

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 282

H. P. 196

House of Representatives, January 13, 1981

Submitted by the Department of Business Regulation pursuant to Joint Rule 24.

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Brannigan of Portland.

Cosponsor: Mr. Jackson of Yarmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Update and Clarify Legislation Concerning Agencies within or Affiliated with the Department of Business Regulation.

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

**Sec. 1. 8 MRSA § 101, first ¶, last 2 sentences, as repealed and replaced by PL 1977, c. 682, § 1, are repealed.**

**Sec. 2. 8 MRSA § 101, as repealed and replaced by PL 1977, c. 682, § 1, is amended by adding after the first paragraph a new paragraph to read:**

**On the proposal of the commission, the commissioner may, in his discretion, make temporary appointments of deputy commissioners who shall serve without salary or reimbursement of expenses and who may act on behalf of the commission in the supervision of boxing or wrestling contests, subject to rules promulgated by the commission. The deputy commissioners may not issue or suspend licenses and all decisions made by them are subject to appeal to the commission. Notwithstanding any other provision of law, no deputy commissioner is liable for any injury or damage which results from discharge of any of his official duties unless it can be shown that the injury or damage resulted from gross negligence on the part of the deputy commissioner.**

**Sec. 3.** 8 MRSA § 101, last ¶, as repealed and replaced by PL 1977, c. 682, § 1, is amended to read:

No ~~member person~~ shall be appointed or serve as commissioner or deputy commissioner who has a direct or indirect financial interest in the athletic sports of boxing and wrestling.

**Sec. 4.** 8 MRSA § 104, first sentence, is amended to read:

The compensation of the commissioners, reasonable transportation expenses of the chairman incurred in the performance of his duties and other necessary expenses of the commission, including suitable furniture, equipment, supplies and office expenses shall be ~~charged to and paid out of such amount as the Legislature may appropriate~~ paid out of the account established for that purpose.

**Sec. 5.** 8 MRSA § 107, sub-§ 6 is enacted to read:

**6. Fees; use.** The fees received by the commission under this chapter shall be paid to the Treasurer of State, who shall hold them in a special carrying account. Fees received shall be used for carrying out this chapter.

**Sec. 6.** 8 MRSA § 111, as amended by PL 1965, c. 461, is further amended to read:

#### § 111. Taxes

The promoter or promoters of all boxing contests or exhibitions held under this chapter shall pay to the Treasurer of State, ~~for credit to the General Fund~~ a tax of ~~3%~~ 6% of the gross receipts from such contest or exhibition. This tax shall have been paid to the Treasurer of State ~~by the last day within 15 days of the month following the month in day on~~ which such contest or exhibition is held. Upon failure to pay such tax to the Treasurer of State, such promoter or promoters shall be liable to pay a penalty of 25% of the amount of the tax due, which penalty shall be recovered by a civil action brought in the name of the said commission, and the said penalty if recovered shall be paid to the Treasurer of State ~~to be credited to the General Fund~~. On the failure of any promoter or promoters to pay such a tax, the commission shall revoke the promoter's license. This section shall apply to all boxing contests or exhibitions which are shown over closed circuit television. The taxes received by the commission under this chapter shall be paid to the Treasurer of State, who shall hold them in a special carrying account. Taxes received under this chapter shall be used for carrying out this chapter.

**Sec. 7.** 8 MRSA § 135, as last amended by PL 1979, c. 663, § 26, is further amended by adding at the end a new paragraph to read:

The fees received by the commission under this chapter shall be paid to the Treasurer of State, who shall hold them in a special carrying account. Fees received under this chapter shall be used for carrying out this chapter.

**Sec. 8.** 8 MRSA § 139, as enacted by PL 1977, c. 13, is amended to read:

**§ 139. Taxes**

The promoter or promoters of all professional wrestling matches, shows or exhibitions held under this chapter shall pay to the Treasurer of State, ~~for credit to the General Fund~~ a tax of ~~3%~~ 6% of the gross receipts from professional matches, shows or exhibitions. This tax shall have been paid to the Treasurer of State ~~by the last day within 15 days of the month following the month in day on~~ which a match, show or exhibition is held. Upon failure to pay the tax to the Treasurer of State, the promoter or promoters shall be liable to pay a penalty of 25% of the amount of the tax due, which penalty shall be recovered by a civil action brought in the name of the commission, and the penalty if recovered shall be paid to the Treasurer of State ~~to be credited to the General Fund~~. On the failure of any promoter or promoters to pay a tax, the commission shall revoke the promoter's license. **Taxes received by the commission under this chapter shall be paid to the Treasurer of State, who shall hold them in a special carrying account. Taxes received under this chapter shall be used for carrying out this chapter.**

Sec. 9. 9 MRSA c. 360 as enacted by PL 1965, c. 501, § 1 and as amended, is repealed.

Sec. 10. 9-A MRSA § 6-104-A is enacted to read:

**§ 6-104-A. Deputy superintendent**

1. **Deputy superintendent.** The administrator may appoint a deputy superintendent subject to the applicable personnel laws.

2. **Powers.** The superintendent is authorized to designate the deputy superintendent to perform the duties of the superintendent whenever the latter is absent from the State, whenever the deputy superintendent is directed to do so by the superintendent, whenever there is a vacancy in the office of the superintendent or whenever the superintendent is incapacitated by 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 Business Regulation may designate a special deputy superintendent to perform the duties of the superintendent for a period not to exceed 6 months.

Sec. 11. 9-B MRSA § 161, sub-§ 2, ¶ D, as amended by PL 1977, c. 696, § 115, is further amended to read:

D. The making of reports or returns required under chapter 61 of the Internal Revenue Code ~~of 1954~~ and investigatory activity authorized by the Internal Revenue Code;

Sec. 12. 9-B MRSA § 327, sub-§ 1, 2nd sentence, as enacted by PL 1975, c. 500, § 1, is amended to read:

**Any No more than 2 offices may be held by the same person without the approval of the superintendent.**

**Sec. 13. 9-B MRSA § 465, sub-§ 2, ¶ A, first sentence**, as amended by PL 1977, c. 152, § 5, is further amended to read:

Except for loans adequately secured by a first mortgage on real estate, a savings deposit, a certificate of deposit or a share account or personal loans having an aggregate value of ~~\$5,000~~ **\$10,000** or less, no thrift institution or credit union subject to the laws of this State shall make any loans to its **policy-making** officers or directors.

