

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

FIRST SPECIAL SESSION

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 2011

S. P. 729

In Senate, January 24, 1972

Committee on State Government suggested.

HARRY N. STARBRANCH, Secretary

Presented by Senator Harding of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-TWO

AN ACT Implementing the Reorganization of the Department of  
Business Regulation.

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

Sec. 1. R. S., T. 8, § 102, amended. The first sentence of section 102 of Title 8 of the Revised Statutes is repealed and the following enacted in place thereof:

The Commissioner of the Department of Business Regulation or his designee shall ex officio be secretary of the commission but not a member thereof. The commissioners shall select one of their members to be chairman.

Sec. 2. R. S., T. 8, § 104, amended. Section 104 of Title 8 of the Revised Statutes is amended by adding at the end the following new sentence:

The Commissioner of the Department of Business Regulation shall hire, subject to the Personnel Law, the personnel that he deems necessary to discharge the duties of the commission, and shall outline their duties and fix their compensation, subject to the Personnel Law.

Sec. 3. R. S., T. 8, § 262, amended. Section 262 of Title 8 of the Revised Statutes is amended by inserting after the first sentence a new sentence to read as follows:

The Commissioner of the Department of Business Regulation or his designee shall ex officio be secretary of the commission but not a member thereof.

Sec. 4. R. S., T. 8, § 264, amended. Section 264 of Title 8 of the Revised Statutes is amended to read as follows:

### § 264. Assistants

The ~~commissioner~~, with the approval of the Governor and Council Commissioner of the Department of Business Regulation, subject to the Personnel Law, is authorized to employ such ~~assistants and employees~~ personnel as ~~it~~ he may deem necessary to provide adequate policing and to carry out the purposes of this chapter. ~~and~~ The Commissioner of the Department of Business Regulation may fix ~~their~~ the compensation of said employees on a per diem basis, subject to the Personnel Law.

Sec. 5. R. S., T. 8, § 280, amended. The last paragraph of section 280 of Title 8 of the Revised Statutes, as enacted by chapter 462 of the public laws of 1969, is amended to read as follows:

The ~~Harness Racing Commission~~ Commissioner of the Department of Business Regulation is authorized to employ a State Veterinarian. The duties of the veterinarian shall include the medical and physical examination and testing of horses to assure compliance with the statutes, and advising the commission of any violation thereof.

Sec. 6. R. S., T. 8, § 323, amended. Section 323 of Title 8 of the Revised Statutes is amended to read as follows:

### § 323. Assistants

The ~~commissioner~~ Commissioner of the Department of Business Regulation is authorized to employ such ~~assistants and employees~~ personnel as ~~it~~ he may deem necessary to provide adequate policing and to carry out the purposes of this chapter at such compensation on a per diem basis as the ~~commissioner~~ commissioner may prescribe, subject to the Personnel Law.

Sec. 7. R. S., T. 9, § 1, amended. Section 1 of Title 9 of the Revised Statutes, as amended, is further amended to read as follows:

### § 1. Department; commissioner and employees

The activities of the ~~Department~~ Bureau of Banks and Banking shall be directed by a ~~Bank Commissioner~~ director, as heretofore appointed, who shall be appointed by the ~~Governor~~ Commissioner of the Department of Business Regulation, with the advice and consent of the Governor and Council, and who shall hold his office for ~~6~~ 5 years or until his successor is appointed and qualified, and who may be removed from office by the Governor and Council for cause. No person shall be eligible for said office unless he shall have had at the time of his appointment at least 7 years practical experience in one or more of the following capacities, as an executive officer of a savings and loan association, a trust company, a mutual savings bank or a national bank located in this or another state, or as an employee in the banking department of this or some other state, or as an employee of a federal examining authority charged with examining financial institutions. He shall engage in no other business or profession. He shall receive his actual traveling expenses incurred in the performance of his duties.

