

MAINE STATE LEGISLATURE

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(Emergency)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1406

S.P. 459

In Senate, May 4, 1987

Reported by Senator BUSTIN of Kennebec for the Committee on Audit and Program Review pursuant to Maine Revised Statutes, Title 3, Chapter 23

Reference to the Committee on Audit and Program suggested and ordered printed pursuant to Joint Rule 18.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

1 **AN ACT** Relating to Periodic Justification of
2 Departments and Agencies of State
3 Government under the Maine Sunset
4 Laws.
5

6 **Emergency preamble.** Whereas, Acts of the Legis-
7 lature do not become effective until 90 days after
8 adjournment unless enacted as emergencies; and

9 Whereas, the 90-day period may not terminate un-
10 til after the beginning of the next fiscal year; and

11 Whereas, certain obligations and expenses inci-
12 dent to the operation of departments and agencies
13 will become due and payable on or immediately after
14 July 1, 1987; and

1 Whereas, certain independent agencies will termi-
2 nate, unless continued by the Legislature, prior to
3 June 30, 1987; and

4 Whereas, in the judgment of the Legislature,
5 these facts create an emergency within the meaning of
6 the Constitution of Maine and require the following
7 legislation as immediately necessary for the preser-
8 vation of the public peace, health and safety; now,
9 therefore,

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

12 PART A

13 Sec. 1. 3 MRSA §505, sub-§3 is enacted to read:

14 3. Maine Historical Society. Notwithstanding the
15 fact that the Maine Historical Society is a private,
16 nonprofit corporation, it shall be reviewed by the
17 joint standing committee of the Legislature having
18 jurisdiction over audit and program review no later
19 than June 30, 1987, and at least every 10 years
20 thereafter, as long as it receives an appropriation
21 from the State. The termination provisions of this
22 chapter shall not apply to the Maine Historical Soci-
23 ety.

24 Sec. 2. 3 MRSA §507, sub-§8, ¶B, as amended by
25 PL 1985, c. 763, Pt. A, §4, is further amended to
26 read:

27 B. Unless continued or modified by law, the fol-
28 lowing Group D-2 independent agencies shall ter-
29 minate, not including the grace period, no later
30 than June 30, 1987:

31 (1) Advisory Committee on Maine Public
32 Broadcasting;

33 (2) Real Estate Commission;

34 (3) Maine Athletic Commission;

35 (4) Electricians' Examining Board;

- 1 (5) State Claims Board Commission;
- 2 (6) Board of Examiners on Speech Pathology
3 and Audiology;
- 4 (7) State Board of Social Worker
5 Registration Licensure;
- 6 (8) Board of Accountancy;
- 7 (9) Arborist Examining Board;
- 8 (10) Maine State Board for Registration
9 Licensure of Architects and Landscape Archi-
10 tects;
- 11 ~~(11) -- Board of Examiners for the Examination~~
12 ~~of Applicants for Admission to the Bar;~~
- 13 (12) State Board of Barbers;
- 14 (13) State Board of Cosmetology;
- 15 (14) Manufactured Housing Board;
- 16 ~~(15) -- State Running Horse Racing Commission;~~
- 17 (16) State Board of Registration of Sub-
18 stance Abuse Counselors;
- 19 (17) State Board of Registration Licensure
20 for Professional Foresters;
- 21 (18) State Board of Certification for
22 Geologists and Soil Scientists;
- 23 (19) Board of Examiners in Physical Thera-
24 py;
- 25 ~~(20) -- Maine -- Criminal -- Justice -- Planning -- and~~
26 ~~Assistance Agency;~~
- 27 (21) Maine Occupational Information Coordi-
28 nating Committee;
- 29 (22) Bryant Pond Conservation School;

1 (23) State Historian;
2 (24) Historic Preservation Commission;
3 ~~(25) --Maine Historical Society;~~
4 (26) Oil and Solid Fuel Board; and
5 (27) State Board of Examiners of Psycholo-
6 gists.

7 **Sec. 3.** 3 MRSA §507, sub-§8-A, ¶A, as enacted by
8 PL 1985, c. 763, Pt. A, §5, is repealed.

9 **Sec. 4.** 3 MRSA §507, sub-§8-A, ¶B, as enacted by
10 PL 1985, c. 763, Pt. A, §5, is amended to read:

11 B. The evaluations and analyses of the justifi-
12 cation reports for the programs of the following
13 Group E-2 independent agencies shall be reviewed
14 by the Legislature no later than June 30, 1988:

15 (1) Board of Trustees of the University of
16 Maine;

17 (2) Board of Trustees of the Maine Maritime
18 Academy;

19 (3) State Government Internship Advisory
20 Committee;

21 ~~(4) --Maine--Vocational--Development--Commis-~~
22 ~~sion;--and~~

23 ~~(5) --Post-secondary-Education-Commission--of~~
24 ~~Maine-~~

25 (6) Electricians' Examining Board;

26 (7) Arborist Examining Board;

27 (8) Maine Occupational Information Coordi-
28 nating Committee;

29 (9) Bryant Pond Conservation School; and

30 (10) Advisory Committee on Maine Public
31 Broadcasting.

1 **Sec. 5. 3 MRSA §507, sub-§9, ¶A**, as amended by
2 PL 1985, c. 763, Pt. A, §6 and PL 1985, c. 785, Pt.
3 B, §5, is repealed and the following enacted in its
4 place:

5 A. The evaluations and analyses of the justifi-
6 cation reports for the programs of the following
7 Group E-1 departments shall be reviewed by the
8 Legislature no later than June 30, 1989:

- 9 (1) Maine State Retirement System;
10 (2) Department of the Attorney General;
11 (3) Bureau of Human Resources;
12 (4) Bureau of Employee Relations; and
13 (5) Department of Labor.

14 **Sec. 6. 3 MRSA §507, sub-§9, ¶B**, as amended by
15 PL 1985, c. 763, Pt. A, §6 and PL 1985, c. 785, Pt.
16 A, §3, is repealed and the following enacted in its
17 place:

18 B. The evaluations and analyses of the justifi-
19 cation reports for the programs of the following
20 Group F-2 departments shall be reviewed by the
21 Legislature no later than June 30, 1990:

- 22 (1) Department of Finance;
23 (2) (Office of) Treasurer of State;
24 (3) Department of Audit; and
25 (4) Department of Administration.

26 **Sec. 7. 3 MRSA §507, sub-§10, ¶A**, as amended by
27 PL 1985, c. 763, Pt. A, §7 and PL 1985, c. 785, Pt.
28 B, §6, is repealed and the following enacted in its
29 place:

30 A. Unless continued or modified by law, the fol-
31 lowing Group E-1, independent agencies shall ter-
32 minate, not including the grace period, no later
33 than June 30, 1989.

1 (1) Board of Trustees, Group Accident and
2 Sickness or Health Insurance;

3 (2) Maine Commission for Women;

4 (3) Maine Human Rights Commission;

5 (4) Maine Labor Relations Board;

6 (5) State Civil Service Appeals Board;

7 (6) Educational Leave Advisory Board;

8 (7) Workers' Compensation Commission; and

9 (8) Board of Accountancy.

10 Sec. 8. 3 MRSA §507, sub-§10, ¶B, as amended by
11 PL 1985, c. 695, §3; PL 1985, c. 763, Pt. A, §7; and
12 PL 1985, c. 764, §1, is repealed and the following
13 enacted in its place:

14 B. Unless continued or modified by law, the fol-
15 lowing Group G-2 independent agencies shall termi-
16 nate, not including the grace period, no later than
17 June 30, 1990. The Board of Emergency Municipal Fi-
18 nance, the Finance Authority of Maine and the Maine
19 Municipal Bond Bank shall not terminate, but shall be
20 reviewed by the Legislature no later than June 30,
21 1990:

22 (1) Board of Emergency Municipal Finance;

23 (2) Finance Authority of Maine;

24 (3) Maine Municipal Bond Bank;

25 (4) State Liquor Commission;

26 (5) Capitol Planning Commission;

27 (6) State Board of Property Tax Review;

28 (7) Maine Health Care Finance Commission;
29 and

30 (8) Maine Vocational-Technical Institute
31 System.

1 **Sec. 9. 3 MRS**A §507-B, sub-§10 is enacted to
2 read:

3 10. Agencies scheduled for termination on June
4 30, 1987; continued. Pursuant to section 507, subsec-
5 tion 8, paragraph B, the following agencies scheduled
6 for termination on June 30, 1987, are continued.

7 A. Real Estate Commission;

8 B. Maine Athletic Commission;

9 C. State Claims Board;

10 D. Board of Examiners on Speech Pathology and
11 Audiology;

12 E. State Board of Social Worker Licensure;

13 F. Maine State Board for Licensure of Architects
14 and Landscape Architects;

15 G. State Board of Barbers;

16 H. State Board of Cosmetology;

17 I. Manufactured Housing Board;

18 J. State Board of Substance Abuse Counselors;

19 K. State Board of Licensure for Professional
20 Foresters;

21 L. State Board of Certification for Geologists
22 and Soil Scientists;

23 M. Board of Examiners in Physical Therapy;

24 N. State Historian;

25 O. Historic Preservation Commission; and

26 P. Oil and Solid Fuel Board.

27 **Sec. 10. 4 MRS**A §801, as amended by PL 1985, c.
28 124, §1, is repealed and the following enacted in its
29 place:

1 §801. Board of bar examiners; purpose; appointment

2 The Supreme Judicial Court shall create a board
3 of bar examiners for the purposes of designing, ad-
4 ministering and passing judgment on examinations
5 taken by those individuals seeking admission to the
6 bar. The board shall make recommendations to the Su-
7 preme Judicial Court as to which individuals have
8 successfully passed this examination process and ful-
9 filled the other requirements of this chapter for ad-
10 mission to the bar. All procedural, administrative
11 and budgetary actions of a board of bar examiners
12 shall be subject to rules established by the Supreme
13 Judicial Court and are deemed to be actions of the
14 Supreme Judicial Court. Board members shall be ap-
15 pointed by the Governor on the recommendations of the
16 Supreme Judicial Court. The board shall be composed
17 of 9 members, 7 of whom will be licensed to practice
18 law in the State. The remaining 2 members shall be
19 public members.

20 Sec. 11. 4 MRSA §801-A, as enacted by PL 1977,
21 c. 604, §1, is repealed.

22 Sec. 12. 4 MRSA §803, as repealed and replaced
23 by PL 1985, c. 124, §3, is amended to read:

24 §803. Qualifications for taking bar examination

25 1. Evidence of graduation. Before taking the ex-
26 amination for admission to the bar of the State, each
27 applicant shall produce to ~~the~~ a board of bar
28 examiners satisfactory evidence that he graduated
29 with a bachelor's degree from an accredited college
30 or university or that he successfully completed at
31 least 2 years' work as a candidate for that degree at
32 an accredited college or university.

33 2. Further qualifications. Each applicant shall
34 produce to ~~the~~ a board of bar examiners satisfactory
35 evidence that he:

36 A. Graduated from a law school accredited by the
37 American Bar Association;

38 B. Graduated from a law school accredited by the
39 United States jurisdiction in which it is lo-

1 cated, that he has been admitted to practice by
2 examination in one or more jurisdictions within
3 the United States and has been in active practice
4 there for at least 3 years;

5 C. Graduated from a foreign law school with a
6 legal education which, in the board's opinion, is
7 equivalent to that provided in those law schools
8 accredited by the American Bar Association; or

9 D. Successfully completed 2/3 of the require-
10 ments for graduation from a law school accredited
11 by the American Bar Association and then pursued
12 the study of law in the office of an attorney
13 within the State for at least one year.

14 3. Eligibility for examination. When an appli-
15 cant has satisfied the a board of bar examiners that
16 these requirements have been fulfilled and has paid a
17 fee fixed by the board ~~and approved by the Supreme~~
18 ~~Judicial Court~~, he is eligible to take the examina-
19 tions prepared or adopted by the board to determine
20 if he has the qualifications required by this chapter
21 for admission to the bar.

22 **Sec. 13. 4 MRSA §805-A, sub-§2, as enacted by PL**
23 **1985, c. 124, §6, is amended to read:**

24 2. Issuance of certificate of qualification. ~~The~~
25 A board of bar examiners shall issue a certificate of
26 qualification stating that the applicant is a person
27 of good moral character and possesses sufficient
28 learning in the law to practice as an attorney in the
29 courts of this State to each applicant who:

30 A. Produces satisfactory evidence of good moral
31 character;

32 B. Attains the passing grades established by the
33 board on those examinations required by the
34 board; and

35 C. Establishes that he attended and observed any
36 legal proceedings required by the board.

37 **Sec. 14. 5 MRSA §151, as amended by PL 1979, c.**
38 **606, §1, is repealed and the following enacted in its**
39 **place:**

1 §151. Funds of professional licensing boards

2 All money received by the Treasurer of State from
3 the Board of Registration in Medicine, the Board of
4 Examiners in Physical Therapy, the Board of Examiners
5 of Psychologists, the State Board of Nursing, the
6 Board of Accountancy, the Board of Veterinary Medi-
7 cine, the Board of Osteopathic Examination and Regis-
8 tration, the State Board of Funeral Service, the
9 State Board of Optometry, the Board of Dental Examin-
10 ers, the State Board of Registration for Professional
11 Engineers, the State Board of Certification for
12 Geologists and Soil Scientists, the Nursing Home Ad-
13 ministrators Licensing Board, the State Board of Li-
14 censure for Architects and Landscape Architects, the
15 Electricians' Examining Board, the Oil and Solid Fuel
16 Board, Maine State Pilotage Commission, the State
17 Board of Barbers, State Board of Cosmetology, State
18 Board of Registration for Land Surveyors, State Board
19 of Social Worker Registration, the Examiners of Podi-
20 atrists, the Board of Chiropractic Examination and
21 Registration, the Board of Examiners on Speech Pa-
22 thology and Audiology, the Maine Real Estate Commis-
23 sion, the Board of Commercial Driver Education, the
24 Board of Registration of Dietetic Practice, the State
25 Board of Registration for Professional Foresters, the
26 Board of Hearing Aid Dealers and Fitters, the Manu-
27 factured Housing Board, the Board of Occupational
28 Therapists, Radiologic Technology Board of Examiners,
29 Board of Registration of Substance Abuse Counselors,
30 Maine Athletic Commission, Board of Underground Oil
31 Storage Tank Installers and the Board of Commission-
32 ers of the Profession of Pharmacy shall constitute a
33 fund, which shall be a continuous carrying account
34 for the payment of the compensation and expenses of
35 the members, the expenses of the board and for exe-
36 cuting the law relating to each board respectively
37 and as much thereof as may be required is appropri-
38 ated for these purposes. The secretary of each board
39 shall be reimbursed for all expenditures for books,
40 stationery, printing and other necessary expenses in-
41 curring in the discharge of his duties. All such pay-
42 ments shall be made from the respective funds held in
43 the State Treasury, after the approval of the State
44 Controller. In no event may these payments exceed the
45 amounts received by the Treasurer of State from the
46 treasurer of each respective board. Any balance re-

1 maintaining to the credit of any board at the end of any
2 year shall be carried forward to the next year.

3 Whenever there shall accumulate in the State
4 Treasury to the account of any board or commission
5 charged with the duty of issuing licenses for the
6 conduct of any profession, trade or business, sums of
7 money in excess of the amount required properly to
8 cover the expense of performing the duties imposed
9 upon the board or commission in connection with the
10 granting of licenses and the supervision of persons
11 licensed, the board or commission, with the approval
12 of the Governor, may suspend the payment or reduce
13 the amount of any license fees fixed by law for any
14 renewal until, in the opinion of the board or commis-
15 sion, it shall be necessary to collect the full
16 amount established by law.

17 Sec. 15. 5 MRSA §282, sub-§6, as enacted by PL
18 1983, c. 553, §1, is amended to read:

19 6. Supervise. To supervise and direct the ad-
20 ministration of the State Claims Board Commission.

21 Sec. 16. 5 MRSA §1507, sub-§6, as enacted by PL
22 1975, c. 771, §67, is amended to read:

23 6. Claims. The Governor shall allocate funds
24 from the account for the payment of claims approved
25 or partially approved by the State Claims Board
26 Commission under section 1510.

27 Sec. 17. 5 MRSA §1510-A, as amended by PL 1983,
28 c. 553, §2, is further amended to read:

29 §1510-A. Certain claims against the State

30 1. Claims against state agency. A state agency
31 may hear and decide any claim of \$2,000 or less
32 against it, or any of its agents, except a claim that
33 may be submitted under the Maine Tort Claims Act, Ti-
34 tle 14, chapter 741, or under another specific statu-
35 tory provision. Any agency paying all or part of a
36 claim heard under this subsection shall make payment
37 as soon as practicable from currently available agen-
38 cy funds and, if no funds are then available, from
39 agency funds from the following fiscal year. An agen-

1 cy deciding a claim under this subsection shall make
2 its final decision, and reasons for the decision, in
3 writing and shall, as soon as practicable, send a
4 copy of that decision to the claimant by certified
5 mail.

6 These claims shall include, but shall not be limited
7 to, claims for damage or injury caused by patients,
8 inmates, prisoners in the care or custody of the De-
9 partment of Mental Health and Mental Retardation or
10 of any institution administered by a department, by
11 children in the custody of the Department of Human
12 Services and for damage to sheep done by dogs or wild
13 animals.

14 2. Claims against the State decided by the State
15 Claims Commission. A claim under this section may be
16 submitted to the State Claims Board Commission and
17 heard and decided by it, if:

18 A. The claim was submitted under subsection 1 to
19 a state agency which refused to hear it;

20 B. The claim was submitted under subsection 1 to
21 a state agency and no final decision was made
22 within 90 days of submission; or

23 C. The claim cannot be submitted under a specif-
24 ic statutory provision other than subsection 1
25 because the claimant, as a result of an action or
26 omission of a state agency or state agent, has
27 not complied with time limits contained in that
28 specific statutory provision.

29 Any payment resulting from a decision of the State
30 Claims Board Commission on a claim submitted to it
31 under this subsection shall be paid as soon as prac-
32 ticable by the state agency or agencies found respon-
33 sible by the State Claims Board Commission or, if
34 there is no clearly identifiable responsible state
35 agency, the payment shall be paid from the state con-
36 tingent fund.

37 3. Appeal from departmental decisions. Any claim
38 disapproved in whole or part by a state agency hear-
39 ing that claim under subsection 1 may be appealed to
40 the State Claims Board Commission within 30 days from

1 the disapproval or partial disapproval. The State
2 Claims Board Commission shall hear de novo any claim
3 so appealed.

4 Any payment resulting from a decision of the State
5 Claims Board Commission on a claim submitted to it
6 under this subsection shall be paid by the state
7 agency or agencies found responsible by the State
8 Claims Board Commission or, if there is no clearly
9 identifiable responsible state agency, the payment
10 shall be paid from the state contingent fund.

11 4. Appeal from State Claims Commission decision.
12 Any party aggrieved by an award of the State Claims
13 Board Commission may appeal therefrom to the Superior
14 Court within 30 days after the date of the receipt of
15 the notice of the award. The appeal shall be taken
16 by filing a complaint setting forth, as in other civil
17 matters, substantially the facts upon which the
18 case shall be tried. Service shall be made on the
19 opposing party and the State Claims Board Commission
20 by sending a true copy of the complaint by registered
21 or certified mail within the time limit set out in
22 this subsection. The complaint shall be filed in the
23 Superior Court for the county where one or more of
24 the parties reside or have their principal place of
25 business or where the activity or property which is
26 the subject of the proceeding is located. The
27 court's determination shall be de novo and without a
28 jury or, if all parties agree, by a referee or refer-
29 ees.

30 5. Jurisdiction over claims prior to January 4,
31 1977. The jurisdiction of the State Claims Board
32 Commission over claims subject to this section in-
33 cludes those claims which have arisen prior to Janu-
34 ary 4, 1977, unless they have been ruled upon by the
35 Governor and Executive Council or by the Legislature
36 prior to January 4, 1977.

37 6. Hearings. Hearings on claims submitted under
38 subsection 2 or appeals made under subsection 3 shall
39 be held at a time and place which the State Claims
40 Board Commission shall determine. The chairman shall
41 assign either one or 3 members to hear and determine
42 each claim. Hearings on claims under this section
43 which are properly submitted to the State Claims

1 Beard Commission shall be held in accordance with the
2 Maine Administrative Procedure Act, chapter 375. The
3 decision of the beard commission shall include the
4 reasons for the findings.

5 7. Different procedures. A claim submitted under
6 this section shall not be disapproved solely because
7 a claim based on the same facts was submitted under
8 a different statutory procedure and was disallowed.

9 8. Rules and regulations; report. The beard
10 commission may adopt rules and regulations to imple-
11 ment this section. The beard commission shall, on or
12 before January 30th of each year, report to the Leg-
13 islature on all claims filed pursuant to this sec-
14 tion.

15 **Sec. 18. 5 MRSA §1510-B, as amended by PL 1981,**
16 **c. 368, §1, is further amended to read:**

17 §1510-B. No liability for wild animal damage

18 The State is not liable for damage done by wild
19 animals to beehives or livestock. Neither state agen-
20 cies nor the State Claims Beard Commission may accept
21 claims for such wild animal damage.

22 **Sec. 19. 5 MRSA §1813, sub-§6, as amended by PL**
23 **1985, c. 158, §2, is further amended to read:**

24 6. Surplus property. Providing for transfer of
25 supplies, materials and equipment which are surplus
26 from one state department or agency to another which
27 may need them, and for the disposal by private and
28 public sale of supplies, materials and equipment
29 which are obsolete and unusable; provided, however,
30 that if any political subdivision in the State or any
31 educational institution enumerated in section 1813-A
32 requests to purchase any such obsolete and unusable
33 items, then the disposal shall be by private sale to
34 that political subdivision or educational institu-
35 tion, ~~except that other state departments or agencies~~
36 ~~having an interest in that equipment shall have the~~
37 ~~option of first refusal;~~ that equipment to be re-
38 tained for a period of at least one year in a current
39 ongoing program. Any item purchased by a political
40 subdivision or educational institution under this

1 section shall not be sold or transferred by that po-
2 litical subdivision or educational institution for a
3 period of 6 months from the date of the private sale
4 and the State reserves the right to refuse to sell
5 additional equipment to a political subdivision or
6 educational institution if it is determined that the
7 political subdivision or educational institution has
8 not retained the equipment for the required period of
9 6 months;

10 Sec. 20. 5 MRSA c. 315, as amended, is repealed.

11 Sec. 21. 5 MRSA §7038, sub-§5 is enacted to
12 read:

13 5. Schedules. The Department of Human Services
14 shall be the first state agency scheduled for review
15 by the Bureau of Human Resources. Findings of this
16 process shall be reported to the joint standing com-
17 mittee of the Legislature having jurisdiction over
18 audit and program review prior to June 1, 1988.

19 Sec. 22. 5 MRSA §12004, sub-§1, ¶A, sub-¶(3) is
20 amended to read:

21 (3) Maine State Board \$35/Day 32 MRSA §211
22 for Registration
23 Licensure of
24 Architects and
25 Landscape Architects

26 Sec. 23. 5 MRSA §12004, sub-§1, ¶A, sub-¶(4) is
27 repealed.

28 Sec. 24. 5 MRSA §12004, sub-§1, ¶A, sub-¶(14) is
29 amended to read:

30 (14) State Board of Expenses 32 MRSA §5004
31 Registration Only
32 Licensure for \$30/Day
33 Professional
34 Foresters

35 Sec. 25. 5 MRSA §12004, sub-§1, ¶A, sub-¶¶(16)
36 and (36) are amended to read:

37 (16) State Board of Expenses 32 MRSA §4907

1 Certification for Only
2 Geologists and \$30/Day
3 Soil Scientists

4 (36) State Board of Expenses 32 MRSA §7026
5 Social Worker Only
6 Registration
7 Licensure

8 Sec. 26. 5 MRSA §12004, sub-§1, ¶A, sub-¶(38),
9 as repealed and replaced by PL 1985, c. 295, §14, is
10 amended to read:

11 (38) State Board of Not 32 MRSA §6201
12 ~~Registration-of~~ Authorized
13 Substance Abuse
14 Counselors

15 Sec. 27. 5 MRSA §12004, sub-§2, ¶A, sub-¶(4) is
16 amended to read:

17 (4) State Claims Board \$100/Day 23 MRSA §152
18 Commission

19 Sec. 28. 8 MRSA c. 6-A, as amended, is repealed.

20 Sec. 29. 8 MRSA c. 13, as amended, is repealed.

21 Sec. 30. 10 MRSA §8001, as repealed and replaced
22 by PL 1985, c. 737, Pt. A, §21 and as amended by PL
23 1985, c. 819, Pt. A, §15, is repealed and the follow-
24 ing enacted in its place:

25 §8001. Department; organization

26 There is created and established the Department
27 of Professional and Financial Regulation, in this
28 chapter referred to as the "department," to regulate
29 financial institutions, insurance companies, commer-
30 cial sports, grantors of consumer credit and to li-
31 cence and regulate professions and occupations. The
32 department shall be composed of the following bu-
33 reaus, boards and commissions:

34 Banking, Bureau of;

35 Consumer Credit Protection, Bureau of;

1 Athletic Commission, Maine;
2 Pilotage Commission, Maine State;
3 Real Estate Commission;
4 Arborist Examining Board;
5 Auctioneers, Board of Licensing of;
6 Barbers, State Board of;
7 Commercial Driver Education, Board of;
8 Dietetic Practice, Board of Registration of
9 Electricians' Examining Board;
10 Foresters, State Board of Licensure for Profes-
11 sional;
12 Funeral Service, State Board of;
13 Geologists and Soil Scientists, State Board of
14 Certification for;
15 Hearing Aid Dealers and Fitters, Board of;
16 Manufactured Housing Board;
17 Nursing Home Administrators Licensing Board;
18 Occupational Therapy Practice, Board of;
19 Oil and Solid Fuel Board;
20 Physical Therapy, Board of Examiners in;
21 Plumbers' Examining Board;
22 Psychologists, State Board of Examiners of;
23 Radiologic Technology, Board of Examiners;
24 Respiratory Care Practitioners, Board of;
25 Social Worker Licensure, State Board of;

1 Speech Pathology and Audiology, Board of Examin-
2 ers on;

3 Substance Abuse Counselors, State Board of; and
4 Veterinary Medicine; State Board of.

5 Sec. 31. 10 MRSA §9003, sub-§1, as amended by PL
6 1983, c. 812, §69, is further amended to read:

7 1. Established. The Manufactured Housing Board,
8 established by Title 5, section 12004, subsection 1
9 and located in the Department of ~~Business, Occupa-~~
10 ~~tional--and~~ Professional and Financial Regulation
11 shall have the responsibility of administering and
12 enforcing this chapter. The board shall consist of 5
13 members appointed by the Governor.

14 Sec. 32. 10 MRSA §9003, sub-§§2 and 8, as en-
15 acted by PL 1977, c. 550, §1, are amended to read:

16 2. Composition and terms of the members. The
17 members of the board shall include a representative
18 who is a manufactured housing owner; a representative
19 who is a professional engineer with demonstrated ex-
20 perience in construction and building technology; a
21 representative who is a dealer or mechanic; a repre-
22 sentative who is ~~a general representative of the man-~~
23 ~~ufactured--housing industry~~ an owner or operator of a
24 small mobile home park with 15 or fewer lots; and a
25 representative with a minimum of 2 years of practical
26 experience in building code administration and en-
27 forcement and is currently employed as a code en-
28 forcement officer. The term of office of the ap-
29 pointed members is for 4 years, except that initially
30 one member shall be appointed for one year; one mem-
31 ber for 2 years; one member for 3 years; and 2 mem-
32 bers for 4 years. Members may be appointed to succes-
33 sive terms. Members shall serve for their appointed
34 term and until their successor is appointed and duly
35 qualified, except that any member of the board may be
36 removed for cause by the Governor. No board member
37 may serve more than 2 consecutive terms.

38 8. Administration. Not later than August 1st of
39 each year, the board shall submit to the Commissioner
40 of Business Professional and Financial Regulation for

1 the preceding fiscal year ending June 30th an annual
2 report of its operations and financial position, to-
3 gether with such comments and recommendations as the
4 board deems essential.

5 Sec. 33. 10 MRSA §9004, sub-§2, as amended by PL
6 1985, c. 785, Pt. B, §56, is further amended to
7 read:

8 2. Employees. The executive director, with the
9 advice of the board and the commissioner, may employ,
10 subject to the Civil Service Law, persons necessary
11 to carry out this chapter. Any person so employed
12 shall be an employee of the Department of Business,
13 Occupational and Professional and Financial Regula-
14 tion, except that they shall be under the direction
15 and supervision of the executive director of the
16 board.

17 Sec. 34. 10 MRSA §9061, sub-§§2 and 4, as en-
18 acted by PL 1981, c. 152, §16, are amended to read:

19 2. Commissioner. "Commissioner" means the Com-
20 missioner of Business Professional and Financial Reg-
21 ulation.

22 4. Department. "Department" means the Department
23 of Business Professional and Financial Regulation or
24 its employees.

25 Sec. 35. 10 MRSA §9062, as enacted by PL 1981,
26 c. 152, §16, is amended to read:

27 §9062. Duties

28 The board shall delegate the responsibility for
29 administering the state administrative agency program
30 to the Commissioner of Business Professional and
31 Financial Regulation. The board is vested with the
32 authority upon appropriate notice to discontinue par-
33 ticipation in the federal enforcement program as a
34 state administrative agency for this State.

35 Sec. 36. 10 MRSA §9064, as enacted by PL 1981,
36 c. 152, §16, is amended to read:

37 §9064. Standards

1 1. Adoption, administration and enforcement of
2 standards. The Department of Business Professional
3 and Financial Regulation is charged with the adop-
4 tion, administration and enforcement of manufactured
5 home construction and safety standards. The standards
6 adopted shall be identical to the standards promul-
7 gated pursuant to the National Manufactured Housing
8 Construction and Safety Standards Act of 1974, 42
9 United States Code Section 5401 et seq. The Depart-
10 ment of Business Professional and Financial Regula-
11 tion shall discharge this duty consistent with rules
12 and regulations promulgated by the United States De-
13 partment of Housing and Urban Development.

14 2. Rules. The Department of Business Profession-
15 al and Financial Regulation may adopt such rules and
16 regulations as are necessary to enforce the standards
17 promulgated under subsection 1.

18 **Sec. 37.** 10 MRSA §9072, as enacted by PL 1981,
19 c. 152, §16, is amended to read:

20 §9072. Hearings

21 The Department of Business Professional and
22 Financial Regulation may file a complaint with the
23 Administrative Court which is authorized to conduct
24 hearings and presentations of views consistent with
25 Title 5, chapter 375.

26 **Sec. 38.** 20-A MRSA §202, sub-§15, as amended by
27 PL 1985, c. 797, §8, is further amended to read:

28 15. Educational bureaus. The Bureau of Adult and
29 Secondary Vocational Education, the Bureau of In-
30 struction and the Bureau of School Management;

31 **Sec. 39.** 20-A MRSA §203, sub-§1, ¶E, as enacted
32 by PL 1983, c. 489, §10, is amended to read:

33 E. Associate Commissioner, Bureau of Adult and
34 Secondary Vocational Education;

35 **Sec. 40.** 20-A MRSA §251-A is enacted to read:

36 §251-A. Responsibilities of the commissioner

1 The commissioner is the chief executive officer
2 of the department. In that capacity, the commissioner
3 has primary responsibility for the following:

4 1. Enforcing regulatory requirements. Enforcing
5 applicable regulatory requirements for school admin-
6 istrative units;

7 2. Providing technical assistance. Providing
8 technical assistance to school administrative units;
9 and

10 3. Providing educational leadership. Providing
11 educational public leadership for the State.

12 **Sec. 41. 20-A MRSA §256, sub-§1, as amended by**
13 **PL 1985, c. 505, §1, is further amended to read:**

14 1. Report to Governor and Legislature. The com-
15 missioner shall prepare and deliver to the Governor
16 and Legislature an annual report on the status of
17 public education in the State, including any sugges-
18 tions and recommendations to improve public education
19 and including the reporting requirements of section
20 13506, subsection 3-A. This annual report shall also
21 include a description of the activities and accom-
22 plishments of the state board.

23 The commissioner may be invited by the Speaker of the
24 House of Representatives and the President of the
25 Senate annually, in January, to appear before a joint
26 session of the Legislature to address the Legislature
27 on the status of public education in the State and
28 such related matters as the commissioner desires to
29 bring to the Legislature's attention.

30 **Sec. 42. 20-A MRSA §401-A is enacted to read:**

31 §401-A. Responsibilities of the State Board of Edu-
32 cation

33 The State Board of Education is intended to act
34 as a body with certain policy-making, administrative
35 and advisory functions. In those capacities, the
36 board has the primary responsibility for the follow-
37 ing:

1 1. Formulating policy. Formulating policy by
2 which the commissioner shall administer certain regu-
3 latory tasks;

4 2. Advising commissioner. Advising the commis-
5 sioner in the administration of all the mandated re-
6 sponsibilities of that position; and

7 3. Enforcing regulatory requirements. Enforcing
8 regulatory requirements for school administrative
9 units.

10 Sec. 43. 20-A MRSA §402, sub-§2, as enacted by
11 PL 1981, c. 693, §§5 and 8, is amended to read:

12 2. Meetings. Meetings of the state board shall
13 be held at least quarterly ~~in--the--offices--of--the~~
14 ~~department~~ on call of the chairman or the commis-
15 sioner on 5 days' written notice to members. If both the
16 chairman and commissioner are absent, or refuse to
17 call a meeting, any 3 members of the state board may
18 call a meeting by similar notices in writing.

19 Sec. 44. 20-A MRSA §404, as enacted by PL 1981,
20 c. 693, §§5 and 8, is amended to read:

21 §404. Records

22 The state board shall be responsible for the fol-
23 lowing records ~~and-reports.~~

24 1. Records. The state board shall keep in the
25 office of the commissioner a complete record of the
26 minutes of its meetings and other procedures.

27 ~~2.--Report.--Biennially, on the first--Monday--of~~
28 ~~January,--the--state-board-shall-make-a-report-to-the~~
29 ~~Governor-which-shall-contain-the-report-of--the--com-~~
30 ~~missioner--to-the-state-board,--The-state-board-shall~~
31 ~~print-this-report-and-distribute-it-to-the-members-of~~
32 ~~the-legislature-and-to-school-officers.--The-cost--of~~
33 ~~printing-the-report-shall-be-paid-from-the-appropri-~~
34 ~~ation-of-the-department.~~

35 Sec. 45. 20-A MRSA §405, sub-§3, ¶D, as enacted
36 by PL 1981, c. 693, §§5 and 8, is amended to read:

1 D. Act Review, when necessary, decisions made by
2 the commissioner on applications for additions
3 to, dissolution of, transfers among, withdrawals
4 from and closing of schools in school administra-
5 tive districts and community school districts;

6 Sec. 46. 20-A MRSA §405, sub-§4, as amended by
7 PL 1983, c. 806, §7, is repealed.

8 Sec. 47. 20-A MRSA §405, sub-§5, as amended by
9 PL 1985, c. 785, Pt. B, §79, is repealed.

10 Sec. 48. 20-A MRSA §1255, first ¶, as enacted by
11 PL 1981, c. 693, §§5 and 8, is amended to read:

12 The state-board commissioner shall determine the
13 necessity for reapportionment.

14 Sec. 49. 20-A MRSA §1255, sub-§§1, 2, 3, 8 and
15 9, as enacted by PL 1981, c. 693, §§5 and 8, are
16 amended to read:

17 1. Duties of the commissioner. The state-board
18 commissioner shall determine if a district is appor-
19 tioned in accordance with the principles of one man,
20 one vote, if:

21 A. ~~It~~ He receives a request by the board of di-
22 rectors;

23 B. ~~It~~ He receives a petition signed by district
24 voters equal to at least 10% of the voters who
25 voted in the last gubernatorial election in the
26 district; or

27 C. ~~It~~ He determines a district is not appor-
28 tioned according to the principles of one man,
29 one vote.

30 2. Awaiting census results. If the state--board
31 commissioner receives a request within 12 months be-
32 fore a Federal Decennial Census or Federal Estimated
33 Census, ~~the--board~~ he may wait until after the new
34 census figures are available to make a determination.

1 3. Findings and order. If the state--board
2 commissioner finds the district's representation is
3 not apportioned in accordance with the principle of
4 one man, one vote, it he shall, within 7 days of that
5 decision, notify the municipal officers in each mu-
6 nicipality in the district and the school board to
7 create a reapportionment committee. The notification
8 shall include the time and place for the first meet-
9 ing of the committee which shall be held not later
10 than 20 days after the notificaton notification.

11 8. Commissioner approval. The state--board
12 commissioner shall approve or disapprove the commit-
13 tee plan within 30 days of receiving it.

14 9. Failure to gain commissioner approval. If a
15 plan has not been adopted by the committee or ap-
16 proved by the board commissioner within the time lim-
17 its, the--commissioner he shall prepare a suitable
18 plan and-submit-it-to-the-state-board--for--approval.

19 Sec. 50. 20-A MRSA §1255, sub-§10, as amended by
20 PL 1983, c. 806, §17, is further amended to read:

21 10. Putting the approved plan into effect. On
22 approval of a plan by-the-state--board, the commis-
23 sioner shall send a certified copy to the municipal
24 officers and school directors. The original plan
25 shall be retained in the state--board department
26 files.

27 A. The approved plan shall be effective immedi-
28 ately. The committee shall determine the terms
29 of the directors who shall be elected at the next
30 annual municipal elections so as to comply with
31 section 1253.

32 B. If the approved plan requires a reduction of
33 the number of directors to be elected in a munic-
34 ipality, all of the existing directors represent-
35 ing the municipality shall, within 7 days after
36 the date of approval and under the supervision of
37 the board of directors, choose by lot which di-
38 rectors' terms shall terminate.

39 C. If the approved plan requires that additional
40 directors be elected in a municipality, the mu-

1 municipal officers shall fill the vacancies by ap-
2 pointment. A new director shall serve until a
3 successor is elected and qualified at the next
4 annual municipal election.

5 D. Except as provided in paragraph B, the cur-
6 rent board of directors shall serve until the
7 next annual municipal elections or until a date
8 established in accordance with section 1003, sub-
9 section 2.

10 E. The reapportionment committee shall thereupon
11 be dissolved.

12 Sec. 51. 20-A MRSA §1255, sub-§§12 and 13 are
13 enacted to read:

14 12. State board review of commissioner's deci-
15 sions. A school administrative district or interested
16 parties may request that the state board reconsider
17 decisions made by the commissioner in this section.
18 The state board shall have the authority to overturn
19 a decision made by the commissioner. In exercising
20 this power, the state board is limited by this sec-
21 tion.

22 13. Rules. The state board may adopt rules to
23 carry out this section.

24 Sec. 52. 20-A MRSA §1401, as enacted by PL 1981,
25 c. 693, §§5 and 8, is amended to read:

26 §1401. Additions

27 A municipality not originally in a school admin-
28 istrative district may be included as follows.

29 1. Application. The board of directors of the
30 municipality wishing to join with an existing school
31 administrative district may file an application with
32 the state-board commissioner on a form to be provided
33 by the-state-board him.

34 A. The state-board commissioner shall study the
35 need for the municipality to join the school ad-
36 ministrative district and recommend an agreement
37 by which the municipality may become a member.

1 B. The agreement may contain a new method of
2 sharing costs among the member municipalities of
3 the district in accordance with section 1301.
4 The article set out in section 1203, subsection
5 6, paragraph D, authorizing units to vote on al-
6 ternate methods of sharing costs shall be used if
7 the agreement recommended by the state-board
8 commissioner contains a provision for using one
9 of the alternate methods of sharing costs.

10 C. This agreement shall be forwarded to the sec-
11 retary of the school administrative district and
12 to the clerk of the municipality desiring to join
13 the district.

14 2. First meeting. Within 45 days after receipt
15 of the agreement by the municipal clerk, a regular or
16 special town meeting or city election in the joining
17 municipality, shall vote on the agreement. The vote
18 shall conform to the following procedure.

19 A. The article voted on shall be:

20 "Article : Shall the municipality vote to
21 join School Administrative District No..... as a
22 participating municipality of the district sub-
23 ject to the terms and conditions of the agreement
24 prepared by the State---Board---of---Education
25 commissioner dated 19..?

26 Yes No "

27 (A copy of the agreement shall be posted with
28 each warrant.)

29 B. The election of the directors and the vote on
30 the agreement shall be conducted on the same day.
31 This election shall follow the procedures used
32 for the election of municipal officials by the
33 municipality.

34 C. The vote on the agreement shall be called
35 using the same methods as the municipality uses
36 in conducting its business at regular or special
37 town meetings or city elections.

1 D. If the municipality is organized under a special legislative charter, it shall call a referendum following the procedures outlined in its charter.

5 E. The municipal clerk shall send a certified copy of the results of the vote to the secretary of the school administrative district.

8 3. Second meeting. If the board of directors finds that the vote was in the affirmative, the board shall call a district referendum within 45 days in accordance with sections 1351 to 1354 to vote on the following article.

13 "Article : Shall the district vote to admit
14 the municipality of.....
15 (name the municipality)
16 into School Administrative District No..... as
17 a participating municipality of the district sub-
18 ject to the terms and conditions of the agreement
19 prepared by the State---Board---of---Education
20 commissioner dated 19.....?

21 Yes No "

22 (A copy of the agreement shall be posted with
23 each warrant.)

24 A. The municipal clerks within the district
25 shall forward to the state-board commissioner a
26 certified report of the total number of affirma-
27 tive and negative votes cast on the article.

28 B. On receipt of the results of the voting from
29 all municipalities, the state-board commissioner
30 shall ~~meet~~ compute and record the result of the
31 voting.

32 4. Commissioner finding. If the state--board
33 commissioner finds that a majority of the voters of
34 the district and a majority of the voters of the mu-
35 nicipality favor admission of the municipality into
36 the district, ~~the-state-board~~ he shall make a finding
37 to that effect ~~and-record-it-on-its-records.~~

1 A. The ~~state-board~~ commissioner shall notify by
2 registered mail the clerk of the municipality
3 seeking to join the school administrative dis-
4 trict and the secretary of the school administra-
5 tive district of the results of the vote.

6 B. If the ~~state-board~~ commissioner's finding is
7 that a majority is for joining, ~~it he~~ shall issue
8 an amended certificate for the school administra-
9 tive district, which shall be filed in the same
10 manner as the original certificate.

11 5. Certificate. The issuance of an amended cer-
12 tificate shall be conclusive evidence of the admis-
13 sion of that municipality to the school administra-
14 tive district.

15 **Sec. 53. 20-A MRSA §1402**, as enacted by PL 1981,
16 c. 693, §§5 and 8, is amended to read:

17 §1402. Combining of districts

18 If one school administrative district wishes to
19 join with another school administrative district, the
20 following procedure shall be used.

21 1. Application. Each district's board of direc-
22 tors shall file an application with the ~~state--board~~
23 commissioner on a form to be prepared by ~~the-state~~
24 board him.

25 A. The ~~state-board~~ commissioner shall receive
26 the applications, make a study of the necessity
27 for combining the districts and recommend an
28 agreement by which the districts may combine.

29 B. This agreement shall be forwarded to the sec-
30 retary of each school administrative district.

31 2. Meeting. Within 45 days after receipt of the
32 agreement each district's board of directors shall
33 call a district meeting in accordance with sections
34 1351 to 1354 to vote on the following article.

35 "Article : To see if School Administrative
36 District No.... will vote to join School Adminis-
37 trative District No.... in a merger to form a

1 larger district subject to the terms and condi-
2 tions of the agreement prepared by the State
3 Board---of---Education commissioner dated
4 19.....

5 Yes No "

6 (A copy of the agreement shall be posted with
7 each warrant.)

8 3. Return. The secretary of each school admin-
9 istrative district shall file a return with the state
10 board commissioner immediately following the votes in
11 the district on the question of merger.

12 4. Commissioner's finding. If the state--board
13 commissioner finds that a majority of the voters in
14 each district have voted in favor of the merger, the
15 state-board he shall make a finding to the effect and
16 ~~record-the-same-on-its-records.~~

17 5. Notice. The state-board commissioner shall
18 notify by registered mail the secretary of each dis-
19 trict of the results of the vote.

20 6. Certificate. If the state---board
21 commissioner's finding is that a majority is for
22 merging, it he shall issue a new certificate for the
23 enlarged school administrative district and assign a
24 number. The certificate shall be filed in the same
25 manner as the original certificate.

26 7. Evidence. The issuance of the certificate by
27 the state-board commissioner shall be conclusive evi-
28 dence of the merger of the school administrative dis-
29 tricts.

30 **Sec. 54. 20-A MRSA §1403, as amended by PL 1983,**
31 **c. 364, §1, is further amended to read:**

32 §1403. Dissolution of a district

33 1. Ten percent petition. Upon receipt of a pe-
34 tition which seeks to dissolve a school administra-
35 tive district and establishes a maximum figure for
36 the cost of preparing a dissolution agreement signed
37 by 10% of the number of voters in a municipality who

1 voted at the last gubernatorial election, the municipi-
2 pal officers shall call and hold a special election,
3 in the manner provided for the calling and holding of
4 town meetings or city elections to vote on the disso-
5 lution of the school administrative district.

6 A. At least 10 days before the election, a
7 posted or otherwise advertised public hearing on
8 the petition shall be held by the municipal offi-
9 cers.

10 B. The petition must be approved by secret bal-
11 lot by a 2/3 vote of the voters present and vot-
12 ing before it may be presented to the board of
13 directors and the state-board commissioner. Vot-
14 ing in towns shall be conducted in accordance
15 with Title 30, sections 2061 and 2062, even if
16 the towns have not accepted the provisions of Ti-
17 tle 30, section 2061, and voting in cities shall
18 be conducted in accordance with Title 21.

19 2. Form. The question to be voted upon shall be
20 in substantially the following form:

21 "Article : Be it resolved by the residents of
22 the Town of that a petition
23 for dissolution be filed with the directors of
24 School Administrative District No. and
25 with the State-Board-of-Education commissioner,
26 that the dissolution committee be authorized to
27 expend \$ and that the (municipal officers;
28 i.e. selectmen, town council, etc.) be authorized
29 to issue notes in the name of the Town of
30 or otherwise pledge the credit of the Town
31 of in an amount not to exceed \$
32 for this purpose?

33 Yes No "

34 3. Notice of vote; finding by commissioner. If
35 residents of a participating municipality vote favor-
36 ably on a petition for dissolution, the clerk shall
37 immediately give written notices, by registered mail,
38 to the secretary of the school administrative dis-
39 trict, ~~the state-board~~ and the commissioner which
40 shall include:

1 A. The petition adopted by the voters, including
2 the positive and negative votes cast; and

3 B. An explanation by the municipal officers,
4 stating to the best of their knowledge, the rea-
5 son or reasons why the municipality seeks to dis-
6 solve the district.

7 4. Agreement for dissolution; notice; changes in
8 agreement; final agreement. The agreement for disso-
9 lution shall comply with the following.

10 A. The commissioner, after consultation with the
11 district board of directors, municipal officers
12 of the participating municipalities, and repre-
13 sentatives of the group which filed the petition
14 with the municipality, shall direct the municipal
15 officers of each municipality to select represen-
16 tatives to a committee as follows: One member
17 from the municipal officers, the group filing the
18 petition; and one member from the general public;
19 and one member from the group filing the petition
20 if the group is represented in the municipality,
21 otherwise an additional one member of the general
22 public. The commissioner shall also direct the
23 directors representing each municipality to se-
24 lect one member of the board of directors who
25 represents that municipality to serve on the com-
26 mittee. The municipal officer and the member of
27 the board of directors shall serve on the commit-
28 tee only so long as they hold their respective
29 offices. Vacancies will be filled by the munici-
30 pal officers and board of directors. The chair-
31 man of the board of directors shall call a meet-
32 ing of the committee within 30 days of the filing
33 of the notice of the vote in subsection 3. The
34 chairman of the board shall open the meeting by
35 presiding over the election of a chairman of the
36 committee. The responsibility for the prepara-
37 tion of the agreement shall rest with the commit-
38 tee, subject to the approval of the ~~State--Board~~
39 ~~of--Education~~ commissioner. The committee may
40 draw upon the resources of the department for in-
41 formation not readily available at the local lev-
42 el and employ competent advisors within the fis-
43 cal limit authorized by the voters. The agree-
44 ment shall be submitted to the ~~state--board--and~~

1 the commissioner within 90 days after the commit-
2 tee is formed. Extensions of time may be granted
3 by the commissioner upon the request of the com-
4 mittee.

5 (1) The agreement shall contain provisions
6 to provide educational services for all stu-
7 dents in the district. The agreement shall
8 provide that during the first year following
9 the dissolution, students may attend the
10 school they would have attended if the dis-
11 trict had not dissolved. The allowable tui-
12 tion rate for students sent from one munici-
13 pality to another in the former school ad-
14 ministrative district shall be determined
15 under section 5805, subsection 1, except
16 that it shall not be subject to the state
17 per pupil average limitation in section
18 5805, subsection 2.

19 (2) The agreement shall establish the dis-
20 solution to take effect at the end of the
21 district's fiscal year.

22 (3) The agreement shall establish that the
23 dissolution will not cause a need within 5
24 years from the effective date of dissolution
25 for school construction projects which would
26 be eligible for state funds. This limita-
27 tion does not apply where a need for school
28 construction existed prior to the effective
29 date of the dissolution or where a need for
30 school construction would have arisen even
31 if the district had not dissolved.

32 (4) The agreement shall establish how
33 transportation services will be provided.

34 (5) The agreement shall provide for admin-
35 istration of the new administrative units,
36 which should not include the creation of new
37 supervisory units if at all possible.

38 (6) The agreement shall make provision for
39 the distribution of financial commitments
40 arising from outstanding bonds, notes and
41 any other contractual obligations that ex-

1 tend beyond the proposed date of dissolu-
2 tion.

3 (7) The agreement shall make appropriate
4 provision for the distribution of any out-
5 standing financial commitments to the super-
6 intendent of the school administrative dis-
7 trict.

8 (8) The agreement shall provide for the
9 continuation and assignment of collective
10 bargaining agreements as they apply to the
11 new or reorganized school administrative
12 unit for the duration of those agreements
13 and shall provide for the continuation of
14 representational rights.

15 (9) The agreement shall provide for the
16 continuation of continuing contract rights
17 under section 13201, subsection 2.

18 (10) The agreement shall provide for the
19 disposition of all real and personal proper-
20 ty and other monetary assets.

21 (11) The agreement shall provide for the
22 transition of administration and governance
23 of the schools to properly elected governing
24 bodies of the newly created administrative
25 units and shall provide that the governing
26 bodies shall not be elected simultaneously
27 with the vote on the article to dissolve un-
28 less the state--board commissioner finds
29 there are extenuating circumstances which
30 necessitate simultaneous elections.

31 B. Within 60 days of the receipt of the agree-
32 ment, the state-board commissioner shall either
33 give it conditional approval or recommend changes
34 ~~with--the-advice-of-the-commissioner~~. The changes
35 shall be based upon the standards set forth in
36 paragraph A and the board's commissioner's find-
37 ings of whether the contents of the plan will
38 provide for appropriate educational and related
39 services to the students of the district and for
40 the orderly transition of assets, governance, and
41 other matters related to the district.

1 C. If the state-board commissioner gives condi-
2 tional approval of the agreement, the
3 commissioner he shall notify the directors and
4 the municipal officers by registered mail of the
5 time and place of a public hearing at least 20
6 days prior to the date set for the hearing, to
7 discuss the merits of the proposed agreement of
8 dissolution. The chairman of the board of direc-
9 tors will conduct the hearing.

10 (1) The directors shall post a public no-
11 tice in each municipality of the time and
12 location of the hearing at least 10 days be-
13 fore the hearing.

14 (2) Within 30 days following the hearing,
15 the committee shall forward the final agree-
16 ment to the commissioner ~~and--the--state~~
17 ~~board.~~

18 D. If the ~~state--board~~ commissioner recommends
19 changes it he shall:

20 (1) Send the agreement back to the commit-
21 tee for necessary corrections ;

22 (1-A) Establish a maximum time within which
23 to make the corrections; and

24 (2) Indicate that the corrected agreement
25 shall be returned to the ~~state---~~
26 commissioner for conditional approval before
27 it goes to public hearing as set forth in
28 paragraph C.

29 5. Date of vote; notice; warrant; polling hours.
30 The date and time for voting shall be established as
31 follows.

32 A. The state-board commissioner shall determine
33 the date upon which all municipalities shall vote
34 upon the dissolution agreement submitted to them.
35 The election shall be held as soon as practicable
36 and the state-board commissioner shall attempt to
37 set the date of the vote to coincide with a
38 statewide election.

1 B. At least 35 days before the date set in para-
2 graph A, the board of directors shall give writ-
3 ten notice by registered or certified mail to the
4 town or city clerk of each municipality having a
5 right to vote on the dissolution agreement.

6 C. The town or city clerk shall immediately no-
7 tify the municipal officers upon receipt of the
8 notice, and the municipal officers shall meet and
9 immediately issue a warrant for a special town
10 meeting or city election, as the case may be, to
11 be held on the date designated by the state-board
12 commissioner. No other date may be used.

13 D. In the respective warrants, the municipal of-
14 ficers shall direct that the polls shall be open
15 at 10 o'clock in the forenoon and shall remain
16 open until 8 o'clock in the afternoon.

17 6. Public hearing; voting procedures. The fol-
18 lowing requirements apply to the voting procedures.

19 A. At least 10 days before the election, a
20 posted or otherwise advertised public hearing on
21 the dissolution question shall be held by the mu-
22 nicipal officers.

23 B. Except as otherwise provided in this section,
24 the voting at the meetings held in towns shall be
25 conducted in accordance with Title 30, sections
26 2061 and 2062, even if the towns have not ac-
27 cepted the provisions of Title 30, section 2061.

28 C. The voting at the meeting held in cities
29 shall be conducted in accordance with Title 21.

30 7. Article. The article shall be in the follow-
31 ing form.

32 "Article : Shall School Administrative Dis-
33 trict No. be dissolved subject to the
34 terms and conditions of the dissolution agreement
35 dated 19 ?

36 Yes No "

1 8. Ballots; posting of agreement. The dissolution
2 agreement need not be printed on the ballot.
3 Copies of the agreement shall be posted in each partici-
4 pating municipality in the same manner as speci-
5 men ballots are posted under Title 30, chapter 207.

6 9. Restriction on dissolution petitions. No
7 participating municipality within a district may peti-
8 tion for dissolution within 2 years after the date
9 of:

10 A. A municipal vote on a petition for dissolution
11 if the petition received less than 60% of
12 the votes cast; or

13 B. B- A district vote on a dissolution agreement
14 if the agreement received less than 45% of the
15 votes cast.

16 10. Costs of dissolution agreements. If the
17 school administrative district votes to permit disso-
18 lution, then the district shall reimburse the peti-
19 tioning municipality for the authorized expenses in-
20 curred by the dissolution committee. If the district
21 votes not to permit dissolution, then the district
22 will not be required to reimburse the petitioning mu-
23 nicipality for those expenses.

24 11. Determination of vote. The town and city
25 clerks shall, within 24 hours of determination of the
26 result of the vote in their respective municipali-
27 ties, certify the total number of votes cast in the
28 affirmative and the total number of votes cast in the
29 negative on the article to the board of directors.

30 12. Determination of results; notification of
31 commissioner; execution of agreement. Determination
32 of results shall comply with the following.

33 A. Upon receipt of the results of the voting
34 from all municipalities, the board of directors
35 shall meet and shall compute and record the total
36 number of votes cast in the municipalities in the
37 affirmative and in the negative on the dissolu-
38 tion article.

1 B. The board of directors shall notify the state
2 board commissioner by registered mail or by hand
3 delivery of the results of the vote.

4 C. If the state-board commissioner finds that a
5 majority of the voters voting on the article have
6 voted in the affirmative, it he shall notify the
7 directors of the district to take steps to dis-
8 solve the district in accordance with the terms
9 of the agreement for dissolution.

10 13. Recount; checklists and ballots; disputed
11 ballots. The following provisions apply to recounts,
12 checklists, ballots and disputed ballots.

13 A. If, within 7 days of the computation and re-
14 cording of the results of the voting from all mu-
15 nicipalities, the municipal officers of any partic-
16 ipating municipality request to the commis-
17 sioner in writing a recount of the votes in the
18 district, the commissioner shall immediately
19 cause the checklists and all the ballots cast in
20 all of the participating municipalities to be
21 collected and kept at the commissioner's office
22 so they may be recounted by interested municipal-
23 ities.

24 B. The town clerks of the participating municipa-
25 lities are authorized to deliver the checklists
26 and ballots to the commissioner, notwithstanding
27 any other provision of law to the contrary.

28 C. The commissioner shall resolve any question
29 with regard to disputed ballots.

30 14. Execution of agreement; certified record;
31 certificate of withdrawal. When the agreement for
32 dissolution has been put in effect by the directors
33 of the school administrative district, the directors
34 shall notify the state-board commissioner by certi-
35 fied mail that the agreement of dissolution has been
36 executed.

37 A. A complete certified record of the transac-
38 tion involved in the dissolution shall be filed
39 with the state-board commissioner.

1 B. The state-board commissioner shall immediate-
2 ly issue a certificate of dissolution to be sent
3 by certified mail for filing with the directors
4 of the school administrative district and shall
5 file a copy in the office of the Secretary of
6 State.

7 15. Indebtedness; indebtedness defined; indebt-
8 edness after dissolution. The following provisions
9 apply to outstanding indebtedness.

10 A. Whenever a district having outstanding in-
11 debtedness dissolves, the district shall remain
12 intact for the purpose of securing and retiring
13 the indebtedness; the dissolution agreement may
14 provide for alternate means for retiring out-
15 standing indebtedness.

16 B. "Outstanding indebtedness" means bonds or
17 notes for school construction projects issued by
18 the board of directors pursuant to the authoriza-
19 tion established under chapter 609 or Title 20,
20 sections 3457 to 3460 or obligations to the Maine
21 School Building Authority pursuant to any con-
22 tract, lease or agreement made by the board of
23 directors pursuant to approval thereof in a dis-
24 trict meeting of the school administrative dis-
25 trict, but does not include any indebtedness of
26 any municipality assumed by the school adminis-
27 trative district at the time of formation nor any
28 contract, lease or agreement of the Maine School
29 Building Authority to which by operation of law
30 the school administrative district has become the
31 assignee.

32 16. General purpose aid. When a school adminis-
33 trative district dissolves the general purpose aid
34 for the individual municipalities shall be computed
35 in accordance with chapter 605.

36 17. Committee recall. If the state--board
37 commissioner determines that the dissolution commit-
38 tee has failed to comply with the requirements of
39 this section, ~~it~~ he may authorize the municipal offi-
40 cers and the district's board of directors to recall
41 their representatives and to appoint new representa-
42 tives to the committee.

1 **Sec. 55. 20-A MRS §1404, sub-§2**, as enacted by
2 PL 1981, c. 693, §§5 and 8, is amended to read:

3 **2. Vote required.** If the ~~state--board~~
4 commissioner is petitioned pursuant to the authority
5 of subsection 1, the board of directors of the school
6 administrative district shall require the member mu-
7 nicipalities of the district to vote on an article
8 which shall be substantially as follows.

9 "Article : Shall School Administrative Dis-
10 district No. be dissolved subject to the terms
11 and conditions of the dissolution agreement
12 dated 19 ,
13 and the towns of
14 form a community school district which shall be
15 responsible for the operation of
16 grades ?

17 Yes No "

18 **Sec. 56. 20-A MRS §1404, sub-§4**, as amended by
19 PL 1983, c. 485, §16, is further amended to read:

20 **4. Commissioner.** The ~~state--board~~ commissioner
21 shall carry out ~~its~~ his duties under sections 1403
22 and 1602 regarding the dissolution of a school admin-
23 istrative district and the creation of a new communi-
24 ty school district, except that the municipal offi-
25 cers and the board of directors shall be responsible
26 for developing a plan to provide for the continuity
27 of the educational program for each municipality to
28 be included within the dissolution agreement.

29 **Sec. 57. 20-A MRS §1405, sub-§1**, as enacted by
30 PL 1983, c. 364, §3, is amended to read:

31 **1. Petition.** The residents of a participating
32 municipality within a school administrative district
33 composed of 3 or more municipalities may petition to
34 withdraw from the district in the same manner as they
35 would petition for the dissolution of a school admin-
36 istrative district in accordance with section 1403,
37 except that only a simple majority vote of those
38 casting valid ballots in the municipality is required

1 before the petition may be presented to the board of
2 directors and to the state-board commissioner.

3 Sec. 58. 20-A MRSA §1405, sub-§4, as enacted by
4 PL 1983, c. 364, §3, is amended to read:

5 4. Commissioner recommended dissolution. The
6 state-board's commissioner's responsibilities to initi-
7 ate dissolution proceedings are as follows.

8 A. If a member town representing more than 50%
9 of the total population in a district votes to
10 withdraw from the district, then the state-board
11 commissioner shall analyze the educational impact
12 of the town's withdrawal upon the district. The
13 ~~board--shall-utilize-departmental-staff-in-carry-~~
14 ~~ing-out-its-responsibility-under-this-subsection.~~
15 The district's board of directors and the municipi-
16 pal officers from the remaining towns shall be
17 consulted.

18 B. If the state-board commissioner finds that it
19 is impractical for the remaining towns to contin-
20 ue as a district, then ~~it~~ he shall initiate the
21 dissolution process set out in section 1403 by
22 having the district submit the following article
23 to the voters at a district meeting called in ac-
24 cordance with sections 1351 to 1354.

25 "Article : Be it resolved by the voters of
26 School Administrative District No. that a
27 dissolution committee be appointed and authorized
28 to expend \$, and the directors of School
29 Administrative District No. be authorized to
30 issue notes or otherwise pledge the credit of
31 School Administrative District No. in an
32 amount not to exceed \$ for this purpose?

33 Yes No "

34 C. If the voters approve the article by a major-
35 ity vote of those voting and present, then the
36 rest of the dissolution process set forth in sec-
37 tion 1403 shall apply except:

38 (1) A 2nd member from the general public
39 shall be selected by the municipal officers

1 to fill the position on the dissolution com-
2 mittee normally held by a representative of
3 the group which would have filed the disso-
4 lution petition; and

5 (2) Costs of preparing a dissolution agree-
6 ment shall be borne solely by the district.

7 Sec. 59. 20-A MRSa §1406, sub-§2, ¶¶C and E, as
8 enacted by PL 1981, c. 693, §§5 and 8, are amended to
9 read:

10 C. The following question shall appear on the
11 ballot when the transfer of a municipality is
12 considered.

13 "Article : Shall School Administrative Dis-
14 trict No. vote to permit the municipality of
15 to transfer into School Ad-
16 ministrative District No. as a participa-
17 ting municipality of that district subject to the
18 terms and conditions of the agreement of transfer
19 approved by the ~~State--Board--of--Education~~
20 commissioner dated 19 ?

21 Yes No "

22 (A copy of the agreement shall be posted with
23 each warrant which directs the citizens to vote
24 upon the question.)

25 E. A complete certified record of the transac-
26 tion involved in the transfer shall be filed with
27 the ~~state-board~~ commissioner. ~~The-state-board~~ He
28 shall issue immediately a certificate of transfer
29 to the secretary of each school administrative
30 district by registered mail to be filed with the
31 directors of the districts involved and shall
32 file a copy of the certificate of transfer in the
33 office of the Secretary of State.

34 Sec. 60. 20-A MRSa §§1408 and 1409 are enacted
35 to read:

36 §1408. State board review of commissioner's deci-
37 sions

1 A school administrative unit or other interested
2 parties may request that the state board reconsider
3 decisions made by the commissioner under this sub-
4 chapter. The state board may have the authority to
5 overturn decisions made by the commissioner. In ex-
6 ercising this power, the state board is limited by
7 this subchapter.

8 §1409. Rules

9 The state board may adopt rules to carry out this
10 subchapter.

11 Sec. 61. 20-A MRSA §4511, sub-§3, as enacted by
12 PL 1983, c. 859, Pt. A, §§20 and 25, is repealed and
13 the following enacted in its place:

14 3. Specific requirements. In addition to stan-
15 dards that are adopted in subsection 1, accreditation
16 standards shall include, but not be limited to, the
17 following.

18 A. The school has a clearly written statement
19 reflective of the needs, beliefs and values of
20 the school community. It is supported by stated
21 goals and objectives and is consistent with the
22 district's philosophy.

23 B. The school is effectively managed and pro-
24 vides leadership that promotes the achievement of
25 educational excellence.

26 C. The school demonstrates evidence of a well
27 planned and periodically evaluated curriculum
28 which has consistently resulted in exemplary edu-
29 cational programming.

30 D. The school demonstrates a carefully coordi-
31 nated effort to provide instructional processes
32 which have consistently resulted in a learning
33 environment which promotes excellence. A variety
34 of instructional techniques is used by a majority
35 of the teachers.

36 E. The school has a carefully planned staff de-
37 velopment program guided by sound educational
38 theory that promotes exemplary practices.

1 F. The school has a climate which promotes indi-
2 vidual self-esteem, high expectations for
3 achievement and a positive attitude toward learn-
4 ing.

5 G. The school has a collaboratively planned com-
6 munity relations program which promotes close co-
7 operation between the school and the community
8 toward the achievement of the school's goals and
9 objectives.

10 H. The school facility offers an effective set-
11 ting for the delivery of high quality programs
12 and services.

13 Sec. 62. 20-A MRSA §4512, sub-§5, as enacted by
14 PL 1983, c. 859, Pt. A, §§20 and 25, is amended to
15 read:

16 5. Accreditation process. All school administra-
17 tive units operating a secondary school shall may un-
18 dergo the state accreditation process on a 5-year cy-
19 cle as established by the commissioner starting in
20 the 1989-90 school year.

21 Sec. 63. 20-A MRSA §6602, sub-§8, as amended by
22 PL 1983, c. 422, §18, is further amended to read:

23 8. Application for postponement. An administra-
24 tive unit, which had been authorized by the commis-
25 sioner to postpone the establishment of a National
26 School Lunch Program, may apply to the commissioner
27 for a renewal of the postponement. The commissioner-
28 er, with the approval of the state board, may grant
29 the requested postponement provided that:

30 A. The school board has held a public hearing on
31 its proposed application; and

32 B. One of the following conditions is met:

33 (1) It has been documented to the commis-
34 sioner's satisfaction that the administra-
35 tive unit lacks space for the program and
36 there is no appropriate alternative source
37 of meals for the students;

1 (2) It is impossible for the administrative
2 unit to contract for or to otherwise procure
3 Type A meals for its students; or

4 (3) The lack of need for the program, as
5 determined by the school board is documented
6 to the commissioner's satisfaction and was
7 evident at the public hearing.

8 If the postponement is granted for the conditions in
9 paragraph B, subparagraphs (1) and (2), it shall be
10 for 3 years. If the postponement is granted for the
11 condition in paragraph B, subparagraph (3), it shall
12 be for 4 years.

13 Sec. 64. 20-A M RSA §6602, sub-§8-A is enacted to
14 read:

15 8-A. State board review of commissioner's deci-
16 sions. A school administrative unit or interested
17 parties may request that the state board reconsider
18 decisions made by the commissioner in subsection 8.
19 The state board shall have the authority to overturn
20 decisions made by the commissioner. In exercising
21 this power, the state board is limited by this sec-
22 tion.

23 Sec. 65. 20-A M RSA §§6604 and 6605 are enacted
24 to read:

25 §6604. Substance abuse programs

26 1. Definitions. As used in this chapter, unless
27 the context otherwise indicates, the following terms
28 have the following meanings:

29 A. "Chemical health coordinator" means a person
30 who serves as the coordinator of a local school
31 administrative unit's chemical primary and sec-
32 ondary prevention and education program.

33 2. Local programs. School units may institute
34 special programs to address health and related prob-
35 lems.

36 To further these objectives, school units may em-
37 ploy specialized personnel such as chemical health

1 coordinators and others knowledgeable in the field of
2 substance abuse and may cooperate with public and
3 private agencies in substance abuse education, pre-
4 vention, early intervention, rehabilitation referral
5 and related programs.

6 §6605. Department role

7 1. Personnel. The commissioner shall appoint,
8 subject to the Civil Service Law, supervisors and
9 consultants knowledgeable in the area of substance
10 abuse.

11 2. Technical assistance. The department, through
12 its supervisors and consultants, shall offer techni-
13 cal assistance to public and approved private schools
14 and cooperating community-based organizations to aid
15 in the establishment and implementation of
16 school-based substance abuse programs and health edu-
17 cation curricula.

18 3. Cooperation; coordination. The department
19 shall carry out its planning activities related to
20 alcohol and drug education and prevention subject to
21 coordination with the Alcohol and Drug Abuse Planning
22 Committee.

23 4. Information collection and sharing. The De-
24 partment of Educational and Cultural Services shall
25 be authorized to gather information about substance
26 abuse prevention and intervention programs initiated
27 by state or federal agencies whose efforts are di-
28 rected toward private and public schools of the
29 State, for the purpose of sharing that information
30 with school administrative units.

31 Sec. 66. 20-A MRSA §7001, sub-§§9 and 10 are en-
32 acted to read:

33 9. Special education program. A "special educa-
34 tion program" is a full-time or part-time educational
35 program designed to provide an equal educational op-
36 portunity to exceptional students through the deliv-
37 ery of special education services by qualified indi-
38 viduals.

1 10. Special education services. "Special educa-
2 tion services" are educational services provided by
3 qualified individuals as defined by the commissioner.
4 Special education services shall be provided by qual-
5 ified individuals employed or contracted by the
6 school administrative unit.

7 Sec. 67. 20-A MRSa §7205, as enacted by PL 1981,
8 c. 693, §§5 and 8, is amended to read:

9 §7205. Review and assistance

10 It is the intent of the Legislature that a repre-
11 sentative of the commissioner visit each special edu-
12 cation program each-year at least once every 5 years
13 for the purpose of review and assistance.

14 Sec. 68. 20-A MRSa §7251, as enacted by PL 1981,
15 c. 693, §§5 and 8, is amended to read:

16 §7251. Local special education programs

17 A school administrative unit may establish an ap-
18 propriate program-of special education program.

19 Sec. 69. 20-A MRSa §7251-A is enacted to read:

20 §7251-A. Local special education services

21 A school administrative unit may offer or con-
22 tract for special education services.

23 Sec. 70. 20-A MRSa §7252, as enacted by PL 1981,
24 c. 693, §§5 and 8, is repealed.

25 Sec. 71. 20-A MRSa §§7252-A and 7252-B are en-
26 acted to read:

27 §7252-A. Special education programs; approval

28 Special education programs may be established for
29 the delivery of special education services to excep-
30 tional students in accordance with section 7204, sub-
31 section 4. A special education program may be offered
32 by a school administrative unit, an approved private
33 school or a state licensed agency. All special educa-
34 tion programs offered by approved private schools or
35 state licensed agencies shall:

1 1. Supervision. Be provided under the supervi-
2 sion of the school administrative unit responsible
3 for the education of the exceptional student enrolled
4 in the program;

5 2. Description. Be described in a master con-
6 tractual agreement between the agency or private
7 school and the commissioner; and

8 3. Approval. Be approved in advance of the en-
9 rollment of any exceptional student.

10 §7252-B. Special education services; approval

11 The commissioner shall adopt or amend rules to
12 define allowable special education services and the
13 qualifications of individuals who provide special ed-
14 ucation services. Each school administrative unit,
15 approved private school or licensed state agency pro-
16 viding special education services shall submit a re-
17 port at such time and in such form as the commission-
18 er may require.

19 Sec. 72. 20-A MRSA §7805, as enacted by PL 1985,
20 c. 768, §1, is amended to read:

21 §7805. Transitional services coordinator

22 The position of transitional services coordinator
23 to the Department of Educational and Cultural Ser-
24 vices, Division of Special Education shall be estab-
25 lished to coordinate the department's activities and
26 involving both the Bureau of Adult and Secondary Vo-
27 ccational Education ~~and the Division of Adult Educa-~~
28 tion; regarding the coordinated delivery system for
29 handicapped youths in transition from school to com-
30 munity. This coordinator will also serve as staff to
31 the committee as established in section 7803.

32 Sec. 73. 20-A MRSA §8606, as enacted by PL 1981,
33 c. 693, §§5 and 8, is repealed.

34 Sec. 74. 20-A MRSA §8606-A is enacted to read:

35 §8606-A. Reimbursement procedures

1 1. Definitions. As used in this chapter, unless
2 the context otherwise indicates, the following terms
3 have the following meanings.

4 A. "Adult education program costs" includes ex-
5 penditures for salaries and supplies as identi-
6 fied in section 8607.

7 B. "Foundation year" means the school year prior
8 to the year of allocation of funds.

9 C. "Maximum allowable expenditures," for state
10 subsidy purposes, means the sum of the amount of
11 funds raised through taxation and expended in ac-
12 cordance with section 8607 in the foundation
13 year, plus the amount of subsidy paid by the
14 State during the foundation year.

15 D. "Net expenditures" means adult education pro-
16 gram costs minus all receipts, except from local
17 taxation and state subsidy.

18 2. Commissioner certification. Prior to December
19 15th of each year, the commissioner shall prepare and
20 certify to the Legislature and to the Bureau of the
21 Budget a recommendation for the funding levels for
22 the various program categories in adult education for
23 payment in the next fiscal year. The recommendation
24 shall include a 3% inflation adjustment.

25 A. The requested funding level shall be for the
26 authorized reimbursement rates established in
27 section 8607 and may not exceed the maximum al-
28 lowable expenditures in the foundation year.

29 B. If a school administrative unit fails to sub-
30 mit the necessary information required in this
31 section within the time specified by the commis-
32 sioner, the commissioner shall estimate that
33 unit's adult education cost. The estimate shall
34 not exceed the allowable costs in the year prior
35 to the foundation year for that administrative
36 unit.

37 C. The commissioner may amend an estimate if he
38 believes that estimate to be unreasonable.

1 3. State reimbursement. State reimbursement for
2 expenditures on adult education programs shall be
3 based on each administrative unit's actual adult edu-
4 cation program costs in the foundation year.

5 A. The reimbursement shall be based on the
6 unit's net expenditures for the foundation year
7 in accordance with the maximum allowable expendi-
8 tures and the 3% inflation adjustment as in sub-
9 section 2.

10 B. State reimbursement will be paid to each eli-
11 gible school administrative unit during the 2nd
12 quarter of the State's fiscal year.

13 C. If the Legislature fails to appropriate suf-
14 ficient funds for reimbursement, state aid to
15 school administrative units will be prorated.

16 **Sec. 75. 20-A MRSA §10702, sub-§2, as enacted by**
17 **PL 1981, c. 693, §§5 and 8, is amended to read:**

18 2. Authorization. Has legislative authorization
19 to confer degrees in accordance with section sections
20 10704 and 10704-A.

21 **Sec. 76. 20-A MRSA §10704, as enacted by PL**
22 **1981, c. 693, §§5 and 8, is amended to read:**

23 §10704. Initial authority to confer certain degrees

24 An educational institution may confer certain de-
25 grees if it has been granted initial authority under
26 an Act of the Legislature.

27 **Sec. 77. 20-A MRSA §10704-A is enacted to read:**

28 §10704-A. Authority to confer additional degrees

29 An educational institution initially authorized
30 by the Legislature to offer certain degrees under
31 section 10704 may offer additional degrees with the
32 approval of the state board.

33 **Sec. 78. 20-A MRSA §10705, sub-§1, as enacted by**
34 **PL 1981, c. 693, §§5 and 8, is amended to read:**

1 1. Authority. It has been authorized ~~by the~~
2 Legislature under sections 10704 and 10704-A to grant
3 degrees;

4 Sec. 79. 20-A MRSA §10707, sub-§1, as enacted by
5 PL 1981, c. 693, §§5 and 8, is amended to read:

6 1. Degree-granting authority. Applications for
7 legislative authority to grant degrees shall be made
8 on application to the state board on forms provided
9 by the commissioner.

10 Sec. 80. 20-A MRSA §13004, sub-§2, as amended by
11 PL 1983, c. 806, §92, is further amended to read:

12 2. Records confidential. Transcripts, recommen-
13 dations and other documents submitted in support of
14 an application for certification or collected by the
15 department for verification of certification records
16 and maintained in the office of the commissioner
17 shall be confidential. They may only be made availa-
18 ble to the following:

19 A. School boards and superintendents;

20 B. Authorized personnel of the department in
21 fulfilling assigned duties; and

22 C. Individuals and their representatives who re-
23 quest to examine their own records;

24 D. Formal request from a commissioner or chief
25 executive officer of other state agencies, in-
26 cluding the judicial branch, when access to that
27 information may be necessary in carrying out an
28 official function; and

29 E. Formal request by majority vote of any joint
30 standing committee of the Legislature when access
31 to that information may be necessary in carrying
32 out an official function.

33 Sec. 81. 20-A MRSA §13004, sub-§2-B is enacted
34 to read:

35 2-B. Limitations and penalties. The use of such
36 records, papers, files and communications by any oth-

1 er agency or department of government to which they
2 may be furnished shall be limited to the purposes for
3 which they are furnished and by the law under which
4 they may be furnished. It is unlawful for any person
5 to solicit, disclose, receive, make use of or authorize,
6 knowingly permit, participate in or acquiesce
7 in the use of, any list of or names of, or any information
8 concerning, persons applying for or receiving
9 such assistance, directly or indirectly, derive from
10 the records, papers, files or communications of the
11 State or subdivisions or agencies of the State or
12 subdivisions, or acquired in the course of the performance
13 of official duties. Any person violating
14 this subsection shall be punished by a fine of not
15 more than \$500 or by imprisonment for not more than
16 11 months, or by both.

17 Sec. 82. 20-A MRSA §15905-A is enacted to read:

18 §15905-A. Approval of nonstate funded projects

19 1. Approval authority. The commissioner must approve
20 each nonstate funded project.

21 2. Rules. The commissioner may adopt or amend
22 rules relating to the approval of nonstate funded
23 projects.

24 Sec. 83. 22 MRSA §4014, sub-§1, as amended by PL
25 1983, c. 783, §5, is further amended to read:

26 1. Reporting and proceedings. A person participating-in-good-faith-in
27 reporting under this subchapter, or participating in a related child protection
28 investigation or proceeding, is immune from any criminal or civil liability
29 for the act of reporting or participating in the investigation or proceeding,
30 unless it can be proven that a false report was made
31 and the person knew that the report was false. Nothing
32 in this section may be construed to bar criminal or civil action
33 regarding perjury or regarding the abuse or neglect which led to a report,
34 investigation or proceeding.

38 Sec. 84. 22 MRSA §4033, sub-§3-A is enacted to
39 read:

1 3-A. Information provided to parents. When the
2 court serves a preliminary protection order on the
3 parents or custodians pursuant to subsection 3, the
4 following information shall be provided to the par-
5 ents or custodians in written form by the petitioner:

6 A. The assigned caseworker's name and work tele-
7 phone number;

8 B. The location where the child will be taken;
9 and

10 C. A copy of the complete preliminary protection
11 order.

12 This information is not required if the petitioner
13 includes in the petition a sworn statement of his be-
14 lief that providing the information would increase
15 the risk of serious harm to the child, the substitute
16 care giver or the petitioner.

17 Sec. 85. 23 MRSA c. 3, sub-c. III, first 2 lines
18 are repealed and the following enacted in their
19 place:

20 SUBCHAPTER III

21 STATE CLAIMS COMMISSION

22 Sec. 86. 23 MRSA §152, as amended by PL 1985, c.
23 785, Pt. A, §§96 and 97 and PL 1985, c. 785, Pt. B,
24 §§101 and 102, is repealed and the following enacted
25 in its place:

26 §152. Composition; appointment; powers

27 The State Claims Commission, established by Title
28 5, section 12004, subsection 2, shall consist of 5
29 members. Four of the members shall be appointed by
30 the Governor, 2 of whom shall be qualified appraisers
31 and 2 of whom shall be attorneys-at-law. The Governor
32 shall designate one of the attorneys-at-law to be
33 chairman. The members of the commission appointed by
34 the Governor shall serve for terms of 4 years. They
35 shall be sworn, and for inefficiency, willful neglect
36 of duty or for malfeasance in office may, after no-
37 tice and hearing, be removed by the Governor on the

1 address of both branches of the Legislature or by im-
2 peachment. In case of a vacancy occurring through
3 death, resignation or removal, the Governor shall ap-
4 point a successor for the whole term of the member
5 whose place he takes, subject to removal as provided
6 in this section.

7 Members of the State Claims Commission shall be
8 compensated according to the provisions of Title 5,
9 chapter 379.

10 In carrying out its duties, the commission shall
11 not be bound by common law or statutory rules of evi-
12 dence, or by technical or formal rules of procedure.
13 It shall admit all testimony having reasonable proba-
14 tive value, but shall exclude immaterial, irrelevant
15 and unduly repetitious testimony. A majority of the
16 commission, being present, may determine all matters,
17 but the chairman shall resolve all questions of ad-
18 missibility.

19 The commission shall have authority to make rules
20 and prescribe forms to secure a speedy, efficient and
21 inexpensive disposition of all proceedings. Each mem-
22 ber of the commission, for its official purposes, may
23 administer oaths, certify to official acts and issue
24 all process necessary to the performance of the du-
25 ties of the commission. A reporter shall record
26 hearings when required by the commission.

27 The commission shall maintain an office in Kenne-
28 bec County. The Commissioner of Finance shall ap-
29 point, subject to the Civil Service Law, a clerk of
30 the commission to keep its records and to perform
31 such other duties as the commission shall prescribe.
32 The clerk shall have authority to certify to all of-
33 ficial acts of the commission, administer oaths, is-
34 sue subpoenas, and issue all processes, notices, or-
35 ders or other documents necessary to the performance
36 of the duties of the commission.

37 The Commissioner of Finance shall appoint and fix
38 the compensation of a reporter to the commission, and
39 shall review and approve all charges made by such re-
40 porter for transcripts of the record of hearings be-
41 fore the commission. The Commissioner of Finance may
42 appoint, subject to the Civil Service Law, such cler-

1 ical assistants for the commission as he may deem
2 necessary.

3 The 5th member of the commission shall be ap-
4 pointed for each hearing or series of hearings within
5 the county where the land taken lies. He shall be a
6 member of the board of county commissioners of the
7 county wherein the land taken is situated and shall
8 be appointed by the chairman of the State Claims Com-
9 mission upon recommendation which shall be made, upon
10 request, by the board of county commissioners of that
11 particular county. In the event that any board of
12 county commissioners should fail to make the required
13 recommendation, then the chairman of the State Claims
14 Commission may appoint a member of such board to
15 serve. He shall be sworn by the chairman of the State
16 Claims Commission and shall serve as a member of that
17 commission only for the particular hearing or hear-
18 ings for which he is appointed. He shall participate
19 fully in such hearings and the awards made as a re-
20 sult thereof. Each such member shall be paid at the
21 same per diem rate as that fixed for other members of
22 the commission. Any member of the board of county
23 commissioners thus designated shall serve only for
24 the particular hearing or hearings set forth in his
25 appointment and such service shall be as a member of
26 the State Claims Commission and not in his capacity
27 as a member of the board of county commissioners.

28 **Sec. 87. 23 MRSA §153, as amended by P1 1981, c.**
29 **470, Pt. A, §§122 and 123, is further amended by add-**
30 **ing at the end a new paragraph to read:**

31 If, at any time after being notified by the de-
32 partment that it is planning to purchase or take over
33 the owner's property and the owner then decides to
34 sell that property, or some portion of the property,
35 the owner or owners or designated representative is
36 responsible for informing any potential purchaser
37 that the department intends to purchase or take the
38 property. The department, as early in its property
39 owner notification process as possible, shall remind
40 the property owner of this responsibility.

41 **Sec. 88. 23 MRSA §154, sub-§2, ¶H, as amended by**
42 **PL 1981, c. 470, Pt. A, §127, is further amended to**
43 **read:**

1 H. If the offer is not acceptable and the State
2 cannot negotiate an agreement on the amount of
3 just compensation within 60 days from the date of
4 taking, the owner may apply to the department
5 within said 60 days and have the matter referred
6 to the State Claims Board Commission for assess-
7 ment of the damage. Acceptance and cashing this
8 check will not jeopardize negotiation and will
9 not be construed as acceptance of the offer; and

10 Sec. 89. 23 MRSA §154, sub-§3, ¶F, as amended by
11 PL 1981, c. 470, Pt. A, §128, is further amended to
12 read:

13 F. If the offer is not acceptable and the State
14 cannot negotiate an agreement on the amount of
15 just compensation within 60 days from the date of
16 taking, the owner may apply to the department
17 within said the 60 days and have the matter re-
18 ferred to the State Claims Board Commission for
19 assessment of the damage. Acceptance and cashing
20 this check will not jeopardize negotiation and
21 will not be construed as acceptance of the offer;
22 and

23 Sec. 90. 23 MRSA §154-D, last ¶, as enacted by
24 PL 1983, c. 272, is amended to read:

25 Any person displaced by a taking or acquisition
26 who remains in occupancy after the date of acqui-
27 sition shall pay rent from the date of the acquisition.
28 The consideration paid by the tenant or displaced
29 person shall not exceed fair rental value of the
30 property based on short-term occupancy. If the ten-
31 ants or displaced person and the department cannot
32 reach agreement as to fair rental value for the ini-
33 tial 90-day period after acquisition, each may apply
34 to the State Claims Board Commission in writing for a
35 determination as to the fair rental value. The State
36 Claims Board's Commission's jurisdiction to determine
37 the fair rental value shall be limited solely to the
38 initial 90-day period. Any consideration to be paid
39 by the tenant or displaced person after the initial
40 90-day period shall be determined solely by the de-
41 partment.

42 Sec. 91. 23 MRSA §155, as amended by PL 1975, c.
43 771, §239, is further amended to read:

1 §155. Negotiation

2 The department shall have 60 days from the date
3 of taking within which to negotiate with the owner or
4 owners of record for an agreement as to the amount of
5 just compensation. If within that time the owner re-
6 jects the ~~state's~~ State's offer of just compensation,
7 such owner may apply to the department and have the
8 matter referred to the State Claims Board Commission
9 for assessment of the damage. If, at the expiration
10 of that time, no such agreement for just compensation
11 has been made, the department shall immediately file
12 a petition with the State Claims Board Commission
13 setting forth the pertinent facts including the names
14 and addresses of the owner or owners of record and
15 the holders of any mortgages, tax liens or other en-
16 cumbrances, a copy of the notice of condemnation, the
17 statement of the department and a plan of the proper-
18 ty involved as served upon the owner or owners of
19 record in accordance with section 154 and requesting
20 a hearing and an award of just compensation.

21 **Sec. 92. 23 MRSA §156**, as amended by PL 1981, c.
22 470, Pt. A, §130, is further amended to read:

23 §156. Hearing before board

24 The State Claims Board Commission shall immedi-
25 ately enter the petition of the department upon its
26 docket and assign a date for hearing at the earliest
27 possible date. The chairman of the board shall as-
28 sign no more than 3 members of the board for hear-
29 ings, one of whom shall be an appraiser and one an
30 attorney at law. Notice of the time and place for
31 the hearing shall be mailed by registered or certi-
32 fied mail to the department and to the owner or own-
33 ers of record and to the holders of any mortgage, tax
34 lien or any other encumbrance on the property in-
35 volved at least 14 days before the date of the hear-
36 ing. In the event the notice required is returned to
37 the State Claims Board Commission marked "refused" or
38 "unclaimed" by the United States post office, the
39 State Claims Board Commission may, at its option,
40 reschedule the hearing by giving the notice required
41 in this paragraph, or it may cause the matter to be
42 heard on the day originally scheduled by causing ser-
43 vice to be made upon the party not served by certi-

1 fied or registered mail in a manner allowed for ser-
2 vice of a summons on a complaint in the Superior
3 Court, which notice shall be served at least 5 days
4 before the originally scheduled hearing. The hearing
5 shall be held in quarters suitable for a full presen-
6 tation of all evidence and located as conveniently as
7 possible for all interested parties in the county
8 where the land is situated. Before making an award,
9 the State Claims Board Commission shall view the
10 property involved with or without the presence of the
11 interested parties, but it shall first notify the in-
12 terested parties of the time when it will view the
13 property. The department shall be represented at the
14 hearing and may present in open hearing evidence as
15 to title, engineering maps and data, and its opinion,
16 evidence and appraisal or appraisals as to the fair
17 market value of the property involved before and af-
18 ter the taking. In all matters where a verbatim
19 record of the proceedings is made by an official
20 board reporter, a transcript of the same shall be
21 furnished to the interested parties, upon request,
22 and upon payment of a reasonable charge for tran-
23 scribing and preparing such record. In making its
24 award, the State Claims Board Commission shall not be
25 limited by the range of testimony produced before it
26 but may reach its decision on the basis of the view,
27 the testimony and its own judgment. The State Claims
28 Board Commission may continue a hearing from time to
29 time for cause shown or by agreement of parties; and
30 where such continuance is made at the request of the
31 landowner, may require that interest be waived for
32 the period of the continuance.

33 As promptly as possible after the conclusion of
34 the hearing, the State Claims Board Commission shall
35 make an award in writing specifying:

36 1. Owners and encumbrances. The owner or owners
37 of record and the holder of any mortgage, tax lien or
38 other encumbrance of record;

39 2. Nature of interest taken. The nature of the
40 interest taken;

41 3. Commission's decision on elements of damage.
42 The State Claims Board's Commission's decision as to
43 each of the elements of damage listed in section 154,

1 subsection 2 or 3, or the elements of damage as set
2 forth in section 154, subsection 4, and such other
3 elements of damage as are legally compensable;

4 4. Gross damage. The gross damage which shall be
5 the net damage not including interest;

6 5. Net amount of award. The net amount of the
7 award which shall be the net damage less the amount
8 paid the owner or owners at the date of taking;

9 6. Interest on award. The interest, if any, due
10 on the net amount of the award from the date of tak-
11 ing to the date of the award;

12 7. Award. The award which shall be the net dam-
13 age, less the amount paid the owner or owners at the
14 date of taking plus interest on the net amount of the
15 award; and

16 8. Withholding. The withholding, if any, autho-
17 rized pursuant to section 244-A, subsection 4.

18 No interest ~~shall~~ may be allowed on so much of
19 the net damage as has been paid to the owner or own-
20 ers. An attested copy of each award shall be sent
21 forthwith to the department and to the party or part-
22 ies named in the award. The department shall, with-
23 in 30 days, designate to the State Claims Board
24 Commission the award or awards from which it intends
25 to appeal and forward to the State Claims Board
26 Commission a check payable to the clerk of courts for
27 the county where said land is situated for the use of
28 the party or parties designated in the award. The
29 State Claims Board Commission shall forthwith serve
30 upon the party or parties named in the award an at-
31 tested copy of the award together with a notice that
32 the department has expressed its intention to appeal
33 the award and that the amount of the award will be
34 paid in to the clerk of courts for the county in
35 which the land is situated subject to withdrawal as
36 provided in section 158, and shall forward such check
37 together with an attested copy of the award to the
38 clerk of courts aforesaid.

39 In all other cases, the department shall, within
40 said the 30 days, forward to the State Claims Board

1 Commission a check payable to the party or parties
2 named in the award and the State Claims Board
3 Commission shall forthwith serve upon the party or
4 parties named therein an attested copy of the award,
5 the check aforesaid and a notice clearly outlining
6 the rights of appeal. If the party or parties named
7 in the award refuse to accept it and appeal therefrom
8 to the Superior Court, the department, upon notice
9 from the State Claims Board Commission, shall forward
10 to the State Claims Board Commission a check in the
11 amount of the award payable to the clerk of courts
12 for the county where the land is situated for the use
13 of the party or parties named in the award which the
14 State Claims Board Commission shall forthwith file
15 with that clerk together with an attested copy of its
16 award.

17 Service as required in this section shall be made
18 by registered or certified mail or by personal ser-
19 vice as required for service of a summons on a com-
20 plaint in the Superior Court.

21 Upon certification by the Department of Transporta-
22 tion that after due diligence the address of owners
23 of record cannot be determined or where the board's
24 commission's notice by registered or certified mail
25 is returned to the board commission unclaimed or un-
26 known or where personal service cannot be made, the
27 chairman of the board commission may order service by
28 publication. The chairman of the board commission may
29 appoint a guardian ad litem to protect the interests
30 and rights of any minor or incompetent persons noti-
31 fied under this section and determine and set reason-
32 able compensation to be paid to that guardian ad li-
33 tem. This compensation shall be paid by the Depart-
34 ment of Transportation. Notice of the time and place
35 of the review and hearing shall be published once a
36 week for 3 successive weeks in a newspaper of general
37 circulation in the county in which the subject prop-
38 erty is located. The last of these notices shall be
39 published no later than 7 days prior to the hearing.
40 The board commission shall then proceed with the
41 hearing as in other cases and the appeal provisions
42 shall be available to the Department of Transporta-
43 tion and the record owner or owners, or any one of
44 them, who appears and makes application for appeal
45 pursuant to section 157.

1 After the appeal period from the decree of the
2 State Claims Board Commission or a judgment of any
3 court has expired, any sum of money directed by a de-
4 cree of the board commission or by a judgment of any
5 court to be paid over, which remains unclaimed for 60
6 days, shall be disposed of consistent with Title 33,
7 chapter 27.

8 Notwithstanding Title 1, section 302, this sec-
9 tion shall apply to all actions and proceedings pend-
10 ing on the effective date of this Act.

11 **Sec. 93.** 23 **MRSA §157**, as amended by Pl 1975, c.
12 771, §246, is further amended to read:

13 §157. Appeals

14 The department or any party or parties aggrieved
15 by an award of the State Claims Board Commission may
16 appeal therefrom to the Superior Court in the county
17 where the land is situated within 30 days after the
18 date of the receipt by the appellant of the notice of
19 award. Such appeal shall be taken by filing a com-
20 plaint setting forth substantially the facts upon
21 which the case shall be tried like other cases. The
22 appellant shall serve notice of such appeal on the
23 opposing party and on the State Claims Board
24 Commission by sending by registered or certified mail
25 within the time above limited a true copy of said the
26 complaint and returning therewith to the State Claims
27 Board Commission whatever check or checks that may
28 have been forwarded to him with the notice of award.

29 The court shall determine the same by a verdict
30 of its jury or, if all parties agree, by the court
31 without a jury or by a referee or referees and shall
32 render judgment for just compensation, with interest
33 where such is due, and for costs in favor of the par-
34 ty entitled thereto; except that if the department
35 appeals and if the department does not prevail, in-
36 terest where such is due and costs shall be paid by
37 the department and the owner or owners shall be reim-
38 bursed by the department for a reasonable attorney's
39 fee.

40 If either the owner or owners of record or the
41 department appeal and the just compensation finally

1 awarded, exclusive of interest, is less than the
2 gross damage determined by the State Claims Board
3 Commission, exclusive of any interest allowed, then
4 the court shall give judgment in favor of the depart-
5 ment for the excess of the gross damage determined by
6 the State Claims Board Commission, inclusive of inter-
7 est, over the final award and for its costs from
8 the time of appeal. Execution may be issued on such
9 judgment.

10 If either the owner or owners of record or the
11 department appeal and the just compensation finally
12 awarded, exclusive of interest, is not less than the
13 gross damage determined by the State Claims Board
14 Commission, exclusive of any interest allowed, then
15 the court shall give judgment to the owner or owners
16 for the amount in which the final award is in excess
17 of the money deposited in court, plus the amount paid
18 the owner or owners, exclusive of any interest
19 awarded by the State Claims Board Commission, and for
20 interest on such excess from the date of taking and
21 for costs from the time of appeal. No interest shall
22 may be allowed on so much of any award as has been
23 paid into court or on any amount paid to the owner or
24 owners. The clerk shall certify the final judgment of
25 the court to the department which shall enter the
26 same of record, and order the same to be paid by the
27 Treasurer of State. The judgment and certificate of
28 judgment shall specify the withholding, if any, au-
29 thorized pursuant to section 244-A, subsection 4.

30 In case of the decease of any person entitled to
31 claim damages under this subchapter, the heirs, exec-
32 utors, administrators or assigns of such person shall
33 have the right to prosecute the appeal provided for
34 in this section under the same conditions and limita-
35 tions as the original owner had, and may be substi-
36 tuted for the appellant in any proceedings commenced
37 by said appellant. In case any landowner assigns,
38 transfers or sells his right to claim damages, his
39 assignee, transferee or vendee shall have the same
40 rights as above set forth.

41 **Sec. 94. 23 MRSA §158, as repealed and replaced**
42 **by PL 1983, c. 266, is amended to read:**

43 §158. Withdrawal of money deposited

1 If the department or any party named in an award
2 has duly taken an appeal from an award of the State
3 Claims Board Commission in accordance with section
4 157 and the amount of the award has been paid in to
5 the clerk of courts for the county in which the land
6 is situated, the department or any party named in the
7 award may petition the Superior Court in that county
8 for investment in a certificate of deposit or other
9 secure high interest fund of all or any part of the
10 funds thus deposited. Upon that petition, the court
11 may order all or any part of the funds thus deposited
12 to be invested forthwith in the name of the clerk of
13 courts or his successor or authorized representative
14 without prejudice to the petitioner's right to have
15 the amount of compensation adjudicated in the appeal
16 pending.

17 Sec. 95. 23 MRSa §159, as amended by PL 1975, c.
18 771, §248, is further amended to read:

19 §159. Interpleader

20 If difficulty questions of law should arise be-
21 fore the State Claims Board Commission as to
22 entitlement to or apportionment of just compensation,
23 then it is authorized to make a blanket award to all
24 parties interested. If no appeal is taken and no
25 agreement is reached by the parties named in the
26 award within 60 days from the date of such award, the
27 State Claims Board Commission shall certify the facts
28 and legal questions to the department. The depart-
29 ment shall then interplead the parties named in the
30 award by a complaint filed in the Superior Court in
31 the county wherein the land is situated and shall pay
32 in the amount of said the award to the clerk of
33 courts of said the county to be paid in accordance
34 with the court's order. For purposes of this section,
35 the department shall be acting to prevent double or
36 multiple liability.

37 Sec. 96. 23 MRSa §161, sub-§2, as amended by PL
38 1981, c. 470, Pt. A, §132, is further amended to
39 read:

40 2. Determination. Any determination by the de-
41 partment in the administration of this section shall
42 be final and nothing herein shall be construed to

1 give any person a cause of action in the State Claims
2 Beard Commission or the Superior Court.

3 **Sec. 97. 23 MRSA §244-A, sub-§4**, as amended by
4 PL 1981, c. 470, Pt. A, §135, is further amended to
5 read:

6 4. Advance payments. The additional payment au-
7 thorized by subsection 1 may be made to the displaced
8 person while determination of the acquisition cost of
9 the dwelling is either unsettled or is pending before
10 the State Claims Beard Commission or the Superior
11 Court. Such a payment is not authorized until and un-
12 less an agreement between the Department of Transpor-
13 tation and the displaced person is signed which shall
14 authorize withholding from any subsequent award by
15 the State Claims Beard Commission or judgment of the
16 court any amount determined from the agreement to be
17 refunded by the displacee to the department by reason
18 of the award or judgment being in excess of the de-
19 termined net damage and offering price paid pursuant
20 to section 154. A copy of the agreement shall be
21 filed with the State Claims Beard Commission with the
22 petition or within 10 days after it is signed if the
23 petition is already filed and a copy shall be filed
24 in any subsequent case appealed to the Superior Court
25 with the complaint or answer, or both. The State
26 Claims Beard Commission and court shall take judicial
27 notice of the facts set forth in such agreement.

28 **Sec. 98. 23 MRSA §246**, as amended by PL 1981, c.
29 470, Pt. A, §136, is further amended to read:

30 §246. Appeal

31 1. State Claims Commission. If the department is
32 unable to negotiate any payment authorized under sec-
33 tion 244, subsection 1, paragraph A, or section
34 244-A, subsection 1, at what it deems to be a reason-
35 able amount, either the department or the displaced
36 person, or both, may apply to the State Claims Beard
37 Commission in writing for a determination and assess-
38 ment. The proceedings shall then be the same as in
39 condemnation proceedings under subchapter III.

1 2. Commissioner of Transportation. Any person
2 aggrieved by a determination as to eligibility for
3 any payment, except those enumerated in subsection 1,
4 authorized by this subchapter may have his applica-
5 tion reviewed by the Commissioner of Transportation
6 or his delegate whose determination shall be final
7 and nothing herein shall be construed to give any
8 person a cause of action in the State Claims Board
9 Commission or the Superior Court.

10 **Sec. 99.** 23 MRSA §652, sub-§1, as amended by PL
11 1971, c. 593, §22, is further amended to read:

12 1. Change of grade. Whenever the department
13 shall change the grade of any state or state aid
14 highway as provided in chapters 1 to 19 to the injury
15 of an owner of adjoining land, such owner may within
16 24 months after completion of the work according to
17 the records of the department apply to the department
18 in writing for a determination and assessment of his
19 damages. If the department is unable to settle such
20 damages at what it deems a reasonable amount, the de-
21 partment or interested parties may apply to the ~~Band~~
22 Damage-Board State Claims Commission in writing for a
23 determination and assessment of the damages. The
24 proceedings shall then be the same as in condemnation
25 cases.

26 **Sec. 100.** 23 MRSA §652, sub-§2, ¶E, as amended
27 by PL 1971, c. 593, §22, is further amended to read:

28 E. If the department is unable to settle at what
29 it deems a reasonable settlement, the department
30 or owner may apply to the ~~Band-Damage-Board~~ State
31 Claims Commission in writing for a determination
32 of the alleged cause and assessment of the dam-
33 age. The proceedings shall then be the same as in
34 condemnation cases.

35 **Sec. 101.** 32 MRSA c. 3-A, sub-c. I, first 2
36 lines are repealed and the following enacted in their
37 place:

38 SUBCHAPTER I

39 BOARD OF LICENSURE

1 **Sec. 102.** 32 MRSA §211, first ¶, as amended by
2 PL 1983, c. 812, §192, is further amended to read:

3 The Maine State Board for Registration Licensure
4 of Architects and Landscape Architects, as estab-
5 lished by Title 5, section 12004, subsection 1, shall
6 administer this chapter. The board shall consist of
7 8 members appointed by the Governor, of which 5 shall
8 be registered licensed and practicing architects, one
9 of whom may be a professor of architecture; 2 shall
10 be registered and practicing landscape architects;
11 and one shall be a representative of the public.

12 **Sec. 103.** 32 MRSA §213, last ¶, as repealed and
13 replaced by PL 1983, c. 413, §4, is amended to read:

14 The board shall annually elect a chairman and a
15 secretary. Five members of the board shall consti-
16 tute a quorum for all purposes. No ~~certificate--of~~
17 registration license may be issued, except in an af-
18 firmative vote of at least 5 members of the board.

19 **Sec. 104.** 32 MRSA §214, sub-§2, as enacted by PL
20 1983, c. 413, §6, is amended to read:

21 2. Hearings. Hearings may be conducted by the
22 board to assist with investigations, to determine
23 whether grounds exist for suspension, revocation or
24 denial of a license, or as otherwise deemed necessary
25 to the fulfillment of its responsibilities under this
26 chapter.

27 The board shall not refuse to renew a certificate
28 license for any reason other than failure to pay a
29 required fee, unless it has afforded the licensee an
30 opportunity for an adjudicatory hearing. The board
31 shall hold an adjudicatory hearing at the written re-
32 quest of any person who is denied a certificate
33 license without a hearing for any reason other than
34 failure to pay a required fee, provided that the re-
35 quest for hearing is received by the board within 30
36 days of the applicant's receipt of written notice of
37 the denial of his application, the reasons therefor
38 and his right to request a hearing. Hearings shall
39 be conducted in conformity with the Maine Administra-
40 tive Procedure Act, Title 5, chapter 375, subchapter
41 IV, to the extent applicable. The board may subpoena

1 witnesses, records and documents in any hearing it
2 conducts.

3 **Sec. 105. 32 MRSA §216**, as repealed and replaced
4 by PL 1983, c. 413, §8, is amended to read:

5 §216. Records

6 The board shall keep such records and minutes as
7 are necessary to the ordinary dispatch of its func-
8 tions. The board shall keep a register of all appli-
9 cants for registration licensure and a register of
10 all registrants licensees.

11 **Sec. 106. 32 MRSA §217**, as amended by PL 1977,
12 c. 604, §7, is further amended to read:

13 §217. Reports

14 Not later than August 1st of each year, the board
15 shall submit to the Commissioner of Business Profes-
16 sional and Financial Regulation a report of its
17 transactions of the preceding fiscal year ending June
18 30th, and shall transmit to him a complete statement
19 of all receipts and expenditures of the board, at-
20 tested by affidavits of its chairman and its secre-
21 tary.

22 **Sec. 107. 32 MRSA §217-B**, as amended by PL 1983,
23 c. 758, §3, is further amended to read:

24 §217-B. Budget

25 The board shall submit to the Commissioner of
26 Business, Occupational and Professional and Financial
27 Regulation its budgetary requirements in the same
28 manner as is provided in Title 5, section 1665.

29 **Sec. 108. 32 MRSA §218**, last ¶, as repealed and
30 replaced by PL 1983, c. 413, §9, is amended to read:

31 The board may suspend or revoke a certificate
32 license pursuant to Title 5, section 10004. The
33 board may refuse to renew or the Administrative Court
34 may revoke, suspend or refuse to renew any
35 certificate license issued under this chapter if the
36 holders of the license have violated any provision of
37 this chapter or any rule or order of the board.

1 **Sec. 109. 32 MRSA §220**, as amended by PL 1977,
2 c. 564, §§118-I and 118-J, is further amended to
3 read:

4 §220. Practice forbidden unless registered; qualifi-
5 cations

6 1. Architects.

7 A. No person shall may practice architecture or
8 hold himself out to practice architecture within
9 the State or use the title "architect" or call
10 himself an architect or sign drawings or specifi-
11 cations as an architect, unless he shall be duly
12 registered licensed by the board.

13 As used in this chapter, the practice of archi-
14 tecture shall consist of rendering or offering to
15 render service to clients by consultations, in-
16 vestigations, preliminary studies, plans, speci-
17 fications, contract documents and a coordination
18 of structural factors concerning the aesthetic or
19 structural design and inspection of construction
20 of buildings or any other service in connection
21 with the designing or inspection of construction
22 of buildings located within the State, regardless
23 of whether such persons are performing one or all
24 of these duties, or whether they are performed in
25 person or as the directing head of an office or
26 organization performing them.

27 The practice of architecture shall not include
28 the practice of landscape architecture as defined
29 in this chapter. A registered licensed architect
30 may do such landscape architectural work as is
31 incidental to his work.

32 B. Qualifications.

33 (1) To be qualified for admission to the
34 examination to practice architecture in this
35 State an applicant must submit evidence to
36 the board that:

37 (a) He has completed a course of study
38 in a school or college of architecture
39 approved by the board, with graduation

1 therefrom as evidenced by a diploma
2 setting forth a satisfactory degree,
3 and 3 years of practical experience in
4 the office of an experienced architect
5 or architects engaged in the practice
6 of architecture as a profession; or

7 (b) Training or practical experience,
8 or a combination of both, which in the
9 opinion of the board, is fully equiva-
10 lent to that required in division (a).

11 (2) No corporation as such ~~shall~~ may be
12 registered licensed to practice architecture
13 in this State, but it shall be lawful for a
14 corporation to practice architecture provid-
15 ing at least 1/3 of the directors, if a cor-
16 poration, or 1/3 of the partners, if a part-
17 nership, are licensed under the laws of any
18 state to practice architecture and the per-
19 son having the practice of architecture in
20 his charge is himself a director, if a cor-
21 poration, or a partner, if a partnership,
22 and licensed to practice architecture under
23 this chapter and all drawings, plans, speci-
24 fications and administration of construction
25 or alterations of buildings or projects by
26 such corporation are under the personal di-
27 rection of such registered architect. One-
28 third of the directors or partners shall be
29 licensed under the laws of any state to
30 practice engineering, architecture, land-
31 scape architecture or planning. In cases
32 where the number of directors or partners is
33 not divisible by 3 the number of directors
34 or partners shall be the number that results
35 from rounding up or rounding down to the
36 nearest number.

37 2. Landscape architects.

38 A. No person ~~shall use the title~~ "Maine--regis-
39 ~~tered landscape architect"~~ may practice landscape
40 architecture or use the title "landscape archi-
41 tect" or call himself a ~~Maine--registered~~ land-
42 scape architect or sign drawings or specifica-
43 tions as a ~~Maine--registered~~ landscape architect

1 unless he shall be duly registered licensed by
2 the board.

3 As used in this chapter, the practice of land-
4 scape architecture shall consist of rendering or
5 offering to render services to clients by consul-
6 tations, investigations, preliminary studies,
7 plans, specifications, contract documents involv-
8 ing the development of land and incidental water
9 areas where and to the extent that the dominant
10 purpose of such services is the preservation, en-
11 hancement or determination of proper land uses,
12 natural land features, naturalistic and aesthetic
13 values, the settings and approaches to buildings,
14 structures, facilities or other improvements, and
15 natural drainage and the consideration, determi-
16 nation and solution of inherent problems of the
17 land relating to erosion, wear and tear, blight
18 or other hazards. Also the practice of landscape
19 architecture shall include the location and ar-
20 rangement of such tangible objects and features
21 as are incidental and necessary to the purposes
22 outlined herein.

23 The practice of landscape architecture shall not
24 include the practice of architecture as defined
25 in this chapter. A registered licensed landscape
26 architect may do such architectural work as is
27 incidental to his work.

28 B. Qualifications.

29 (1) To be qualified for admission to the
30 examination to practice landscape architec-
31 ture in this State an applicant must submit
32 evidence that:

33 (a) He has completed a course of study
34 in a school or college of landscape ar-
35 chitecture approved to the board, with
36 graduation therefrom as evidenced by a
37 diploma setting a satisfactory degree,
38 and 2 years of practical experience in
39 landscape architectural work of a grade
40 and character satisfactory to the
41 board; or

1 (b) Training or practical experience,
2 or a combination of both, which in the
3 opinion of the board, is fully equiva-
4 lent to that required in division (a).

5 (2) No corporation as such ~~shall~~ may be
6 registered licensed to practice landscape
7 architecture in this State, but it shall be
8 lawful for a corporation to practice land-
9 scape architecture providing at least 1/3 of
10 the directors, if a corporation, or 1/3 of
11 the partners, if a partnership, are licensed
12 under the laws of any state to practice
13 landscape architecture and the person having
14 the practice of landscape architecture in
15 his charge is himself a director, if a cor-
16 poration, or a partner if a partnership, and
17 licensed to practice landscape architecture
18 under this chapter and all drawings, plans,
19 specifications and administration of con-
20 struction or alterations of buildings or
21 projects by such corporation are under the
22 personal direction of such registered archi-
23 tect. One-third of the directors of partners
24 shall be licensed under the laws of any
25 state to practice engineering, architecture,
26 landscape architecture or planning. In cases
27 where the number of directors or partners is
28 not divisible by 3, the number of directors
29 or partners shall be the number that results
30 from rounding up or rounding down to the
31 nearest number.

32 **Sec. 110. 32 MRSA §220-A is enacted to read:**

33 §220-A. Application

34 Any person registered by the board as a Maine
35 registered landscape architect prior to the effective
36 date of this section shall automatically be licensed
37 as a landscape architect.

38 Any person who is practicing the profession of
39 landscape architecture, but is not registered with
40 the board prior to the effective date of this sec-
41 tion, shall comply with the requirements of section
42 220 by January 1, 1990.

1 Sec. 111. 32 MRSA §221, as amended by PL 1977,
2 c. 694, §§545 and 546, is further amended to read:

3 §221. Examinations

4 Examinations for registration licensure as an ar-
5 chitect or landscape architect shall be held by the
6 board at least once each year, provided that applica-
7 tions have been received during the time announced.
8 The board shall make all necessary rules and regula-
9 tions, in accordance with the Maine Administrative
10 Procedure Act, Title 5, section 8051, et seq., gov-
11 erning the time, place and method of giving and grad-
12 ing examinations, shall publish appropriate announce-
13 ments and shall conduct examinations at the time des-
14 ignated for all applicants who desire to be
15 registered licensed as an "architect" or "landscape
16 architect" and to engage in performing the functions
17 of an architect or landscape architect. The board
18 shall have the power to provide a reasonable division
19 into classes of the various applicants and the exami-
20 nation to be taken in each class. Examinations shall
21 consist of such technical and professional subjects
22 and oral questioning as the board may from time to
23 time prescribe. The rules for the manner in which
24 examinations are conducted and the content of the ex-
25 amination shall be adopted in accordance with the
26 Maine Administrative Procedures Act, Title 5, section
27 8051 et seq.

28 Sec. 112. 32 MRSA §222, sub-§§3, 4, 5 and 6, as
29 enacted by PL 1977, c. 463, §3, are amended to read:

30 3. License; resident. For a certificate---of
31 registration license for a resident by transfer of
32 registration license from another state or country,
33 an amount shall be fixed by the board.

34 4. License; nonresident. For a certificate-of
35 registration license for a nonresident an amount
36 shall be fixed by the board which shall not exceed
37 the sum of \$200.

38 5. Renewal. For the annual renewal of a
39 registration license certificate an amount shall be
40 fixed by the board which shall not exceed the sum of
41 \$25.

1 6. Reissuance. For the reissuance of a lapsed or
2 suspended certificate license, an amount shall be
3 fixed by the board which shall not exceed the sum of
4 \$50.

5 Sec. 113. 32 MRSA §223, as enacted by PL 1977,
6 c. 463, §3, is amended to read:

7 §223. Licensure without examination

8 1. Resident licensure from other states. ~~Certif-~~
9 ~~icates-of-registration~~ Licenses may be issued to res-
10 idents who hold ~~or--have--held---certificates---of~~
11 ~~registration~~ unexpired licenses from other states,
12 provided the requirements of such ~~certificates--of~~
13 ~~registration~~ licenses are deemed equivalent to re-
14 quirements for registration licensure in this State
15 by examination, and provided the applicants submit
16 such other evidence of his ability as may be required
17 by the board.

18 2. Nonresident licensure. ~~Certificates----~~
19 ~~registration~~ Licenses may be issued to nonresidents
20 who hold an unexpired certificate--of--registration
21 license issued to him by any state or territory or
22 possession of the United States or any country, pro-
23 vided the requirements of the registration licensure
24 under which ~~certificates--of--registration~~ licenses
25 were issued do not contravene this chapter and are
26 deemed the equivalent of requirements for
27 registration licensure in this State by examination,
28 and provided the applicant submit such other evidence
29 of his ability as may be required by the board.

30 3. Certification by National Council of Archi-
31 tectural Registration. ~~Certificates-of-registration~~
32 Licenses may be issued to persons who have passed a
33 standard National Council of Architectural Registra-
34 tion Boards' examination and have received certifica-
35 tion thereof by the National Council of Architectural
36 Registration Boards, and the further evidence of con-
37 tinued honorable professional conduct after the pass-
38 ing of such examination.

39 4. Certification by the Council of Landscape Ar-
40 chitectural Registration Board. ~~Certificates---of~~
41 ~~registration~~ Licenses may be issued to persons who

1 have passed a standard Council of Landscape Architec-
2 tural Registration's examination and have received
3 certification thereof, and the further evidence of
4 continued honorable professional conduct after the
5 passing of such examination.

6 ~~5. -- Prior -- practice -- Certificates of registration~~
7 ~~may be issued to a resident of the State who has been~~
8 ~~actively engaged in the practice of landscape archi-~~
9 ~~ture -- as -- defined in this chapter and has used the~~
10 ~~title "landscape architect" for a minimum of one full~~
11 ~~year preceding the -- enactment -- of -- this -- legislation,~~
12 ~~provided -- that -- proof -- of the applicant's practice of~~
13 ~~landscape architecture and use of -- the -- title -- "land-~~
14 ~~scape -- architect" is presented to the satisfaction of~~
15 ~~the board, and provided such application is -- made -- on~~
16 ~~or before December 31, 1978.~~

17 Sec. 114. 32 MRSA §224, as amended by PL 1983,
18 c. 224, §11, is further amended to read:

19 §224. License

20 The board shall issue a certificate --- of
21 registration license, upon payment of the fee pro-
22 vided for in this chapter, to any applicant who, in
23 the opinion of the board, has satisfactorily met all
24 the requirements of this chapter. Certificates
25 Licenses shall bear a serial number and the full name
26 of the registrant, and shall bear the signatures of
27 the chairman and secretary, and the seal of the
28 board.

29 Issuance of a certificate of registration license
30 by the board shall be evidence that the person named
31 therein is entitled to all the rights and privileges
32 of a registered licensed architect or registered
33 licensed landscape architect while the certificate
34 license remains unexpired and unrevoked. The
35 certificate license shall be synonymous with
36 registration licensure, with the full meaning and ef-
37 fect of a license to practice architecture or land-
38 scape architecture.

39 Certificates of registration Licenses shall ex-
40 pire on the last day of June of each year. Renewal
41 may be effected at any time during the month of June

1 by payment of the renewal fee. A certificate license
2 may be renewed up to 90 days after the date of its
3 expiration upon payment of a late fee of \$10 in addi-
4 tion to the renewal fee. Any person who submits an
5 application for renewal more than 90 days after the
6 license expiration date shall be subject to all re-
7 quirements governing new applicants under this chap-
8 ter, except that the board may in its discretion,
9 giving due consideration to the protection of the
10 public, waive examination if the renewal application
11 is made within 2 years from the date of the expira-
12 tion.

13 Sec. 115. 32 MRSA §225, as enacted by PL 1977,
14 c. 463, §3, is amended to read:

15 §225. Seal

16 Each registrant licensee shall upon registration
17 licensure obtain a seal of such design as the board
18 shall authorize and direct. Plans and specifications,
19 prepared by or under the direct supervision of a
20 registered licensed architect in the case of an archi-
21 tect registrant, and under the direct supervision
22 of a registered licensed landscape architect in the
23 case of a landscape architect registrant, shall be
24 stamped with the seal during the life of the
25 registrant's--certificate licensee's license, and it
26 shall be unlawful for anyone to stamp or seal any
27 documents with the seal after the certificate-of-the
28 registrant license named thereon has expired or has
29 been revoked, unless the certificate license shall
30 have been renewed or reissued.

31 Sec. 116. 32 MRSA §301, sub-§1, as amended by PL
32 1977, c. 398, §1, is further amended to read:

33 1. The practice of barbering. "The practice of
34 barbering" shall mean any one or any combination of
35 the following practices, when done, ~~for hire or re-~~
36 ~~ward,~~ upon the upper part of the human body for cos-
37 metic purposes and not for the treatment of disease
38 or physical or mental ailments:

39 A. Shaving or trimming the beard, manicuring the
40 fingernails, cutting, arranging, waving or
41 styling the hair;

1 B. Giving facial and scalp massage or treatments
2 with cosmetic preparations, either by hand or me-
3 chanical or electrical appliances;

4 C. Singeing, dyeing, tinting, bleaching or
5 shampooing the hair or applying cosmetic prepara-
6 tions to the hair, scalp, face, neck or upper
7 part of the body;

8 D. Removing superfluous hair from the face, neck
9 or upper part of body; or

10 E. Cutting, fitting, coloring or styling
11 hairpieces or wigs.

12 Sec. 117. 32 MRSA §301, sub-§1-A is enacted to
13 read:

14 1-A. Discretionary authority. The board shall
15 have the discretionary authority to allow the unli-
16 censed practice of barbering in those situations
17 which it deems that there is no threat to the public
18 health and welfare. The board shall establish rules
19 to administer this provision.

20 Sec. 118. 32 MRSA §302, sub-§2, as amended by PL
21 1983, c. 339, §§1 and 2, is further amended to read:

22 2. Exceptions. The practice of barbering shall
23 be carried on only by persons duly registered
24 licensed to practice barbering in this State and only
25 in a licensed barber shop, except as provided in this
26 subsection. A duly registered licensed barber may
27 practice barbering:

28 A. Upon patients in hospitals or nursing homes;

29 B. Upon residents of summer camps;

30 C. Upon inmates or residents of institutions of
31 the Department of Mental Health and Mental Retar-
32 dation;

33 D. Upon an invalid or handicapped person in that
34 person's place of residence;

35 E. Upon a resident of a nursing home;

1 F. Upon a hotel or motel occupant in that
2 person's hotel or motel room; and

3 G. Upon a person in the person's residence, if
4 the barber maintains or is employed in a licensed
5 barber shop.

6 Sec. 119. 32 MRSA §303-A, as amended by PL 1985,
7 c. 797, §67, is further amended to read:

8 §303-A. Instructors of barbering

9 No person may be engaged to instruct in any of
10 the branches of barbering unless that person has a
11 certificate license to practice barbering issued under
12 this chapter and a ~~certificate--of--registration~~
13 license as instructor of barbering issued under the
14 this chapter.

15 The board and the Department of Educational and
16 Cultural Services shall make rules for the examina-
17 tion of applicants for ~~certificates--of--registration~~
18 licenses as instructors of barbering, in accordance
19 with the Maine Administrative Procedure Act, Title 5,
20 chapter 375, subchapter II. Examination applications
21 shall be furnished by the board. The application
22 shall be filed with the secretary of the board and
23 shall be accompanied by an examination fee ~~of--\$35~~.
24 If examination is satisfactory, the applicant shall
25 pay a fee ~~of--\$15~~ to receive the initial instructor
26 ~~certificate--of--registration~~ license, which shall be
27 valid until the next renewal period. The renewal fee
28 for instructor ~~certificate-of-registration~~ licensure
29 shall be \$15 collected biennially.

30 Sec. 120. 32 MRSA §304, first ¶, as repealed and
31 replaced by PL 1977, c. 398, §5, is amended to read:

32 Any person engaged in the practice of barbering
33 in this State without having obtained a certificate
34 ~~of--registration~~ license as provided by this chapter
35 or employing a person to practice barbering who does
36 not have such a certificate license, unless the per-
37 son is an apprentice within the meaning of this chap-
38 ter, or falsely pretending to be qualified to prac-
39 tice barbering under this chapter or violating any of
40 the provisions of this chapter shall be deemed guilty

1 of a Class E crime. Every such person shall be deemed
2 guilty of a separate and distinct offense for each
3 month or part thereof during which such practice or
4 employment shall be repeated or continued after pros-
5 ecution has been begun against any such person for
6 the violation of any of the provisions of this chap-
7 ter.

8 **Sec. 121.** 32 MRSa §305, as enacted by PL 1977,
9 c. 398, §6, is repealed and the following enacted in
10 its place:

11 §305. Practicing in same shops

12 In any shop licensed with the Board of Barbers
13 and the Board of Cosmetology, both of the barber and
14 cosmetology professions may be practiced by licensed
15 individuals in that shop. These individuals are not
16 required to be licensed by both boards. Partitions
17 between or separate rooms for the 2 practices shall
18 not be required in any such shop.

19 **Sec. 122.** 32 MRSa §351, as amended by PL 1985,
20 c. 785, Pt. B, §130, is further amended to read:

21 §351. Board

22 1. Membership. The State Board of Barbers, as
23 established by Title 5, section 12004, subsection 1,
24 and in this chapter designated as the "board," shall
25 consist of 5 4 members who shall be citizens of this
26 State, 3 of whom shall have been engaged in the prac-
27 tice of barbering for at least 3 years immediately
28 prior to their appointment and one of whom shall be a
29 representative of the public. ~~The 5th member of the~~
30 ~~board shall be the Director of Health who shall have~~
31 ~~no board vote.~~

32 The 4 ~~voting~~ members of the board shall be appointed
33 by the Governor and their terms shall be for 3 years.
34 None of them shall be eligible to serve more than 3
35 consecutive 3-year terms. The barber members shall at
36 all times be registered licensed barbers.

37 Any vacancy in the board shall be filled by the ap-
38 pointment by the Governor of a person to hold office
39 during the unexpired term. The person appointed shall

1 be qualified in the same manner as the board member
2 being replaced. No person operating or employed by a
3 school of barbering shall may be appointed as a mem-
4 ber of the board. If any member of the board, after
5 appointment, shall become affiliated in any way with
6 any such school, that person's membership on the
7 board shall immediately terminate and the unexpired
8 term of that member shall be filled by the Governor.

9 2. Meetings; chairman; quorum. The board shall
10 meet at least once a year to conduct its business and
11 to elect a chairman. Additional meetings shall be
12 held as necessary to conduct the business of the
13 board, and may be convened at the call of the chair-
14 man or a majority of the board members. The chairman
15 shall serve for a term of one year or until a succes-
16 sor is elected. All meetings of the board shall be
17 open to the public, except that the board may hold
18 closed sessions to prepare, approve, grade or admin-
19 ister examinations, or to prepare or provide a re-
20 sponse upon request of an applicant for review of his
21 examination. Three voting members of the board shall
22 constitute a quorum for all purposes.

23 3. Employees. The board shall employ, subject to
24 the Civil Service Law, an executive secretary. The
25 salary of the executive secretary shall be determined
26 by the Bureau of Human Resources and shall be paid
27 from funds received under this chapter. The execu-
28 tive secretary of the board shall keep a record of
29 all proceedings, certificates of registration and li-
30 censes; issue all notices, except those required to
31 be issued by the Administrative Court Judge under Ti-
32 tle 4, chapter 25; attest all such papers and orders
33 as the board shall direct; make sanitary inspections
34 at least twice once a year of shops and other estab-
35 lishments subject to license under this chapter as
36 directed by the board, and shall, on or before August
37 1st of each year, submit a report to the Commissioner
38 of Business, ---Occupational---and Professional and
39 Financial Regulation, for the preceding fiscal year
40 ending June 30th, giving a full statement of all re-
41 ceipts and expenditures and a statement of the work
42 performed by the board during the year, together with
43 such recommendations as deemed necessary. The board
44 shall employ, subject to the Civil Service Law, in-
45 spectors who may be registered barbers and who shall,

1 under the direction of the executive secretary, make
2 inspections of shops and other establishments subject
3 to license. Whenever necessary, the inspectors em-
4 ployed by the board shall consult with the Department
5 of Human Services for technical information and prop-
6 er procedure regarding sanitary shop inspections. The
7 salary of such inspectors shall be determined by the
8 Bureau of Human Resources and shall be paid from
9 funds received under this chapter. The board shall
10 have the right to dismiss, for cause, the executive
11 secretary or the inspectors.

12 4. Compensation. The members of the board shall
13 be compensated according to the provisions of Title
14 5, chapter 379, for no more than 18 meetings per cal-
15 endar year or, in the case of the chairman for no
16 more than 25 days per calendar year. Expenses as re-
17 lated to duties out of the State shall be reimburs-
18 able for no more than 5 calendar days per calendar
19 year unless approved in advance by the Governor.

20 Sec. 123. 32 MRSA §352, sub-§1, as amended by PL
21 1985, c. 748, §35, is further amended to read:

22 1. Board to administer, coordinate and enforce.
23 The board shall administer, coordinate and enforce
24 this chapter, evaluate the qualifications and super-
25 vise the examinations of applicants for registration
26 licensure under this chapter and shall, at its dis-
27 cretion, investigate allegations of violations of
28 this chapter. The board shall keep such records and
29 minutes as are necessary to the ordinary dispatch of
30 its functions.

31 Any member or employee of the board may enter and
32 make reasonable examination of any barber shop during
33 business hours for the purpose of ascertaining wheth-
34 er or not the rules are being observed.

35 The board shall submit to the Commissioner of Profes-
36 sional and Financial Regulation its budgetary re-
37 quirements in the same manner as is provided in Title
38 5, section 1665.

39 The commissioner may require the board to be accessi-
40 ble to the public for complaints and questions during
41 regular business hours, to maintain copies of all ap-

1 the immediate personal supervision of a **registered**
2 licensed barber. Only one such apprentice shall be
3 employed in any licensed shop.

4 No barber technician may independently practice
5 barbering but may, as a barber technician, do only
6 the following acts constituting the practice of bar-
7 bering: Shampooing and drying of hair, and manicuring
8 provided the barber technician has taken a course of
9 instruction prescribed by the board.

10 No person, firm or corporation may operate or
11 cause to be operated a shop where barbering is prac-
12 ticed unless that shop or establishment has been duly
13 licensed. ~~The fee for a license to operate a barber~~
14 ~~shop and the annual renewal thereof shall be \$25.~~
15 Shop licenses that require a special inspection, such
16 as new barber shops, change of barber shop location
17 and change of barber shop ownership, shall be \$30
18 charged a separate fee in the first instance includ-
19 ing the license, and \$25 for each annual renewal
20 thereof. ~~The license~~ All shop licenses shall run from
21 the first day of January in every year and the fee
22 fees shall be payable to the board.

23 Upon the death of any person in whose name a shop
24 is licensed, that shop license shall continue to be
25 valid for 60 days following the death of that person.

26 Booths, attached to or within a barber shop, that
27 are operated independently thereof, shall be subject
28 to license fees in the same manner as an independent
29 shop.

30 Each student upon enrollment in a school of bar-
31 bering licensed by the Commissioner of Educational
32 and Cultural Services shall make written application
33 for a student permit therefor on a form prescribed
34 and supplied by the board. The application shall con-
35 tain satisfactory evidence of the qualifications re-
36 quired of the applicant under this chapter and shall
37 be notarized. The applicant shall pay to the secre-
38 tary of the board a fee ~~of~~ \$5 and the permit shall
39 expire with termination or completion of the school
40 course for which the permit was obtained. No permit
41 may be issued to a person who has not attained 17
42 years of age.

1 A student permit shall not be required of an ap-
2 prentice who obtains a ~~certificate--of~~ registration
3 pursuant to section 405.

4 **Sec. 128.** 32 MRSA §402, first ¶, as repealed and
5 replaced by PL 1977, c. 398, §9, is amended to read:

6 Any person shall be eligible to obtain a ~~certifi-~~
7 ~~cate-of-registration~~ license under this chapter for
8 the practice of barbering:

9 **Sec. 129.** 32 MRSA §402, sub-§4, as repealed and
10 replaced by PL 1977, c. 398, §9, is amended to read:

11 4. Examination. Who has satisfactorily passed an
12 examination conducted by the board to determine his
13 fitness to receive such a certificate license.

14 **Sec. 130.** 32 MRSA §402, next to last ¶, as
15 amended by PL 1979, c. 694, §3, is further amended to
16 read:

17 The applications shall be filed with the secre-
18 tary of the board and shall be accompanied by an ex-
19 amination fee ~~of-\$20~~. If the examination is satisfac-
20 tory, the applicant shall pay a fee ~~of-\$25~~ to receive
21 a first license, which shall be valid until the next
22 renewal period. ~~The board shall determine--the--exact~~
23 ~~amount--of--this--fee.~~ If not successful, the applicant
24 shall have the privilege of taking a 2nd examination
25 by payment of a fee ~~of-\$20~~ at any subsequent examina-
26 tion held by the board within a period of one year.
27 Any applicant, who has failed a 2nd examination, may
28 take a further examination at a time to be determined
29 by the board upon payment of a \$20 fee for each sub-
30 sequent examination.

31 **Sec. 131.** 32 MRSA §403, as repealed and replaced
32 by PL 1977, c. 398, §9, is amended to read:

33 §403. Temporary permit

34 If any applicant to practice barbering qualifies
35 for examination, the board may issue to such an ap-
36 plicant, until the results of the applicant's exami-
37 nation have been given, a permit to practice barber-
38 ing under the supervision of a person registered

1 licensed to practice barbering. The permit shall ter-
2 minate with the examination following applicant's
3 qualification. If the applicant fails the first exam-
4 ination following qualification, the applicant may
5 renew his permit to practice barbering under supervi-
6 sion of a person registered licensed to practice bar-
7 bering until the results of the next consecutive ex-
8 amination have been given, at which time the permit
9 expires and shall not be renewable. The applicant
10 shall not be considered an apprentice. The applicant
11 shall pay to the board a fee of ~~of~~ \$5.

12 Sec. 132. 32 MRSA §404, as amended by PL 1983,
13 c. 413, §28, is further amended to read:

14 §404. Reciprocity with other states

15 The board may waive the examination and grant
16 registration licensure to any applicant who shall
17 present proof of current registration-or licensure in
18 another state, other jurisdiction of the United
19 States or another country which grants similar privi-
20 leges to persons registered under this chapter and
21 maintains professional standards deemed by the board
22 to be equivalent to those set forth in this chapter,
23 provided that no cause exists for denial of a license
24 under section 408. Such an applicant shall pay the
25 same fee as provided in section ~~407~~ 407-A.

26 The board may allow an applicant to take the ex-
27 amination who presents proof of training or experi-
28 ence, of an amount at least equal to that required
29 under section 402, subsection 3, in another state,
30 other jurisdiction of the United States or another
31 country which maintains professional standards deemed
32 by the board to be equivalent to those set forth in
33 this chapter, provided that no cause exists for deni-
34 al of a license under section 408. Such an applicant
35 shall pay the examination fee as provided in section
36 ~~402~~ 407-A.

37 Sec. 133. 32 MRSA §405, first and 3rd
38 paragraphs, as repealed and replaced by PL 1977, c.
39 398, §9, are amended to read:

40 The board shall furnish to each registered ap-
41 prentice a ~~certificate-of~~ registration of apprentice-
42 ship.

1 Each apprentice shall make application on a form
2 supplied by the board for ~~certificates~~ of
3 registration registrations. The application shall be
4 filed with the secretary of the board and shall be
5 accompanied by a registration fee of ~~\$10~~. The ~~certif-~~
6 ~~icate~~ of registration shall expire 18 months from
7 date of issue and shall be renewable. The ~~certificate~~
8 registration shall be displayed as provided for bar-
9 bers' ~~certificates~~ licenses in section 407. The term
10 "apprentice" shall appear in conspicuous print upon
11 the ~~certificate~~ registration.

12 Sec. 134. 32 MRSa §406, as repealed and replaced
13 by PL 1977, c. 398, §9, is amended to read:

14 §406. Technicians

15 Every barber technician, in order to avail him-
16 self of this chapter, shall, before entering employ-
17 ment as a barber technician, file with the secretary
18 of the board, on forms which shall be provided by the
19 board, the name and place of business of the employ-
20 er, the date on which employment will be commenced
21 and the barber technician's full name and age. That
22 age shall not be less than 17 years. The forms shall
23 be accompanied by a registration fee of ~~\$5~~. Any bar-
24 ber technician who shall change his place of employ-
25 ment shall promptly notify the board and furnish it
26 with the name and place of business of the new em-
27 ployer and the date of the change.

28 The board shall furnish to each barber technician
29 a ~~certificate~~ of registration in the form prescribed
30 by the board, bearing the seal of the board, certify-
31 ing that the holder is a barber technician. It shall
32 be the duty of the holder of such a ~~certificate~~ of
33 registration to post it in a conspicuous place where
34 it may readily be seen by all persons, on or before
35 the first day of January in each year. ~~The fee for~~
36 ~~such a certificate shall be \$10 in the first instance~~
37 ~~and \$10 for each biennial renewal thereof.~~ The
38 certificate registration shall run from the first day
39 of January of each biennium.

40 A barber technician shall not be considered an
41 apprentice nor shall any time which he has been reg-
42 istered and been employed as a barber technician

1 count toward training for eligibility to obtain a
2 ~~certificate-of-registration~~ license as a barber.

3 Sec. 135. 32 MRSA §407, as amended by PL 1985,
4 c. 748, §§38 and 39, is further amended to read:

5 §407. Licenses; renewal;

6 The board shall furnish to each registered
7 ~~licensed~~ barber a ~~certificate---of---registration~~
8 license. It shall be the duty of the holder of such
9 ~~certificate-of-registration~~ license to post it in a
10 conspicuous place where it may be readily seen by all
11 persons served.

12 The ~~certificate-of-registration~~ license shall be
13 renewed on or before the first day of January annual-
14 ly, and the holder of the certificate of registration
15 shall pay ~~the-sum-of-\$35~~ a fee for each annual renew-
16 al.

17 A license may be renewed up to 90 days after the
18 date of its expiration upon payment of a late fee of
19 \$10 in addition to the renewal fee. Any person who
20 submits an application for renewal more than 90 days
21 after the license expiration date shall be subject to
22 all requirements governing new applicants under this
23 chapter, except that the board may in its discretion,
24 giving due consideration to the protection of the
25 public, waive examination if the renewal application
26 is made within 2 years from the date of the expira-
27 tion.

28 Sec. 136. 32 MRSA §407-A is enacted to read:

29 §407-A. Fees

30 Fees may be established by the board in amounts
31 which are reasonable and necessary for their respec-
32 tive purposes. With the exception of the various ex-
33 amination fees which are to be collected upon the ad-
34 ministration of such examinations, all fees are to be
35 collected by the board on an annual basis. The fees
36 may not exceed the following amounts:

37 A. For an instructor's examination, \$45;

1 B. For an instructor's certificate of registra-
2 tion, \$25;

3 C. For a shop license, \$35;

4 D. For a barber's examination, \$25;

5 E. For a barber's certificate of registration,
6 \$40;

7 F. For a student permit, \$10;

8 G. For a temporary permit, \$10;

9 H. For an apprentice's certificate of registra-
10 tion, \$10; and

11 I. For a technician's certificate of registra-
12 tion, \$10.

13 **Sec. 137. 32 MRSA §408, sub-§5, as enacted by PL**
14 **1977, c. 398, §9, is amended to read:**

15 **5. Certain conduct. Repeated-acts--or--continued**
16 **Acts or conduct while serving customers which is dan-**
17 **gerous or injurious, or potentially so, to customers.**

18 **Sec. 138. 32 MRSA §1105, last ¶, as amended by**
19 **PL 1983, c. 413, §33, is further amended to read:**

20 **Nothing in this chapter may prevent a person from**
21 **making electrical installations or alterations in a**
22 **single--family one-family or 2-family residence occu-**
23 **pied by him or to be occupied by him as his bona fide**
24 **personal abode, providing that the installation con-**
25 **forms with the standards of the National Electric**
26 **Code. Any electrical installations made under the au-**
27 **thority of this paragraph, after July 1, 1987, in a**
28 **newly constructed residence, shall require certifica-**
29 **tion by a state or local inspector, master electri-**
30 **cian or limited electrician in house wiring prior to**
31 **the activation of electricity by the utility company.**

32 **Sec. 139. 32 MRSA §1551, sub-§4, as enacted by**
33 **PL 1977, c. 398, §10, is amended to read:**

1 4. Practice of cosmetology or practice of
2 hairdressing and beauty culture. "The practice of,
3 teaching of or demonstration of cosmetology" or "the
4 practice of, teaching of, demonstration of
5 hairdressing and beauty culture" shall mean the en-
6 gaging by any person for-hire-or-reward in any one or
7 more of the following practices:

8 A. Applying the hands or mechanical or electri-
9 cal apparatus with or without cosmetic prepara-
10 tions, tonics, lotions, creams, antiseptics or
11 clays to massage, cleanse, stimulate, manipulate,
12 exercise or otherwise to improve or to beautify
13 the scalp, face, neck, shoulders, arms, hands or
14 to manicure the fingernails or toenails of any
15 person;

16 B. Arranging, dressing, curling, waving, cleans-
17 ing, cutting, singeing, bleaching, coloring or
18 similarly treating the hair of any person; or

19 C. Arranging, dressing, curling, waving, cleans-
20 ing, cutting, singeing, bleaching, coloring or
21 similarly treating a wig, wiglet or hair piece
22 made of human hair, animal hair or synthetics.

23 Sec. 140. 32 MRSA §1551, sub-§4-A is enacted to
24 read:

25 4-A. Discretionary authority. The board shall
26 have the discretionary authority to allow the unli-
27 censed practice of cosmetology in those situations
28 which it deems that there is no threat to the public
29 health and welfare. The board shall establish rules
30 to administer this provision.

31 Sec. 141. 32 MRSA §1551, sub-§5-A is enacted to
32 read:

33 5-A. Apprentice manicurist. "Apprentice manicur-
34 ist" means any person who is engaged in learning and
35 acquiring a knowledge of the practice of nail care
36 under the direction and supervision of a person li-
37 censed under this chapter to practice cosmetology or
38 manicuring in accordance with the rules of the board
39 relating to apprentices.

1 Sec. 142. 32 MRSA §1552, sub-§2, as amended by
2 PL 1985, c. 506, Pt. A, §67, is further amended to
3 read:

4 2. Exceptions. The practice of cosmetology shall
5 be carried on only by persons duly registered
6 licensed to practice in this State and only in a li-
7 censed beauty shop, except as provided in this sub-
8 section. A duly registered licensed cosmetologist may
9 practice cosmetology:

10 A. Upon patients in hospitals or nursing homes;

11 B. Upon residents of summer camps;

12 C. Upon inmates or residents of institutions of
13 the Department of Mental Health and Mental Retar-
14 dation and the Department of Corrections;

15 D. Upon an invalid or handicapped person in that
16 person's place of residence;

17 E. Upon a resident of a nursing home;

18 F. Upon a hotel or motel occupant in that
19 person's hotel or motel room; and

20 G. Upon a person in the person's residence, when
21 done for the usual fees.

22 Sec. 143. 32 MRSA §1553-A, as enacted by PL
23 1983, c. 841, §18, is amended to read:

24 §1553-A. Instructors of cosmetology

25 No person may be engaged to instruct in any of
26 the branches of cosmetology unless that person has a
27 certificate license to practice cosmetology under
28 this chapter, except physicians as specified.

29 The board and the Department of Educational and
30 Cultural Services shall make rules for the examina-
31 tion of applicants for ~~certificates--of--registration~~
32 licensure as instructors of cosmetology, in accord-
33 ance with the Maine Administrative Procedure Act, Ti-
34 tle 5, chapter 375, subchapter II. Examination ap-
35 plications shall be furnished by the board. The ap-

1 plication shall be filed with the secretary of the
2 board and shall be accompanied by an examination fee
3 ~~of \$50~~ which shall include registration licensure, if
4 examination is satisfactory. All ~~certificates--of~~
5 registration licenses as instructors shall expire
6 June 30th biennially. ~~The renewal fee--for--instruc-~~
7 ~~tors--shall--be--\$16--biennially--~~

8 **Sec. 144.** 32 MRSA §1555, first ¶, as repealed
9 and replaced by PL 1977, c. 398, §10, is amended to
10 read:

11 Any person engaged in the practice of cosmetology
12 in this State without having obtained a certificate
13 ~~of-registration~~ license as provided by this chapter
14 or employing a person to practice cosmetology who
15 does not have such a certificate license, unless the
16 person is an apprentice within the meaning of this
17 chapter, or falsely pretending to be qualified to
18 practice cosmetology under this chapter or violating
19 any of the provisions of this chapter shall be deemed
20 guilty of a Class E crime. Every such person shall be
21 deemed guilty of a separate and distinct offense for
22 each month or part thereof during which such practice
23 or employment shall be repeated or continued after
24 prosecution has been begun against any such person
25 for the violation of any of the provisions of this
26 chapter.

27 **Sec. 145.** 32 MRSA §1556, as enacted by PL 1977,
28 c. 398, §10, is repealed and the following enacted in
29 its place:

30 §1556. Practicing in same shops

31 In any shop licensed with the Board of Barbers
32 and the Board of Cosmetology, both of the barber and
33 cosmetology professions may be practiced by licensed
34 individuals in that shop. Those individuals are not
35 required to be licensed by both boards. Partitions
36 between or separate rooms for the 2 practices shall
37 not be required in any such shop.

38 **Sec. 146.** 32 MRSA §1601, as amended by PL 1985,
39 c. 785, Pt. B, §132, is further amended to read:

40 §1601. Board

1 1. Membership. The State Board of Cosmetology,
2 as established by Title 5, section 12004, subsection
3 1, and in this chapter designated as the "board,"
4 shall consist of 7 6 members who shall be citizens of
5 this State, 5 of whom shall have been engaged in the
6 practice of cosmetology for at least 3 years immedi-
7 ately prior to their appointment and one of whom
8 shall be a representative of the public. ~~The 7th mem-~~
9 ~~ber of the board shall be the Director of Health--who~~
10 ~~shall have no board vote.~~

11 The 6-voting members of the board shall be appointed
12 by the Governor and their terms shall be for 3 years.
13 None of them may be eligible to serve more than 3
14 consecutive 3-year terms or to serve more than 9
15 years consecutively, provided that for this purpose
16 only a period actually served which exceeds 1/2 of
17 the 3-year term shall be deemed a full term. Upon
18 expiration of a member's term, he shall serve until
19 his successor is qualified and appointed. The
20 successor's term shall be 3 years from the date of
21 the expiration, regardless of the date of his ap-
22 pointment. The cosmetologist members shall at all
23 times be registered cosmetologists and shall be ac-
24 tively engaged in the practice during their member-
25 ship on the board. A board member may be removed by
26 the Governor for cause.

27 Any vacancy in the board shall be filled by the ap-
28 pointment by the Governor of a person, qualified as
29 was the board member being replaced, to hold office
30 during the unexpired term of the member whose place
31 is thus filled.

32 No person operating or employed by a school of cosme-
33 tology may be appointed as a member of the board. If
34 any member of the board, after appointment, shall be-
35 come affiliated in any way with any such school, that
36 person's membership on the board shall immediately
37 terminate and the unexpired term of that member shall
38 be filled by the Governor.

39 2. Meetings; chairman; quorum. The board shall
40 meet at least once a year to conduct its business and
41 to elect a chairman. Additional meetings shall be
42 held as necessary to conduct the business of the
43 board, and may be convened at the call of the chair-

1 man or a majority of the board members. All meetings.
2 of the board shall be open to the public, except that
3 the board may hold closed sessions to prepare, ap-
4 prove, grade or administer examinations, or to pre-
5 pare or provide a response upon request of an appli-
6 cant for review of his examination. Four voting mem-
7 bers of the board shall constitute a quorum for all
8 purposes.

9 3. Employees. The board shall employ, subject to
10 the Civil Service Law, an executive secretary. The
11 salary of the executive secretary shall be determined
12 by the Bureau of Human Resources and shall be paid
13 from funds received under this chapter. The execu-
14 tive secretary of the board shall keep a record of
15 all proceedings, certificates of registration and li-
16 censes; issue all notices, except those required to
17 be issued by the Administrative Court Judge under Ti-
18 tle 4, chapter 25; attest all papers and orders as
19 the board shall direct; make sanitary inspections at
20 least twice a year of shops and other establishments
21 subject to a license under this chapter as directed
22 by the board, and shall report annually on or before
23 August 1st of each year to the Commissioner of Busi-
24 ness, Occupational and Professional and Financial
25 Regulation, for the preceding fiscal year ending June
26 30th, giving a full statement of all receipts and ex-
27 penditures and a statement of the work performed by
28 the board during the year, together with recommenda-
29 tions as deemed necessary. The board shall employ,
30 subject to the Civil Service Law, inspectors who may
31 be registered cosmetologists and who shall, under the
32 direction of the executive secretary, make inspec-
33 tions of shops and other establishments subject to
34 license. Whenever necessary, the inspectors employed
35 by the board shall consult with the Department of Hu-
36 man Services for technical information and proper
37 procedure regarding sanitary shop inspections. The
38 salary of such inspectors shall be determined by the
39 Bureau of Human Resources and shall be paid from
40 funds received under this chapter. The board shall
41 have the right to dismiss, for cause, the executive
42 secretary or the inspectors.

43 4. Compensation. The members of the board shall
44 be compensated according to the provisions of Title
45 5, chapter 379 for no more than 18 meetings per cal-

1 endar year, or, in the case of the chairman, for no
2 more than 25 days per calendar year. Expenses as re-
3 lated to duties out of the State shall be reimburs-
4 able for no more than 5 calendar days per calendar
5 year unless approved in advance by the Governor.

6 Sec. 147. 32 MRSA §1602, sub-§1, as amended by
7 PL 1983, c. 413, §68, is further amended to read:

8 1. Board to administer, coordinate and enforce.
9 The board shall administer, coordinate and enforce
10 this chapter, evaluate the qualifications and super-
11 vise the examinations of applicants for registration
12 licensure under this chapter and shall, at its dis-
13 cretion, investigate allegations of violations of
14 this chapter. The board shall keep such records and
15 minutes as are necessary to the ordinary dispatch of
16 its functions. Any member or employee of the board
17 may enter and make reasonable examination of any
18 beauty shop during business hours for the purpose of
19 ascertaining whether or not the rules are being ob-
20 served.

21 Sec. 148. 32 MRSA §1602, 2nd ¶, as enacted by PL
22 1977, c. 604, §18, is amended to read:

23 On or before August 1st of each year, the board
24 shall submit to the Commissioner of Business Profes-
25 sional and Financial Regulation, for the preceding
26 fiscal year ending June 30th, its annual report of
27 its operations and financial position, together with
28 such comments and recommendations as the commissioner
29 deems essential.

30 Sec. 149. 32 MRSA §1602, last ¶, as amended by
31 PL 1983, c. 758, §8, is further amended to read:

32 The board shall submit to the Commissioner of
33 Business, Occupational and Professional and Financial
34 Regulation its budgetary requirements in the same
35 manner as is provided in Title 5, section 1665.

36 Sec. 150. 32 MRSA §1603, as amended by PL 1983,
37 c. 841, §20, is further amended to read:

38 §1603. Register of names

1 The board shall keep a register in which shall be
2 entered the names of all persons to whom certificates
3 registrations, licenses and permits are issued under
4 this chapter and that register shall be at all times
5 open to public inspection.

6 Sec. 151. 32 MRSA c. 23, sub-c. III, first 2
7 lines are repealed and the following enacted in their
8 place:

9 SUBCHAPTER III

10 LICENSURE

11 Sec. 152. 32 MRSA §1651, as repealed and re-
12 placed by PL 1977, c. 398, §10, is amended to read:

13 §1651. Registration and licenses

14 No person ~~shall~~ may practice cosmetology in this
15 State unless that person shall first have obtained a
16 ~~certificate-of-registration license~~ as provided in
17 this chapter or unless that person shall be acting
18 within the scope of employment as an apprentice.

19 An apprentice cosmetologist may not independently
20 practice cosmetology but may, as an apprentice, do
21 any or all acts constituting the practice of cosme-
22 tology under the immediate personal supervision of a
23 registered licensed cosmetologist. Only one such ap-
24 prentice shall be employed in any licensed beauty
25 shop.

26 No person, firm or corporation ~~shall~~ may operate
27 or cause to be operated a shop where cosmetology is
28 practiced unless that shop has been duly licensed.
29 ~~The--fee-for-a-license-to-operate-a-beauty-shop-shall~~
30 ~~be-\$30-for-a-new-shop-or-change-in-location-or-owner-~~
31 ~~ship-and-\$20-but-not-exceeding-\$35-for-each--biennial~~
32 ~~renewal-thereof.~~ The license shall run from the first
33 day of July biennially and the fee shall be payable
34 to the board. Booths, attached to or within a beauty
35 shop that are operated independently thereof, shall
36 be subject to license fees in the same manner as an
37 independent shop.

1 An apprentice manicurist may not independently
2 practice manicuring but may, as an apprentice, do any
3 or all acts constituting the practice of manicuring
4 and pedicuring under the immediate personal supervi-
5 sion of a licensed cosmetologist or licensed manicur-
6 ist. Only one such apprentice shall be employed in
7 any licensed beauty shop.

8 Sec. 153. 32 MRS §1652, first ¶, as repealed
9 and replaced by PL 1977, c. 398, §10, is amended to
10 read:

11 Any person shall be eligible to obtain a certifi-
12 cate--of--registration license under this chapter for
13 the practice of cosmetology:

14 Sec. 154. 32 MRS §1652, sub-§4, as repealed and
15 replaced by PL 1977, c. 398, §10, is amended to read:

16 4. Examination. Who has satisfactorily passed an
17 examination conducted by the board to determine his
18 fitness to receive such certificate license.

19 Sec. 155. 32 MRS §1652, next to the last ¶, as
20 repealed and replaced by PL 1977, c. 398, §10, is
21 amended to read:

22 The applications shall be filed with the secre-
23 tary of the board and shall be accompanied by an ex-
24 amination fee of-\$15. If the examination is satisfac-
25 tory, the applicant shall pay a fee of-from-\$10-to
26 \$15 within 90 days to receive a first license, which
27 shall be valid until the next renewal period. The
28 board shall determine-the-exact-amount--of--this--fee
29 have the authority to waive the 90-day time period
30 for extenuating circumstances. If not successful, the
31 applicant shall have the privilege of taking a 2nd
32 examination by-payment-of-a-fee-of-\$10 at any subse-
33 quent examination held by the board within a period
34 of one year. Any applicant, who has failed a 2nd ex-
35 amination, may take a further examination at a time
36 to be determined by the board upon payment of a \$10
37 fee for each subsequent examination.

38 Sec. 156. 32 MRS §1653, as repealed and re-
39 placed by PL 1977, c. 398, §10, is amended to read:

1 §1653. Temporary permit

2 If any applicant to practice cosmetology quali-
3 fies for examination, the board may issue to such an
4 applicant, until the results of the applicant's exam-
5 ination have been given, a permit to practice cosme-
6 tology under the supervision of a person registered
7 licensed to practice cosmetology. The permit shall
8 terminate with the issuance of the results of the ex-
9 amination following the applicant's qualification. If
10 the applicant fails the first examination following
11 qualification, the applicant may renew his permit to
12 practice cosmetology, until the results of the next
13 consecutive examination have been given, at which
14 time the permit expires and shall not be renewable.
15 The applicant shall not be considered an apprentice.
16 ~~The applicant shall pay to the board a fee of \$5.~~

17 Sec. 157. 32 MRSA §1654, as amended by PL 1983,
18 c. 841, §23, is further amended to read:

19 §1654. Reciprocity with other states

20 The board may waive the examination and grant
21 registration licensure to any applicant who shall
22 present proof of current ~~registration or~~ licensure in
23 another state, other jurisdiction of the United
24 States or another country which grants similar privi-
25 leges to persons registered under this chapter and
26 maintains professional standards deemed by the board
27 to be equivalent to those set forth in this chapter,
28 provided that no cause exists for denial of a license
29 under section 1657-A. Such an applicant shall pay the
30 same fee as provided in section ~~1657~~ 1657-B.

31 The board may allow an applicant to take the ex-
32 amination who presents proof of training or experi-
33 ence, of an amount at least equal to that required
34 under section 1652, subsection 3, in another state,
35 other jurisdiction of the United States or another
36 country which maintains professional standards deemed
37 by the board to be equivalent to those set forth in
38 this chapter, provided that no cause exists for deni-
39 al of a license under section ~~1650~~ 1657-A. Such an
40 applicant shall pay the same fee as provided in sec-
41 tion ~~1652~~ 1657-B.

1 Sec. 158. 32 MRSA §1655, first and 3rd
2 paragraphs, as repealed and replaced by PL 1977, c.
3 398, §10, are amended to read:

4 The board shall furnish to each registered ap-
5 prentice a ~~certificate-of~~ registration of apprentice-
6 ship.

7 Each apprentice shall make application on a form
8 supplied by the board for ~~certificates--of~~ registra-
9 tion. The application shall be filed with the secre-
10 tary of the board and shall be accompanied by a reg-
11 istration fee of ~~-\$10~~. The ~~certificate-of~~ registration
12 shall expire 18 months from date of issue and shall
13 be renewable. The ~~certificate~~ registration shall be
14 displayed as provided for ~~certificates~~ licenses in
15 section ~~1652~~ 1657. The term "apprentice" shall appear
16 in conspicuous print upon the ~~certificate~~
17 registration.

18 Sec. 159. 32 MRSA §1655-A, 2nd ¶, as enacted by
19 PL 1983, c. 841, §24, is amended to read:

20 To be eligible for a student permit, a student
21 cosmetologist must be at least 16 years of age and
22 have completed the 10th grade in a secondary school.
23 The application shall include evidence of the student
24 cosmetologist's enrollment in a school of cosmetology
25 licensed by the Commissioner of Educational and Cul-
26 tural Services. ~~The student shall pay a registration~~
27 ~~fee of \$5.~~

28 Sec. 160. 32 MRSA §1656, as amended by PL 1981,
29 c. 501, §60, is further amended to read:

30 §1656. Demonstrations; manicuring

31 1. Demonstrators. Any person registered licensed
32 to practice cosmetology may apply to the board of
33 registration as a demonstrator. A ~~certificate--of~~
34 registration license limited to demonstrations only
35 may be issued upon complying with such requirements
36 as may be determined by the board ~~and upon payment of~~
37 ~~the fee of \$25 for an initial license~~, which is valid
38 until the next renewal date. Certificates shall be
39 renewed biennially on or before July 1st ~~by paying--a~~
40 ~~renewal fee of \$30.~~

1 2. Manicuring. A ~~certificate--of--registration~~
2 license limited to manicuring only may be issued upon
3 complying with such examination requirements as may
4 be determined by the board and upon payment of the
5 fees as provided by this chapter.

6 Sec. 161. 32 MRSA §1657, as amended by PL 1983,
7 c. 413, §73, is further amended to read:

8 §1657. Licenses; renewal

9 The board shall furnish to each registered
10 licensed cosmetologist a ~~certificate-of--registration~~
11 license bearing the seal of the board and the names
12 of all of its members, certifying that the holder
13 thereof is entitled to practice cosmetology in this
14 State. It shall be the duty of the holder of such
15 certificate--of--registration license to post it in a
16 conspicuous place where it may be readily seen by all
17 persons served.

18 The ~~certificate-of-registration~~ license shall be
19 renewed on or before the first day of July biennial-
20 ly. ~~The holder of the certificate-of-registration~~
21 ~~shall pay the board for the biennial renewal a sum~~
22 ~~between \$20 and \$35, as determined by the board.~~

23 A license may be renewed up to 90 days after the
24 date of its expiration upon payment of a late fee of
25 \$10 in addition to the renewal fee. Any person who
26 submits an application for renewal more than 90 days
27 after the license expiration date shall be subject to
28 all requirements governing new applicants under this
29 chapter, except that the board may in its discretion,
30 giving due consideration to the protection of the
31 public, waive examination if the renewal application
32 is made within 2 years from the date of the expira-
33 tion. The board shall have the authority to waive the
34 90-day time period for extenuating circumstances.

35 Sec. 162. 32 MRSA §1657-A, as repealed and re-
36 placed by PL 1983, c. 413, §74, is amended to read:

37 §1657-A. Suspension, revocation and refusal to issue
38 or to renew license

1 The board shall investigate or cause to be inves-
2 tigated all complaints made to it and all cases of
3 noncompliance with or violation of this chapter. The
4 board may suspend or revoke a license pursuant to Ti-
5 tle 5, section 10004. The board may refuse to issue
6 or renew a license or the Administrative Court may
7 revoke, suspend or refuse to renew a license of any
8 person registered licensed under this chapter for any
9 of the following reasons:

10 1. Obtaining registration or license by fraud.
11 Obtaining registration or license by means of fraud,
12 misrepresentation or concealment of material facts;

13 2. Violation of any lawful order, rule. Violat-
14 ing any lawful order or rule adopted by the board;

15 3. Violations. Violating any provision of this
16 chapter;

17 4. Conviction of a crime. Being convicted of a
18 crime in any court of the United States, if the acts
19 for which the person is convicted are found by the
20 board to have a direct bearing on whether the person
21 should be entrusted to serve the public in a capacity
22 which is subject to license or registration under
23 this chapter, subject to the limitations of Title 5,
24 chapter 341; or

25 5. Certain conduct. ~~Repeated--acts~~ Acts or
26 ~~continued~~ conduct while serving customers which ~~is~~
27 are dangerous or injurious, or potentially so, to
28 customers.

29 The board may reissue a license ~~or-registration~~
30 to any person whose license ~~or-registration~~ has been
31 revoked, if 4 or more members of the board vote in
32 favor of reissuance.

33 Sec. 163. 32 MRSa §1657-B is enacted to read:

34 §1657-B. Fees

35 1. Fees. Fees may be established by the board in
36 amounts that are reasonable and necessary for their
37 respective purposes. With the exception of the vari-
38 ous examination fees which are to be collected upon

1 the administration of the examinations, all fees are
2 to be collected by the board on a biennial basis. The
3 fees may not exceed the following amounts:

4 A. For an instructor's examination, \$50;

5 B. For original and biennial renewal of
6 instructor's certificate of registration, \$16;

7 C. For original and biennial renewal of shop li-
8 cence, \$35;

9 D. For a hairdresser's examination, \$15;

10 E. For original and biennial renewal of a
11 hairdresser certificate of registration, \$35;

12 F. For a student permit, \$5;

13 G. For a temporary permit, \$5;

14 H. For original and biennial renewal of an
15 apprentice's certificate of registration, \$10;
16 and

17 I. For original and biennial renewal of a demon-
18 strator's certificate of registration, \$30.

19 **Sec. 164. 32 MRSA §2315, as amended by PL 1979,**
20 **c. 606, §10, is further amended to read:**

21 §2315. State oil and solid fuel compliance officers

22 State oil and solid fuel compliance officers,
23 upon written complaint of any owner, lessee or tenant
24 of a building, state fire inspector, fire chief, fire
25 department inspector, personnel of an electric utili-
26 ty or local electrical inspector, or whenever they
27 shall deem it necessary, for purposes of examination
28 of the burner installation, may at all reasonable
29 hours enter into and upon all buildings or premises
30 within their jurisdiction and inspect the buildings
31 or premises. The inspectors may enter any building
32 only with the permission of the person having control
33 thereof or, after hearing, upon order of the court.
34 Whenever any such compliance officer shall find any
35 burner installation in any building or structure

1 which does not comply with the requirements of this
2 chapter, he shall order the burner to be removed or
3 remedied, and the order shall forthwith be complied
4 with by the owner or occupant of that building or
5 structure. The owner or occupant may, within 7 days,
6 appeal to the Oil and Solid Fuel Board, which shall,
7 within 10 days, review the order and file its deci-
8 sion thereon, which decision shall be complied with
9 within such time as may be fixed in the decision of
10 the board. In the event any person, firm or corpora-
11 tion fails or refuses to carry out any such order of
12 any oil or solid fuel burner compliance officer or
13 decision of the board, a court may order appropriate
14 injunctive relief. State oil and solid fuel compli-
15 ance officers shall have the authority to review the
16 burner installation records of any person licensed
17 under this chapter.

18 **Sec. 165.** 32 MRSA §2351, first ¶, as repealed
19 and replaced by PL 1985, c. 506, Pt. A, §68, is
20 amended to read:

21 An Oil and Solid Fuel Board, as established by
22 Title 5, section 12004, subsection 1, and in this
23 chapter called the "board," shall consist of the Com-
24 missioner of Business, Occupational and Professional
25 and Financial Regulation or a representative ap-
26 pointed by the commissioner, the Commissioner of Pub-
27 lic Safety or a representative and 5 other members,
28 called in this chapter the "appointive members," who
29 shall be appointed by the Governor.

30 **Sec. 166.** 32 MRSA §2352, first ¶, as amended by
31 PL 1985, c. 785, Pt. B, §135, is further amended to
32 read:

33 The Commissioner of Business, Occupational and
34 Professional and Financial Regulation, with the ad-
35 vice and consent of the board, shall be empowered to
36 appoint, subject to the Civil Service Law, such em-
37 ployees as may be necessary to carry out this chap-
38 ter. Any persons so employed shall be located in the
39 Department of Business, Occupational and Professional
40 and Financial Regulation and under the administrative
41 and supervisory direction of the Commissioner of
42 Business, Occupational and Professional and Financial
43 Regulation. In addition, the board may enter into

1 contracts to carry out its responsibilities under
2 this chapter.

3 Sec. 167. 32 MRSA §2357, as enacted by PL 1975,
4 c. 767, §10, is amended to read:

5 §2357. Reports

6 Not later than August 1st of each year, the board
7 shall submit to the Commissioner of Business Profes-
8 sional and Financial Regulation for the preceding
9 fiscal year ending June 30th an annual report of its
10 operations and financial position, together with such
11 comments and recommendations as the board deems es-
12 sential.

13 Sec. 168. 32 MRSA §2401-A, sub-§6, as enacted by
14 PL 1979, c. 569, §13, is amended to read:

15 6. Personal abode. Nothing in this chapter shall
16 may prevent a person from making an oil or solid fuel
17 burner installation or alteration in a ~~single--family~~
18 one-family or 2-family residence occupied or to be
19 occupied by him as his bona fide personal abode, provi-
20 ding that installation conforms with the National
21 Fire Protection Association Standard No. 31.

22 Sec. 169. 32 MRSA §2402, sub-§2, as amended by
23 PL 1983, c. 413, §123, is further amended to read:

24 2. Fees. An application fee and an examination
25 fee may be established by the board in amounts which
26 are reasonable and necessary for their respective
27 purposes. Original and renewal license fees ~~shall be~~
28 as follows may be established by the board in amounts
29 which are reasonable and necessary for their respec-
30 tive purposes. The fees may not exceed the following
31 amounts:

32 A. Master, original license, \$50 \$100; biennial
33 renewal fee, ~~\$100~~ \$200;

34 B. Journeyman, original license, \$25 \$50; bien-
35 nial renewal fee, \$50 \$100; and

36 C. Apprentice, original license, ~~\$10~~ \$20; bien-
37 nial renewal fee, \$20 \$40.

1 When the unexpired term of license of an applicant is
2 or will be more than one year at time of licensure,
3 the board may require the applicant to pay an addi-
4 tional fee not to exceed 1/2 the biennial renewal
5 fee.

6 A person holding a license as a master oil burner
7 technician is not required to pay a fee to be li-
8 censed as a master solid fuel burner technician, as
9 long as he meets all other requirements and pays the
10 examination fee required by section 2403. A person
11 holding a license as a master solid fuel burner tech-
12 nician is not required to pay a fee to be licensed as
13 a master oil burner technician, as long as he meets
14 all other requirements and pays the examination fee
15 required by section 2403. Any person who has paid a
16 fee for both master licenses held simultaneously
17 shall be given a credit for one license fee less the
18 examination fee, which shall be applied to the next
19 renewal.

20 Sec. 170. 32 MRSA §3302, sub-§1, ¶C, as enacted
21 by PL 1977, c. 469, §6, is repealed and the following
22 enacted in its place:

23 C. Nothing in this chapter prevents a person
24 from making plumbing installations or alterations
25 in a one-family or 2-family residence occupied by
26 him or to be occupied by him as his bona fide
27 personal abode, providing that the installation
28 or alteration conforms with applicable national
29 standards.

30 Sec. 171. 32 MRSA c. 59, as amended, is re-
31 pealed.

32 Sec. 172. 32 MRSA §4907, first ¶, as amended by
33 PL 1983, c. 812, §243, is further amended to read:

34 The State Board of Certification for Geologists
35 and Soil Scientists as established by Title 5, sec-
36 tion 12004, subsection 1, shall administer this chap-
37 ter and its office shall be within the Department of
38 ~~Business, Occupational and Professional and Financial~~
39 Regulation. The board shall consist of 7 members, 5
40 of whom shall be appointed by the Governor from the
41 following categories: One academic geologist; one in-

1 dependent consultant or salaried geologist; one inde-
2 pendent consultant or salaried soil scientist; one
3 other soil scientist and a representative of the pub-
4 lic. The 6th and 7th members shall be the State Soil
5 Scientist with the Maine Soil and Water Conservation
6 Commission, ex officio, and the State Geologist or
7 his designee, who shall be a geologist employed in
8 State Government, ex officio. No person, except the
9 representative of the public, shall may be eligible
10 for appointment to the board unless certified under
11 this chapter.

12 Sec. 173. 32 MRSA §4908, sub-§§1 and 2, as
13 amended by PL 1983, c. 553, §46, are further amended
14 to read:

15 1. Register. The ~~Central-Licensing~~ Division of
16 Licensing and Enforcement of the Department of ~~Busi-~~
17 ~~ness,--Occupational--and~~ Professional and Financial
18 Regulation shall compile and maintain a complete and
19 up-to-date list of all licenses. The list shall be
20 made available to any person upon request.

21 2. Reports. On or before August 1st of each
22 year, the board shall submit to the Commissioner of
23 ~~Business,--Occupational--and~~ Professional and Financial
24 Regulation for the preceding fiscal year ending June
25 30th, its annual report of its operations and finan-
26 cial position, together with such comments and recom-
27 mendations as the commissioner deems essential.

28 The board shall submit to the Commissioner of ~~Busi-~~
29 ~~ness,--Occupational--and~~ Professional and Financial
30 Regulation its budgetary requirements in the same
31 manner as is provided in Title 5, section 1665, and
32 the commissioner shall in turn transmit these re-
33 quirements to the Bureau of the Budget.

34 Sec. 174. 32 MRSA §4908, sub-§3, as amended by
35 PL 1985, c. 785, Pt. B, §143, is further amended to
36 read:

37 3. Employees. The Commissioner of ~~Busi-~~
38 ~~ness,--Occupational--and~~ Professional and Financial Regulation,
39 with the advice and consent of the board, shall be
40 empowered to appoint, subject to the Civil Service
41 Law, such employees as may be necessary to carry out

1 this chapter. Any person employed shall be located in
2 the Department of ~~Business, Occupational and Profes-~~ Professional and Financial Regulation and under the admin-
3 istrative and supervisory direction of the Commis-
4 sioner of ~~Business, Occupational and Professional and~~ Financial Regulation.
5
6

7 **Sec. 175.** 32 MRSA §4911, first ¶, as amended by
8 PL 1983, c. 413, §182, is further amended to read:

9 Certificates shall expire on December 31st biennially and shall become invalid on that date unless
10 renewed. It shall be the duty of the ~~Central~~ Licensing Division of Licensing and Enforcement of
11 the Department of ~~Business Professional and Financial~~ Regulation to notify, at his last known address, every
12 person registered under this chapter of the date
13 of the expiration of his license and the amount of
14 the fee that shall be required for its renewal for a
15 2-year period. The notice shall be mailed at least
16 one month in advance of the expiration date.
17
18
19

20 **Sec. 176.** 32 MRSA c. 75, first 2 lines are re-
21 pealed and the following enacted in their place:

22 CHAPTER 75

23 FORESTER LICENSING

24 **Sec. 177.** 32 MRSA §5002, as amended by PL 1979,
25 c. 118, §1, is further amended to read:

26 §5002. Use of title

27 Except as specifically authorized, no person
28 ~~shall~~ may engage in the practice of forestry as de-
29 fined in this chapter or in any manner advertise or
30 hold himself out as engaged in such practice, without
31 first being licensed as a ~~registered~~ licensed profes-
32 sional forester under this chapter. Nothing in this
33 chapter ~~shall~~ may be construed as preventing or pro-
34 hibiting any person from managing or otherwise con-
35 ducting forestry practices on land owned, leased,
36 rented or held under any contractual arrangement by
37 such person; nor ~~shall~~ may anything herein prohibit
38 any person from practicing forestry under the super-

1 vision of a registered licensed forester; nor shall
2 may anything herein prohibit employees of a federal
3 governmental agency from practicing for said the fed-
4 eral governmental agency.

5 Sec. 178. 32 MRSA §5003, sub-§§1 and 3, as en-
6 acted by PL 1975, c. 490, are amended to read:

7 1. Board. "Board" shall mean the Maine State
8 Board of Registration Licensure for Professional For-
9 esters.

10 3. Licensed professional forester. "Registered
11 Licensed professional forester" shall mean a person
12 who ~~has registered~~ and is licensed under the provi-
13 sions of this chapter.

14 Sec. 179. 32 MRSA §5004, as amended by PL 1983,
15 c. 812, §245, is further amended to read:

16 §5004. State Board of Licensure

17 A State Board of Registration Licensure for Pro-
18 fessional Foresters within the Department of ~~Business~~
19 ~~7-Occupational~~ and Professional and Financial Regula-
20 tion, as established by Title 5, section 12004, sub-
21 section 1, shall administer the provisions of this
22 chapter. The board shall consist of 5 professional
23 foresters and one public member who shall be selected
24 and appointed by the Governor, and the forester mem-
25 bers shall be qualified as required by section 5005.
26 Appointments shall be for 5-year terms, except that
27 no more than one forester member's term may expire in
28 any one calendar year and appointments for terms of
29 less than 5 years may be made in order to comply with
30 this limitation. Upon expiration of a member's term,
31 he shall serve until his successor is qualified and
32 appointed. The successor's term shall be 4 years
33 from the date of the expiration, regardless of the
34 date of his appointment. No person may be eligible
35 to serve more than 2 full consecutive terms, provided
36 that for this purpose only a period actually served
37 which exceeds 1/2 of the 5-year term shall be deemed
38 a full term.

39 Sec. 180. 32 MRSA §5009, sub-§3, as enacted by
40 PL 1983, c. 413; §189, is amended to read:

1 3. Hearings. Hearings may be conducted by the
2 board to assist with investigations, to determine
3 whether grounds exist for suspension, revocation or
4 denial of a license, or as otherwise deemed necessary
5 to the fulfillment of its responsibilities under this
6 chapter.

7 The board shall not refuse to renew a license for any
8 reason other than failure to pay a required fee, un-
9 less it has afforded the licensee as an opportunity
10 for an adjudicatory hearing. The board shall hold an
11 adjudicatory hearing at the written request of any
12 person who is denied a license without a hearing for
13 any reason other than failure to pay a required fee,
14 provided that the request for hearing is received by
15 the board within 30 days of the applicant's receipt
16 of written notice of the denial of his application,
17 the reasons for the denial of his application and his
18 right to request a hearing. Hearings shall be con-
19 ducted in conformity with the Maine Administrative
20 Procedure Act, Title 5, chapter 375, subchapter IV,
21 to the extent applicable. The board may subpoena wit-
22 nesses, records and documents in any hearing it con-
23 ducts.

24 Sec. 181. 32 MRSA §5012, as repealed and re-
25 placed by PL 1981, c. 470, Pt. A, §154, is amended to
26 read:

27 §5012. General requirements for licensure

28 The minimum qualifications and requirements for
29 registration licensure as a registered licensed pro-
30 fessional forester shall be as follows: Graduation
31 from a curriculum in forestry of 4 years or more in a
32 school or college approved by the board or graduation
33 from a post-graduate curriculum in forestry leading
34 to a degree higher than a bachelor's degree in a
35 school or college approved by the board. Applicants
36 who have not graduated from such a curriculum may
37 substitute 2 years' experience in forestry work of a
38 character satisfactory to the board for each year of
39 the undergraduate requirement of this section.

40 Sec. 182. 32 MRSA §5013, as amended by PL 1983,
41 c. 413, §191, is further amended to read:

1 §5013. Applications; fees

2 Applications for registration licensure shall be
3 made on forms prescribed and furnished by the board,
4 and shall contain statements made under oath as to
5 residence, the applicant's education, a detailed sum-
6 mary of his technical experience, and shall contain
7 the names of not less than 5 references, 3 or more of
8 whom shall be foresters having personal or profes-
9 sional knowledge of his forestry experience. Not-
10 withstanding any other provision of law, any communi-
11 cations solicited or received by the board as refer-
12 ences may be kept confidential by the board and any
13 discussion of these references may be conducted in
14 executive session. An application fee may be estab-
15 lished by the board in an amount which is reasonable
16 and necessary for its purpose. The registration fee
17 for a license as a registered licensed professional
18 forester shall be fixed by the board, but shall not
19 exceed \$25 for 2 years and shall be paid before the
20 issuance of the license. Should the applicant fail
21 to remit the registration licensure fee within 30
22 days after being notified by certified mail that his
23 application has been accepted, he shall forfeit the
24 right to have a license so issued and the applicant
25 may be required to again submit an original applica-
26 tion.

27 **Sec. 183. 32 MRSA §5014, as amended by PL 1983,**
28 **c. 413, §192, are further amended to read:**

29 §5014. Issuance of license; endorsement of documents

30 The board shall issue a license upon payment of
31 the registration licensure fee as provided in this
32 section to any applicant who, in the opinion of the
33 board, has satisfactorily met all the requirements of
34 this chapter. Licenses shall show the full name of
35 the registrant licensee. The issuance of a license
36 by the board shall be evidence that the person named
37 therein is entitled to all the rights and privileges
38 of a registered licensed professional forester while
39 the license remains unrevoked or unexpired. Plans,
40 maps and reports issued by the registrant licensee
41 shall be endorsed with his name and license number
42 during the life of the registrant's licensee's li-
43 cense, but it shall be a Class E crime for anyone to

1 endorse any document with that name and license num-
2 ber after the license of the registrant licensee
3 named thereon has expired or has been revoked or sus-
4 pended, unless the license has been renewed or reis-
5 sued. It is a Class E crime for any registered
6 licensed professional forester to endorse any plan,
7 map or report unless he shall have actually prepared
8 such plan, map or report, or shall have been in the
9 actual charge of the preparation thereof.

10 Sec. 184. 32 MRSA §5015, as amended by PL 1983,
11 c. 413, §193, is further amended to read:

12 §5015. Expiration and renewal of license

13 The ~~Central-Licensing~~ Division of Licensing and
14 Enforcement of the Department of Business Profession-
15 al and Financial Regulation shall compile and main-
16 tain a complete and up-to-date list of all licensed
17 foresters in the State. The list shall be made avail-
18 able to any person upon request at cost.

19 Licenses shall expire on December 31st 2 years
20 following their issuance or renewal and shall become
21 invalid on that date unless renewed. It shall be the
22 duty of the ~~Central-Licensing~~ Division of Licensing
23 and Enforcement to notify, at his last ~~registered~~ ad-
24 dress, every person registered licensed under this
25 chapter of the date of the expiration of his license
26 and the amount of the fee that shall be required for
27 its renewal for 2 years, that notice to be mailed at
28 least one month in advance of the date of the expira-
29 tion of that license. The board shall fix the renew-
30 al fee for licenses, which fee shall not exceed the
31 sum of \$25 for 2 years. Renewal of licenses for the
32 following 2 years may be effected at any time during
33 the month of December of the year in which the li-
34 cense is due for renewal by payment of the renewal
35 fee fixed by the board. A license may be renewed up
36 to 90 days after the date of expiration upon payment
37 of a late fee of \$10 in addition to the renewal fee.
38 Any person who submits an application for renewal
39 more than 90 days after the license renewal date
40 shall be subject to all requirements governing new
41 applicants under this chapter. The board shall make
42 an exception to the foregoing renewal provision in

1 the case of a person who is in the Armed Services of
2 the United States.

3 Sec. 185. 32 MRSA §5016, as enacted by PL 1975,
4 c. 490, is amended to read:

5 §5016. Firms; partnerships and corporations

6 Registration Licensure shall be determined upon a
7 basis of individual and personal qualifications. No
8 firms, companies, partnerships or corporations shall
9 may be registered licensed under this chapter.

10 Sec. 186. 32 MRSA §5017, as enacted by PL 1975,
11 c. 490, is amended to read:

12 §5017. Reciprocity

13 A person not a resident of and having no estab-
14 lished place of business in Maine, or who has recent-
15 ly become a resident thereof, may not practice or of-
16 fer to practice forestry nor use the title,
17 "registered licensed professional forester," unless
18 such person is legally registered licensed as a for-
19 ester in his own state or country and has submitted
20 evidence to the board that he is so registered
21 licensed, and the state or country in which he is
22 registered licensed observes the same rules of reci-
23 procity in regards to persons registered licensed un-
24 der the provisions of this chapter, and the state or
25 country in which he is so registered licensed has
26 substantially equivalent requirements for
27 registration licensure as set forth in this chapter.
28 It shall be the judgment of the board that these re-
29 quirements for registration licensure are of a sub-
30 stantially equivalent nature.

31 A person practicing as a registered licensed pro-
32 fessional forester under the provisions of this sec-
33 tion must show proof to the board each calendar year
34 of his continued registration licensure as a
35 registered licensed forester in another state.

36 Sec. 187. 32 MRSA §5018, as amended by PL 1983,
37 c. 413, §§194 and 195, is further amended to read:

38 §5018. Revocation; suspension; refusal to renew and
39 reissuance of licenses

1 The board may, pursuant to Title 5, section
2 10004, revoke or suspend the license of a profession-
3 al forester. In addition, the board may refuse to is-
4 sue or renew the license, or the Administrative Court
5 may, pursuant to Title 4, chapter 25, revoke, suspend
6 or refuse to renew the license, of a professional
7 forester who has been found guilty of any deceit,
8 misconduct, misrepresentation, fraud, incompetence or
9 gross negligence in his practice, or has been guilty
10 of any fraud or deceit in obtaining his ~~registration~~
11 ~~or-certification~~ license, or aids or abets any person
12 alleged to have been defrauded in the violation of
13 any provisions of this chapter or fails in any mate-
14 rial respect to comply with the provisions of this
15 chapter.

16 Any person may register a complaint of fraud, de-
17 ceit, gross negligence, incompetency or misconduct
18 against any registrant licensee. These complaints
19 shall be in writing, shall be sworn to by the person
20 making them and shall be filed with the board.

21 The board is empowered to designate a person or
22 persons to investigate and report to it upon ~~said the~~
23 charge. Such person or persons so designated shall be
24 reimbursed for expenses in the same manner as pre-
25 scribed for the board in section 5010.

26 Any person aggrieved by final board action shall
27 be entitled to judicial review thereof in the Superi-
28 or Court in the manner provided in Title 5, chapter
29 375, subchapter VII.

30 The board, for reasons it may deem sufficient,
31 may reissue a license to a registrant licensee whose
32 license has been revoked, provided 4 or more members
33 of the board vote in favor of such reissuance. A new
34 license to replace any license revoked, lost, de-
35 stroyed or mutilated may be reissued, subject to the
36 rules of the board, and a charge set by the board
37 shall be made for such reissuance.

38 **Sec. 188. 32 MRSA §5019, first ¶, as amended by**
39 **PL 1983, c. 413, §196, is further amended to read:**

40 It shall be unlawful for any person to practice
41 forestry or offer to practice forestry or to use in

1 connection with his name, or otherwise assume, use or
2 advertise any title or description that directly or
3 indirectly conveys the impression that he is a
4 registered licensed professional forester in this
5 State unless he is registered licensed or exempt in
6 accordance with the provisions of this chapter. Any
7 person who shall present, or attempt to use as his
8 own, the license of another, or any person who shall
9 give any false or forged evidence to the board or any
10 member thereof in obtaining a license, or any person
11 who shall attempt to use an expired, suspended or re-
12 voked license, or any person, firm, partnership or
13 corporation who shall violate any provision of this
14 chapter is guilty of a Class E crime for each of-
15 fense. The board, or any person or persons designated
16 by the board to act on its behalf, is empowered to
17 prefer charges for any violation of this chapter in
18 any court of competent jurisdiction in any county in
19 the State in which the violation shall have occurred.
20 It shall be the duty of all duly constituted officers
21 of the law of the State, or of any political subdivi-
22 sions thereof, to enforce the provisions of this
23 chapter and to prosecute any persons, firms, partner-
24 ships or corporations violating the same. The Attor-
25 ney General shall act as legal advisor to the board
26 and shall render such legal assistance as may be nec-
27 essary in carrying out the provisions of this chap-
28 ter.

29 Sec. 189. 32 MRSa §6201, as amended by PL 1983,
30 c. 812, §249, is further amended to read:

31 §6201. State Board of Substance Abuse Counselors

32 The State Board of Registration--of Substance
33 Abuse Counselors within the Department of Business,
34 Occupational--and Professional and Financial Regula-
35 tion as established by Title 5, section 12004, sub-
36 section 1, shall carry out the purposes of this chap-
37 ter.

38 Sec. 190. 32 MRSa §6202, as enacted by PL 1977,
39 c. 466, §2, is amended to read:

40 §6202. Objective

1 The objective of this legislation is to establish
2 a State Board of--Registration of Substance Abuse
3 Counselors, which will establish and ensure high pro-
4 fessional standards among substance abuse counselors
5 and which will encourage and promote quality treat-
6 ment and rehabilitation services for substance abus-
7 ers.

8 Sec. 191. 32 MRSA §6203, as enacted by PL 1977,
9 c. 466, §2, is amended to read:

10 §6203. Definitions

11 As used in this chapter, unless a different mean-
12 ing clearly appears from the context, the following
13 terms shall have the following meanings.

14 1. Board. "Board" means the State Board of Reg-
15 istration of Substance Abuse Counselors.

16 2. Consumer of substance abuse services. A "con-
17 sumer of substance abuse services" is a nonprovider
18 who has received substance abuse counseling--services
19 within--the--State--of--Maine person affected by or re-
20 covered from alcoholism, chronic intoxication, drug
21 abuse or drug dependency having evidenced a minimum
22 of 2 years of sobriety or abstention from drug abuse.

23 3. Nonprovider. A "nonprovider" means an indi-
24 vidual who neither is presently nor has been any of
25 the following:

26 A. A substance abuse counselor;

27 B. An administrator or board member of a facili-
28 ty or program which provides substance abuse ser-
29 vices; or

30 C. The spouse of any of those persons listed in
31 paragraphs A and B.

32 4. ~~Provisionally--registered--substance--abuse~~
33 ~~counselor--"Provisionally-substance-abuse--counselor"~~
34 ~~means--a--substance--abuse--counselor--as--provisionally~~
35 ~~registered--under--this--chapter.~~

1 4-A. Associate substance abuse counselor. "As-
2 sociate Substance Abuse Counselor" means a practi-
3 tioner who provides the primary service of profes-
4 sional substance abuse counseling to the public, who
5 demonstrates a competency in substance abuse counsel-
6 ing to particular settings, client populations or who
7 are lacking in some areas of counseling skills to be
8 capable of working independently.

9 5. Licensed substance abuse counselor.
10 "Registered Licensed substance abuse counselor" means
11 a-substance-abuse-counselor-as-registered-under--this
12 chapter an individual who is providing the primary
13 service of professional substance abuse counseling to
14 the public, who has demonstrated a broad range of
15 clinical skills in the field of substance abuse coun-
16 seling and is capable of working with a wide range of
17 clients, in a wide range of treatment settings, and
18 has demonstrated a competency to work independently.

19 5-A. Inactive substance abuse counselor. "Inac-
20 tive substance abuse counselor" means a licensed,
21 certified or registered substance abuse counselor who
22 registers with the board for a leave from the field
23 for a period not to exceed 2 years. Inactive sub-
24 stance abuse counselors are not required to take the
25 written or oral examinations nor provide documenta-
26 tion of continuing education during the period they
27 have abstained from practice. Inactive substance
28 abuse counselors must notify the board for license
29 renewal prior to resuming their practice.

30 6. Substance abuse counseling services. "Sub-
31 stance abuse counseling services" are those counsel-
32 ing services offered as part of the treatment and re-
33 habilitation of persons abusing chemical substances.
34 The purpose of substance abuse counseling services is
35 to help individuals, families and groups confront and
36 resolve problems caused by the abuse of chemical sub-
37 stances.

38 7. Registered substance abuse counselor. A
39 "registered substance abuse counselor" is a person
40 who presents himself to the public or gives or offers
41 substance abuse counseling services as the primary
42 service provided to any public or private individual,
43 corporation or agency in the State.

1 **Sec. 192.** 32 MRSA §6204, as enacted by PL 1977,
2 c. 466, §2, is amended to read:

3 §6204. Reporting

4 No later than August 1st of each year, the board
5 shall submit to the Commissioner of Business Profes-
6 sional and Financial Regulation, for the preceding
7 fiscal year ending June 30th, an annual report of its
8 operations and financial position, together with such
9 comments and recommendations as the board deems es-
10 sential.

11 **Sec. 193.** 32 MRSA §6205, as enacted by PL 1977,
12 c. 466, §2, is repealed and the following enacted in
13 its place:

14 §6205. Unlawful use of title "inactive substance
15 abuse counselor" or "licensed substance abuse
16 counselor," "associate substance abuse coun-
17 selor" or "registered substance abuse coun-
18 selor"

19 No person may represent himself to the public, or
20 assume or use the title or designation "inactive sub-
21 stance abuse counselor," "licensed substance abuse
22 counselor," "associate substance abuse counselor,"
23 "registered substance abuse counselor" or the abbre-
24 viation "I.S.A.C.," "L.S.A.C.," "A.S.A.C." or
25 "R.S.A.C." or any other title, designation, words,
26 letters or device tending to indicate that such a
27 person is a "licensed," "associate" or "registered"
28 substance abuse counselor, unless such person is li-
29 censed or registered with and holds a current and
30 valid license or certificate of registration from the
31 board. Any person who offers or gives substance abuse
32 counseling services in violation of this section
33 shall be punished, upon conviction, by a fine of not
34 less than \$50 and not more than \$500 for each such
35 offense.

36 **Sec. 194.** 32 MRSA §6206, as enacted by PL 1977,
37 c. 466, §2, is amended to read:

38 §6206. Exemptions

1 Nothing in this chapter shall may prevent any
2 person from engaging in or offering substance abuse
3 counseling services provided that such person does
4 not represent himself as, ~~or use the title of,~~
5 "provisionally-registered" substance abuse counselor
6 or "registered" providing the primary service of a
7 substance abuse counselor.

8 Sec. 195. 32 MRSA §6207, as enacted by PL 1977,
9 c. 466, §2, is repealed and the following enacted in
10 its place:

11 §6207. Registration required

12 1. Substance abuse counselor. In order to safe-
13 guard the health and safety of Maine's citizens, any
14 person who performs or offers to perform substance
15 abuse counseling services as the primary service
16 provided and referring to himself as a substance abuse
17 counselor shall be required to submit evidence that
18 he is qualified to so practice and shall be regis-
19 tered, certified or licensed in accordance with this
20 chapter.

21 2. Evidence of qualifications. Any individual
22 who is providing the primary service of professional
23 substance abuse counseling to the public and who is
24 not employed in a program certified or licensed by
25 the State shall be required to submit evidence that
26 he is qualified to practice and shall be licensed as
27 a licensed substance abuse counselor as provided in
28 this subchapter.

29 3. Registration. Any individual who is providing
30 the primary service of professional substance abuse
31 counseling to the public, has demonstrated a compe-
32 tency in substance abuse counseling to particular
33 settings or client populations and is employed in a
34 program certified or licensed by the State must be
35 registered with the board or may be certified as an
36 associate substance abuse counselor as provided in
37 this subchapter.

38 Sec. 196. 32 MRSA c. 81, sub-c. II, first 3
39 lines are repealed and the following enacted in their
40 place:

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SUBCHAPTER II

STATE BOARD OF SUBSTANCE ABUSE COUNSELORS

Sec. 197. 32 MRSA §6208-A, sub-§1, as amended by PL 1983, c. 812, §250, is further amended to read:

1. Membership. The State Board of Registration of Substance Abuse Counselors, as established by Title 5, section 12004, subsection 1, shall consist of 9 members appointed by the Governor. Seven members shall be licensed, certified or registered substance abuse counselors. Two members shall be nonproviders, one of whom shall be a consumer of substance abuse services.

Sec. 198. 32 MRSA §6212, sub-§§1 and 3, as enacted by PL 1977, c. 466, §2, are amended to read:

1. Set standards. In addition to those standards set forth in section 6213, the board in consultation with the Office of Alcoholism and Drug Abuse Prevention may set additional standards of eligibility for persons desiring to become registered substance abuse counselors.

3. Registration and standards. The board may register and set standards of practice for ~~provisionally--registered--or~~ licensed, certified and registered substance abuse counselors working in Maine.

Sec. 199. 32 MRSA c. 81, sub-c. 3, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER III

REGISTRATION AND LICENSURE

Sec. 200. 32 MRSA §6213, as amended by PL 1981, c. 501, §80, is amended to read:

§6213. Eligibility requirements for associate or licensed substance abuse counselor

1 To be eligible to apply for registration as a li-
2 icensed or associate substance abuse counselor, an ap-
3 plicant shall:

4 1. Age limit. Be at least 18 years of age;

5 2. Qualifications. Have been employed in the
6 profession of substance abuse counseling for a mini-
7 mum of 2 years or have the equivalent of 2 years of
8 paid employment as a substance abuse counselor. In
9 determining such equivalent, an applicant shall have
10 been employed at least one year in the profession of
11 substance abuse counseling and the board may substi-
12 tute work-based educational experience for the re-
13 maining period of required paid employment at a rate
14 of no less than 2 months of work-based educational
15 experience for each one-month period of required paid
16 employment. In determining such equivalent, an ap-
17 plicant shall have been employed at least 1 1/2 years
18 in the profession of substance abuse counseling and
19 the board may substitute volunteer work for the re-
20 maining period of required paid employment at a rate
21 of no less than 2 months of volunteer work for each
22 one-month period of required paid employment; and

23 3. Abstinence from drugs and alcohol. Have ab-
24 stained from the active abuse of alcohol or any other
25 drug which in the judgment of the board has been or
26 could have been detrimental to the applicant's per-
27 formance or competency as a substance abuse counsel-
28 or. It is strongly recommended that applicants have
29 abstained for at least the 2-year period immediately
30 preceding the date on which application is made. In
31 considering an applicant for registration, the board
32 shall not consider a history of previous alcoholism
33 or drug addiction as an essential qualification nor
34 disqualification for registration certification or
35 licensure.

36 Sec. 201. 32 MRSA §6213-A is enacted to read:

37 §6213-A. Eligibility requirements for registered
38 substance abuse counselor

39 To be eligible to apply for registration as a
40 registered substance abuse counselor, an applicant
41 shall notify the State Board of Substance Abuse Coun-

1 selors and provide their name, address and any other
2 information as deemed necessary by the board.

3 Sec. 202. 32 MRSA §6214, as enacted by PL 1977,
4 c. 466, §2, is repealed.

5 Sec. 203. 32 MRSA §§6214-A and 6214-B are en-
6 acted to read:

7 §6214-A. Qualifications

8 1. Licensed substance abuse counselor. The board
9 shall issue a license to practice substance abuse
10 counseling upon the affirmative vote of at least 5
11 members of the board to any applicant who has satis-
12 factorily met the following minimal requirements:

13 A. Met the eligibility requirements set forth in
14 section 6213;

15 B. Obtained a passing grade, as established by
16 the board, on any examinations the board may pre-
17 scribe by its rules;

18 C. Completed 30 semester hours of college-level
19 course work in appropriate social science fields
20 or its equivalent in appropriate substance abuse
21 training; and

22 D. Met any other criteria the board may pre-
23 scribe by its rules.

24 2. Associate substance abuse counselor. The
25 board may issue a certificate of registration as an
26 associate substance abuse counselor upon the affirma-
27 tive vote of 5 members of the board to any applicant
28 who has met the following minimal requirements:

29 A. Met the eligibility requirements set forth in
30 section 6213;

31 B. Obtained a passing grade on the written exam
32 and a provisionally passing grade on the oral ex-
33 am, as established by the board and prescribed by
34 its rules; and

35 C. Met any other criteria the board may pre-
36 scribe by its rules.

1 3. Reapplication for certificate. Any applicant
2 who is not issued a license or a certificate of reg-
3 istration may again apply for registration after a
4 period of not less than 6 months from the date of the
5 last denial.

6 §6214-B. Application

7 Any person registered by the board as a regis-
8 tered substance abuse counselor, R.S.A.C., prior to
9 the effective date of this section, shall automati-
10 cally be licensed as a licensed substance abuse coun-
11 selor, L.S.A.C.

12 Any person registered by the board as a regis-
13 tered substance abuse counselor, provisional,
14 R.S.A.C., provisional; or not registered by the
15 board, but who is providing the primary service of
16 professional substance abuse counseling to the public
17 and who is not employed in a program certified or li-
18 icensed by the State, prior to the effective date of
19 this section, shall comply with the requirements of
20 section 6207, subsection 2, by July 1, 1990.

21 Any person who is providing the primary service
22 of professional substance abuse counseling to the
23 public and who is employed in a program certified or
24 licensed by the State shall comply with the require-
25 ments of section 6207, subsection 3, by January 1,
26 1988.

27 Sec. 204. 32 MRSA §6215, as repealed and re-
28 placed by PL 1983, c. 413, §217, is repealed and the
29 following enacted in its place:

30 §6215. Application; membership fees

31 Application for registration as a registered sub-
32 stance abuse counselor, licensure as a licensed sub-
33 stance abuse counselor or certification as an as-
34 sociate substance abuse counselor shall be on forms
35 prescribed and furnished by the board. Application
36 and examination fees may be established by the board
37 in amounts which are reasonable and necessary for
38 their respective purposes. A biennial registration
39 fee for registered substance abuse counselors shall
40 be established by the board in an amount not to ex-

1 ceed \$50 biennially. A biennial registration fee for
2 licensed substance abuse counselors and associate
3 substance abuse counselors shall be established by
4 the board in an amount not to exceed \$100 biennially.
5 The payment of fees shall be suspended during the
6 term of inactive status.

7 Sec. 205. 32 MRSA §6217-A, first ¶, as repealed
8 and replaced by PL 1983, c. 413, §218, is amended to
9 read:

10 The board may suspend or revoke a license or cer-
11 tificate of registration pursuant to Title 5, section
12 10004. In addition, the board may refuse to issue or
13 renew or the Administrative Court may suspend, revoke
14 or refuse to renew a license or certificate of regis-
15 tration on any of the following grounds:

16 Sec. 206. 32 MRSA §6217-A, sub-§§1 and 4, as re-
17 pealed and replaced by PL 1983, c. 218, are amended
18 to read:

19 1. Fraud or deceit. The practice of fraud or
20 deceit in obtaining a certificate--of--provisional
21 registration license or a certificate of registration
22 under this chapter or in connection with services
23 rendered as a substance abuse counselor;

24 4. Aiding and abetting misrepresentation. Aid-
25 ing or abetting a person, not duly certified-as-a
26 provisionally-registered licensed or registered as a
27 substance abuse counselor, in representing oneself as
28 a provisionally--registered licensed substance abuse
29 counselor, associate substance abuse counselor or
30 registered substance abuse counselor in this State;

31 Sec. 207. 32 MRSA §6218, as repealed and re-
32 placed by PL 1983, c. 413, §219, is amended to read:

33 §6218. Issuance after denial, suspension or revoca-
34 tion

35 The board, for reasons it may deem sufficient,
36 may issue or reissue a certificate--of--provisional
37 registration license or certificate of registration
38 to any person whose certificate--of--provisional
39 registration license or certificate of registration

1 has been denied, suspended or revoked, provided that
2 at least 5 members of the board vote in favor of that
3 issuance.

4 Sec. 208. 32 MRSA §6219, as amended by PL 1983,
5 c. 413, §220, is further amended to read:

6 §6219. Expiration and renewal

7 ~~The certificate of provisional registration is~~
8 ~~nonrenewable and shall expire 3 years from the date~~
9 ~~of initial issuance.~~ The license and certificate of
10 registration shall expire biennially on August 31st
11 or at such other time as the Commissioner of Business
12 Professional and Financial Regulation may designate.
13 Registration Licensure or registration may be renewed
14 for the succeeding 2-year period upon written appli-
15 cation of the registrant, the approval of the board
16 and the payment of the fee provided. A fee for renew-
17 al of license or certificate of registration shall be
18 set by the board in an amount not to exceed \$25 and
19 shall be due and payable on or before the expiration
20 date. Before a license or certificate of registration
21 may be renewed, the applicant shall present evidence
22 of continued professional learning and training of a
23 type which is acceptable to the board.

24 Registration Licensure, certification or
25 registration may be renewed up to 90 days after the
26 date of expiration upon payment of a late fee of \$10
27 in addition to the renewal fee. Any person who sub-
28 mits an application for renewal more than 90 days af-
29 ter the license renewal date shall be subject to all
30 requirements governing new applicants under this
31 chapter, except that the board may in its discretion,
32 giving due consideration to the protection of the
33 public, waive examination if that renewal application
34 is made within 2 years from the date of that expira-
35 tion or if the applicant is a registered inactive
36 substance abuse counselor. The board shall be re-
37 sponsible for mailing notification of the date of ex-
38 piration of a certificate of provisional registration
39 license or a certificate of registration to any
40 provisionally-registered or registered licensed sub-
41 stance abuse counselor, associate substance abuse
42 counselor, inactive substance abuse counselor or reg-
43 istered substance abuse counselor not later than 30
44 days prior to the date of expiration.

1 Sec. 209. 32 c.c. 113 and 115 are enacted to
2 read:

3 CHAPTER 113

4 REAL ESTATE BROKERAGE LICENSE ACT

5 SUBCHAPTER I

6 GENERAL PROVISIONS

7 §13001. Definitions

8 As used in this chapter, unless the context oth-
9 erwise indicates, the following terms have the fol-
10 lowing meanings.

11 1. Real estate. "Real estate" means all estates
12 and lesser interests in land and an existing business
13 if real estate is a part of the business.

14 2. Real estate brokerage. "Real estate broker-
15 age" means a single instance of offering, attempting
16 to conduct or conducting services on behalf of anothe-
17 er for compensation, or with the expectation of re-
18 ceiving compensation, calculated to result in the
19 transfer of an interest in real estate. Real estate
20 brokerage includes, but is not limited to, the fol-
21 lowing activities conducted in behalf of another:

22 A. Listing real estate for sale or exchange;

23 B. Promoting the purchase, sale or exchange of
24 real estate;

25 C. Procuring of prospects calculated to result
26 in the purchase, sale or exchange of real estate;

27 D. Advertising or holding oneself out as offer-
28 ing any services described in this subsection;

29 E. Negotiating the purchase, sale or exchange of
30 real estate;

31 F. Buying options on real estate or selling real
32 estate options or the real estate under option;

1 G. Acting as a finder to facilitate the pur-
2 chase, sale or exchange of real estate; and

3 H. Buying, selling or exchanging real estate.

4 §13002. Exceptions to brokerage

5 Real estate brokerage shall not include the fol-
6 lowing:

7 1. Transactions by owner or lessor. Transactions
8 conducted by any person who is the owner or lessor of
9 the real estate, or to their regular employees with
10 regard to the employer's real estate, provided that
11 the real estate transaction services rendered by the
12 employee are performed as an incident to the usual
13 duties performed for the employer;

14 2. Attorney-at-law in the performance of duties
15 as an attorney-at-law. This exception does not apply
16 to attorneys who are regularly engaged in real estate
17 brokerage; and

18 3. Exception. Any person licensed as an auction-
19 eer under chapter 5, hired to call bids at an auc-
20 tion, if the person employed does not prepare con-
21 tracts or otherwise control the actual sale or take
22 custody of any part of the purchase price.

23 §13003. License required

24 It is unlawful for any person or entity to engage
25 in real estate brokerage without a current real es-
26 tate brokerage agency license issued under this chap-
27 ter or a license authorizing the person to engage in
28 brokerage activity on behalf of a brokerage agency.

29 §13004. Civil actions

30 No person or entity may bring or maintain any ac-
31 tion in the courts of this State for the collection
32 of compensation for real estate brokerage services,
33 without first proving that the person or entity was
34 properly licensed by the Real Estate Commission at
35 the time the cause of action arose.

36 §13005. Penalties

1 associate broker by vocation in this State for at
2 least 5 years prior to appointment. The public member
3 shall have had no professional or financial connec-
4 tion with the real estate business.

5 3. Geographic distribution. There shall be at no
6 time more than one member of the commission from any
7 one county.

8 4. Terms; removal. Terms of the members of the
9 commission shall be for 3 years. No person may be ap-
10 pointed for more than 2 consecutive 3-year terms.
11 Members may be removed by the Governor for cause.

12 5. Quorum; procedure. A majority of the members
13 of the commission constitutes a quorum for the trans-
14 action of business under this chapter.

15 6. Appointments. The members of the commission
16 shall be appointed by the Governor, subject to review
17 by the joint standing committee of the Legislature
18 having jurisdiction over business legislation and to
19 confirmation by the Senate. Appointments shall be
20 made for a 3-year term, except that at least one ap-
21 pointive member's term shall expire each calendar
22 year and appointments for terms of less than 3 years
23 may be made in order to comply with this limitation.
24 No person may be eligible to serve more than 2 full
25 consecutive terms, provided that for this purpose on-
26 ly a period actually served which exceeds 1/2 of the
27 3-year term shall be deemed a full term. Upon expira-
28 tion of a member's term, he shall serve until his
29 successor is qualified and appointed. The successor's
30 term shall be 3 years from the date of that expira-
31 tion, regardless of the date of his appointment.

32 7. Chairman. The commission shall annually elect
33 a chairman from its members.

34 §13063. Compensation

35 Each member of the commission appointed by the
36 Governor shall be compensated according to Title 5,
37 chapter 379.

38 §13064. Seal; evidence; inspection of records

1 The commission shall adopt a seal, with such design as the commission may prescribe engraved on the seal, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the commission, duly certified and authenticated by the seal of the commission, shall be received in evidence in all courts equally and with like effects as the original. Records kept in the office of the commission under authority of this chapter shall be open to public inspection as provided in Title 1, section 405, under such rules as shall be prescribed by the commission. Copies of public records shall be made available to the public at cost.

14 Access to records relating to the content of license examinations may be restricted or prohibited in order to preserve the integrity of license examination.

18 §13065. Rules

19 The commission may establish guidelines and rules by which this chapter shall be administered. Rules shall be subject to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II and consistent with the law to govern the following.

24 1. Adjudicatory hearings. The commission may adopt rules governing the conduct of hearings, including provisions governing communications among the members of the commission and the staff in order to assure that members are not prejudiced in a case through ex parte communications. These rules shall not be construed to prohibit communications with regard to matters other than the merits of a case pending hearing before the commission.

33 2. Investigations. The commission may adopt rules governing investigations and filing and processing of complaints in order to assure prompt, effective investigations of alleged violations of this chapter as necessary to protect and promote the interests of the public and the industry.

39 3. Brokerage practice. The commission may adopt rules consistent with the standards set forth in this chapter governing real estate brokerage practices in

1 order to establish standards of practice which serve
2 the interests of both the public and the industry.

3 4. License qualifications. The commission may
4 adopt rules relating to the qualifications and appli-
5 cation for any license authorized under this chapter
6 as are deemed necessary to assure that applicants are
7 sufficiently trustworthy and competent to transact
8 the business for which they will be licensed.

9 5. Fees. The commission may establish by rule
10 fees in amounts which are reasonable and necessary
11 for their respective purposes. With the exception of
12 the fee specified in section 13225, the set fee for
13 any one purpose may not exceed \$100.

14 6. Education. The commission may adopt rules to
15 be applied in determining whether educational pro-
16 grams meet the license qualifications required under
17 this chapter.

18 7. Supervision of employees. The commission
19 shall adopt rules defining the authority and respon-
20 sibility of designated brokers in supervising sales
21 agents, as well as other brokerage related employees
22 and independent contractors.

23 8. Other. The commission may adopt and enforce
24 such other rules as are necessary for the performance
25 of its duties under this chapter.

26 §13066. Hearings

27 1. Petitions for hearings. The commission shall
28 conduct hearings on the following petitions.

29 A. Upon petition for hearing filed by the direc-
30 tor or his representative alleging violation of
31 this chapter by any person or entity, the commis-
32 sion shall conduct a hearing or refer the matter
33 to the Attorney General or the district attorney
34 requesting prosecution.

35 B. Upon petition by any person aggrieved by the
36 director's decision to dismiss a complaint or re-
37 usal to pursue an investigation of alleged vio-
38 lations of this chapter, the commission shall

1 conduct a hearing, provided that the petition is
2 filed in compliance with commission rules.

3 C. Upon petition of any original or renewal li-
4 cence applicant who is aggrieved by the direc-
5 tor's decision to deny an examination or license,
6 provided that the petition is filed in compliance
7 with commission rules, the commission shall con-
8 duct a hearing.

9 D. Upon its own motion for purposes deemed ap-
10 propriate and consistent with the duties imposed
11 by this chapter, the commission may conduct hear-
12 ings.

13 2. Oaths, affirmations and subpoenas. In the
14 discharge of the duties imposed by this chapter, the
15 commission may administer oaths and affirmations,
16 certify to official acts and issue subpoenas to com-
17 pel the attendance of witnesses and the production of
18 documents deemed necessary as evidence in connection
19 with the administration of this chapter. Whenever a
20 person refuses to obey a subpoena duly issued by the
21 commission, the Superior Court for Kennebec County or
22 any court of this State, within the jurisdiction of
23 which the person resides or transacts business, shall
24 have jurisdiction to issue that person an order re-
25 quiring him to comply with the subpoena and any fail-
26 ure to obey that order may be punished by the court
27 as contempt. Refusal to obey a commission subpoena
28 also constitutes a violation of this chapter.

29 §13067. Causes for disciplinary action

30 1. Disciplinary sanctions. After the hearing,
31 the commission shall have the power to impose disci-
32 plinary sanctions at any time when a person or entity
33 is found guilty of one or more of the following:

34 A. Any act or conduct, whether the same or dif-
35 ferent character than specified in this chapter,
36 which constitutes or demonstrates bad faith, in-
37 competency, untrustworthiness or dishonest,
38 fraudulent or improper dealings;

39 B. The licensee performs or attempts to perform
40 any act or acts for which a license may lawfully
41 be denied to any applicant;

- 1 C. Subject to Title 5, chapter 341, the licensee
2 is convicted in any court of any Class A, B or C
3 crime or any other crime which bears directly on
4 the practice of real estate brokerage;
- 5 D. Making any substantial misrepresentation, by
6 omission or commission, but shall not include in-
7 nocent misrepresentation;
- 8 E. Engaging in any activity requiring a license
9 under this chapter which is beyond the scope of
10 acts authorized by the license held;
- 11 F. Violating any rule promulgated by the commis-
12 sion or any provision of this chapter;
- 13 G. Failing to act in a reasonably prudent manner
14 in order to protect and promote the interests of
15 the principal with absolute fidelity;
- 16 H. Failing to act in a reasonably prudent manner
17 in order to avoid error, exaggeration or conceal-
18 ment of pertinent information;
- 19 I. Violation of this chapter by a licensed or
20 unlicensed employee or independent contractor
21 shall be cause for disciplinary action against
22 the agency and designated broker if:
- 23 (1) The designated broker had prior knowl-
24 edge and did not take reasonable action to
25 prevent the violation;
- 26 (2) The designated broker permitted or au-
27 thorized a person to engage in activity for
28 which they were not properly licensed; or
- 29 (3) The designated broker failed to exer-
30 cise a reasonable degree of supervision over
31 employees and independent contractors com-
32 mensurate with their qualifications and ex-
33 perience;
- 34 J. Offering, promising, allowing, giving or pay-
35 ing, directly or indirectly, any part or share of
36 his compensation arising or accruing from a real
37 estate brokerage transaction to any person who is

1 not licensed to perform the service for which he
2 is or would be compensated, if a license is re-
3 quired under this chapter for performance of that
4 service. No licensee may be employed by or accept
5 brokerage compensation from any person other than
6 the agency under which he is at the time li-
7 icensed. An agency may share compensation with a
8 nonresident licensee when the service by the non-
9 resident is performed outside this State;

10 K. Continuing to act in a capacity requiring a
11 license under this chapter after expiration, sus-
12 pension or revocation of that license; and

13 L. Failure to produce to the director any re-
14 quested documents in the licensee's possession or
15 under his control concerning any transaction un-
16 der investigation.

17 §13068. Decisions

18 1. Licensing. After hearing, the commission may
19 affirm, modify or reverse the director's decision to
20 deny an examination, license or renewal license, or
21 in its discretion, file a complaint in the Adminis-
22 trative Court pursuant to Title 4, chapter 25 and Ti-
23 tle 5, section 10051, to determine whether a license
24 may be denied.

25 2. Violation of chapter. If, after hearing, the
26 commission finds that a violation of this chapter has
27 occurred, it may:

28 A. Reprimand the person or entity;

29 B. Require the person or entity to comply with
30 such terms and conditions as it determines neces-
31 sary to correct the basis for the violation or
32 prevent further violations by issuing a cease and
33 desist order. Violation of a cease and desist or-
34 der shall constitute a violation of this chapter;

35 C. Assess the violator a fine of no more than
36 \$2,000 a violation;

37 D. Suspend or revoke any license issued under
38 this chapter; or

1 E. Report its findings and recommendations to
2 the Attorney General or the district attorney
3 recommending prosecution.

4 3. Appeals. Appeals from decisions of the com-
5 mission shall be to the Administrative Court. Appeals
6 shall be based on questions of law. The procedure for
7 appeals under this section shall be as provided in
8 the Maine Administrative Procedure Act, Title 5,
9 chapter 375, subchapter VII, except that for purposes
10 of this section, all references to the Superior Court
11 shall be construed as references to the Administra-
12 tive Court. Further appeal shall be directly to the
13 Law Court.

14 §13069. Director

15 1. Appointment. The Commissioner of Professional
16 and Financial Regulation, with the advice of the Real
17 Estate Commission and subject to the Civil Service
18 Law, shall appoint a director of the commission.

19 2. Duties. The director is responsible for the
20 management of the commission's affairs, within the
21 guidelines, policies and rules established by the
22 commission and for carrying out the duties allocated
23 to the director under this chapter. Duties of the di-
24 rector may be carried out by the director's designee,
25 other than a member of the commission.

26 3. Employees. The director may employ a deputy
27 and such clerical assistants, technical assistants
28 and investigators as deemed necessary by the director
29 to discharge the duties imposed by this chapter and
30 shall outline their duties and fix their compensa-
31 tion, subject to the Civil Service Law and available
32 commission funds.

33 4. Disposal of fees; expenses. The fees col-
34 lected under this chapter shall be paid forthwith by
35 the director to the Treasurer of State with a de-
36 tailed statement and shall constitute a fund to be
37 known as the Real Estate Fund. The fund shall be kept
38 as a separate account by the Treasurer of State and
39 he shall pay from it, upon vouchers signed by the di-
40 rector and approved by the Commissioner of Profes-
41 sional and Financial Regulation, the cost and ex-

1 penses of administering this chapter. All of the
2 costs and expenditures of the commission shall be
3 paid only from this fund and in no event may any pay-
4 ments of the expenses of the commission exceed the
5 amount received by the treasurer from the director.
6 Any money remaining in the Real Estate Fund at the
7 end of the fiscal year shall be carried forward to
8 the credit of that fund for the succeeding year. The
9 commission may, within the money available in the
10 Real Estate Fund, defray the cost of an educational
11 program for licensees or the public. This program may
12 include the dissemination of information pertinent to
13 the real estate business and material for school cur-
14 ricula.

15 5. Advocate. The director shall seek to protect
16 the interests of the public and the industry in the
17 administration of this chapter. In this capacity, the
18 director may serve as an advocate in any proceeding
19 before the commission, presenting evidence and argu-
20 ment in support of a recommended disposition.

21 6. Investigations. The director shall investi-
22 gate the actions of any licensee under this chapter,
23 or any person or entity who assumes to act in a ca-
24 capacity requiring a license under this chapter, upon
25 receipt of a verified written complaint or in accord-
26 ance with the guidelines prescribed by commission
27 rule. Upon completion of the investigation, the di-
28 rector shall take one of the following actions:

29 A. Dismiss the complaint;

30 B. With the consent of the parties and subject
31 to approval of the commission and commission
32 counsel, execute a consent agreement; or

33 C. Issue a staff petition for hearing before the
34 commission, which may include a recommended dis-
35 position.

36 7. Subpoenas. The director may issue subpoenas
37 to compel the attendance of witnesses at hearings and
38 to compel the production of documents and other
39 records deemed necessary in connection with the ad-
40 ministration of this chapter. Whenever a person re-
41 fuses to obey a subpoena duly issued by the director,

1 the Superior Court for Kennebec County or any court
2 of this State, within the jurisdiction of which the
3 person resides or transacts business, shall have ju-
4 risdiction to issue to that person an order requiring
5 him to comply with the subpoena and any failure to
6 obey that order may be punished by the court as con-
7 tempt. Refusal to obey the director's subpoena also
8 constitutes a violation of this chapter.

9 8. Denial of licenses. The director may only is-
10 sue a license to persons or entities meeting the re-
11 quirements of this chapter. If it appears to the di-
12 rector that grounds for denial of a license or renew-
13 al exists, the director shall deny the license or re-
14 newal and notify the applicant in writing of the ba-
15 sis for denial together with notice of the appli-
16 cant's right to a hearing before the commission, if
17 requested in accordance with commision rules within
18 a 30-day period. The director shall not issue a li-
19 cence to any applicant for renewal if the license has
20 been expired for more than 90 days, unless the appli-
21 cant passes the license examination designated by
22 commission rule for this purpose.

23 SUBCHAPTER III

24 REAL ESTATE BROKERAGE AGENCY

25 §13171. Real estate brokerage agency

26 "Real estate brokerage agency" or "agency" means
27 any person or entity engaged in real estate brokerage
28 services through its designated broker, associates or
29 employees and licensed by the commission as a real
30 estate brokerage agency.

31 §13172. Original application

32 Each applicant for an original agency license
33 shall submit a properly completed application upon
34 blanks furnished by the director, signed under oath
35 by the authorized agency official, together with the
36 prescribed fee.

37 §13173. Agency license qualifications

1 1. Designated broker. The owner or a duly autho-
2 ri- zed agency official shall hold a Maine real estate
3 broker license and be designated by the agency to act
4 for it in the conduct of real estate brokerage.

5 2. Employees. Every person employed by or on be-
6 half of the agency in the performance of real estate
7 brokerage shall be properly licensed under this chap-
8 ter.

9 3. Reputation. The agency and its owner or prin-
10 ci- pal officers, if previously engaged in any busi-
11 ness, shall bear a good reputation for honesty,
12 truthfulness, fair dealing and competency.

13 4. Nonresidents. The following applies to non-
14 residents.

15 A. Nonresident applicants shall hold a similar
16 license in good standing and maintain an active
17 place of business in its resident jurisdiction.

18 B. Nonresident agency applicants shall file an
19 irrevocable consent that actions may be commenced
20 against the applicant in the proper court of any
21 county of this State in which a cause of action
22 may arise or in which the plaintiff may reside,
23 by the service of any process or pleading autho-
24 rized by the laws of the State on the director of
25 the commission. The consent shall stipulate and
26 agree that service of the process or pleading on
27 the director shall be taken and held in all
28 courts to be as valid and binding as if due ser-
29 vice had been made upon the applicant personally
30 within this State. The instrument containing the
31 consent shall be authenticated by the seal of the
32 corporation or by the acknowledged signature of
33 the member or officer of the corporation, if oth-
34 erwise. All applications, when applicable, shall
35 include a duly certified copy of the resolution
36 of proper officers or managing board authorizing
37 the proper officer to execute the resolution. In
38 case any process or pleadings mentioned in the
39 case are served upon the director, it shall be by
40 duplicate copies, one of which shall be filed in
41 the office of the commission and the other imme-
42 diately forwarded by certified mail to the main

1 office of the applicant against whom the process
2 or pleadings are directed.

3 5. Place of business. Every agency holding an
4 active license shall maintain a fixed and definite
5 place of business where its designated broker and em-
6 ployees may be personally contacted without unreason-
7 able delay.

8 6. Branch office. Other locations where real es-
9 tate brokerage business is regularly conducted or
10 which are advertised as locations where the public
11 may contact the agency or its employees concerning
12 brokerage services shall be licensed as a branch of-
13 fice, except that places of residence need not be li-
14 censed as a branch office. In order to qualify for a
15 branch office license, the agency designated broker
16 must designate himself or another broker to act as
17 branch manager, in which case the manager shall have
18 designated broker responsibilities for that office.
19 The designated broker may designate himself to act as
20 manager for all branch offices.

21 §13174. License denial

22 A license may be denied to any agency applicant:

23 1. Complete and accurate application. Who fails
24 to submit a complete and accurate application;

25 2. Proof of qualifications. Who fails to submit
26 satisfactory proof that it has met the qualifications
27 specified in this chapter and is sufficiently trust-
28 worthy and competent to transact real estate broker-
29 age services in such a manner as to safeguard the in-
30 terests of the public;

31 3. Conviction of crime. Subject to Title 5,
32 chapter 341, if the owner or principal entity offi-
33 cial has been convicted of any Class A, B or C
34 crime or any crime which bears directly on the prac-
35 tice of real estate brokerage; or

36 4. Revocation of license. If the agency and its
37 owner or its principal officers have had any profes-
38 sional or occupational license revoked for disciplin-
39 ary reasons, or an application rejected for reasons

1 relating to untrustworthiness, within 3 years prior
2 to the date of application.

3 §13175. Agency changes

4 Any change of address, name or other material
5 changes in the conditions or qualifications set forth
6 in the original application shall be reported to the
7 director no later than 10 days after the change. Upon
8 proper application and payment of the prescribed fee,
9 the commission records shall be changed and a new li-
10 cence shall be issued for the unexpired term of the
11 current license, if appropriate.

12 §13176. Trade names

13 Agencies may conduct business under a trade name,
14 provided that their license is issued under the trade
15 name. If an agency is licensed with a trade name that
16 trade name shall be used by the agency, its employees
17 and independent contractors in all real estate bro-
18 kerage related advertising. The director may refuse
19 to issue a license under a specific trade name if the
20 name is deemed to be misleading, deceptive or will
21 likely result in confusion with other existing busi-
22 nesses.

23 §13177. Real estate brokerage contracts

24 All exclusive right-to-sell contracts, exclusive
25 agency contracts and any nonexclusive contract relat-
26 ing to one to 4 family residential properties shall
27 be in writing, signed by the person to be charged and
28 shall specifically identify the date upon which the
29 contract will expire. If the parties to the contract
30 desire to continue the contract, a new contract must
31 be executed.

32 Brokerage contracts may not be enforced against
33 any principal who in good faith subsequently engages
34 the services of another agency on an exclusive
35 right-to-sell basis following the expiration date of
36 the first contract. Any contract provisions extending
37 a licensee's right to a fee following expiration of
38 the contract shall not exceed 6 months.

39 §13178. Trust accounts

1 Every agency shall maintain a trust account or
2 accounts in a banking institution located in the
3 State for the sole purpose of depositing all earnest
4 money deposits and all other money held by it as an
5 agency in which its clients or other persons with
6 whom it is dealing have an interest. The trust ac-
7 count and withdrawal orders, including all checks
8 drawn on the account, shall name the subject agency
9 and be identified as a real estate trust account.
10 Real estate trust accounts shall be free from trustee
11 process, except by those persons for whom the broker-
12 age agency has made the deposits and then only to the
13 extent of the interest. The designated broker, except
14 for an amount necessary to maintain the accounts not
15 to exceed an amount prescribed by commission rule,
16 shall withdraw from the accounts all fees due within
17 30 days after, but not until consummation or termina-
18 tion of the transaction when the designated broker
19 makes or causes to be made a full accounting to his
20 principal. The designated broker shall maintain, at
21 the agency's place of business, contracts and other
22 necessary records to verify the adequacy and proper
23 use of the accounts. These accounts and records shall
24 be opened for inspection by the director or his au-
25 thorized representative at the agency's place of
26 business during generally recognized business hours.
27 Upon order of the director, the designated broker
28 shall authorize the director in writing to confirm
29 the balance of funds held in all agency trust ac-
30 counts.

31 §13179. Supervision of employees

32 The designated broker shall exercise a reasonable
33 level of supervision commensurate with the level of
34 qualification and experience of agency employees and
35 independent contractors supervised, in order to pro-
36 tect and promote the interests of its clients with
37 absolute fidelity. The designated broker shall not
38 permit or authorize any person to engage in any ac-
39 tivity for which they are not properly licensed.

40 §13180. Termination of employment

41 When any broker, associate broker or real estate
42 sales agent is discharged or terminates his employ-
43 ment with a brokerage agency, it shall be the duty of

1 the designated broker to immediately deliver the li-
2 license of the broker, associate broker or real estate
3 sales agent to the commission. The designated broker
4 shall simultaneously address a communication to the
5 last known address advising the broker, associate
6 broker or sales agent that his license has been de-
7 livered or mailed to the commission. A copy of the
8 communication shall accompany the license when deliv-
9 ered to the commission.

10 Upon receipt of the notice of termination by the
11 licensee, the license shall become void and may only
12 be reinstated or placed on inactive status after
13 proper application and payment of the prescribed fee.
14 It is unlawful for any broker, associate broker or
15 real estate sales agent to perform any brokerage ser-
16 vices without first receiving a new active license.

17 §13181. Contents; display

18 The director shall issue to each agency a license
19 in the form and size prescribed by the commission.
20 The license of each broker, associate broker and
21 sales agent shall be delivered or mailed to the des-
22 ignated broker and be kept in the custody and control
23 of the designated broker. It is the duty of the des-
24 ignated broker to conspicuously display the agency
25 license in his place of business.

26 §13182. Agency license renewal

27 Agency licenses shall expire on December 31st, or
28 at such times as the Commissioner of Professional and
29 Financial Regulation may designate, of each biennial
30 period for which it was issued. Upon proper applica-
31 tion and payment of the prescribed fee, a renewal li-
32 cence shall be issued for each ensuing biennial peri-
33 od in the absence of any reason or condition which
34 might warrant denial of a license. The suspension,
35 revocation or expiration of an agency or designated
36 broker's license shall automatically suspend every
37 license granted to any person by virtue of his em-
38 ployment by the agency whose license has been sus-
39 sended, revoked or expired pending a change of em-
40 ployer and the issuance of a new license. The new li-
41 cence shall be issued without charge if granted dur-
42 ing the same biennial period in which the original
43 was granted.

1 §13183. Acts authorized

2 An agency, through its designated broker, may
3 perform all of the brokerage services contemplated by
4 this chapter and may employ or retain others to per-
5 form brokerage services on behalf of the agency. The
6 designated broker may also delegate any of his duties
7 and authority provided for under this chapter, but
8 when doing so shall not be relieved of any responsi-
9 bility imposed by this chapter.

10

SUBCHAPTER IV

11

BROKERS, ASSOCIATE BROKERS, SALES AGENTS,

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RENTAL AGENTS AND TIMESHARE AGENTS

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§13191. General qualifications

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1. Application. Applicants shall submit a prop-
erly completed application upon forms furnished by
the director, together with the prescribed fee.

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2. Age. The applicant shall have reached his
18th birthday at the time of his application.

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3. Residence. The applicant shall provide evi-
dence of his legal residence.

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4. High school. The applicant shall be a high
school graduate or hold an equivalency certificate.

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5. Reputation. The applicant shall bear a good
reputation for honesty, truthfulness, fair dealing
and competency. A recommendation of at least 3 per-
sons, not related to the applicant who have acknowl-
edged before a notary public that they have known the
applicant for at least one year immediately proceed-
ing the date of the application, that the applicant
bears such a reputation shall be rebuttable presump-
tion of meeting that qualification.

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6. Active license. Upon application for an ac-
tive license, the applicant shall provide a written
statement from the designated broker of the agency,
who will be employing the applicant, authorizing is-
suance of the applicant's license under the agency.

1 7. Single license. No more than one license
2 shall be issued to any person for the same period of
3 time. In the event of a change in an employer, another
4 license shall not be issued until the current li-
5 cence has been returned or for which a satisfactory
6 accounting has been made.

7 §13192. License denial

8 A license may be denied to any applicant:

9 1. Complete application. Who fails to submit a
10 complete application within 30 days after notified of
11 the materials needed to complete the application;

12 2. Proof that he is trustworthy. Fails to pro-
13 vide satisfactory proof that he is trustworthy and
14 competent to transact real estate brokerage services
15 in such manner as to safeguard the interest of the
16 public;

17 3. Revocation of license. If the applicant has
18 had any professional or occupational license revoked
19 for disciplinary reasons or an application rejected
20 for reasons relating to untrustworthiness within 3
21 years prior to the date of application; or

22 4. Conviction of crime. Subject to Title 5,
23 chapter 341, if the applicant has been convicted of
24 any Class A, B or C crime or any crime which bears
25 directly on the practice of real estate.

26 §13193. Nonresidents

27 All nonresident license applicants shall be re-
28 quired to file a properly completed irrevocable con-
29 sent to service, as described for agencies in section
30 13173, subsection 4, paragraph B. In lieu of educa-
31 tion and experience requirements, nonresident origi-
32 nal license applicants must hold a similar active li-
33 cence in good standing in their place of legal resi-
34 dence and shall appear at such time and place as the
35 director may designate for the purpose of written ex-
36 amination pertaining to Maine real estate law.

37 §13194. License renewal

1 Licenses shall expire on December 31st, or at
2 such other times as the Commissioner of Professional
3 and Financial Regulation may designate, of each bienn-
4 ial period for which it was issued, except those li-
5 censes issued under section 13200. The director shall
6 issue a renewal license for each ensuing biennial pe-
7 riod in the absence of any reason or condition which
8 might warrant the refusal of granting a license, upon
9 receipt of the written request of the applicant, the
10 biennial fee for the license and upon the applicant
11 presenting evidence of compliance with the require-
12 ments of section 13197. The director shall deny a re-
13 newal license to any applicant whose license has
14 lapsed for more than 90 days, unless the renewal li-
15 cence applicant passes the license examination desig-
16 inated by commission rule for this purpose.

17 §13195. Changes

18 Any change of address, name or other material
19 change in the conditions or qualifications set forth
20 in the original application shall be reported to the
21 director no later than 10 days after the change. Upon
22 proper application and payment of the prescribed fee,
23 the commission records shall be changed and a new li-
24 cence shall be issued for the unexpired term of the
25 current license, if appropriate.

26 §13196. Inactive licenses

27 Any resident licensee, who does not desire to
28 perform any of the activities described in section
29 13001, and who wants to preserve his license while
30 not engaged in any brokerage activity, may surrender
31 his license to the commission for placement on inac-
32 tive status. The commission may only place the li-
33 cence on inactive status upon proper application by
34 the licensee. During inactive status the licensee
35 shall be required to renew his license biennially,
36 but shall not be required to maintain a place of
37 business or meet the educational provisions of sec-
38 tion 13197.

39 Licenses who have surrendered their licenses
40 pursuant to this section may have their licenses re-
41 instated to active status by demonstrating compli-
42 ance, within the previous biennium, with section

1 13197 and proper application for an active license,
2 except that any license placed on inactive status af-
3 ter the effective date of this section and remaining
4 inactive for 3 or more years may only be reactivated,
5 either by successfully passing a license examination
6 designated by commission rule for this purpose or by
7 successfully completing 12 course hours meeting com-
8 mission established guidelines.

9 §13197. Continuing education

10 1. Requirement. As a prerequisite to renewal of
11 a license, applicants shall have completed 12 clock
12 hours of continuing education within 2 years prior to
13 the date of application in programs or courses ap-
14 proved by the commission. This requirement shall not
15 apply to agency and company licenses.

16 2. Program approval. Each application for ap-
17 proval of a continuing education program shall be
18 submitted according to the guidelines prescribed by
19 the commission, together with the required applica-
20 tion fee. The fee shall be retained whether or not
21 the application is approved, except that the commis-
22 sion shall have the authority to waive the applica-
23 tion fee for any program or course for the purpose of
24 promoting the intent of this section and which meet
25 the standards prescribed by rule.

26 3. Core requirement. The commission may estab-
27 lish a core educational requirement for each license
28 type, not to exceed 6 clock hours, in which case the
29 remaining requirement shall be fulfilled from elec-
30 tive programs approved by the commission.

31 4. Voluntary certification program. The commis-
32 sion may establish a program for recognizing real es-
33 tate brokers who have advanced education, training
34 and experience in a specialized discipline related to
35 the field of real estate. Standards to be met in or-
36 der to be certified shall be prescribed by rules
37 adopted by the commission, subject to the Maine Ad-
38 ministrative Procedure Act, Title 5, chapter 375.

39 §13198. Real estate broker

1 1. Definition. "Real estate broker" or "broker"
2 means any person employed by or on behalf of an agen-
3 cy to perform brokerage and licensed by the commis-
4 sion as a broker.

5 2. Professional qualifications. Each applicant
6 for a broker license shall have met one of the fol-
7 lowing qualifications:

8 A. One year full time practice of real estate
9 brokerage as a licensed associate broker immedi-
10 ately preceding the date of application and com-
11 pletion of a course of study meeting commission
12 established guidelines; or

13 B. One year experience as a sales agent within
14 the 3 years immediately preceding the date of
15 application and satisfactory completion of 2
16 years in a degree program meeting commission es-
17 tablished guidelines.

18 3. Acts authorized. Each broker license granted
19 shall entitle the holder to perform all of the acts
20 contemplated under this chapter in behalf of an agen-
21 cy, including being designated by the agency to act
22 for it or as a branch office manager.

23 §13199. Associate real estate broker

24 1. Definition. "Associate real estate broker" or
25 "associate broker" means any person employed by or on
26 behalf of an agency to perform real estate brokerage
27 services and licensed by the commission as an as-
28 sociate broker.

29 2. Professional qualifications. Each applicant
30 for an associate broker license shall have met one of
31 the following qualifications.

32 A. The applicant shall have practiced as a real
33 estate sales agent for 2 years within the 5 years
34 immediately preceding the date of application,
35 satisfactorily completed a course of study meet-
36 ing commission established guidelines and shall
37 appear at such time and place as the director may
38 designate for the purpose of a written associate
39 broker examination. An applicant may sit for the

1 examination upon completion of the course of
2 study. Regardless of the results of the examina-
3 tion, the commission shall not issue a license
4 under this section until an individual has com-
5 pleted 2 years as a licensed real estate sales
6 agent. For the purposes of this paragraph,
7 "course of study" consists of 45 sessions of not
8 more than 2 1/2 hours of instruction for each
9 session.

10 B. The applicant shall have practiced as a real
11 estate sales agent for 2 years within the 5 years
12 immediately preceding the date of application and
13 shall have satisfactorily completed a course of
14 study in a degree program meeting commission es-
15 tablished guidelines.

16 C. The applicant shall have satisfactorily com-
17 pleted one year in a degree program meeting com-
18 mission established guidelines and shall appear
19 at such times and places as the director may des-
20 ignate for a written sales agent examination.

21 3. Acts authorized. Each associate broker li-
22 cence granted shall entitle the holder to perform all
23 of the acts contemplated by this chapter, in behalf
24 of an agency, except serving as designated broker or
25 a branch office manager.

26 §13200. Real estate sales agent

27 1. Definition. "Real estate sales agent" or
28 "sales agent" means any person employed by or on be-
29 half of an agency to perform real estate brokerage
30 services in a training capacity and licensed by the
31 commission as a sales agent.

32 2. Professional qualification. Each applicant
33 for a sales agent license shall meet one of the fol-
34 lowing qualifications:

35 A. Satisfactorily complete a course of study
36 meeting commission established guidelines; or

37 B. The applicant may appear at such time and
38 place as the director may designate for the pur-
39 pose of a written sales agent examination.

1 ny for the issuance and delivery of any binder or
2 service contract.

3 B. "Holder" means any person entitled to receive
4 services or payment from a home service company
5 pursuant to a home service contract.

6 C. "Home service company" means any person who
7 issues and performs or arranges to perform ser-
8 vice or defrays the cost of service pursuant to a
9 home service contract.

10 D. "Home service contract" means any contract,
11 however described or denominated, whereby, for a
12 set fee and specified duration, a person agrees
13 to defray the cost of repair or replacement or
14 provide or arrange for the repair or replacement
15 of all or any part of any structural component,
16 appliance or system of a home necessitated by
17 wear and tear, deterioration or inherent defect
18 or by failure of an inspection to detect the
19 likelihood of any such loss.

20 E. "Home service contract sales agent" means any
21 person with whom the home service company has a
22 contract and who is utilized by that company for
23 the purpose of selling or issuing home service
24 contracts directly or through its employees or
25 agents.

26 F. "Home service contract sales associate" means
27 the employees or agents of the home service con-
28 tract sales agent utilized for selling or offer-
29 ing for sale home service contracts.

30 G. "Impaired" means the circumstance which ex-
31 ists when liabilities exceed assets.

32 H. "Insolvent" means the inability to pay debts
33 as they become due in the usual course of busi-
34 ness.

35 2. Exceptions. The following exceptions apply to
36 this subchapter.

37 A. Except as otherwise provided in this subchap-
38 ter, provisions of the insurance laws of this

1 State do not apply to any home service company
2 granted a license under this subchapter. This
3 provision does not apply to an insurance company
4 licensed and regulated pursuant to Title 24-A.

5 B. Provisions of this subchapter do not apply to
6 any person who issues any service or maintenance
7 contract or performance guarantee which provides
8 for maintenance, repair, service, replacement,
9 operation or performance of any product which is
10 or which is similar to that manufactured, sold or
11 leased by the issuer and no such person, his em-
12 ployees or agents may be required to be licensed
13 or regulated under this subchapter. This subchap-
14 ter does not apply to any contract of insurance,
15 as defined in Title 24-A, and does not apply to
16 any home repair contract regulated by Title 9,
17 chapter 360. This subchapter does not apply to
18 any program offering a warranty on a new home
19 which is underwritten by an insurer licensed to
20 do business in this State and the insurance poli-
21 cy underwriting the program has been filed with
22 and approved by the Bureau of Insurance.

23 §13222. Rules

24 The commission may adopt or promulgate rules nec-
25 essary and proper to effectuate provisions of this
26 subchapter pursuant to the Maine Administrative Pro-
27 cedure Act, Title 5, chapter 375.

28 §13223. Review of decisions

29 Any person aggrieved by any decision or order of
30 the director pursuant to this subchapter has the
31 right to request a review and determination by the
32 commission, provided that the request is made within
33 30 days of the date of the decision or order. The
34 commission may reverse, modify or affirm any such de-
35 cision or order.

36 §13224. License required

37 1. Restriction on activity. No home service com-
38 pany in this State may sell, offer to sell, arrange
39 or solicit the sale of or receive applications for
40 home service contracts unless authorized under an ex-
41 isting license issued by the director.

1 §13225. Application for license

2 1. Form; qualifications for license. Each appli-
3 cation for a license shall be on a form prescribed by
4 or acceptable to the commission and shall be verified
5 by the applicant, by an officer or other authorized
6 representative of the applicant. The director may not
7 issue a license to any home service company unless
8 the home service company is qualified therefor, as
9 follows:

10 A. Is a solvent natural person or other solvent
11 legal entity formed under the laws of this State
12 or of any other state, district, territory or
13 possession of the United States;

14 B. Furnishes the director with satisfactory evi-
15 dence that the management of the home service
16 company is competent and trustworthy;

17 C. Proposes to use, and uses in its business, a
18 name, together with a trademark or emblem, if
19 any, which is distinctive and not so similar to
20 the name or trademark of any association, corpo-
21 ration or organization already doing business in
22 this State as will tend to mislead or confuse the
23 public;

24 D. Files the bond required or otherwise complies
25 with section 4125;

26 E. Is otherwise in compliance with this subchap-
27 ter; and

28 F. Establishes, to the satisfaction of the di-
29 rector, that it employs or has contracted with
30 licensed or skilled tradesmen and is able to per-
31 form the services described by it in the home
32 service contract. This qualification does not ap-
33 ply if the home service contract provides for
34 payment or reimbursement for the cost of services
35 instead of providing or arranging for completion
36 of the service.

37 2. Additional information. In addition to infor-
38 mation relative to its qualifications as required un-
39 der subsection 1, the application shall show:

1 A. A list of the names, addresses and official
2 positions of the persons responsible for the af-
3 airs of the applicant, including all members of
4 the board of trustees, executive committee or
5 other governing body or committee and the princi-
6 pal officers in the case of a partnership or as-
7 sociation;

8 B. A copy of the home service contract made or
9 to be made between the applicants and any other
10 person;

11 C. The most recent financial statement of the
12 applicant prepared by an independent certified
13 public accountant, showing the applicant's as-
14 sets, liabilities, net worth and sources of fi-
15 nanacial support; and

16 D. A license application fee in the amount of
17 \$1,000.

18 §13226. Required deposit or bond

19 1. Amount of deposit. To assure the faithful
20 performance of its obligations to its holders in the
21 event of insolvency, every home service company, pri-
22 or to the issuance of its license by the director,
23 shall deposit and continuously maintain with the
24 Treasurer of State securities of the type eligible
25 for deposit by insurers under which securities shall
26 have at all times a market value of not less than
27 \$50,000.

28 2. Bond in lieu of deposit. In lieu of any de-
29 posit or securities required under subsection 1, the
30 home service company may file with the director a
31 surety bond in like amount. The bond shall be one is-
32 sued by an insurer, duly authorized to transact sure-
33 ty insurance in this State, be for the same purpose
34 as the deposit in lieu of which it is filed and be
35 subject to the director's approval. No such bond may
36 be cancelled or subject to cancellation, unless at
37 least 30 days advance notice in writing is filed with
38 the director.

39 3. Purpose. Securities and bonds posted by a
40 home service company pursuant to this section shall

1 be for the benefit of and subject to action thereon
2 in the event of insolvency of the home service compa-
3 ny by any person or persons sustaining an actionable
4 injury due to the failure of the home service company
5 to faithfully perform its obligations to its holders.

6 4. Safekeeping of securities. The State is re-
7 sponsible for the safekeeping of all securities de-
8 posited with the Treasurer of State under this sub-
9 chapter at the expense of the depositor. The securi-
10 ties are not, on account of being in this State, sub-
11 ject to taxation, but shall be held exclusively and
12 solely to guarantee the home service company's faith-
13 ful performance of its obligations to its holders.

14 5. Substitution. The depositing home service
15 company, during its solvency, may exchange or substi-
16 tute other securities of like quality and value for
17 securities on deposit, receive the interest and other
18 income accruing to the securities and inspect the de-
19 posit at all reasonable times.

20 6. Release. The deposit or bond shall be main-
21 tained unimpaired as long as the home service company
22 continues in business in this State. Whenever the
23 home service company ceases to do business in this
24 State and furnishes the director proof satisfactory
25 to the director that it has discharged or otherwise
26 adequately provided for all its obligations to its
27 holders in this State, the director, with the advice
28 and consent of the commission, shall authorize re-
29 lease of the deposited securities to the parties en-
30 titled thereto, on presentation of the receipts for
31 the securities, or shall authorize release of any
32 bond filed in lieu of the deposit.

33 7. Exemption. Home service companies whose net
34 worth exceeds the capital and surplus requirements of
35 this State to obtain a license to write liability in-
36 surance as a domestic insurer are exempt from this
37 section.

38 §13227. Reserves

39 1. Amount. A home service company shall maintain
40 a single-funded reserve for its liability to furnish
41 repairs and replacement services under its issued and

1 outstanding contracts. The reserve shall be suffi-
2 cient to cover anticipated liability for repairs and
3 replacement services on outstanding contracts and
4 shall be based on sound actuarial principles, but the
5 reserve shall at all times not be less than 50% of
6 annual contract fees, net of reinsurance, received in
7 this State, less any amounts theretofore paid on ac-
8 count of the liability incurred during the applicable
9 years. The commission, with the advice of the Super-
10 intendent of Insurance, may establish higher reserve
11 standards if it determines that the reserves estab-
12 lished by a home service company are inadequate to
13 cover its liabilities under outstanding contracts.

14 2. Exclusion. For the purposes of this section,
15 the reserve shall not include contract fees on home
16 service contracts:

17 A. To the extent that provision is made for re-
18 insurance, whether in an insurer or home service
19 company, of the outstanding risk on these con-
20 tracts; or

21 B. When the home service company has insured,
22 with an insurer admitted in this State, all risk
23 or loss incurred under these contracts, provided
24 that the policy of insurance, including the cov-
25 erage further provides that, in the event of the
26 insolvency, bankruptcy or dissolution of the home
27 service company, the insurer shall pay losses un-
28 der the contracts directly to claimants and that
29 in the event of the home service company's in-
30 ability to administer claims, the insurer shall
31 assume full responsibility for administration of
32 claims.

33 §13228. License expiration; renewal

34 Each license as a home service company issued un-
35 der this subchapter expires 2 years from the date of
36 issuance or expires upon termination of the surety
37 bond required under section 4125, if not otherwise in
38 compliance with that section. In the absence of any
39 reason or condition warranting refusal of granting a
40 license, the home service company license may be re-
41 newed biennially upon its request and upon payment of
42 the license fee in the amount of \$1,000.

1 §13229. Grounds for suspension or revocation of li-
2 cence or denial of renewal

3 1. With notice. The license of a home service
4 company may be revoked, suspended or renewal denied,
5 subject to the Maine Administrative Procedure Act,
6 Title 5, chapter 375, if it is determined that the
7 home service company:

8 A. Has violated any lawful order of the director
9 or any provision of this subchapter;

10 B. Is in such condition or using such methods
11 and practices in the conduct of its business as
12 to render its further conduct of business in this
13 State hazardous or injurious to its holders or to
14 the general public;

15 C. Has refused to be examined or to produce its
16 accounts, records and files for examination or if
17 any of its officers have refused to give informa-
18 tion with respect to its affairs or have refused
19 to perform any other legal obligation as to that
20 examination when required by the director;

21 D. Has failed to pay any final judgment rendered
22 against it in this State within 60 days after the
23 judgment became final;

24 E. Has, with such frequency as to indicate its
25 general business practice in this State, and
26 without just cause, refused to pay proper claims
27 arising under its contract obligations, or, with-
28 out just cause, has compelled holders to accept
29 less than the amount due them or to employ attor-
30 neys or to bring suit against the service company
31 to secure full payment or settlement of these
32 claims; or

33 F. Has failed to maintain a single-funded re-
34 serve for its liability to furnish repairs and
35 replacement services under its issued and out-
36 standing contracts, as required under section
37 4126.

38 2. Suspension without notice. The commission may
39 immediately suspend, without advance notice or hear-

1 ing, notwithstanding the Maine Administrative Procedure Act, Title 5, chapter 375, the license of any
2 home service company for up to 30 days if it finds
3 that one or more of the following circumstances exist.
4
5

6 A. The home service company is insolvent or im-
7 paired.

8 B. Proceedings for receivership, conservator-
9 ship, rehabilitation or other delinquency pro-
10 ceedings regarding the home service company have
11 been commenced in any state in either state court
12 or federal court.

13 C. The financial condition or business practice
14 of the home service company otherwise pose an im-
15 minent threat to the public health, safety or
16 welfare of the residents of this State.

17 3. Insurer; certificate of authority. Violation
18 of this subchapter by an insurer shall be grounds for
19 suspension or revocation of the insurer's certifica-
20 tion of authority in this State.

21 4. False or misleading statements. A license or
22 registration may be revoked or suspended or renewal
23 refused if it is determined that the home service
24 company or sales agent has engaged in making false or
25 misleading statements in either written or oral com-
26 munications with regard to the advertising, offering
27 or sale of home service contracts, to include, but
28 not be limited to, representations related to the
29 benefits and service available under the home service
30 contract.

31 §13230. Automatic termination of sales agent regis-
32 tration

33 Revocation, suspension or nonrenewal of a home
34 service company license shall serve to automatically
35 terminate the registration of its sales agents.

36 §13231. Order, notice of suspension or revocation of
37 license

1 1. Method. Suspension or revocation of a home
2 service company's license shall be by order mailed to
3 the home service company by registered or certified
4 mail, and upon receipt, the home service company
5 shall promptly relay notice of the suspension or rev-
6 ocation to the home service company's sales agents in
7 this State. The home service company may not solicit
8 or write any new home service contracts in this State
9 during the period of any such suspension or revoca-
10 tion.

11 2. Publication. In his discretion, the director
12 may cause notice of any such revocation or suspension
13 to be published in one or more newspaper of general
14 circulation published in this State.

15 §13232. Duration of suspension; obligation during
16 suspension period; reinstatement

17 1. Duration. Suspension of a home service compa-
18 ny's license shall be for such period, not to exceed
19 one year, as is fixed in the order of suspension, un-
20 less the suspension or the order upon which the sus-
21 pension is based is modified, rescinded or reserved.

22 2. Obligations. During the period of suspension,
23 the home service company shall file its annual state-
24 ment and pay fees and licenses, as required under
25 this subchapter, as if the license had continued in
26 full force.

27 3. Reinstatement. Upon expiration of the suspen-
28 sion period, if within that period the license has
29 not otherwise terminated, the home service company's
30 license shall automatically be reinstated, unless it
31 is determined by the director that the causes of sus-
32 pension have not been removed, or, after notice and
33 hearing, it is found that the home service company is
34 otherwise not in compliance with the requirements of
35 this subchapter.

36 4. Authority of company. Upon reinstatement of
37 the home service company's license or reinstatement
38 of the certificate of authority of an insurer follow-
39 ing suspension, the authority of the home service
40 company sales agents in this State to represent the
41 home service company or insurer shall likewise be re-
42 instated.

1 §13233. Filing of forms

2 1. Restrictions on activity. No home service
3 contract may be issued or used in this State unless
4 it has been filed with and approved by the director.

5 2. Filing in advance. Except as provided in sub-
6 section 1, every home service contract shall be filed
7 not less than 30 days in advance of its intended is-
8 suance or use. At the expiration of 30 days from the
9 date of filing, a home service contract so filed is
10 deemed approved unless, prior thereto, it has been
11 affirmatively approved or disapproved by written or-
12 der of the director.

13 3. Approval of contract. The director shall not
14 approve any home service contract unless it:

15 A. Is written in nontechnical, readily under-
16 stood language, using words with common meanings;

17 B. Clearly, conspicuously and plainly specifies:

18 (1) The services to be performed by the
19 service company and the terms and conditions
20 of the performance;

21 (2) The service fee or deductible amount
22 applicable per claim, per occurrence, if
23 any;

24 (3) Each of the items covered by the con-
25 tract;

26 (4) All exclusions and limitations respect-
27 ing the extent of coverage;

28 (5) The period during which the contract
29 will remain in effect and the cancellation
30 provision; and

31 (6) All limitations respecting the perform-
32 ance of services, including any restrictions
33 as to the time periods when services may be
34 requested or will be performed; and

1 C. Includes reasonable procedures for reporting
2 a claim and provides for the performance of ser-
3 vices without requiring the filing of claim forms
4 or applications prior to the rendering of ser-
5 vices.

6 §13234. Filing of fees

7 All contract fees and related inspection fees
8 shall be filed with the director not less than 30
9 days in advance of their intended use.

10 §13235. Annual statement; examination

11 1. Time of filing; financial statement. Each
12 home service company shall file with the director,
13 annually, within 90 days of the close of its fiscal
14 year, its annual statement in a form prescribed by or
15 acceptable to the director. The annual statement
16 shall include a current financial statement, includ-
17 ing a balance sheet and statement of operations pre-
18 pared in accordance with generally accepted account-
19 ing principles and certified by an independent certi-
20 fied public accountant.

21 2. Contracts. Each annual statement shall in-
22 clude the number of home service contracts issued
23 during the preceding fiscal year, the number can-
24 celled or expired during the year, the number in ef-
25 fect at year end and the amount of all contract fees
26 received for contract issuance during the year.

27 3. Reserve. Each annual statement shall include
28 necessary information to demonstrate that the reserve
29 requirement of section 4126 has been met.

30 4. Failure to file. Any home service company ne-
31 glecting to file the annual statement in the form and
32 within the time provided by this section shall forfeit
33 \$100 for each day during which the neglect con-
34 tinues and, upon notice by the director to that ef-
35 fect, its authority to do business in this State
36 shall cease while the default continues.

37 5. Additional reports. In addition to an annual
38 statement, the director may require of licensees, un-
39 der oath and in the form prescribed by him, such ad-

1 ditional regular or special reports as he may deem
2 necessary to the proper supervision of licensees un-
3 der this subchapter.

4 6. Examination. The director may make an exami-
5 nation of the affairs of any licensed home service
6 company as he deems necessary. Every home service
7 company shall make its books and records relating to
8 its home service contract operations available for
9 the examination. All expenses relating to such an ex-
10 amination shall be borne by the home service company
11 being examined.

12 §13236. Service of process; appointment of director
13 as process agent

14 1. Irrevocable appointment. Each home service
15 company applying for authority to transact business
16 in this State, whether domestic or foreign, shall ap-
17 point the director and his successors in office as
18 its attorney to receive service of all legal process
19 issued against it in any civil action or proceeding
20 in this State and shall agree that process so served
21 shall be valid and binding upon the home service com-
22 pany. The appointment shall be irrevocable, bind the
23 home service company and any successor in interest as
24 to the assets or liabilities of the home service com-
25 pany and remain in effect as long as there are out-
26 standing in this State any obligations or liability
27 of the home service company resulting from its home
28 service contract transactions.

29 2. Designation by company. At the time of ap-
30 pointment of the director as its process agent, the
31 home service company shall file with the director a
32 designation of the name and address of the person to
33 whom process against it, served upon the director, is
34 to be forwarded. The home service company may change
35 the designation at any time by a new filing.

36 3. Method of service. Service shall be made by
37 serving copies in triplicate of the process upon the
38 director or upon his assistant, deputy or other per-
39 son in charge of his office. Upon receiving the ser-
40 vice, the director shall file one copy, return one
41 copy with his admission of service and promptly for-
42 ward one copy of the process by registered or certi-

1 fied mail to the person last designated by the home
2 service company to receive the copy as provided in
3 subsection 2.

4 §13237. Home service company sales agent registra-
5 tion required

6 1. Time of registration; fee. No home service
7 company sales agent may solicit, negotiate, sell, ad-
8 vertise or effectuate home service contracts in this
9 State on behalf of a home service company, unless
10 registered with the director within 30 days of his
11 appointment. The agent shall pay a biennial registra-
12 tion fee of \$30.

13 2. Written examination. If the sales agent so
14 registered does not hold a current and valid real es-
15 tate broker license, the director may require the
16 same evidence of qualifications as is required of ap-
17 plicants under section 4106 and may require a written
18 examination as to his competency with regard to home
19 service contracts. Upon registration, the nonreal es-
20 tate broker sales agent shall be held to the same
21 standards of trustworthiness and competency required
22 of a licensed real estate broker or salesman.

23 3. Compliance with insurance law. No home ser-
24 vice company sales agent may directly or indirectly
25 solicit or negotiate insurance contracts or hold it-
26 self out to be an insurance agent, unless so quali-
27 fied and licensed under Title 24-A.

28 4. Penalties. If a person acts as a sales agent
29 without being registered with the director or after
30 his registration has been withdrawn or revoked, that
31 person shall be fined up to \$100 a day for each day
32 in which he has so acted, but any home service con-
33 tract issued pursuant to these acts shall bind the
34 home service company if otherwise valid. In these
35 cases, the Administrative Court may also, for good
36 cause shown, and after notice and hearing, suspend or
37 revoke the license of the home service company for
38 which the person was acting.

39 5. Trust funds. All funds belonging to home ser-
40 vice companies or insurers under this subchapter and
41 received by a sales agent in transactions shall be

1 trust funds received in a fiduciary capacity. The
2 sales agent shall account for and pay these funds to
3 the home service company or insurer entitled thereto
4 in the regular course of business. Any sales agent
5 who diverts or appropriates these funds, or any por-
6 tion of these funds, to his own or other use, upon
7 conviction, shall be guilty of a Class D crime, pun-
8 ishable as provided by law.

9 6. Associates. All home service contract sales
10 associates are subject to the same requirements and
11 penalties as are applicable to home service contract
12 sales agents, except that licensed real estate bro-
13 kers and salesmen are exempt from registration re-
14 quirements.

15 §13238. Penalty for violation

16 Any person who knowingly makes a false or other-
17 wise fraudulent application for license under this
18 subchapter or who knowingly violates any of its pro-
19 visions, in addition to any applicable denial, sus-
20 pension, revocation or refusal to renew or continue
21 any license, is guilty of a Class D crime. Each in-
22 stance of violation is a separate offense.