**Sec. 14. 9-B MRSA § 532, first sentence**, as enacted by PL 1975, c. 500, § 1, is amended to read:

Subject to the conditions and limitations set forth in this section, a savings bank may make loans to individuals or corporations, to be secured by a first mortgage of real estate **or subsequent mortgages held by the same bank, which shall be considered an additional first mortgage, provided that the real estate is** located in any of the New England states, or located anywhere if the loan is authorized under subsections 3, 4 or 5 as follows:

**Sec. 15. 9-B MRSA § 833, sub-§ 3**, as enacted by PL 1975, c. 500, § 1, is repealed.

**Sec. 16. 9-B MRSA § 833, sub-§ 3-A** is enacted to read:

**3-A. Applicability of federal law. A credit union, authorized to do business in this State, whose share accounts or share certificates are insured with the National Credit Union Administration, or the successor to the federal agency, may issue any type of share account or share certificate, the issuance of which has been approved by the National Credit Union Administration.**

**Sec. 17. 10 MRSA § 8001, last sentence**, as last amended by PL 1979, c. 606, § 2, is further amended to read:

The department shall be composed of the following bureaus, boards and commissions:

~~Board of Examiners on Speech Pathology and Audiology;~~

Bureau of Banking;

Bureau of Consumer Protection;

Bureau of Insurance;

Electricians' Examining Board;

Oil and Solid Fuel Board;

Maine Athletic Commission;

Real Estate Commission;

State Board of Examiners of Psychologists;

State Board of Social Worker Registration;  
State Claims Board;  
State Running Horse Racing Commission; ~~and~~  
Board of Registration of Substance Abuse Counselors;  
**Arborists Examining Board;**  
**Board of Registration for Professional Foresters;**  
**Board of Certification for Geologists and Soil Scientists;**  
**Manufactured Housing Board;**  
**Board of Examiners in Physical Therapy; and**  
**Board of Examiners on Speech Pathology and Audiology.**

Sec. 18. 10 MRSA § 9002, sub-§§ 2 and 9, as enacted by PL 1977, c. 550, § 1, are amended to read:

**2. Dealer.** “Dealer” means any person engaged in the retail selling or offering to sell, leasing or distribution of new ~~manufactured modular, or new or used mobile homes~~ **mobile homes**, primarily to a person who, in good faith, purchases or leases ~~such~~ homes for purposes other than resale.

**9. Mechanic.** “Mechanic” means any person engaged in servicing or installing ~~manufactured housing mobile homes~~ **mobile homes** for compensation and is not a regular employee of a manufacturer or a dealer.

Sec. 19. 10 MRSA § 9005, sub-§ 5 is enacted to read:

**5. Board; authority.** The board is authorized to issue, amend and revoke such rules and regulations as it deems necessary to implement all procedures required of a state administrative agency pursuant to 24 Code of Federal Regulations, paragraph 3282 and 42 United States Code, § 5401 et seq., including the implementation of consumer complaint handling process and the holding of hearings. In the event of a conflict between this chapter and The United States National Mobile Home Construction and Safety Standards Act of 1974, PL 93-383 involving the State Administrative Agency Program, The United States National Mobile Home Construction and Safety Standards Act, PL 93-383, shall prevail.

Sec. 20. 10 MRSA § 9021, sub-§ 3, ¶ B, as enacted by PL 1977, c. 550, § 1, is amended to read:

**B.** Dealers who sell, or offer to sell, or lease ~~manufactured housing new modular, or new or used mobile homes~~ shall pay a license fee not to exceed \$100.

Sec. 21. 10 MRSA § 9021, sub-§ 3, ¶ D is enacted to read:

**D.** Dealers or mechanics who have more than one business location shall pay an additional licensing fee not to exceed \$10 per additional location.

**Sec. 22.** 10 MRSA § 9051, sub-§ 3 is enacted to read:

**3. Manufactured housing; modular housing; mobile homes.**

For purposes of this subchapter, manufactured housing shall include modular housing and mobile homes not built to standards contained in The United States National Mobile Home and Construction Safety Standard Act of 1974, PL 93-383. All mobile home complaints concerning units built after June 15, 1976, shall be handled in compliance with Subpart I of The United States National Mobile Home Construction and Safety Standards Act, PL 93-383.

**Sec. 23.** 20 MRSA § 2269, sub-§ 1, as enacted by PL 1979, c. 602, § 3, is amended by adding at the end a new paragraph to read:

**In addition, the Electricians' Examining Board may require one year's service as an apprentice or helper for graduates of a one-year electrical course.**

**Sec. 24.** 24-A MRSA § 230, as last amended by PL 1977, c. 694, §§ 390-392, is repealed and the following enacted in its place:

**§ 230. Notice of hearing**

**1. Notice of hearing shall be given in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375.**

**2. Except where a different period is expressly provided by the Maine Administrative Procedure Act, Title 5, chapter 375 or by this Title, the superintendent shall give written notice of hearing not less than 14 days in advance. Notice of hearing may be waived and the hearing held at a time mutually fixed by the superintendent and the parties.**

**Sec. 25.** 24-A MRSA § 415, sub-§ 1, ¶ B, as repealed and replaced by PL 1977, c. 222, § 1, is amended to read:

**B. Due filing by the insurer of its annual statements ~~for the 2 preceding calendar years~~ as required by section 423; and**

**Sec. 26.** 24-A MRSA § 415, sub-§ 4, as enacted by PL 1975, c. 767, § 11, is amended to read:

**4. When an insurer is issued a first-time certificate of authority and if its assigned biennial continuation date ~~is more than one year away, the superintendent may require the insurer to pay an additional fee, as a result of such assignment, will be less than one year hence, the fee assessed for the certificate of authority shall not to exceed 1/2 the biennial continuation and annual statement filing fees in effect at that time according to the fee schedule, subject to any applicable retaliatory provisions.~~**

**Sec. 27.** 24-A MRSA § 601, sub-§ 1, ¶ A, as enacted by PL 1969, c. 132, § 1, is repealed and the following enacted in its place:

**A. For filing application for initial certificate of authority, including all**

documents submitted as part of the application. If an applicant is deferred for any reason and new data filings respecting the application are required, a fee in equal amount shall be required upon the filing of such new information. **\$750**

Sec. 28. 24-A MRSA § 901, sub-§ 12, as enacted by PL 1969, c. 132, § 1, is amended to read:

12. As to a title insurer, its title plant and equipment reasonably necessary for conduct of its abstract or title insurance business, at not to exceed the cost thereof **limited to the provisions of section 1129;**

Sec. 29. 24-A MRSA § 927, sub-§ 2, as amended by PL 1969, c. 177, § 16, is further amended by adding at the end a new paragraph to read:

**The contingency reserve established by the insurer shall be maintained for 120 months. That portion of the contingency reserve established and maintained for more than 120 months may be released and no longer constitute part of the contingency reserve pursuant to approval of the superintendent.**

Sec. 30. 24-A MRSA § 3358, sub-§ 4, first sentence, as enacted by PL 1969, c. 132, § 1, is amended to read:

Noncumulative dividends, not exceeding in any one year ~~7% of the amount~~ **12% or lesser reasonable amount as determined by prevailing rates for loans of similar risk characteristics at the time the shares are issued** may be paid to the insurer for the same, may be declared and paid by the insurer on outstanding guaranty capital shares out of that portion of the insurer's expendable surplus representing net realized earnings from its operations; and may be so paid even though the amount of the insurer's expendable surplus is then less in amount than any prior total of expendable contributed, borrowed, or paid-in surplus.

