taken by outside agencies must be transferred to the Secretary of State within 5 days of receipt. An applicant who attempts to register within 20 days of an election must be advised that the registrar might not receive the application before that election, but that the applicant may register in person before or on election day.

Registration applications received by the Secretary of State from outside agencies 21 days or more before an election must be transferred to the appropriate registrar's office within 10 days of receipt. Registration applications received by the Secretary of State from outside agencies 20 days or less before an election must be transferred to the appropriate registrar's office within 5 days of receipt. Registration applications by mail or by a 3rd person must be received in the registrar's office by the close of business ~~10~~ on the 10th business days day before election day in order for persons to appear on the list of registered voters for that election. If the registrar's office is not open on that day, the registrar must accept applications by mail that are received on the next day the registrar's office is open.

A person who registers during the ~~40~~ 9 business days before election day or on election day shall register in person and show proof of identity and residency. If satisfactory proof of identity and residency can not be provided to the registrar or deputy, the person's name is placed on the voting list and the person casts a challenged ballot.

Sec. 7. 21-A MRSA §129, sub-§2, ¶A, as amended by PL 1997, c. 436, §27, is further amended to read:

A. In a municipality ~~which that~~ has more than one voting district, if a voter has changed the voter's address and votes absentee after the close of registration, the voter must send a written notice of the voter's new address along with the voter's absentee application notifying the ~~board of registration registrar~~ registrar of the voter's new address. A certificate containing the voter's name and new address must be directed to the warden of the voter's new voting place to be attached to the incoming voting list on election day.

Sec. 8. 21-A MRSA §145, sub-§1, as amended by PL 1997, c. 436, §32, is further amended to read:

1. Candidates for nomination by nomination petition. If enrolled, candidates for nomination by nomination petition must withdraw their enrollment ~~by~~ on or before March 1st of that election year.

Sec. 9. 21-A MRSA §163, as amended by PL 1995, c. 459, §19, is further amended to read:

§163. Appeal

In a town that does not have a registration appeals board, if a person is aggrieved by the decision of the registrar of voters to remove a name from the voting list or to refuse to place it on the voting list, the person may appeal in writing to the municipal officers of a municipality by filing a complaint. The municipal officers shall immediately fix a time and place for a prompt hearing. After hearing, the municipal officers may affirm, modify or reverse the decision of the registrar of voters. The aggrieved person may appeal the decision of the municipal officers to the ~~District~~ Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

Sec. 10. 21-A MRSA §303, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Municipal caucuses. The proposed party must conduct municipal caucuses in at least one municipality in each of the 16 counties during that election year as prescribed in Article II. The ~~chairman~~ chair of the municipal committee or a resident voter in the municipality must file a copy of the notice

required by section 311, subsection 3 with the Secretary of State, before 5 p.m. on ~~April 15th~~ March 20th.

Sec. 11. 21-A MRSA §353, as amended by PL 1995, c. 459, §25, is further amended to read:

§353. Qualification of candidate for nomination by petition

A person who seeks nomination by petition qualifies by filing a nomination petition and consent as provided in sections 354 and 355. If enrolled, the person must also withdraw enrollment in a party ~~prior to~~ on or before March 1st to be eligible to file a petition as a candidate in that election year, as provided in section 145. The registrar, or clerk at the request or upon the absence of the registrar, in the candidate's municipality of residence must certify to that fact on the petition.

Sec. 12. 21-A MRSA §355, sub-§3, as amended by PL 1997, c. 436, §51, is further amended to read:

3. Qualifications declared. The consent must contain a declaration of the candidate's place of residence and the fact that the candidate has not been enrolled in a party qualified to participate in a primary or general election ~~as of~~ on or before March 1st of that election year and that the candidate meets the qualifications of the office the candidate seeks. The candidate must verify by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations that the declaration is true. If, pursuant to the challenge procedures in section 356, any part of the declaration is found to be false by the Secretary of State, the consent and the nomination petition are void.

