

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE

1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1957

tional fee and either satisfactory proof of qualifications or passing of the necessary examinations. (1953, c. 307, § 1. 1955, c. 413, § 5.)

Effect of amendment.—The 1955 amendment substituted the present provisions as to fees for the former requirement of a fee of \$5 from each applicant. The amend-

ment also added the last sentence, and made certain minor changes in the form and wording of the section.

Sec. 8. Renewal of licenses.—All licenses issued as aforesaid shall expire 1 year from date of issue and they may be renewed thereafter for periods of 1 year without further examination on payment of a fee of \$5 for a master's license, \$2 for a journeyman's license, \$1 for a limited, apprentice or helper's license, commencing January 1, 1956. (1953, c. 307, § 1. 1955, c. 413, § 6.)

Effect of amendment.—The 1955 amendment rewrote this section.

Sec. 13. Exceptions.

VIII. Regular employees of owners or lessees of real property when working as such; and (1955, c. 413, § 7)

IX. Any person duly licensed under the provisions of chapter 82-A; but subject to the restrictions of the license as issued. [1955, c. 413, § 7-A] (1953, c. 307, § 1. 1955, c. 413, §§ 7, 7-A.)

Effect of amendment.—The 1955 amendment eliminated a former provision in subsection VIII relating to persons doing miscellaneous jobs of manual labor, and

added subsection IX. As the rest of the section was not changed by the amendment, only subsections VIII and IX are set out.

Sec. 13-A. Funds for enforcement.—The insurance commissioner is hereby empowered to expend up to 20% of the funds accrued to the electricians examining board for the employment of one or more state fire inspectors subject to the provisions of the personnel law to assist in the enforcement of the provisions of this chapter and for the purchase of necessary electrical testing equipment. (1955, c. 413, § 8.)

Chapter 82-A.

Licensing of Oil Burnermen.

Sec. 1. Oil burner installation.—No oil burner installation shall hereafter be made for compensation, except as herein provided unless made by a person licensed by the oil burnermen's licensing board, hereinafter created. (1955, c. 352, § 1.)

Sec. 2. Definitions.—The following words and phrases when used in this chapter shall be construed as follows:

I. "Oil burner installations" shall mean the installation, alteration or repair of oil and automatic coal burning heating equipment, including industrial, commercial and domestic type central heating plants, and domestic type range burners and space heaters and further including all accessory equipment, control systems, whether electric, thermostatic or mechanical, and all electrical wiring in connection therewith to a suitable distribution panel or disconnect switch, but excluding all other electrical equipment or work in the building or structure where the above equipment is installed.

II. The "board" shall mean the oil burnermen's licensing board created under the provisions of section 3 hereof. (1955, c. 352, § 1.)

Sec. 3. Appointment of oil burnermen's licensing board; vacancies; removal of members; compensation.—An oil burnermen's licensing board, herein called the board, is hereby established and shall consist of a chairman who shall be the director of state fire prevention, ex officio, and 2 other members, here-

inafter called the appointive members, who shall be appointed by the governor with the advice and consent of the council. Both of said appointive members shall be oil burnermen who are active in the trade, one shall have had at least 5 years' and the other at least 10 years' experience as such. The appointive members shall be appointed for terms of 2 years, provided, however, that of the first 2 members appointed, one shall be appointed for a term of 1 year and the other for a term of 2 years. As the term of each appointive member expires, he may be reappointed or a new member appointed for a term of 2 years. Any vacancy in said board caused by death, resignation or removal of any member shall be filled by the appointment of a person qualified to take his place, to hold office during the unexpired term of the member whose place is filled. Any member of said board may be removed from office for cause by the governor with the advice and consent of the council. The members of the board shall each be allowed the sum of \$15 per day and their necessary expenses for travel, board and room while attending to the necessary duties of their office. (1955, c. 352, § 1.)

Sec. 4. Employees.—The board shall be empowered to appoint and remove, subject to the provisions of the personnel law, such employees as may be necessary to carry out the provisions of this chapter. (1955, c. 352, § 1.)

Sec. 5. Meetings, rules and regulations.—The oil burnermen's licensing board shall hold regular meetings semiannually and shall hold additional meetings at such other times and such places as it shall determine by its rules, or upon the request of the chairman or any member of the board. Said board shall keep proper records of its proceedings and shall be authorized to make such rules and regulations as it shall deem necessary for the holding of examinations and for the carrying out of the provisions of this chapter, and to provide for reciprocity of licensing with similar boards of other states which maintain standards at least equal to this state. (1955, c. 352, § 1.)

Sec. 6. Licensing of oil burnermen.—

I. The board shall, at any time prior to June 30, 1956, without examination and upon payment of a fee of \$5 issue a license to any applicant therefor who shall present satisfactory evidence that he has the qualifications for the type of license applied for and who has been engaged in the occupation or business of doing the type of oil burner installation covered by such license within the state for a period of one year prior to the effective date of this act. Any person who, being qualified to obtain a license under this subsection, is prevented from making application therefor by reason of service in the armed forces of the United States during the period between the effective date of this act and July 1, 1956, shall have 3 months after discharge from such service to make such application. No person shall be liable for prosecution for making oil burner installations without license during the first 6 months after the effective date of this act.

II. The board may make such reasonable rules and regulations as it deems suitable for the issuance of various types and classes of license to cover the various types of oil burner installations as set forth in subsection I of section 2. A license may cover one or more or all types of installations or may be limited to a specific type of installation. The board may also make such reasonable rules and regulations as it deems suitable concerning the term and type of apprenticeship required by candidates for examination.

III. The board shall issue a license upon the payment of a fee of \$5 to any person who applies therefor and who presents evidence to the board that he has completed a satisfactory period of apprenticeship for the type license for which application has been made and who has satisfactorily passed an examination conducted by the board as hereinafter provided to determine his fitness to receive such license.

IV. The board shall issue an apprentice's license upon payment of a fee of \$3

to any person who applies therefor, without examination, provided that said applicants submits evidence satisfactory to the board that he has entered the employ of a licensed oil burnerman to assist him while learning. Any such person entering the employ of such oil burnerman to assist him shall apply for an apprentice's license within 30 days after commencing such employment.

V. All persons licensed by the board shall receive a certificate thereof under the seal of the board, signed by the chairman, which shall state the type of license and which shall be carried upon the person of the licensee and displayed by him at any time upon request, as long as he continues in such business. (1955, c. 352, § 1.)

Sec. 7. Examinations.—Each applicant for examination shall present to the chairman of the board on blanks furnished by the board a written application therefor, containing such information as the board may require accompanied by an examination fee of \$1. In the event that a license is granted to the applicant, the examination fee shall be credited towards the payment of his license fee. Examinations shall be in whole or in part in writing at the discretion of the board. They shall include such provisions of the standards of the national board of fire underwriters, including such provisions of the national electrical code as may be applicable to oil burner installations, as the board may deem appropriate.

Any person failing to pass such an examination may be re-examined as often as he may desire, at periods when examinations are being conducted, upon payment of the examination fee of \$1. The board shall conduct examinations at least semiannually at such times and places as it deems appropriate. (1955, c. 352, § 1.)

Sec. 8. Renewal of licenses.—All licenses issued as aforesaid shall expire one year from the date of issue and may be renewed thereafter for periods of one year from date without further examination upon the payment of the fees therefor as hereinabove provided. In the event that any person licensed under this chapter fails to renew his license as aforesaid, he may renew it at any time within a period of 2 years without further examination provided he presents satisfactory proof to the board that he was so licensed. (1955, c. 352, § 1.)

Sec. 9. Installations to conform to standards.—No oil burning equipment of whatever type may hereafter be installed in this state unless it conforms to the standards adopted by the board. No installation of such equipment shall hereafter be made unless such installation complies with the regulations issued by the board. (1955, c. 352, § 1.)

Sec. 10. Disposal of fees.—All fees received by the board shall be paid by the chairman thereof to the treasurer of state and may be used for carrying out the provisions of this chapter. (1955, c. 352, § 1.)

Sec. 11. Investigation of complaints; licenses may be suspended or revoked.—The board shall investigate all complaints made to it and all cases of noncompliance with or violation of the provisions of this chapter. The board shall have the power to suspend or to revoke the license of any licensed oil burnerman who is found guilty of:

I. The practice of any fraud or deceit in obtaining a license;

II. Any gross negligence, incompetency or misconduct in the performance of the work of making oil burner installations. Continued failure to conform to the regulations issued by the board shall be prima facie evidence of such gross negligence and incompetency.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency or misconduct against any licensed oil burnerman. Such charges shall be in writing, and shall be sworn to by the person making them, and shall be filed with the chairman of the board.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within 3 months after the date on which they shall have been preferred.

The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed by registered mail to the last known address of such licensed oil burnerman at least 30 days before the date fixed for hearing. At any hearing, the accused shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

After such hearing, the board may suspend or revoke the license of such licensed oil burnerman provided that a majority of the board vote in favor of such suspension or revocation. The board shall furnish such licensed oil burnerman with a definite statement in writing of its findings of facts and its reason or reasons for the suspension or revocation of the license.