The ~~Bank Commissioner~~ director, with the approval of the Commissioner of the Department of Business Regulation, may employ, subject to the Per-

sonnel Law, one or more deputy ~~bank commissioners~~ directors and as many examiners, assistant examiners and such other employees and clerks as the business of the ~~department bureau~~ may require. The ~~commissioner~~ director may employ or engage such expert, professional or other ~~assistance~~ assistants as may be necessary or appropriate to assist the ~~department bureau~~ in carrying out its functions. The ~~commissioner~~ director may train his employees or have them trained in such manner as he deems desirable, at the expense of the ~~department bureau~~. All employees of the ~~department bureau~~ shall receive their actual expenses incurred in the performance of official duties. A deputy ~~bank commissioner~~ director designated by the ~~commissioner~~ director shall perform the duties of the ~~commissioner~~ director whenever the latter shall be absent from the State, whenever he shall be directed by the ~~commissioner~~ director, whenever there shall be a vacancy in the office of the ~~commissioner~~ director or whenever the ~~commissioner~~ director shall be incapacitated from illness. In the event of a vacancy in the office of the ~~commissioner~~ director, his incapacitating illness or absence from the State at a time when there is no deputy ~~commissioner~~ director able to perform the duties of the ~~commissioner~~ director, the ~~Governor~~ commissioner of the department may designate a special deputy ~~commissioner~~ director to perform the duties of the ~~commissioner~~ director for a time not exceeding 6 months.

During his term of office the ~~commissioner~~ director or any employee of the ~~department bureau~~ shall not be an officer, director, trustee, attorney, stockholder or partner in any financial institution or national bank, federal savings and loan association, or federal or state credit union located in this State or receive, directly or indirectly, any payment or gratuity from any such institution or engage in the negotiation of loans for others with any such institution. This provision shall not prohibit being a depositor, or shareholder in the case of state or federal savings and loan associations or credit unions, on the same terms as are available to the public generally or being indebted, provided that such indebtedness is made known in writing to the ~~commissioner~~ director and a record of such indebtedness is retained on file in the ~~department bureau~~ so long as such indebtedness is outstanding.

Wherever in Title 9, Title 32 or any other applicable Title of the Revised Statutes the following words appear they shall mean as follows:

1. Commissioner. "Commissioner" or "Bank Commissioner" means the Director of the Bureau of Banks and Banking.
2. Department. "Department" or "banking department" means the Bureau of Banks and Banking.

Sec. 8. R. S., T. 10, § 751, amended. The 2nd sentence of section 751 of Title 10 of the Revised Statutes is amended to read as follows:

The authority shall consist of 9 members, including the Commissioner of ~~Economic Development~~ Business Regulation, and 8 members at large appointed by the Governor with the advice and consent of the Council for a period of 4 years, provided that, of the members first appointed, 2 shall be appointed for a term of one year, 2 for a term of 2 years, 2 for a term of 3 years and 2 for a term of 4 years.

**Sec. 9. R. S., T. 10, § 751, amended.** The 3rd paragraph of section 751 of Title 10 of the Revised Statutes is repealed and the following enacted in place thereof:

**The Commissioner of the Department of Business Regulation shall hire, subject to the Personnel Law, a manager and whatever other personnel he deems necessary to carry out the duties of the authority and he shall prescribe their duties.**

**Sec. 10. R. S., T. 10, § 751, sub-§ 3, repealed.** Subsection 3 of section 751 of Title 10 of the Revised Statutes is repealed as follows:

~~3. Appoint employees. Appoint, under the Personnel Law, such employees as the authority may require, and such assistants, agents or consultants as may be necessary for carrying out the purposes of this chapter;~~

**Sec. 11. R. S., T. 10, § 5051, amended.** The 2nd sentence of section 5051 of Title 10 of the Revised Statutes, as enacted by section 1 of chapter 495 of the public laws of 1965 and as amended by section 1 of chapter 6 of the public laws of 1969, is further amended to read as follows:

The authority shall consist of 9 members, including the Commissioner of ~~Economic Development~~ **Business Regulation**, the Director of Parks and Recreation and 7 members at large appointed by the Governor with the advice and consent of the Council for a period of 4 years, provided that, of the members first appointed, 2 shall be appointed for a term of one year, 2 for a term of 2 years, 2 for a term of 3 years and one for a term of 4 years.