A. Candidates for the office of county charter commission need not verify by oath or affirmation that they are not enrolled in a party.

Sec. 13. 21-A MRSA §371, first ¶, as enacted by PL 1985, c. 161, §6, is amended to read:

If a candidate for nomination dies, withdraws at least 60 days before the primary or becomes disqualified after having filed ~~his~~ the candidate's primary petition, so that a party has fewer candidates than there are offices to be filled, the vacancy may be filled as follows by a political committee pursuant to section 363. The Secretary of State shall notify the Governor who shall issue a proclamation of vacancy pursuant to section 362.

Sec. 14. 21-A MRSA §371, sub-§§1 and 2, as enacted by PL 1985, c. 161, §6, are repealed.

Sec. 15. 21-A MRSA §375, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Candidate for Vice President; death; withdrawal; disqualification. If a candidate for Vice President who has been nominated by petition under section 354, subsection 1, paragraph B, dies, withdraws at least 60 days before the election or becomes disqualified, the vacancy may be filled by a new vice-presidential candidate, if the following conditions are met:

- A. Written resignation is filed with the Secretary of State by the previous vice-presidential candidate, if the mental and physical condition of the candidate allows;
- B. Written consent is filed with the Secretary of State by the new vice-presidential candidate;
- C. Written acceptance of the new vice-presidential candidate is filed with the Secretary of State by the presidential candidate; and
- D. Written acceptance of the new vice-presidential candidate is filed with the Secretary of State by each of the presidential electors.

Sec. 16. 21-A MRSA §384, sub-§1, as enacted by PL 1985, c. 161, §6, is repealed.

Sec. 17. 21-A MRSA §601, sub-§4, as amended by PL 1997, c. 436, §68, is further amended to read:

4. Distinctively colored. The ballots must be printed separately for each political party on paper of a distinctive color: white for the party that cast the greatest number of votes for Governor at the last gubernatorial election; and yellow for the 2nd highest; ~~blue for the 3rd highest; and green for the 4th highest.~~ The Secretary of State shall choose a distinctive color for ballots for any other political party. For municipalities ~~which~~ that include more than one single member district of the House of Representatives, or parts of more than one single member district, the Secretary of State may prepare primary election ballots of one or more distinctive colors for each single member district or part ~~thereof~~ of a single member district within the municipality.

Sec. 18. 21-A MRSA §601-A, sub-§3, as amended by PL 1993, c. 334, §4, is further amended to read:

3. Distinctively colored. The ballots must be printed separately for each political party on paper of a distinctive color: white for the party that cast the greatest number of votes for Governor at the last gubernatorial election; and yellow for the 2nd highest; ~~blue for the 3rd highest; and green for the 4th highest.~~

The Secretary of State shall choose a distinctive color for ballots for any other political party.

Sec. 19. 21-A MRSA §628, sub-§3, as amended by PL 1995, c. 459, §50, is further amended to read:

3. Defective, lost or destroyed. If a ballot box becomes defective, lost or destroyed, the clerk must ~~apply in writing to notify~~ the Secretary of State ~~for another.~~ The in writing and the Secretary of State shall ~~supply or~~ approve a replacement at the expense of the municipality.

Sec. 20. 21-A MRSA §631, sub-§1, as enacted by PL 1985, c. 161, §6, is amended to read:

1. Procedure. The municipal officers may divide a town or ward into convenient voting districts after public notice and hearing held at least ~~60~~ 90 days before any election. After the hearing, the municipal officers must prepare a certificate defining the limits of each district. They must file the certificate with the clerk who shall record it. The clerk shall immediately file an attested copy of the certificate with the Secretary of State. The clerk shall post an attested copy of the certificate in a conspicuous, public place in the town or ward, and shall publish it in at least one newspaper having general circulation in the municipality at least 30 days before election day. ~~The clerk shall file an attested copy of the certificate with the Secretary of State.~~ Voting districts, once established, may be consolidated into a lesser number of districts by following the same procedure. Voting districts may be established or consolidated under this section for all or only certain classes of elections. If the municipal officers determine that there is no building within a voting district ~~which~~ that is suitable for a voting place, as described in section 627, the municipal officers may, subject to the approval of the Secretary of State, establish a voting place outside the voting district in a suitable building ~~which~~ that is as close as possible to the voting district and as convenient as possible to the voters of the voting district.