Sec. 31. 24-A MRSA § 3364, sub-§ 1, as enacted by PL 1969, c. 132, § 1, is amended to read:

1. Except as provided otherwise in section 3367 with respect to nonassessable policies, each member of a domestic mutual insurer shall have a contingent liability, ~~prorata~~ **pro rata** and not one for another, for the discharge of its obligations, which contingent liability shall ~~be in such maximum amount not less than 1 or more~~ **not be greater** than 6 times the annual premium for the member's policy at the annual premium rate—as shall be specified in the insurer's certificate of organization or bylaws.

Sec. 32. 24-A MRSA § 3408, sub-§ 2, ¶C is enacted to read:

**C. United States public obligations and other corporate securities for which definitive certificates have not been issued but are issued through the book-entry systems of federal reserve banks or depository trust companies. Insurers investing in securities in book-entry form shall make available at the time of examination the following:**

(1) A copy of the custodial or safekeeping agreement entered into by the insurer and the custodian, a state-chartered bank, a member bank of the federal reserve system or a depository trust company if the deposit was made directly to the entity, which sets forth the provisions for the use of the book-entry securities on behalf of the insurer by the custodian. The agreement shall provide for a standard of responsibility on the part of the custodian which shall be the responsibility of a bailee for hire under the law of the jurisdiction of the custodian's state of domicile. The agreement shall also provide that the securities held by the custodian are subject to the instructions of the insurer and may be withdrawn immediately upon demand of the insurer; and

(2) Affidavits evidencing ownership of the book-entry securities signed by a responsible official of the custodian and stating that the custodian is holding the securities for the insurer pursuant to the terms of the custodial agreement. These book-entry securities shall be treated as "admitted assets" of the insurer on production of the affidavit.

The required custodial agreement and affidavit shall conform to such standards as may be prescribed from time to time by the Superintendent of Insurance.

Sec. 33. 24-A MRSA § 4203, sub-§ 4 is enacted to read:

4. Each application for a certificate of authority shall be made in duplicate. Upon receipt of an application for a certificate of authority the superintendent shall immediately transfer one copy to the Commissioner of Human Services.

Sec. 34. 24-A MRSA § 4204, sub-§ 1, ¶B, first sentence, as repealed and replaced by PL 1979, c. 216, § 2, is amended to read:

The superintendent shall take no final action with regard to the application until he has been informed by the Department of Human Services whether or not the application for the certificate of need has been approved or, denied or deemed not to be required.

Sec. 35. 24-A MRSA § 4204, sub-§ 2, as last amended by PL 1979, c. 216, sub-§§ 3-5, is repealed.

Sec. 36. 24-A MRSA § 4204, sub-§ 2-A is enacted to read:

2-A. The superintendent shall issue or deny a certificate of authority to any person filing an application pursuant to section 4203 within 50 business days of receipt of the notice from the Department of Human Services that the applicant has been granted a certificate of need or, if a certificate of need is not required, within 50 business days of receipt of notice from the Department of Human Services that the applicant is in compliance with the requirements of paragraph B. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 4220 if the superintendent is satisfied that the following conditions are met:

**A. The Commissioner of Human Services certifies that the health maintenance organization has received a certificate of need or that a certificate of need is not required pursuant to Title 22, chapter 103;**

**B. If the Commissioner of Human Services has determined that a certificate of need is not required, the commissioner makes a determination and provides a certification to the superintendent with respect to health care services as follows:**

**(1) Whether or not the applicant has demonstrated the willingness and potential ability to assure that the health care services will be provided in a manner to assure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility and continuity of service;**

**(2) Whether or not the applicant has arrangements, established in accordance with regulations promulgated by the Commissioner of Human Services with the advice of the Maine Health Systems Agency or any successor agency for an on-going quality of health care assurance program concerning health care processes and outcomes; and**

**(3) Whether or not the applicant has a procedure, established in accordance with regulations of the Commissioner of Human Services to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services and such other matters as may be reasonably required by the commissioner.**

**The Commissioner of Human Services shall make the certification required by this paragraph within 60 days of the date of the written decision that a certificate of need was not required. If the commissioner certifies that the health maintenance organization does not meet all of the requirements of this paragraph he shall specify in what respects it is deficient;**

**C. The HMO conforms to the definition under section 4202, subsection 5;**

**D. The health maintenance organization is financially responsible and shall, among other factors, reasonably be expected to meet its obligations to enrollees and prospective enrollees.**

**In making this determination, the superintendent may consider:**

**(1) The financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used in connection therewith;**

**(2) The adequacy of working capital;**

**(3) Any agreement with an insurer, a nonprofit hospital or medical service corporation, a government or any other organization for insuring or providing the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the plan;**

(4) Any agreement with providers for the provision of health care services; and

(5) Any arrangements for insurance coverage or an adequate plan for self-insurance to respond to claims for injuries arising out of the furnishings of health care services;

E. The enrollees will be afforded an opportunity to participate in matters of policy and operation pursuant to section 4206; and

F. Nothing in the proposed method of operation, as shown by the information submitted pursuant to section 4203 or by independent investigation, is contrary to the public interest.

The applicant shall furnish, upon request by the Commissioner of Human Services, any information necessary for the commissioner to make any determination required pursuant to this subsection.

Sec. 37. 32 MRSA § 280, sub-§ 3, as enacted by PL 1979, c. 478, § 2, is amended to read:

3. **Selling real estate.** If an auctioneer sells real estate, offers to sell real estate or offers to negotiate the sale of real estate, he is considered to be acting in the capacity of a real estate broker and shall be licensed as a broker, **except that a real estate broker license shall not be required when the auctioneer is employed by the owner or his agent for services limited to "crying the sale."**

Sec. 38. 32 MRSA § 571, sub-§ 1, as enacted by PL 1965, c. 430, § 1, is repealed and the following enacted in its place:

1. **Collection agency.** "Collection agency" means and includes any person conducting business in the State, the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owned or due another. It includes persons who furnish collection systems carrying a name which simulates the name of a debt collector and who supply forms or form letters to be used by the creditor even though the forms direct the debtor to make payments directly to the creditor. Notwithstanding section 572, the term includes any creditor who in the process of collecting its own debts, uses any name other than his own which would indicate that a 3rd person is collecting or attempting to collect these debts.