**Sec. 12. R. S., T. 10, § 5051, amended.** The 3rd paragraph of section 5051 of Title 10 of the Revised Statutes, as enacted by section 1 of chapter 495 of the public laws of 1965, is repealed and the following enacted in place thereof:

**The Commissioner of the Department of Business Regulation shall hire, subject to the Personnel Law, a manager and whatever other personnel are necessary to carry out the duties of the authority and he shall prescribe their duties.**

**Sec. 13. R. S., T. 10, § 5051, sub-§ 3, repealed.** Subsection 3 of section 5051 of Title 10 of the Revised Statutes, as enacted by section 1 of chapter 495 of the public laws of 1965, is repealed as follows:

~~3. Employees. Appoint, under the Personnel Law, such employees as the authority may require, and such assistants, agents or consultants as may be necessary for carrying out the purposes of this chapter~~

**Sec. 14. R. S., T. 10, c. 901, repealed and replaced.** Chapter 901 of Title 10 of the Revised Statutes, as enacted by section 1 of chapter 488 of the public laws of 1971, is repealed and the following enacted in place thereof:

## CHAPTER 901

### DEPARTMENT OF BUSINESS REGULATION

§ 8001. Department; commissioner

There is created and established the Department of Business Regulation to regulate financial institutions and transactions to protect the interests of

depositors, to regulate the business of insurance in the State of Maine in the public interest and regulate commercial sports in the public interest, to consist of the Commissioner of Business Regulation appointed by the Governor with the advice and consent of the Council to serve a term coterminous with that of the Governor, subject to removal for cause by the Governor and Council, and the following as heretofore created and established: The Department of Banks and Banking, the Department of Insurance, except the Fire Prevention Division thereof; the Boxing Commission, the Harness Racing Commission, the Running Horse Racing Commission and Real Estate Commission, the Maine Industrial Building Authority, the Maine Recreation Authority and the Maine Municipal Securities Board.

Sec. 15. R. S., T. 10, § 8002, additional. Title 10 of the Revised Statutes is amended by adding a new section 8002 to read as follows:

§ 8002. Bureaus

The department shall be composed of 2 bureaus and such divisions as are needed to fulfill the department's duties. The 2 bureaus shall be named the Bureau of Banks and Banking, formerly the Department of Banks and Banking, and the Bureau of Insurance, formerly the Department of Insurance. The Bureau of Banks and Banking shall have all legal authority and duties presently delegated to said department. The Bureau of Insurance shall be the successor to the Department of Insurance and have all the legal authority and duties presently delegated to said department.

Sec. 16. R. S., T. 10, § 8003, additional. Title 10 of the Revised Statutes is amended by adding a new section 8003 to read as follows:

§ 8003. Duties of commissioner

The commissioner shall be the chief administrative officer of the department. He shall have the following duties:

1. Budget. Prepare a budget for the department;
2. Personnel. Transfer personnel within the department to insure the efficient utilization of the department personnel;
3. Purchases. Coordinate the purchase and use of all department equipment;
4. Review. Review the function and operation of the department to insure that overlapping functions and operations are eliminated.

The commissioner does not have authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority shall be exclusively within the specific board, bureau, agency, division or commission or other governmental unit: The Bureau of Banks and Banking, the Bureau of Insurance, the Boxing Commission, the Harness Racing Commission, the Running Horse Racing Commission and Real Estate Commission, the Maine Industrial Building Authority, the Maine Recreation Authority and the Maine Municipal Securities Board.

**Sec. 17. R. S., T. 24-A, § 5, amended.** Section 5 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is amended to read as follows:

**§ 5. "Commissioner;" "department" defined**

**1. Commissioner.** "Commissioner" means the ~~Insurance Commissioner of this State~~ Director of the Bureau of Insurance within the Department of Business Regulation.

**2. Department.** "Department" means the ~~Insurance Department of this State~~ Bureau of Insurance within the Department of Business Regulation.

**Sec. 12. R. S., T. 24-A, § 201, repealed and replaced.** Section 201 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969, is repealed and the following enacted in place thereof:

**§ 201. Director of the Bureau of Insurance; appointment, term**

**1. Head.** The director is the head of the Bureau of Insurance.

**2. Appointment.** The director shall be appointed by the Commissioner of Business Regulation with the advice and consent of the Governor and Council.