Sec. 21. 21-A MRSA §681, sub-§3, ¶B, as amended by PL 1993, c. 33, §1, is further amended to read:

- B. If a voter is accompanied by a ~~child~~ child person of ~~12~~ 17 years of age or younger, the ~~child~~ child person may enter the voting booth with the voter.

Sec. 22. 21-A MRSA §698, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Ballots and lists returned. The warden shall deliver the ballots and lists to the clerk immediately upon conclusion of the ballot count. In a municipality that has an island voting district, the warden must

deliver the ballots and lists within 24 hours after the polls have closed.

Sec. 23. 21-A MRSA §722, sub-§1, as amended by PL 1997, c. 436, §104, is repealed and the following enacted in its place:

1. How tabulated. The Secretary of State shall tabulate all votes that appear by an election return to have been cast for a candidate whose name appeared on the ballot. All write-in candidates, as defined in section 1, subsection 51, receiving less than 5% of the votes cast for that office must be titled "others" when the tabulation is processed.

Sec. 24. 21-A MRSA §722-A is enacted to read:

§722-A. Determination of write-in candidate

To be considered a valid write-in candidate, a person must file a declaration of write-in candidacy with the Secretary of State, on a form approved by the Secretary of State, either before the election or no later than 3 business days after the election. The candidate must meet all the other qualifications for that office.

Sec. 25. 21-A MRSA §723, sub-§1, as amended by PL 1991, c. 244, is further amended to read:

1. Primary election. In a primary election, the person who receives a plurality of the votes cast for nomination to any office is nominated for that office, except for write-in candidates under paragraph A and section 722-A.

A. A person who has not qualified as a candidate for nomination by primary election by filing a petition and consent under sections 335 and 336, but who fulfills the other qualifications under section 334, may be nominated at the primary election if that person receives a number of valid write-in votes equal to at least twice the minimum number of signatures required under section 335, subsection 5, on a primary petition for a candidate for that office.

(1) The Secretary of State shall send notice of nomination to a write-in candidate by certified mail, return receipt requested. For purposes of this paragraph, the notice is deemed given on the date the write-in candidate signs the receipt, or if the notice is undeliverable, the date the post office last attempts to deliver it. If the candidate fails to file a written acceptance with the Secretary of State within 15 days after receiving the notice, the candidate is disqualified and the candidate's name may not be printed on the general election ballot.

B. The Secretary of State shall immediately certify by mail the nomination of each person nominated by the primary election.

Sec. 26. 21-A MRSA §723, sub-§2, as enacted by PL 1985, c. 161, §6, is amended to read:

2. Other elections. In any other election, the person who receives a plurality of the votes cast for election to any office is elected to that office, except that write-in candidates must also comply with section 722-A.

Sec. 27. 21-A MRSA §737-A, first ¶, as enacted by PL 1993, c. 473, §31 and affected by §46, is amended to read:

For the purposes of this section, a candidate may also be a write-in candidate who has met the qualifications of section 722-A. If, after an initial tally of the ballots, the margin between the number of votes cast for the leading candidate and the number of votes cast for the 2nd-place candidate is less than 1% of the total number of votes cast in that race, a recount is presumed necessary.

Sec. 28. 21-A MRSA §737-A, 4th ¶, as amended by PL 1995, c. 459, §67, is further amended to read:

A losing candidate in any election who desires a recount must file with the Secretary of State a written request for a recount within 7 5 business days after the election. The recount is held under the supervision of the Secretary of State, who shall allow the candidate's representatives or counsel to recount the ballots. The candidate may not act as a counter of ballots.