Sec. 39. 32 MRSA § 571, sub-§ 1-A is enacted to read:

1-A. **Debt.** "Debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family or household purposes, whether or not the obligation has been reduced to judgment.

Sec. 40. 32 MRSA § 578, first sentence, as last repealed and replaced by PL 1977, c. 694, § 554-A, is amended to read:

The Bureau of Consumer Protection may investigate the records and practices of a licensee in accordance with Title 9-A, section 6-106 and section 6-203, subsection 4.

Sec. 41. 32 MRSA § 1102-A, first ¶, as enacted by PL 1973, c. 363, is amended to read:

The licensing provisions of this chapter shall not apply to regular employees of the following plants:

Sec. 42. 32 MRSA § 1551, sub-§ 6 is enacted to read:

**6. Canvassing cosmetologists.** “Canvassing cosmetologists” means a duly registered cosmetologist who engages in the practice of cosmetology by offering services upon a person in the person’s residence when done for the usual fees and who does not usually provide the services in a beauty shop or cosmetology shop and who transports relevant cosmetology materials or preparations in a portable kit.

Sec. 43. 32 MRSA § 1601, sub-§ 3, 3rd sentence, as repealed and replaced by PL 1977, c. 604, § 17, is amended to read:

The executive secretary of the board shall keep a record of all proceedings, certificates of registration and licenses; issue all notices, except those required to be issued by the Administrative Court Judge under Title 4, chapter 25; attest all papers and orders as the board shall direct; make sanitary inspections at least twice a year of **canvassing kits**, shops, ~~and other~~ establishments subject to a license under this chapter as directed by the board, and shall report annually on or before August 1st of each year to the Commissioner of Business Regulation, for the preceding fiscal year ending June 30th, giving a full statement of all receipts and expenditures and a statement of the work performed by the board during the year, together with recommendations as deemed necessary.

Sec. 44. 32 MRSA § 1601, sub-§ 3, 4th sentence, as enacted by PL 1977, c. 398, § 10, is amended to read:

The board shall employ, subject to the Personnel Law, inspectors who may be registered cosmetologists and who shall, under the direction of the executive secretary, make inspections of shops, ~~and other~~ establishments subject to license **and canvassing kits**.

Sec. 45. 32 MRSA § 1651, 2nd ¶, first sentence, as repealed and replaced by PL 1977, c. 398, § 10, is amended to read:

An apprentice cosmetologist may not independently practice cosmetology but may, as an apprentice, do any or all acts constituting the practice of cosmetology under the immediate personal supervision of a ~~registered cosmetologist person~~ **duly registered under this chapter to teach hairdressing and beauty culture.**

Sec. 46. 32 MRSA § 1651, last ¶, as repealed and replaced by PL 1977, c. 398, § 10, is amended by inserting after the first sentence, the following new sentence:

**No person may operate as a canvassing cosmetologist unless that person is duly licensed.**

**Sec. 47. 32 MRSA § 1651, last ¶, as repealed and replaced by PL 1977, c. 398, § 10, is amended by inserting at the end the following new sentence:**

**The fees for a license to operate as a canvassing cosmetologist shall be the same as those to operate a beauty shop.**

**Sec. 48. 32 MRSA § 1656, sub-§ 1, last 2 sentences, as repealed and replaced by PL 1977, c. 398, § 10, are amended to read:**

**A certificate of registration limited to demonstrations only may be issued upon complying with such requirements as may be determined by the board and upon payment of the fee of \$25 for a first license, which is valid until the next renewal period. Certificates shall be renewed on or before July 1st each year by paying a renewal fee of \$30 biennially.**

**Sec. 49. 32 MRSA § 3112, 2nd sentence, as enacted by PL 1979, c. 555, § 2, is amended to read:**

**It shall consist of 2 physical therapists, one physical therapist assistant, ~~2 physicians from the Board of Registration in Medicine~~ one physician and one public member.**

**Sec. 50. 32 MRSA § 3114, as enacted by PL 1979, c. 555, § 2, is repealed.**

**Sec. 51. 32 MRSA § 3114-A is enacted to read:**

**§ 3114-A. Qualification; application**

**1. Qualification. To qualify for a license as a physical therapist or physical therapist assistant an applicant shall meet the following requirements:**

**A. Be of good moral character;**

**B. Be a graduate of an educational program for the physical therapist or the physical therapist assistant which is accredited by an agency recognized by the United States Commissioner of Education or the Council on Post Secondary Accreditation, or both, and approved by the board; or if the applicant has been trained in another country, present satisfactory evidence that he has graduated from a school of physical therapy approved or accredited in the country where the school is located and have educational credentials equivalent to those of the United States trained physical therapist or physical therapist assistant; and**

**C. Pass an examination, conducted by the board, to determine the applicant's fitness to practice as a physical therapist or to act as a physical therapist assistant. The board may waive the examination requirement for an applicant who is currently licensed in another state by virtue of having previously passed a qualifying examination acceptable to the board, provided the passing standards for the examination were substantially equal to those then required by the law of this State.**

Applicants trained in another country must demonstrate proficiency in written and spoken English and complete up to one year experience in employment approved by the board under the supervision of a licensed physical therapist.

2. Application. To apply for a license as a physical therapist or physical therapist assistant, an applicant shall:

- A. Submit a written application with supporting documents to the board on forms provided by the board;
- B. Pay an application fee which shall not exceed \$50; and
- C. Pay an examination fee which shall not exceed \$75.

In case the application is denied and permission to take the examination refused, the examination fee only shall be returned to the applicant. Any applicant who fails to pass the examination shall be entitled to a reexamination within 6 months upon repayment of the examination fee only. If an applicant should fail one section of the examination, he shall be reexamined on that particular section only. Should he fail more than one section, he shall repeat the entire examination. No applicant may be allowed to take any part of the examination more than 3 times unless he submits evidence of having acquired additional formal education related to the previously failed examination section or sections.

Sec. 52. 32 MRSA § 3115, as enacted by PL 1979, c. 555, § 2, is repealed and the following enacted in its place:

§ 3115. Licensure

The board shall license any applicant who meets the requirements of this chapter and pays the biennial licensure fee specified in section 3116. Original licenses effective for one year or less during the biennial licensing period shall be 1/2 the fee specified in section 3116. All licenses granted pursuant to this section shall expire on March 31st of the next even-numbered year unless renewed in accordance with section 3116. Each person so licensed shall receive a certificate signed by the chairman of the board. Every certificate of licensure and renewal certificate for the current biennium shall be conspicuously displayed at the place of employment of the licensee. A certificate of licensure as a physical therapist shall entitle the person to whom it is granted to engage in the practice of physical therapy anywhere in this State and to use the words "physical therapist" or letters "P.T." to indicate that he is licensed in this State. A certificate of licensure as a physical therapist assistant shall entitle the person to whom it is granted to act as a physical therapist assistant and to use the words "physical therapist assistant" or letters "P.T.A." to indicate that he is licensed in this State.

Sec. 53. 32 MRSA § 3116, first ¶, as enacted by PL 1979, c. 555, § 2, is repealed and the following enacted in its place:

All licenses shall be renewed biennially on or before March 31st of each even-

numbered year or at such other times as the Commissioner of Business Regulation may designate. The biennial licensure renewal fee shall not exceed \$50. The Central Licensing Division shall notify each licensee, at his last known address, 30 days in advance of the expiration of his license. Renewal notices shall be on forms provided by the board. Any license not renewed by March 31st automatically expires. The board may renew an expired license without penalty if the renewal notice is returned within 30 days of the expiration date. A license which has expired for more than 30 days may be reinstated only by a majority vote of the board after the following conditions are met:

Sec. 54. 32 MRSA § 3821, 4th sentence, as repealed and replaced by PL 1975, c. 575, § 43, is repealed as follows:

~~Selection of the psychologist or psychological examiner members of the board shall be made from a list submitted annually, previous to the time when the term of such a member expires, by the Maine Psychological Association~~

Sec. 55. 32 MRSA § 3821, as repealed and replaced by PL 1975, c. 575, § 43, is amended by inserting at the end the following new sentence:

**Prior to the filling of any vacancies of professional members the Governor shall solicit recommendations of candidates from the Maine Psychological Association.**

Sec. 56. 32 MRSA § 4001, last ¶ is amended by inserting at the end the following new sentence:

**This chapter does not apply to an auctioneer employed by an owner or his agent for services limited to "crying the sale."**

Sec. 57. 32 MRSA § 4057, as last amended by PL 1975, c. 767, § 59, is further amended to read:

#### **§ 4057. Publication of list of licensees**

The commissioner ~~shall annually~~ may publish a list of the names and addresses of all licensees licensed by it under this chapter and of all persons whose licenses have been suspended or revoked within one year, together with such other information relative to the enforcement of this chapter as it may deem of interest to the public. ~~Such lists shall be mailed by the commission to any licensee and to those whose licenses have been suspended or revoked within one year~~ Such lists shall be made available to the general public and to licensees at cost.

Sec. 58. 32 MRSA § 4905, as enacted by PL 1973, c. 558, § 1, is amended to read:

#### **§ 4905. Application**

Any person, except as in this chapter specifically exempted, who shall practice or offer to practice geology or soil science for the public in this State is subject to this chapter **and must be currently certified in accordance with this chapter.**

**Sec. 59.** 32 MRSA § 6213, sub-§ 2, first sentence, as enacted by PL 1977, c. 466, § 21, is amended to read:

Have been employed in the profession of substance abuse counseling for a minimum of 2 years ~~in the 4 year period immediately preceding the date on which application is made~~ or have the equivalent of 2 years of paid employment as a substance abuse counselor.

**Sec. 60.** 32 MRSA § 6213, sub-§ 2, 3rd sentence, as enacted by PL 1977, c. 466, § 21, is repealed as follows:

~~Both the paid employment and the work based educational experience shall have taken place within the 4 year period immediately preceding the date on which application is made; or have the equivalent of 2 years of paid employment as a substance abuse counselor~~

**Sec. 61.** 32 MRSA § 6213, sub-§ 2, last 2 sentences, as enacted by PL 1977, c. 466, § 21, are amended to read:

In determining such equivalent, an applicant shall have been employed at least 1 1/2 years in the profession of substance abuse counseling and the board may substitute volunteer work for the remaining period of required paid employment at a rate of no less than 2 months of volunteer work for each one-month period of required paid employment ~~Both the paid employment and the volunteer work have taken place within the 4 year period immediately preceding the date on which application is made; and~~

**Sec. 62.** 32 MRSA c. 89 is enacted to read:

## CHAPTER 89

### HOME REPAIR FINANCING ACT

#### § 8101. Short title

This chapter shall be known and may be cited as the "Home Repair Financing Act."

#### § 8102. Relationship to other laws

This chapter shall be construed as requiring duties and granting rights in addition to those required and granted by the Maine Consumer Credit Code, Title 9-A.

#### § 8103. Definitions

Unless otherwise stated, the words and phrases in this chapter have the same meaning as those in the Maine Consumer Credit Code, Title 9-A. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Commissioner.** "Commissioner" means the Commissioner of Business Regulation.

2. **Holder.** “Holder” means any person who is entitled to the rights of a home repair contractor under a home repair contract.

3. **Home repair contract.** “Home repair contract” means a consumer credit sale, whether contained in one or more documents, between a home repair contractor and a consumer to furnish or use goods and services in the modernization, rehabilitation, repair, alteration or improvement of real property, except for the purposes of this chapter a consumer credit sale includes a debt payable in 4 or more installments.

4. **Home repair contractor.** “Home repair contractor” means any person who is engaged in or who transacts any business of selling goods and related services pursuant to a home repair contract including a salesman who is not an employee of a licensed home repair contractor.

5. **Home repair salesman.** “Home repair salesman” means any person engaged in the business of selling goods and related services pursuant to a home repair contract in an independent or representative capacity, whether or not that person is a resident of this State, excepting a person who is an owner, a partner or an officer of a licensed home repair contractor.

6. **Superintendent.** “Superintendent” means the Superintendent of the Bureau of Consumer Protection, Department of Business Regulation.

#### § 8104. Contents of contract

Every home repair contract shall:

1. **In writing.** Be in writing and contain the entire agreement between the owner and the home repair contractor;

2. **Names and description.** State the name and addresses of all parties, the dates when executed by the parties and contain a description of the goods and services;

3. **Completed.** Be completed in full without any blank spaces to be filled in after the contract is signed by the owner; and

4. **Insurance.** State if workmens’ compensation and public liability insurance are carried by the home repair contractor and applicable to the work to be performed under the contract and if the home repair contractor is qualified by law as a self-insurer.

#### § 8105. Certificate of completion

No home repair contractor may request or accept a certificate of completion signed by the owner prior to the actual completion of the work to be performed under the home repair contract.

#### § 8106. Payment of contract in full

With respect to contracts pursuant to which there is a lien, mortgage or

encumbrance upon the goods or real property, upon payment in full by the consumer of the amounts lawfully due under a home repair contract, the creditor or assignee shall:

1. Original instruments. Return to the consumer the original instruments evidencing indebtedness under a home repair contract which were signed by the consumer or his sureties or guarantors in connection with such contract, excepting such instruments as are filed with a public official and retained in the files of such official;

2. Security interest. Release all security interest in the goods and real property affected by the home repair contract; and

3. Delivery. Deliver to the consumer such good and sufficient assignments, releases of liens and mortgages on personal and real property and such other instruments of title as may be necessary to vest the consumer with complete evidence of title.

#### § 8107. Licensees

No person may engage in or transact any business of a home repair contractor or home repair salesman in this State without first obtaining a license from the commissioner as provided for in this chapter. No financial institution as defined in Title 9-B, section 131, credit union, national bank or federal savings and loan association authorized to do business in this State may be required to obtain a license or pay a license fee. Nothing contained in this chapter may be deemed to have any effect whatever upon any existing law regulating the power of or the conditions and limitations under which such institutions may engage in the business of a home repair financing agency. No license issued under this chapter may be transferable or assignable.

#### § 8108. Trainee

An unlicensed trainee may accompany a licensed home repair salesman for a period not exceeding 30 days from the date on which the trainee first accompanies the licensed salesman, provided the trainee does not attempt to negotiate or induce a contract or sale. The licensed salesman must submit written notice to the commissioner prior to the date when the trainee first accompanies the salesman setting forth the information prescribed by the commissioner.

#### § 8109. Application for license

Application for a license under this chapter shall be in writing, under oath, and shall be in the form prescribed by the commissioner.

The application shall state the name and residence and business addresses of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof. It shall state the address where the business is to be conducted, demonstrate the financial responsibility of the applicant and set forth any other information the commissioner may require.

**§ 8110. Approval or rejection of license application**

Within 60 days after the filing of the application and the payment of the fees set forth the commissioner shall:

1. Issue license. Issue and deliver to the applicant a license to engage in the business of a home repair contractor or home repair salesman in accordance with this chapter; or

2. Refuse to issue license. Refuse to issue the license for any reason for which he may refuse to renew or seek to suspend or revoke any license under this chapter.

**§ 8111. Refusal of license; hearing**

If the commissioner refuses to issue a license he shall notify the applicant of the denial and of his right to request a hearing within 10 days and take either of the following steps.

1. License fee. If the applicant does not request a hearing, the commissioner shall return the sum paid as a license fee.

2. Hearing. If the applicant requests a hearing, the commissioner shall give notice of the grounds for refusal and hold a hearing thereon, and within 30 days after the hearing the commissioner shall file a written decision containing his findings and conclusions and serve a copy thereof upon the applicant.

**§ 8112. Licensee's name and location; changes**

No licensee may transact any business subject to this chapter under any other name or maintain an office at any other location than that designated in the license. In case such location be changed, the commissioner shall endorse the change of location on the license without charge.

**§ 8113. License fees; renewals**

Each home repair contractor shall pay to the commissioner at the time of making the application a license fee of \$100, and \$10 for each home repair salesman in excess of 5 in his employ. Thereafter, each home repair contractor shall pay upon renewal a biennial license fee of \$200 and \$20 for each home repair salesman in excess of 5 in his employ. Each home repair salesman, not in the employ of a home repair contractor, shall pay to the commissioner at the time of making application a license fee of \$10 and thereafter, upon renewal, a biennial license fee of \$20.

All licenses shall expire biennially on October 31st, or at such other times as the commissioner may designate, and shall become invalid on that date unless renewed. The commissioner shall inform every home repair contractor and home repair salesman not in the employ of a home repair contractor of the expiration date of his license and the amount of fee required for renewal for a 2-year period. The notice shall be mailed to the person's last known address at least 30 days in advance of the date of expiration of the license.

**§ 8114. License duration; abatement**

No abatement in the amount of the license fee may be made if the license is issued for less than one year, nor if the license is surrendered, canceled or revoked prior to the expiration of the period for which the license was issued. When the unexpired license term of an applicant is or will be more than one year at the time of licensure, the commissioner may require the applicant to pay an additional fee not to exceed  $\frac{1}{2}$  the biennial renewal fee.

**§ 8115. Revocation or suspension of license**

The commissioner may refuse to renew any license issued for any of the reasons stated in this section, provided that the licensee has first been given an opportunity for hearing in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, and the commissioner may file a complaint with the Administrative Court to suspend or revoke any license issued if, after investigation or hearing or both, the commissioner has reason to believe that the licensee or any owner, director, officer, member, partner, employee or agent of the licensee has:

1. **Misstatements.** Made any material misstatement in the application;
2. **Violation of law.** Knowingly or without the exercise of due care failed to comply with or violated any provisions of this chapter or of the Maine Consumer Credit Code, Title 9-A;
3. **Fraud.** Defrauded any retail buyer or willfully failed to perform any written agreement with any owner;
4. **Misrepresentation.** Willfully misrepresented or failed to disclose any of the material particulars or the nature thereof required to be stated or furnished to the owner under this chapter;
5. **Contracts signed in blank.** Knowingly taken any instrument evidencing a home repair contract or note which was signed in blank;
6. **Bad faith.** Otherwise demonstrated lack of financial responsibility, unworthiness, bad faith or dishonesty; or
7. **Failure to negotiate consumer complaints.** Failed to negotiate consumer complaints filed against him with the superintendent or the Attorney General.

**§ 8116. Investigation of licensees**

The commissioner may make such investigations as he deems necessary, and may examine the books, accounts, records and files of any person who is a party to or assignee of a home repair contract. The commissioner shall have power to administer oaths and affirmations to any person whose testimony is required. The commissioner may delegate this power to the superintendent. The commissioner and superintendent may investigate the records and practices of a licensee in accordance with Title 9-A, sections 6-106 and 6-203, subsection 4.

**§ 8117. Cancellation of license; penalty**

1. Procedure; notification. Any home repair contractor who has obtained a license from the commissioner for a home repair salesman whom he employs or has employed shall be able to cancel that license by so notifying the commissioner by letter. Such letter must be sent by registered or certified mail, state the effective date of cancellation and set forth a brief explanation of the reasons for cancellation. The commissioner, upon receiving a request for cancellation of a license, shall not require that the license be submitted to him as a prerequisite for cancellation.

The commissioner shall promptly notify a home repair salesman that his license has been cancelled, provided that cancellation is requested by the home repair contractor who employed the salesman. The letter of notification shall be mailed by registered mail to the last known address of the home repair salesman as stated in the home repair salesman's application.

2. Prohibition. Any home repair salesman who continues to utilize his home repair salesman's license after notification by the commissioner of its cancellation is guilty of a Class E crime.

**§ 8118. Records of transactions**

Every home repair contractor shall maintain a place of business in this State and keep at its place or places of business the books, accounts and records, including records relating to disclosure required by state or federal law relating to all transactions under this chapter as will enable the commissioner to enforce full compliance with this chapter. All the books, accounts and records shall be preserved and kept available for such period of time as the commissioner may by regulation require. The commissioner may prescribe the minimum information to be shown in the books, accounts and records of the licensee so that the records will enable the commissioner to determine compliance with this chapter. The commissioner may delegate the authority to enforce this section to the superintendent.

**§ 8119. Assignments**

No holder may sell, transfer or assign any obligation in connection with a home repair contract or any evidence of indebtedness thereunder to any person who is not licensed by this chapter or registered pursuant to the Maine Consumer Credit Code, Title 9-A, section 6-202, and has a place of business in this State, except that such obligation or evidence of indebtedness may be sold, transferred or assigned to a state or national bank outside of this State, if the contract is retained by the holder and collection of payments thereon is made to the holder.

**§ 8120. Cash loans**

No cash loan or debt consolidation loan may directly or indirectly be included in or combined or consolidated with any home repair contract or with any extension, deferment or refinancing agreement given in connection with the home repair contract.

**§ 8121. Rules and regulations**

The commissioner and superintendent may make the general rules and regulations and such specific rulings, demands and findings as may be necessary for the proper conduct of the business authorized and licensed under and for the enforcement of this chapter. Actions pursuant to this section shall be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

**§ 8122. Violations**

Any home repair contractor, home repair financing agency, home repair salesman or holder of a home repair contract and any officer, partner, member, employee, agent or representative of either who violates this chapter or directly or indirectly counsels, aids or abets the violation commits, for each offense, a Class D crime.

Sec. 63. 35 MRSA § 1642, sub-§ 8, last sentence, as enacted by PL 1979, c. 609, § 2, is amended to read:

The business of organizing and operating a car pooling or van pooling system, including the selection and approval of cars, vans and drivers, the fixing and collection of fees, the establishment of routes and the provision of backup transportation, is exempt from regulation under this chapter provided that proof is adequate insurance coverage, as determined by the ~~Bureau of Insurance and the~~ Public Utilities Commission, is filed with the Public Utilities Commission prior to commencing operation.

**FISCAL NOTE**

Sections 1 to 8: These sections would increase the revenues for boxing and wrestling by approximately \$11,000 a year. By dedicating the funds, the General Fund would be saved approximately \$13,000 a year because current receipts are approximately that amount below current expenditures out of the General Fund.

Sections 18 to 22: If this legislation is enacted the General Fund revenue would be increased approximately \$1,000 per biennium.

Section 27: This legislation is expected to generate \$3,000 in fiscal year 1982-83 and \$2,000 in fiscal year 1983-84. This money will go into the dedicated revenue account.

Sections 38 to 40: These sections will reimburse the bureau for actual expenses incurred in examinations of collection agencies. Funds will accrue to the bureau's dedicated revenue account.

Section 41. This section provides for an increase of approximately \$1,000, 20 licensees at \$50 addition, which will be paid to the Electricians' Examining Board, a dedicated revenue account.

Sections 42 to 44, 46 and 47: Approximately 300 licenses at \$30 would result in

revenue of \$9,000 to be paid to the State Board of Cosmetology, a dedicated revenue account.

Sections 50 and 51: Estimating a total of 35 applicants, physical therapists and physical therapist assistants, per year for licensure by endorsement, raising the application fee from the present \$25 to a possible maximum of \$50 over a period of time would generate a maximum of \$875 additional revenue per year.

Estimating a total of 15 applicants, physical therapists and physical therapist assistants, per year for licensure by examination, raising the application and examination fees from the present sum of \$75 to a possible maximum sum of \$125 over a period of time would generate a maximum of \$750 additional revenue per year.

Revenues are paid to a special fund account.

Section 53: Based upon a possible 300 license renewals per biennium, increasing the biennial license renewal fee from the present \$20 to a possible maximum of \$50 over a period of time would generate a maximum of \$4,500 additional revenue per year. Revenues are paid to a special fund account.

Section 57: This section is expected to reduce annual expenditures of appropriation 4118.1001 by approximately \$4,500.

Section 62: The administration of the Home Repair Financing Act is currently unfunded. The bill provides for 1/2 of the revenues collected to be used for the administration of the law. On the basis of 1978-80 experience, \$3,700 would be paid into the dedicated revenue account created for this purpose and \$3,700 would be paid into the General Fund.

### STATEMENT OF FACT

Sections 1 to 8: The purpose of these sections is to reduce the operating costs of the Maine Athletic Commission, transfer its finances from the General Fund to a special account and to raise the gate fee which would then be used to finance its operations.

The amount collected by boxing events would be 6% of the gross receipts and, for wrestling events 6% of the gross receipts. By dedicating the revenues, there would be a savings to the General Fund.

The use of deputy commissioners would reduce travel costs by members of the commission.

Section 9: The Home Repair Advisory Board, inactive for many years, is repealed.

Section 10: There is currently no provision in the law for the delegation of authority from the Superintendent of the Bureau of Consumer Protection to the deputy superintendent due to absence, illness or vacancy in the office. This has

resulted in unnecessary delays and inconveniences. This bill is modeled on delegation procedures contained in the Banking Code for the Bureau of Banking.

Section 11: This change will authorize financial institutions to release data as required by the Internal Revenue Service. From time to time the Internal Revenue Service changes the investigatory authorization and the change will negate the need to change the statutes each time.

Section 12: This change will allow small trust companies, savings banks and savings and loan associations operating as mutual financial institutions to have the flexibility to have one person hold more than 2 corporate offices with the approval of the superintendent.

Section 13: This change will allow thrift institutions to make properly disclosed loans to its policymaking officers and directors up to a maximum aggregate value of \$10,000. Present law allows such loans only up to \$5,000.

Section 14: This change will clarify an ambiguity which has occurred under existing law since bank examiners consider subsequent mortgages held by banks which also hold the first mortgage on the real estate to be additional first mortgages and therefore governed by Title 9-B, section 532 rather than 2nd mortgages governed by Title 9-B, section 536. This change will correct the inconsistency in the interpretation of the existing law.