**3. Term.** The director shall hold his office for 5 years and until his successor has been appointed and has qualified.

**Sec. 19. R. S., T. 30, § 5329, amended.** Section 5329 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965 and as amended by section 9 of chapter 210 of the public laws of 1971, is further amended by inserting before the first paragraph the following new paragraph:

The Commissioner of the Department of Business Regulation shall hire, subject to the Personnel Law, the personnel, including a manager, that he deems necessary to discharge the duties of the board and shall outline their duties and fix their compensation subject to the Personnel Law.

**Sec. 20. R. S., T. 30, § 5329, amended.** The first sentence of section 5329 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is amended to read as follows:

The manager shall be the chief administrative officer for the board and as such shall direct and supervise the administrative affairs and technical activities of the board in accordance with rules, regulations and policies as set forth by the board and he shall receive such compensation as shall be fixed by the board with the approval of the Governor and Council.

**Sec. 21. R. S., T. 30, § 5329, sub-§ 3, repealed.** Subsection 3 of section 5329 of Title 30 of the Revised Statutes, as enacted by section 1 of chapter 423 of the public laws of 1965, is repealed as follows:

**3. Appointments.** Appoint, under the provisions of the Personnel Law, such employees as the board may require, and such assistants, agents or con-

~~sultants as may be necessary for carrying out the purposes of this chapter;~~

**Sec. 22. R. S., T. 32, § 4053, repealed and replaced.** Section 4053 of Title 32 of the Revised Statutes is repealed and the following enacted in place thereof:

**§ 4053. Employees**

The Commissioner of the Department of Business Regulation may employ such personnel as he deems necessary to discharge the duties imposed by this chapter, and shall outline their duties and fix their compensation, subject to the Personnel Law, including technical assistants and investigators as may be necessary. The Commissioner of the Department of Business Regulation or his designee shall ex officio be secretary of the commission but not a member thereof.

**Sec. 23. Transitional provisions.**

1. Legislative intent. It is the intent of the Legislature that the Commissioner of the Department of Business Regulation hire one person to serve as executive director for the Maine Industrial Building Authority, the Maine Recreation Authority and the Maine Municipal Securities Board.

2. Rules, regulations and procedures. All existing rules and regulations currently in effect and operation in any of the departments, commissions, boards or authorities referred to in this Act shall continue in effect until rescinded, amended or changed according to law.

“Regulation” shall include but not be limited to any regulation, law, order, administrative procedure, policy, determination, directive, authorization, permit, license, privilege or agreement.

**Sec. 24. Funds and equipment transferred.** Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another department strictly as a result of the reorganization effort, shall be transferred to the proper place in the new structure by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Executive Council.

**Sec. 25. Effective date.** This Act shall become effective July 1, 1972.

### STATEMENT OF FACT

This bill incorporates the following departments and commissions into the Department of Business Regulation: the Department of Banks and Banking, the Insurance Department, the Real Estate Commission, the Boxing Commission, the Harness Racing Commission, the Running Horse Racing Commission, the Maine Industrial Building Authority, the Maine Recreation Authority and the Maine Municipal Securities Board. This bill, if enacted,



gives the Commissioner of the Department of Business Regulation administrative control of the department. The respective boards and commissions will remain in existence for the purpose of exercising the discretionary, statutory authority previously delegated to them by the Legislature. The relationship between the Commissioner of the Department of Business Regulation and of the departments, boards and commissions incorporated into the Department of Business Regulation is outlined in section 14 of this legislation. This legislation does not affect the special revenue accounts of any of the boards or commissions.

The Commissioner of the Department of Business Regulation will be appointed by the Governor with the advice and consent of the Executive Council for a term coterminous with that of the Governor. The Director of the Bureau of Banks and Banking and the Director of the Bureau of Insurance will be appointed by the Commissioner of the Department of Business Regulation with the advice and consent of the Governor and Council for a 5-year term. The Commissioner of the Department of Business Regulation becomes a member of the Maine Recreation Authority and the Maine Industrial Building Authority in place of the Director of the Department of Economic Development.