Sec. 29. 21-A MRSA §751, sub-§7, as amended by PL 1997, c. 436, §105, is further amended to read:

7. Residence in certain facilities. Residence in a licensed nursing home, as defined in Title 22, chapter 405, licensed ~~boarding home~~ residential care facility, as defined in Title 22, chapter 1665, or certified congregate housing unit, as defined in Title 22, chapter 1665. The licensed residential care facilities referred to in this subsection are those that are licensed as Level II facilities. Residents of those facilities may cast absentee ballots when the clerk is present;

Sec. 30. 21-A MRSA §753, sub-§3-A, as amended by PL 1995, c. 670, Pt. A, §2 and affected by Pt. D, §5, is further amended to read:

3-A. Alternate method of balloting by residents of certain facilities. The municipal clerk shall designate one or more times during the 30-day period prior to an election during which the municipal clerk

must be present in any licensed nursing home, as defined in Title 22, chapter 405; licensed boarding home, as defined in Title 22, chapter 1665; or certified congregate housing unit, as defined in Title 22, chapter 1665, facility specified in section 751, subsection 7 for the purpose of absentee balloting by the residents of these homes or units facilities. The clerk shall designate which areas in these facilities constitute the voting place, the voting booth and the guardrail enclosure. Sections 681 and 682 apply to voting in these facilities within the areas designated by the clerk.

Sec. 31. 21-A MRSA §1003, sub-§3, as enacted by PL 1985, c. 161, §6, is amended to read:

3. State Auditor. The State Auditor ~~and the Secretary of State~~ shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and ~~shall have~~ has all necessary powers to carry out these responsibilities.

Sec. 32. 21-A MRSA §1020-A, sub-§7, as corrected by RR 1995, c. 1, §10, is amended to read:

7. Final notice of penalty. After a commission meeting, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate, and the treasurer and the Secretary of State.

If no determination is requested, the commission staff shall calculate the penalty as prescribed in subsection 4 and shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission ~~and to the Secretary of State.~~

Sec. 33. 21-A MRSA §1020-A, sub-§10, as enacted by PL 1995, c. 483, §15, is amended to read:

10. Enforcement. The ~~Secretary of State~~ commission staff has the ~~initial~~ responsibility for collecting the full amount of any penalty ~~within 30 days after receiving notice of the penalty from the commission.~~ ~~The Secretary of State~~ and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the candidate, treasurer, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after ~~receiving~~ issuing the notice of the penalty, the ~~Secretary of State~~ commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County

or the District Court, 7th District, Division of Southern Kennebec.

Sec. 34. 21-A MRSA §1062-A, sub-§§6 and 9, as enacted by PL 1995, c. 483, §21, are amended to read:

6. Final notice of penalty. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer, and the treasurer of the political action committee ~~and the Secretary of State.~~

If no determination is requested, the commission staff shall calculate the penalty based on the provision of subsection 3 and shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the commission ~~and to the Secretary of State.~~

9. Enforcement. The ~~Secretary of State~~ commission staff has the ~~initial~~ responsibility for collecting the full amount of any penalty ~~within 30 days after receiving notice of that penalty from the commission.~~ ~~The Secretary of State~~ and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the political action committee and its treasurer. Thirty days after ~~receiving~~ issuing the notice of penalty, the ~~Secretary of State~~ commission shall report to the Attorney General the name of any political action committee, along with the name of its treasurer, that has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

See title page for effective date.

CHAPTER 427

H.P. 1063 - L.D. 1494

An Act to Ensure the Documentation of the Transfer of Ownership of Mobile and Modular Construction Homes

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

Sec. 1. 30-A MRSA §3009, sub-§1-A is enacted to read: