

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1102

S. P. 350

In Senate, February 22, 1973

Referred to Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Aldrich of Oxford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Create the Department of Business Regulation.

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

Sec. 1. 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 department and shall outline their duties and fix their compensation, subject to the Personnel Law.

Sec. 2. R. S., T. 8, § 323, repealed and replaced. Section 323 of Title 8 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 323. Assistants

The Commissioner of the Department of Business Regulation is authorized to employ such personnel as 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 said commissioner may prescribe, subject to the Personnel Law.

Sec. 3. R. S., T. 9, § 1, repealed and replaced. Section 1 of Title 9 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 1. Bureau; superintendent and employees

The activities of the Bureau of Banks and Banking shall be directed by a superintendent, as heretofore appointed, who shall be appointed by the Com-

missioner of the Department of Business Regulation, with the advice and consent of the Governor and Council and who shall hold his office for 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 bureau 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 superintendent, with the approval of the Commissioner of the Department of Business Regulation, may employ, subject to the Personnel Law, one or more deputy superintendents and as many examiners, assistant examiners and such other employees and clerks as the business of the bureau may require. The superintendent may employ or engage such expert, professional or other assistance as may be necessary to assist the bureau in carrying out its functions. The superintendent may train his employees or have them trained in such manner as he deems desirable, at the expense of the bureau. All employees of the bureau shall receive their actual expenses incurred in the performance of official duties. A deputy superintendent designated by the superintendent shall perform the duties of the superintendent whenever the latter shall be absent from the State, whenever he shall be directed to do so by the superintendent, whenever there shall be a vacancy in the office of the superintendent or whenever the superintendent shall be incapacitated from illness. In the event of a vacancy in the office of the superintendent, his incapacitating illness or absence from the State at a time when there is no deputy superintendent, the Commissioner of the Department of Business Regulation may designate a special deputy superintendent to perform the duties of the superintendent for a time not exceeding 6 months.

During his term of office the superintendent or any employee of the 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. 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 superintendent and a record of such indebtedness is retained on file in the bureau so long as such indebtedness is outstanding.

Sec. 4. 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 and as amended by 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 and protect depositors, to regulate the business of insurance in the State, to regulate commercial sports, to award just compensation in land condemnations and to regulate real estate brokers and salesmen. The administrative head of said department shall be the Commissioner of Business Regulation, who shall be 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 said department shall be composed of the following bureaus, commissions and board, as heretofore created and established: The Bureau of Banks and Banking, formerly the Department of Banks and Banking; the Bureau of Insurance, formerly the Department of Insurance, except the Fire Prevention Division thereof; the Real Estate Commission; the Boxing Commission; the Running Horse Racing Commission and the Land Damage Board.

The Bureau of Banks and Banking shall be the successor to the Department of Banks and Banking and shall have all the legal authority and duties presently delegated to said department.

The Bureau of Insurance shall be the successor to the Department of Insurance and shall have all the legal authority and duties presently delegated to said department.

§ 8002. Duties and authority of commissioner

The commissioner shall be the chief administrative officer of the department and he shall have the following duties and authority:

1. Budget. Prepare the budget for the department;
2. Personnel. Transfer personnel within the department to insure the efficient utilization of 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 shall 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 bureau, commission or board: The Bureau of Banks and Banking, formerly the Department of Banks and Banking; the Bureau of Insurance, formerly the Department of Insurance; the Public Utilities Commission; the Real Estate Commission; the Industrial Accident Commission; the Boxing Commission; the Running Horse Racing Commission and the Land Damage Board.

Sec. 5. R. S., T. 23, § 152, amended. The 5th and 6th paragraphs of section 152 of Title 23 of the Revised Statutes are repealed and the following enacted in place thereof:

The board shall maintain an office in Augusta. The Commissioner of the Department of Business Regulation shall appoint, subject to the Personnel Law, a clerk of the board to keep its records and to perform such other duties as the board shall prescribe. The clerk shall have authority to certify to all official acts of the board, administer oaths, issue subpoenas, and issue all processes, notices, orders or other documents necessary to the performance of the duties of the board.

The Commissioner of the Department of Business Regulation shall appoint and fix the compensation of a reporter to the board, and shall review and approve all charges made by such reporter for transcripts of the record of hearings before the board. The Commissioner of the Department of Business Regulation may appoint, subject to the Personnel Law, such clerical assistants for the board as he may deem necessary.