Any person aggrieved by a decision of the board in failing to issue a license, or suspending or revoking a license, may appeal from such decision within 30 days thereof to any justice of the superior court or supreme judicial court, in term time or vacation, by certiorari or mandamus, or by any other method permissible under the rules and practices of said courts, or the laws of this state, and said court may make such further orders in respect thereto as justice may require, provided, however, that there shall be no appeal from the failure of the board to issue a license because an applicant has failed to pass an examination where the results of said examination have been unanimously certified by the board to be correct.

The board, for reasons it may deem sufficient, may reissue a certificate of registration to any person whose certificate has been revoked, provided a majority of the board vote in favor of such reissuance. (1955, c. 352, § 1.)

Sec. 12. Records.—The board shall keep a record of the name and residence of all persons registered under the provisions of this chapter, and a record of all moneys received and disbursed by it, and said records or duplicates thereof shall be open for inspection during office hours. (1955, c. 352, § 1.)

Sec. 13. Exceptions.—The licensing provisions of this chapter shall not apply to the following:

I. Any electrician duly licensed under the provisions of chapter 82 insofar as the installation of electrical equipment or the performance of any electrical work involved in the installation of oil burners is concerned;

II. Any plumber duly licensed under the provisions of sections 170 to 194, inclusive, of chapter 25 insofar as the work covered by said sections is involved;

III. The maintenance and operation of oil burner installations in or about industrial or manufacturing plants, electrical generating plants or other plants operated by a public utility;

IV. The maintenance and operation of oil burner installations when done by regular employees of owners or lessees of real property when working as such. (1955, c. 352, § 1.)

Sec. 14. Penalty for violation.—Any person who makes oil burner installations for compensation without having first obtained a license hereunder or who, being himself in the business, employs a person to do such work who has not such a license, unless the work done comes within the exception set out in section 13, or procures any license wrongfully or by fraud, or violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor and if convicted thereof shall be punished by a fine of not more than \$100, or by imprisonment for not more than 3 months, or by both such fine and imprisonment. (1955, c. 352, § 1.)

Sec. 15. Provisions in city charters not affected.—The provisions of this chapter shall not prevent the licensing of oil burnermen licensed hereunder by cities under the provisions of the charters or ordinances thereof. (1955, c. 352, § 1.)

Sec. 16. Funds for enforcement.—The insurance commissioner is hereby empowered to expend up to 20% of the funds accruing to the oil burnermen's licensing board for the employment of one or more state fire inspectors, subject to the provisions of the personnel law, to assist in the enforcement of the provisions of this chapter and for the purchase of necessary electrical testing equipment. (1955, c. 352, § 1.)

Chapter 84.

Registration of Real Estate Brokers and Salesmen.

Sec. 1. Maine real estate commission; powers; duties; compensation.

The fees collected under the provisions of this chapter shall be paid forthwith by the commission to the treasurer of state with a detailed statement thereof and shall constitute a fund to be known as the "Real Estate Fund." Said fund shall be kept as a separate account by said treasurer of state and he shall pay therefrom, upon vouchers signed by the chairman of the commission and approved by the state controller, the cost and expenses of administering the provisions of this chapter. All of the costs and expenditures of the commission shall be paid only from said fund and in no event shall any payments for the expenses of the commission exceed the amount received by said treasurer from said commission. Any moneys remaining in the real estate fund at the end of the fiscal year shall be carried forward to the credit of the said fund for the succeeding year. The commission may, within the moneys available in the "Real Estate Fund" defray the cost of an educational program for real estate brokers and salesmen. Such program shall be under the direction and supervision of the commission. (R. S. c. 75, § 1. 1955, c. 299, § 1.)

Effect of amendment.—The 1955 amendment, only the last paragraph is set out. amendment added the last sentence. As the rest out. of the section was not changed by the

Sec. 2. Definitions and exceptions.

I. A "real estate broker" is any person, firm, partnership, association or corporation who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers for rent, or lists or offers to list for sale, lease or rent, any real estate or the improvements thereon for others, as a whole or partial vocation.

A "real estate broker" shall also include any person, firm, partnership, association or corporation who engages in the business, for a fee, in connection with any contract whereby he undertakes to promote the sale of real estate through the listing of such property in a publication, issued primarily for such purpose or for referral of information concerning properties to licensed real estate brokers, or both. (1955, c. 299, § 2. 1957, c. 32)

III. A "real estate salesman" shall mean and include any person employed or engaged by or on behalf of a licensed real estate broker to do or deal in any activity as included in subsection I hereof, for compensation or other valuable consideration. (1955, c. 299, § 3)

Effect of amendments. — The 1955 paragraph under subsection I. amendment inserted the words "or lists or offers to list for sale, lease or rent" in subsection I and rewrote subsection III. As the rest of the section was not changed by the amendments, only subsections I and III are set out.

The 1957 amendment inserted the last