Sections 15 and 16: The Maine Revised Statutes, Title 9-B, section 833 provides a maximum dividend rate of 7% on share accounts at state-chartered credit unions. It also provides that the superintendent may alter this rate, from time to time by regulation. Since federal law regulating interest rates at federally-chartered credit unions and other financial institutions has been changing more frequently, the time frame to promulgate a new regulation puts the state-chartered credit unions at a competitive disadvantage. The revision will provide equal dividend rates simultaneously to all credit unions.

Section 17: This corrects an error made when the Arborists Examining Board, Board of Registration for Professional Foresters, Board of Certification for Geologists and Soil Scientists, Manufactured Housing Board and Board of Examiners in Physical Therapy were made part of the department.

Sections 18 to 22: The Manufactured Housing Act is amended to authorize the licensing of used mobile home dealers. The past several years has indicated a demand for this type of business. There have been several instances of serious violations of criminal law concerning at least one of these businesses.

The bill is also modified to allow the board to become involved in the State Administrative Agency Program concerning mobile homes constructed under the National Mobile Home and Construction Standards Act of 1974.

Section 23: This section would require the graduate of a one-year Maine vocational-technical institute to have additional time in the field doing electrical installations. This would not change the requirements for a 2-year vocational-

technical school and meets the requirements of the Maine Revised Statutes, Title 32, section 1202.

Section 24: This section would amend the requirements for notice of public hearings to be held by the Superintendent of Insurance by eliminating requirements which are in excess of those required pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

Section 25: As a condition of continued license authority, insurance companies doing business in Maine are required to file annual statements setting forth financial condition. This bill clarifies those mandated filings of annual statements.

Section 26: This bill clarifies the manner in which fee charges for an initial certificate of authority will be levied when a company is licensed for a broken term within a biennial period.

Section 27: The Bureau of Insurance incurs substantial costs in analyzing data submissions by insurance companies seeking license to the State. This bill requires insurance companies to absorb certain of those costs whether ultimately licensed or not.

Section 28: This bill limits the amount a title insurance company may invest in a title plant to not more than 50% of its capital and surplus funds.

Section 29: This bill provides a run-off period, limited to 10 years, for insurers writing mortgage guaranty insurance which appears to have been an oversight when the statute was enacted.

Section 30: This bill increases the permissible amount of interest expense that may be incurred by an insurer desiring to further capitalize the corporation by issuance of guaranty capital debt shares of subordinated loan agreements.

Section 31: This bill, by removing the floor provisions respecting the amount of contingent liability assessments that may be levied by insurance companies, allows insurers to make nominal assessments on a judgmental basis as dictated by the needs of that insurance company and its loss experience.

Section 32: Federal Reserve and certain other banks have converted to a "book entry" system to account for treasury, certain United States agency and corporate securities issues. Engraved certificates in definitive form are not supplied to investors. Some of them may be Maine domestic insurers. This bill will allow those insurers to continue to invest in such issues although certificates are not physically held in a Maine depository.

Sections 33 to 36: This bill will permit applicants for a certificate of authority as a health maintenance organization to pursue their applications if exempted from certificate of need review by the Commissioner of Human Services. Currently the statute requires that a certificate of need must be issued prior to consideration of the application by the Superintendent of Insurance. In that

instance where certificate of need legislation clearly does not apply, this constitutes a bar to such license authority by the applicant organization.

Sections 37 and 56: Exclude auctioneers from real estate broker licensing requirements when employed solely for the purpose of "crying the sale."

Sections 38 to 40: These sections remove commercial accounts from regulation under the collection agency law implemented by the Bureau of Consumer Protections and allow the bureau to charge for the actual expenses incurred in the examination of a collection agency for compliance with the law.

Section 41: This section makes it clear that regular employees of industrial and manufacturing plants are not required to be licensed by the Electricians' Examining Board. Outside contractors and the contractors' employees would be required to be licensed by the Electricians' Examining Board.

Sections 42 to 44, 46 and 47: The enactment of the laws pertaining to the State Board of Cosmetology enables the board to license and conduct sanitary inspections of kits for a house-to-house operator. The license will enable Maine citizens a service in their own home with protection against unsanitary operations based upon a payment of fee and inspections.

Section 45: This bill changes the working "registered cosmetologist" to a more clear interpretation of the requirement as stated in the Maine Revised Statutes, Title 32, chapter 23.

Section 48: This bill clarifies the meaning of the section and removes the conflict in the wording in the last sentence.

Section 49: Physicians serving on both the Board of Registration in Medicine and the Board of Examiners in Physical Therapy find the time demands difficult to meet. This board has had difficulty convening a quorum for meetings and this change should help solve the problem.

Sections 50 and 51: The change in format is intended to clarify the qualifications for licensure and the application process. It also establishes an increased maximum biennial licensure renewal fee which will allow for the effect of inflation on the cost of board operation. The third paragraph is deleted since the time period provided for grandfathering the physical therapist assistant has ended.

Section 52: The additions in this section are intended to clarify the licensure process for physical therapists.

Section 53: The additions to this section are intended to clarify the biennial license renewal process and to establish an increased maximum fee which would allow for the effect of inflation on the cost of board operation.

Sections 54 and 55: The Governor would be required to solicit the recommendations of the Maine Psychological Association before selecting members of the State Board of Examiners of Psychologists, but he would not be

required to select from a list submitted by the association, thus avoiding excessive delegation of State powers to a nongovernmental organization.

Section 57: Eliminators the requires annual publication of a list of real estate brokers and salesmen and if published the language provides for the list to be made available at cost. As a result of computerized licensing the lists are continuously available without the need for annual publication.

Section 58: This section makes it clear that only certified geologists and certified soil scientists may practice geology or soil science, respectively, as defined.

Sections 59, 60 and 61: The present provision is unfair to those who were full-time counselors prior to 4 years before application, who maintain counseling skills, who still do a certain amount of counseling, but whose case load does not constitute enough of their working time to qualify for full-time employment as a substance abuse counselor.

Section 62: This section more closely coordinates the consumer protections of the Home Repair Financing Act with the Maine Conusmer Credit Code. While licensing responsibility is transferred to the Commissioner of Business Regulation, enforcement of the substantive law regulating interest rates and contract terms remains with the Superintendent of the Bureau of Consumer Protection.

Section 63: It is the intent of this section to remove the Bureau of Insurance from participation in determining adequate insurance coverage which would remain exclusively with the Public Utilities Commission.