Sec. 6. R. S., T. 24-A, § 5, repealed and replaced. 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 repealed and the following enacted in place thereof:

§ 5. Superintendent, bureau; defined

1. Superintendent. "Superintendent" means the Superintendent of the Bureau of Insurance.

2. Bureau. "Bureau" means the Bureau of Insurance.

Sec. 7. 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. Superintendent of Insurance; appointment; term

1. The Superintendent of Insurance is the head of the Bureau of Insurance.

2. The superintendent shall be appointed by the Commissioner of the Department of Business Regulation with the advice and consent of the Governor and Council.

3. The superintendent shall hold his office for 5 years or until his successor has been appointed and has qualified.

Sec. 8. R. S., T. 24-A, § 206, repealed and replaced. Section 206 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:

§ 206. Deputy superintendents

1. Subject to the Personnel Law, the superintendent may appoint a first deputy superintendent and may appoint one or more additional deputies.

2. The deputies shall perform such duties and exercise such powers of the superintendent as the superintendent may from time to time authorize. The first deputy shall be acting superintendent during a vacancy in the office of Superintendent of Insurance or during the incapacity of the superintendent.

Sec. 9. 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 a secretary and such clerical assistants, technical assistants and investigators 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.

Sec. 10. R. S., T. 32, § 4055, amended. The last sentence of section 4055 of Title 32 of the Revised Statutes is amended to read as follows:

Such program shall be under the direction and supervision of the ~~commissioner~~ Commissioner of the Department of Business Regulation.

Sec. 11. **Amendatory provision.** Wherever in the Revised Statutes, Title 9, Title 32 or any other applicable Title the words "commissioner," meaning the Bank Commissioner, "Bank Commissioner" or "Commissioner of Banks and Banking" appear, they shall mean "superintendent," "Bank Superintendent" or "Superintendent of Banks and Banking," respectively. Wherever in the Revised Statutes, Title 9, Title 32 or any other applicable Title the words "department" meaning the Banking Department, "Department of Banks and Banking" or "Banking Department" appear, they shall mean "bureau," "Banking Bureau" or "Bureau of Banks and Banking," respectively.

Sec. 12. **Amendatory provision.** Wherever in the Revised Statutes, Title 24-A or any other applicable Title the words "commissioner," meaning the Commissioner of Insurance, "Insurance Commissioner" or "Commissioner of Insurance" appear, they shall mean "superintendent," "Insurance Superintendent" or "Superintendent of Insurance," respectively. Wherever in the Revised Statutes, Title 24-A or any other applicable Title the words "department," meaning the Department of Insurance, "Insurance Department" or "Department of Insurance" appear, they shall mean "bureau," "Insurance Bureau" or "Bureau of Insurance," respectively.

Sec. 13. **Transitional provisions.** All existing rules and regulations currently in effect and operation on the effective date of this Act, in any of the departments, bureaus, commissions or boards referred to in this Act shall continue in effect until rescinded, amended or changed according to law.

The term "regulation" shall include, but is not limited to, any regulation, rule, order, administrative procedure, policy determination, directive, authorization, permit, license, privilege, form, blank, requirement, designation or agreement.

All employees and officials of the departments, bureaus, commissions or boards referred to in this Act are, on the effective date of this Act, transferred to the Department of Business Regulation and shall continue in their employment or office after such effective date, without interruption of state service, unless such employment or office is terminated or abolished.

All appointments and deputizations heretofore made by the administrative heads of the departments and bureaus or by the commissions and boards referred to in this Act shall continue in force and effect on the effective date of this Act, unless revoked by the Commissioner of the Department of Business Regulation.

All funds, equipment, property and records of any department, bureau, commission or board to be relocated under this Act to the Department of Business Regulation strictly as a result of the reorganization effort, shall, notwithstanding the provisions of the Revised Statutes, Title 5, section 1585, be transferred, on the effective date of this Act, to the proper place in the organizational structure of the Department of Business Regulation by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval of the Governor and Executive Council.

Sec. 14. Effective date. This Act shall become effective on July 1, 1973.

STATEMENT OF FACT

This bill implements the reorganization of the Department of Business Regulation, placing the following state agencies under the administrative supervision of the Commissioner of Business Regulation: Department of Banks and Banking; Department of Insurance; Real Estate Commission; Boxing Commission; Running Horse Racing Commission and Land Damage Board.