23 §13239. Transitional provisions

24 On the effective date of this chapter the commis-
25 sion shall change its records pertaining to licenses
26 in effect at that time to reflect the changes in li-
27 cence status of licensees affected by these provi-
28 sions and shall issue the appropriate licenses to im-
29 plement the following.

30 1. Designated broker. Every person holding a
31 real estate broker license recorded as an individual
32 proprietorship shall become a designated broker and a
33 real estate brokerage agency license shall be issued
34 in the name of the proprietorship without charge. The
35 license issued under this provision shall expire on
36 the same date as the designated broker's license.

37 2. Real estate broker license. Every person
38 holding an active real estate broker license recorded
39 as an associate broker shall be issued a real estate
40 broker license at the time their next license is is-
41 sued.

1 until his successor is qualified and appointed. The
2 successor's term shall be 3 years from the date of
3 that expiration, regardless of the date of his ap-
4 pointment. Any vacancy shall be filled by appoint-
5 ment for the unexpired term. A member may be removed
6 by the Governor for cause.

7 §13502. Declaration of policy

8 It is declared to be the policy of the State,
9 that professional and amateur boxing, professional
10 and exhibition wrestling and professional and amateur
11 kick-boxing in this State shall be supervised by the
12 commission in a manner designed to promote these
13 sports in accordance with the public interest, insure
14 the safety of all participants and spectators and
15 achieve uniformity in the rules governing participa-
16 tion in these sports within the State.

17 §13503. Meetings; chairman; quorum

18 The commission shall meet at least once a year to
19 conduct its business and to elect a chairman and a
20 secretary. Additional meetings shall be held as nec-
21 essary to conduct the business of the commission, and
22 may be convened at the call of the chairman or a ma-
23 jority of the board members. Three members of the
24 commission shall constitute a quorum for all pur-
25 poses. The commission shall keep such records and
26 minutes as are necessary to the ordinary dispatch of
27 its functions.

28 §13504. Disposal of fees; expenses

29 All fees and taxes collected under this chapter
30 shall be paid forthwith by the commission to the
31 Treasurer of State with a detailed statement thereof
32 and shall constitute a fund to be known as the Ath-
33 letic Commission Fund. This fund shall be kept as a
34 separate account by the Treasurer of State and he
35 shall pay therefrom all costs and expenditures of the
36 commission, including, but not limited to, the com-
37 ensation of the commission, reasonable expenses of
38 the commissioners incurred in the performance of
39 their duties, administrative expenses and other costs
40 incurred in carrying out the duties of the commis-
41 sion. Any money remaining in the Athletic Commission

1 Fund at the end of the fiscal year shall be carried
2 forward to the credit of that fund for the succeeding
3 year.

4 The Commissioner of Professional and Financial
5 Regulation shall employ, subject to the Civil Service
6 Law, the personnel that he deems necessary to dis-
7 charge the duties of the commission, and, with the
8 advice of the commission, shall outline their duties
9 and fix their compensation, subject to the Civil Ser-
10 vice Law.

11 §13505. Annual reports

12 Not later than August 1st of each year, the com-
13 mission shall submit to the Commissioner of Profes-
14 sional and Financial Regulation, for the preceding
15 fiscal year ending June 30th, an annual report of its
16 operations and financial position, together with such
17 comments and recommendations as the commission deems
18 relevant.

19 §13506. Jurisdiction

20 1. Boxing. The commission shall have the sole
21 direction, control and jurisdiction over all boxing
22 contests and exhibitions, except that it shall have
23 no jurisdiction over any amateur intercollegiate, in-
24 terscholastic or intramural boxing contest or exhibi-
25 tion conducted under the direct auspices of a school,
26 college or university, except as provided in section
27 13508.

28 No boxing contests or exhibitions, except as provided
29 in this chapter, may be held or conducted within this
30 State, unless the contest or exhibition is properly
31 licensed by the commission and conducted in accord-
32 ance with this chapter and the rules adopted pursuant
33 to this chapter, nor shall any closed circuit televi-
34 sion showing of a boxing contest or exhibition be
35 conducted, except under a license issued by the com-
36 mission.

37 No boxing contests or exhibition under the jurisdic-
38 tion of the commission may take place unless a medi-
39 cal doctor, licensed under chapter 48 is in attend-
40 ance.

1 2. Wrestling. The commission shall have the
2 sole direction, control and jurisdiction over all
3 professional wrestling matches, shows or exhibitions.

4 No professional wrestling match, show or exhibition
5 may be held or conducted within this State unless the
6 match, show or exhibition is licensed by the commis-
7 sion and conducted in accordance with this chapter
8 and the rules adopted pursuant to this chapter, nor
9 may any closed circuit television showing of a pro-
10 fessional wrestling match, show or exhibition be con-
11 ducted, except under a license issued by the commis-
12 sion.

13 No professional wrestling match, show or exhibition
14 under the jurisdiction of the commission may take
15 place unless an emergency medical technician, as li-
16 censed under chapter 2-B, is in attendance for the
17 duration of the contest.

18 3. Kick-boxing. The commission shall have the
19 sole direction, control and jurisdiction over all
20 kick-boxing contests, exhibitions or performances.
21 For purposes of this chapter, kick-boxing means the
22 following.

23 A. "Kick-boxing" means any form of boxing in
24 which blows are delivered with the hand and any
25 part of the leg below the hip, including the
26 foot, with the intent to disable or cause injury
27 to an opponent in a contest, exhibition or per-
28 formance.

29 B. This subsection shall not apply with respect
30 to kick-boxing exhibitions, events, performances
31 or contests in which school pupils or instructors
32 are the only participants, except that this ex-
33 emption shall apply only to a performance or ex-
34 hibition conducted under the direct supervision
35 and control of the board of directors of a school
36 district, or the person in authority of a teach-
37 ers' training school or other institution under
38 the control of the Commissioner of Educational
39 and Cultural Services and the State Board of Edu-
40 cation or the board, bodies or persons in author-
41 ity of duly constituted private or parochial
42 schools, colleges or universities, or schools for
43 kick-boxing.

1 C. No kick-boxing contest, exhibition or per-
2 formance, except as provided in this chapter, may
3 be held or conducted within the State, unless the
4 contest, exhibition or performance is properly
5 licensed by the commission and conducted in ac-
6 cordance with this chapter and the rules adopted
7 pursuant to this chapter, nor may any closed cir-
8 cuit television showing of such a contest or ex-
9 hibition be conducted except under a license is-
10 ssued by the commission.

11 D. No kick-boxing contest, exhibition or per-
12 formance under the jurisdiction of the commission
13 may take place unless a medical doctor, licensed
14 under chapter 48, is in attendance for the dura-
15 tion of the contest.

16 §13507. Powers and duties

17 The commission shall administer, coordinate and
18 enforce this chapter consistent with the declaration
19 of policy set forth in section 13502, and shall have
20 the following powers and duties in addition to those
21 otherwise set forth in this chapter.

22 1. Rules. The commission, in accordance with
23 procedures established by the Maine Administrative
24 Procedure Act, Title 5, chapter 375, subchapter II,
25 may adopt rules commensurate with the authority
26 vested in it by this chapter.

27 A. In the exercise of its jurisdiction over box-
28 ing as set forth in section 13506, subsection 1,
29 the commission may adopt rules governing, among
30 others, referees, judges, boxers, seconds, pro-
31 motors, managers, physicians, timekeepers and
32 knockdown timekeepers. These rules may include,
33 but not be limited to: Licensing requirements;
34 age limits and physical condition of partici-
35 pants; lengths of contests and rounds; specifica-
36 tions of the facilities and equipment used in
37 boxing contests and uniforms of contestants and
38 referees; scoring of decisions; standards of
39 weight and weighing of contestants; and the man-
40 ner of presentation of closed circuit events.
41 Rules governing amateur boxing contests shall
42 conform to tournament regulations of the Amateur
43 Athletic Union or its successor in interest.

1 B. In the exercise of its jurisdiction over
2 wrestling as set forth in section 13506, subsec-
3 tion 2, the commission may adopt rules governing,
4 among others, wrestlers, managers, seconds, ref-
5 erees, matchmakers, physicians, timekeepers,
6 trainers and promoters. These rules may include,
7 but not be limited to: Licensing and qualifica-
8 tions of participants; conduct of contests; spec-
9 ifications of equipment and facilities used in
10 wrestling contests or exhibitions; and scoring of
11 decisions.

12 C. In the exercise of its jurisdiction over
13 kick-boxing, as set forth in section 13506, sub-
14 section 3, the commission may adopt rules govern-
15 ing, among others, referees, judges, kick-boxers,
16 seconds, promoters, managers, physicians,
17 timekeepers and knockdown timekeepers. These
18 rules may include, but not be limited to, licens-
19 ing requirements, age limits and physical condi-
20 tion of participants, lengths of contests and
21 rounds, specifications of the facilities and
22 equipment used in contests and uniforms of con-
23 testants and referees, scoring of decisions,
24 standards of weight and weighing of contestants,
25 and the manner of presentation of closed circuit
26 events. Rules governing amateur kick-boxing con-
27 tests shall conform to tournament regulations of
28 the Amateur Athletic Union or its successor in
29 interest.

30 D. The commission may adopt rules requiring
31 health and accident insurance providing coverage
32 in the event of injury or death for persons com-
33 peting in boxing events, wrestling events or
34 kick-boxing events subject to this chapter, or
35 for any combination of those events. This insur-
36 ance, if required, shall comply with standards
37 prescribed by the Superintendent of Insurance.

38 2. Officials. The officials at all boxing or
39 kick-boxing contests or exhibitions shall be selected
40 or approved by the commission. For purposes of this
41 subsection, the term "officials" includes referees,
42 judges, physicians, timekeepers and knockdown
43 timekeepers.

1 3. Hearings. Hearings may be conducted by the
2 commission to assist with investigations, to deter-
3 mine whether grounds exist for suspension, revocation
4 or denial of a license, or as otherwise deemed neces-
5 sary to the fulfillment of its responsibilities under
6 this chapter.

7 The commission shall not refuse to renew a license
8 for any reason other than failure to pay a required
9 fee, unless it has afforded the licensee an opportu-
10 nity for an adjudicatory hearing. The commission
11 shall hold an adjudicatory hearing at the written re-
12 quest of any person who is denied a license without
13 a hearing for any reason other than failure to pay a
14 required fee, provided that the request for hearing
15 is received by the commission within 30 days of the
16 applicant's receipt of written notice of the denial
17 of his application, the reasons therefor and his
18 right to request a hearing. Hearings shall be con-
19 ducted in conformity with the Maine Administrative
20 Procedure Act, Title 5, chapter 375, subchapter IV,
21 to the extent applicable. The commission may subpoe-
22 na witnesses, records and documents in any hearing it
23 conducts.

24 4. Contracts. The commission may enter into
25 contracts to carry out its responsibilities under
26 this chapter.

27 §13508. Headgear required; safety equipment

28 1. Headgear. No amateur boxing contests, exhibi-
29 tions or sparring may take place in this State, un-
30 less the boxers wear protective headgear approved by
31 the commission.

32 2. Other safety equipment. No amateur or pro-
33 fessional boxing contests, exhibitions or sparring
34 may take place in this State, unless the following
35 safety equipment is used:

36 A. Plastic safety mats;

37 B. Padded corner posts; and

38 C. Such other safety equipment as the commission
39 may consider necessary for the protection of the
40 health and safety of boxers.

1 3. Penalty. Any person, club, association, cor-
2 poration or any member or officer of a club, associa-
3 tion or corporation who promotes, competes or other-
4 wise engages in a boxing contest, exhibition or in
5 sparring without complying with subsections 1 and 2,
6 commits a civil violation for which a forfeiture of
7 not more than \$500 may be adjudged. The imposition
8 of such a forfeiture shall in no way limit the com-
9 mission's right to impose disciplinary sanctions pur-
10 suant to section 13516 or the State's ability to im-
11 pose penalties under section 13517.

12 §13509. Head injuries

13 1. Examination. Any boxer who is rendered
14 unconscious or suffers serious head injury during any
15 boxing contest or exhibition, as determined by the
16 attending ring physician, shall:

17 A. Be examined immediately by the attending ring
18 physician;

19 B. Undergo neurological and neuropsychological
20 examinations by a neurologist or neurosurgeon,
21 including, but not limited to, a computed
22 tomography or medically equivalent procedure; and

23 C. Not participate in any boxing contest or ex-
24 hibition until the commission is presented with a
25 written certification of a licensed physician
26 that the boxer is fit to take part in competitive
27 boxing.

28 2. Results of examination. The results of any
29 examination conducted under subsection 1 and any sub-
30 sequent physician certification shall become part of
31 the boxer's permanent medical record, as maintained
32 by the commission and shall be used by the commission
33 to determine whether the boxer should be permitted to
34 participate in any future boxing contest or exhibi-
35 tion.

36 3. Responsibility for examination. The sole re-
37 sponsibility for any examination required by subsec-
38 tion 1, paragraph B, shall rest with the boxer. Nei-
39 ther the commission, any member of the commission,
40 nor the ringside physician shall be responsible fi-
41 nancially or otherwise for the examination.

1 §13510. Boxing and kick-boxing licenses

2 1. Persons to whom licenses may be issued. The
3 commission may issue, in its discretion, a license
4 for a term of one year from date of issuance to any
5 person, club, association or corporation, who or
6 which is properly qualified to promote and conduct
7 boxing or kick-boxing contests and exhibitions in ac-
8 cordance with this chapter and the rules adopted pur-
9 suant to this chapter. All persons engaged in such
10 contests and exhibitions as boxers, kick-boxers, sec-
11 onds, managers, timekeepers, knockdown timekeepers,
12 referees, judges and physicians shall be licensed by
13 the commission in a like manner. A closed circuit li-
14 cence may be issued by the commission to any person
15 who is properly qualified therefor, which will en-
16 title him to engage in the showing of boxing or
17 kick-boxing contests or exhibitions by closed circuit
18 television.

19 2. Application for license. Each applicant for
20 a promoter's license or a closed circuit boxing,
21 kick-boxing or wrestling license shall specify the
22 location for which the license is desired, and that
23 promoter's license, when issued, shall be limited to
24 that specified location. No license issued under
25 this section, other than a promoter's license or a
26 closed circuit event license, may be limited to a
27 specified location.

28 3. Fee for license. The commission may, in its
29 discretion, fix the fee for each promoter's license
30 at a figure between \$25 and \$50 for a license to pro-
31 mote amateur events and a figure between \$50 and \$100
32 for a license to promote professional events, depend-
33 ing upon the probable income of the licensee to be
34 derived from the conducting of the contests and exhi-
35 bitions. The fee for a license for closed circuit
36 events shall be \$50. The commission may, by rule,
37 fix the fees for all other licenses issued under this
38 section at a figure between \$5 and \$25. When appli-
39 cation by a fraternal, charitable or patriotic orga-
40 nization for a license to promote and conduct amateur
41 boxing or kick-boxing contests or exhibitions is made
42 to the commission, it may grant the license without
43 the requirement of the payment of a license fee.

1 4. Temporary license. Upon application being
2 made for any license under this section, any member
3 of the commission, in his discretion, may temporarily
4 issue or temporarily refuse to issue the license. In
5 the event that such a temporary license is issued,
6 the temporary license shall be valid only until the
7 next meeting of the commission at which a quorum is
8 present. No license, except such a temporary li-
9 cence, may be issued under this section, except by a
10 majority vote taken at a commission meeting at which
11 a quorum is present. All license applications shall
12 be considered in the first meeting of the commission
13 following the receipt of the application, at which a
14 quorum is present.

15 §13511. Wrestling licenses

16 The commission, in accordance with this chapter
17 and the rules adopted pursuant to this chapter, may
18 issue a license for a term of one year, to any per-
19 son, club, association or corporation who or which is
20 properly qualified, to conduct professional wrestling
21 matches, shows or exhibitions. The commission, in
22 its discretion, may fix the fee for the license at a
23 figure between \$50 and \$100, depending upon the prob-
24 able income of the licensee to be derived from the
25 conducting of professional wrestling matches, shows
26 or exhibitions. A closed circuit wrestling license
27 may be issued by the commission for a term of one
28 year to any person who is properly qualified therefor
29 which will entitle him to engage in the showing of
30 professional wrestling matches, shows or exhibitions
31 by closed circuit television. The fee for a closed
32 circuit wrestling license shall be \$50, and the li-
33 cence may be suspended or revoked by the Administra-
34 tive Court for any violation of this chapter or the
35 rules of the commission.

36 All persons engaging in professional wrestling
37 matches, shows or exhibitions as wrestlers shall be
38 licensed by the commission in a like manner. The
39 commission may by rule establish a fee for the li-
40 censes in an amount not to exceed \$25 a year. Upon
41 the application for a license as enumerated, the
42 chairman of the commission shall in his discretion
43 temporarily issue or refuse to issue the license.
44 The commission shall consider the matter at its regu-

1 lar meeting and rule upon the issuance or denial of
2 the license.

3 §13512. Permits for foreign copromoters

4 No foreign copromoter, meaning a promoter who has
5 no place of business within the State, may directly
6 or indirectly participate in the promotion of or re-
7 ceive any remuneration from or render any services in
8 connection with any boxing contest or exhibition, or
9 any professional wrestling match, show or exhibition
10 held within the State, unless he first has been
11 granted a permit by the commission. No promoter may
12 be associated with any foreign copromoter in promot-
13 ing any boxing contest or exhibition, unless the for-
14 foreign copromoter has first secured a permit. Permits
15 for foreign copromoters shall be issued in the same
16 manner as provided in section 13510, subsection 2,
17 and section 13511, for licenses to promote amateur or
18 professional boxing or wrestling, and the fees for
19 these permits shall be the same as those established
20 by the commission for these licenses.

21 A foreign copromoter, by accepting a permit,
22 agrees to be subject to all the provisions of this
23 chapter and the rules promulgated under this chapter.

24 Any foreign copromoter who violates any provision
25 of this chapter or any rule promulgated under this
26 chapter shall be guilty of a Class E crime.

27 §13513. Promoter's reports

28 The commission shall provide to each promoter a
29 printed report form, which shall be completed and re-
30 turned to the commission by registered letter mailed
31 within 48 hours of the conclusion of any boxing or
32 kick-boxing contest or exhibition or any wrestling
33 match, show or exhibition held under this chapter.
34 The completed form shall contain the following:

35 1. Names of contestants. A list of the names of
36 the contestants;

37 2. Physician's statement. The signed statement
38 of a physician that he examined each of the contes-
39 tants within 10 hours of the contest and found them

1 to be in good physical condition, and, in the case of
2 any boxing or kick-boxing contest, further stating
3 what he found each contestant's weight to be; and

4 3. Promoter's statement. The signed statement
5 of the promoter setting forth the results of the con-
6 test, the name of the referee, the names of the
7 judges in the case of a boxing or kick-boxing contest
8 or exhibition and the amount of the gross receipts.

9 §13514. Taxes

10 The promoter or promoters of all boxing or
11 kick-boxing contests or exhibitions and all profes-
12 sional wrestling matches, shows or exhibitions held
13 under this chapter shall pay to the Treasurer of
14 State, for credit to the Athletic Commission Fund, a
15 tax of 5% of the gross receipts from the contest or
16 exhibition up to a maximum tax of \$2,500. This sec-
17 tion shall apply to all boxing, kick-boxing and
18 wrestling contests or exhibitions which are shown
19 over closed circuit television.

20 On the day on which the contest or exhibition is
21 held, the promoter or promoters shall either tender
22 the tax to the commissioner in attendance, or provide
23 a surety bond acceptable to the commission in the
24 amount of \$5,000 payable to the Treasurer of State
25 and conditioned for payment of the tax and any penal-
26 ties imposed under this section. This tax shall have
27 been paid to the Treasurer of State within 15 days of
28 the date on which the contest or exhibition is held,
29 in the event a bond is provided. Upon failure to pay
30 the tax to the Treasurer of State, the promoter or
31 promoters shall be liable to pay a penalty of 25% of
32 the amount of the tax due, which penalty and the tax
33 due shall be recovered by a civil action upon the
34 bond brought in the name of the commission, and the
35 penalty and the tax due shall be paid to the Treasur-
36 er of State to be credited to the Athletic Commission
37 Fund.

38 §13515. Decisions

39 1. Boxing or kick-boxing. In all boxing or
40 kick-boxing contests or exhibitions conducted under
41 this chapter, there may be a decision as to the win-

1 ner by 2 judges and the referee, or by 3 judges, li-
2 censed under this chapter.

3 2. Wrestling. In all professional wrestling
4 matches, shows or exhibitions conducted under this
5 chapter, there may be a decision as to the winner by
6 the referee.

7 §13516. Disciplinary actions

8 The commission may suspend or revoke a license
9 pursuant to Title 5, section 10004. The commission
10 may refuse to renew or the Administrative Court may
11 revoke, suspend or refuse to renew any license issued
12 under this chapter if the holder of that license has
13 violated any provision of this chapter or any rule or
14 order of the commission.

15 §13517. Penalties; injunction

16 1. Penalties. Any person, club, association or
17 corporation, or any member or officer of a club, as-
18 sociation or corporation who promotes, competes or
19 otherwise engages in a boxing or kick-boxing contest
20 or exhibition or wrestling match, show or exhibition
21 without first obtaining a license as required by this
22 chapter, or after the license has expired or has been
23 suspended, revoked or temporarily suspended or re-
24 voked, is guilty of a Class E crime.

25 2. Injunction. The State may bring an action in
26 Superior Court to enjoin any person from violating
27 this chapter, regardless of whether proceedings have
28 been or may be instituted in the Administrative Court
29 or whether criminal proceedings have been or may be
30 instituted.

31 Sec. 210. P&SL 1975, c. 84, §6, last ¶, first
32 sentence is amended to read:

33 If any person sustaining damages by any taking as
34 aforsaid shall not agree with the trustees of said
35 the district upon the sum to be paid therefor, either
36 party, within 45 days of the filing of such the no-
37 tice in the registry of deeds, upon petition to the
38 Land-Damage-Board State Claims Commission, may have
39 said the damages assessed by them.

1 **Sec. 211. Interdepartmental Task Force on Out-**
2 **of-state Placements.**

3 1. Interdepartmental task force created. The In-
4 terdepartmental Task Force on Out-of-state Placements
5 is established to jointly identify and implement a
6 course of action to minimize placement of children in
7 out-of-state substitute care facilities, including,
8 but not limited to, a residential treatment center,
9 residential child care facility, group home, emergen-
10 cy shelter, hospital - medical facility, institution
11 for the mentally retarded, correctional institution,
12 school, nursing home, institution for the mentally
13 ill, institution for the physically handicapped,
14 boarding care facility, drug treatment center, chil-
15 dren's home or specialized children's home. The task
16 force shall be composed of the Commissioner of Human
17 Services, the Commissioner of Educational and Cultur-
18 al Services, the Commissioner of Mental Health and
19 Mental Retardation and the Commissioner of Correc-
20 tions, or their designees.

21 2. **Duties.** The Task Force on Out-of-state Place-
22 ments shall:

23 A. Develop an overall state policy to minimize
24 the placement of children in out-of-state substi-
25 tute care facilities;

26 B. Identify ways and means to provide a child in
27 the substitute care system with treatment within
28 the State appropriate to meet the child's indi-
29 vidual needs in order to promote the health and
30 well-being of the child, promote the wholesome
31 development of the child and achieve permanence
32 at the earliest possible time;

33 C. Develop procedures for the provision of these
34 services by nonstate agencies within the State;
35 and

36 D. Meet periodically with the Resident Treatment
37 Centers Advisory Group as established by the
38 Maine Revised Statutes, Title 5, section 12004,
39 subsection 10, to discuss the instate placement
40 policy and procedures.

1 area indexes applicable to Maine. In no case may
2 the allowed increase exceed 5% and in no case may
3 the debt service limit be reduced.

4 B. Nonstate funded projects, such as school con-
5 struction projects or portions of projects fi-
6 nanced by proceeds from insured losses, money
7 from federal sources, other noneducational funds
8 or local funds which are not eligible for inclu-
9 sion in an administrative unit's state-local al-
10 location, shall be outside the total cost limita-
11 tions set by the Legislature.

12 Sec. 2. 22 MRSA §3174-D is enacted to read:

13 §3174-D. Medicaid coverage for services provided by
14 the Governor Baxter School for the Deaf

15 The Department of Human Services may administer a
16 program of Medicaid coverage for speech and hearing
17 services, psychological services, occupational thera-
18 py and any other services provided by the Governor
19 Baxter School for the Deaf which qualify for reim-
20 bursement under the United States Social Security
21 Act, Title XIX. The Department of Educational and
22 Cultural Services shall have fiscal responsibility
23 for providing the State's match for federal revenues
24 acquired under this section.

25 Sec. 3. 32 MRSA §1101, sub-§3-A is enacted to
26 read:

27 3-A. Journeyman-in-training electrician. "Jour-
28 neyman - in - training electrician" means a person
29 doing work of installing electrical wires, conduits,
30 apparatus, fixtures and other electrical equipment
31 under the supervision of a journeyman or a master
32 electrician. The biennial renewal fee for a journey-
33 man electrician license is \$20.

34 Sec. 4. 32 MRSA §1102, sub-§5, as repealed and
35 replaced by PL 1973, c. 363, is repealed and the fol-
36 lowing enacted in its place:

37 5. Oil burner technicians. Any person duly li-
38 censed under chapter 33 subject to the restrictions
39 of the license as issued;

1 Sec. 5. 32 MRSa §1152, first ¶, as amended by PL
2 1985, c. 785, Pt. B, §131, is further amended to
3 read:

4 The Commissioner of ~~Business, Occupational and~~
5 ~~Professional and Financial~~ Regulation, with the ad-
6 vice and consent of the board, shall be empowered to
7 appoint, subject to the Civil Service Law, such em-
8 ployees as may be necessary to carry out this chap-
9 ter. Any person so employed shall be located in the
10 Department of ~~Business, Occupational and Professional~~
11 ~~and Financial~~ Regulation and under the administrative
12 and supervisory direction of the Commissioner of
13 ~~Business, Occupational and Professional and Financial~~
14 Regulation.

15 Sec. 6. 32 MRSa §1202, sub-§1, as amended by PL
16 1985, c. 695, §18 and as repealed and replaced by PL
17 1985, c. 734, is repealed and the following enacted
18 in its place:

19 1. Application; qualifications. The board shall
20 issue a license to any person who files a sworn ap-
21 plication, who passes an examination conducted by the
22 board as provided in section 1203 to determine his
23 fitness to receive that license and who meets the
24 following qualifications.

25 A. For a journeyman electrician's license, a
26 person must:

27 (1) Complete at least 8,000 hours of ser-
28 vice as an apprentice or helper electrician
29 or at least 8,000 hours of experience in
30 electrical installations, as defined in sec-
31 tion 1101, and satisfactorily complete a
32 program of study comprising 576 hours as ap-
33 proved by the Electricians' Examining Board
34 or from an accredited institution. The 576
35 hours shall consist of 225 hours of required
36 study, including an approved course of not
37 less than 45 hours in the current National
38 Electrical Code; and 351 hours of elective
39 study, comprised of all trade-related
40 electives or 225 hours of trade-related
41 courses and 135 hours of degree-related
42 courses;

1 (2) Be a graduate of an accredited regional
2 vocational high school 2-year electrical
3 program, have worked for 8,000 hours in the
4 field of electrical installations under the
5 supervision of a master electrician or the
6 equivalent and have completed a course of
7 not less than 45 hours in the current Na-
8 tional Electrical Code, the course to be ap-
9 proved by the board;

10 (3) Be a graduate of an accredited Maine
11 vocational-technical institute electrical
12 program, have worked for 4,000 hours in the
13 field of electrical installations under the
14 supervision of a master electrician or the
15 equivalent and have completed a course of
16 not less than 45 hours in the current Na-
17 tional Electrical Code, the course to be ap-
18 proved by the board. Persons qualifying un-
19 der this paragraph may write the
20 journeyman's examination upon graduation if
21 application is made within one year of grad-
22 uation; or

23 (4) Be an electrical apprentice registered
24 with the Maine State Apprenticeship and
25 Training Council and have completed 576
26 hours of related instruction, as defined in
27 this paragraph, prescribed in their appren-
28 ticeship program, the 8,000-hour approved
29 program and a course of not less than 45
30 hours in the current National Electrical
31 Code, the course to be approved by the
32 board. Persons qualifying under this para-
33 graph may write the journeyman's examination
34 after completion of the 576 hours of in-
35 struction, if application is made within one
36 year of the completion of the instruction.

37 B. For a master electrician's license, a person
38 must:

39 (1) Complete at least 4,000 hours of ser-
40 vice as a journeyman electrician or at least
41 12,000 hours of experience in electrical in-
42 stallations, as defined in section 1101,
43 and complete a program of study comprising

1 576 hours as approved by the Electricians'
2 Examining Board or from an accredited insti-
3 tution. The 576 hours shall consist of 450
4 hours of required study, including a course
5 of not less than 45 hours in an approved
6 course in the current National Electrical
7 Code and 126 hours of degree-related
8 courses;

9 Any person who holds a journeyman
10 electrician's or limited license under this
11 section or under former section 1202, sub-
12 section 1, prior to July 1987, shall be eli-
13 gible to take the examination for a master
14 electrician's license, provided that the ap-
15 plicant has completed the number of hours of
16 service or experience required by this sub-
17 section.

18 C. For a limited electrician's license, a person
19 must meet the following requirements.

20 (1) A limited electrician in water pumps
21 shall have 90 hours of electrical education
22 and 2,000 hours of experience. The privi-
23 leges of practice shall be restricted to
24 electrical work between the branch circuits
25 and power supplies.

26 (2) A limited electrician in outdoor signs,
27 including sign lighting, shall have 90 hours
28 of electrical education and 2,000 hours of
29 experience. The privileges of practice do
30 not include branch circuit wiring.

31 (3) A limited electrician in gasoline dis-
32 persing shall have 90 hours of electrical
33 education and 2,000 hours of experience. The
34 privileges of practice shall be restricted
35 to electrical work between the branch cir-
36 cuit and the power supply.

37 (4) A limited electrician in traffic sig-
38 nals, including outdoor lighting of traffic
39 signals, shall have 90 hours of electrical
40 education and 2,000 hours of experience.

1 (5) A limited electrician in house wiring
2 shall have 225 hours of electrical education
3 and 4,000 hours of experience. Privileges of
4 practice shall be restricted to one-family
5 and 2-family dwellings, including modular
6 and mobile homes. Any person having a lim-
7 ited license in mobile homes prior to the
8 effective date of this section shall auto-
9 atically be licensed as a limited electri-
10 cian in house wiring.

11 (6) A limited electrician in refrigeration
12 shall have 270 hours of electrical education
13 and 6,000 hours of experience. Privileges of
14 practice shall be restricted to all associ-
15 ated wire from the loadside of distribution.

16 (7) A limited electrician in low energy, in-
17 cluding fire alarms, shall have 270 hours of
18 electrical education and 4,000 hours of ex-
19 perience. Any person having a limited li-
20 cence in fire alarms or experience in the
21 installation of low-energy electronics, as
22 defined by the National Electrical Code,
23 prior to the effective date of this section,
24 shall automatically be licensed as a limited
25 electrician in low energy.

26 D. For a journeyman-in-training electricians'
27 license, a person must complete the journeyman
28 educational requirements, receive a passing grade
29 on the journeyman examination and complete 2,000
30 hours of experience.

31 The board may establish by rule standards in accord-
32 ance with the Maine Administrative Procedure Act, Ti-
33 tle 5, chapter 375, to exercise its discretion to de-
34 termine if a limited license holder applying for a
35 master electrician's license has adequate experience
36 in all phases of electrical installation to take the
37 examination.

38 Sec. 7. 32 MRSA §1203, first ¶, as amended by PL
39 1983, c. 553, §29, is further amended to read:

40 The following applicants for license shall
41 present to the board a written application for exami-

1 nation and license, containing such information as
2 the board may require, accompanied by the required
3 fee of \$50 for a master electrician's license, \$20
4 for a journeyman's license, \$10 for a
5 journeyman-in-training license and \$30 for a limited
6 electrician's license. Examinations shall be in whole
7 or in part in writing, shall be conducted by the
8 board and shall be of a thorough and practical char-
9 acter commensurate with the responsibilities of the
10 prospective license holder. They shall include such
11 provisions of the National Electrical Code as the
12 board may deem appropriate.

13 **Sec. 8. 32 MRSA §1204, first ¶, as repealed and**
14 **replaced by PL 1983, c. 413, §39, is amended to read:**

15 All licenses issued shall expire October 31st of
16 each biennial period as to master electricians and
17 April 30th of each biennial period as to other li-
18 censees and they may be renewed thereafter for 2-year
19 periods without further examination, upon the payment
20 of the proper renewal fee as set forth in section
21 1101 and documentation of 6 hours of a current elec-
22 trical code course every 4 years. The expiration
23 dates for licenses issued under this chapter may be
24 established at such other times as the Commissioner
25 of Business Regulation may designate. The board
26 shall notify everyone registered under this chapter
27 of the date of expiration of his license and the fee
28 required for its renewal for a 2-year period. The no-
29 tice shall be mailed to the person's last known ad-
30 dress at least 30 days in advance of the expiration
31 date of his license.

32 **Sec. 9. 32 MRSA §7001-A, sub-§2, as enacted by**
33 **PL 1985, c. 736, §2, is amended to read:**

34 2. Board. "Board" is the State Board of Social
35 Worker Registration Licensure.

36 **Sec. 10. 32 MRSA c. 83, sub-c. II, first 2**
37 **lines, are repealed and the following enacted in**
38 **their place:**

39 SUBCHAPTER II

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STATE BOARD OF SOCIAL WORKER LICENSURE

Sec. 11. 32 MRSA §7026, as amended by PL 1985, c. 736, §6, is further amended to read:

§7026. State Board of Social Worker Licensure

The State Board of Social Worker Registration Licensure, as established by Title 5, section 12004, subsection 1, and within the Department of ~~Business, Occupational--and~~ Professional and Financial Regulation, shall administer this chapter. The board shall consist of 7 members appointed by the Governor. Three members of the board shall be licensed clinical social workers, licensed master social workers or certified social workers - independent practice, at least one of whom must be practicing social work in a nonclinical setting; 2 shall be licensed social workers and there shall be 2 public members. Each level of licensure shall be represented on the board. In addition, board members shall meet the qualifications required under section 7027.

Appointments shall be for 3-year terms, except that no more than 3 members' terms may expire in any one calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. Any vacancy occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term.

Sec. 12. 32 MRSA §7029, last ¶, as amended by PL 1985, c. 736, §8, is further amended to read:

The board shall adopt a seal for its use. The seal and records shall be kept at the Department of ~~Business, Occupational--and~~ Professional and Financial Regulation.

1 Sec. 13. 32 MRSA §7053, sub-§1, as amended by PL
2 1985, c. 736, §11, is repealed and the following en-
3 acted in its place:

4 1. Licensed clinical social worker. To be quali-
5 fied as a licensed clinical social worker, an appli-
6 cant shall have demonstrated to the satisfaction of
7 the board adherence to the ethics of the social work
8 profession; shall have successfully completed the ex-
9 amination prescribed by the board; and shall have re-
10 ceived either:

11 A. A masters or doctoral degree in social work
12 or social welfare from an accredited educational
13 institution, in a clinical concentration:

14 (1) Shall have subsequently completed 2
15 years of social work experience with 96
16 hours of consultation in a clinical setting;
17 or

18 (2) Shall have demonstrated 2 years of
19 full-time clinical social work experience or
20 its equivalent and have completed the gradu-
21 ate degree prior to January 1, 1987, and
22 have completed 2 years of subsequent social
23 work experience with 96 hours of consulta-
24 tion in a private setting; or

25 B. A masters or doctoral degree in social work
26 in a nonclinical concentration from an accredited
27 educational institution:

28 (1) Shall have subsequently completed 4
29 years of social work experience with 192
30 hours of consultation in a clinical setting;
31 or

32 (2) Shall have demonstrated 2 years of
33 full-time clinical social work experience or
34 its equivalent and have completed the gradu-
35 ate degree prior to January 1, 1987, and
36 have completed 4 years of subsequent social
37 work experience with 192 hours of consulta-
38 tion in a private setting.

1 The board shall issue rules, in accordance with the
2 Maine Administrative Procedure Act, Title 5, chapter
3 375, defining the clinical experience required for
4 this level of licensure.

5 Sec. 14. 32 MRSA §7053-A, sub-§1, as enacted by
6 PL 1985, c. 736, §12, is amended to read:

7 1. Licensed master social worker. Any licensed
8 master social worker may:

9 A. Engage in administration, research, consulta-
10 tion, social planning and teaching related to the
11 functions in this section;

12 B. Perform all the functions of a licensed so-
13 cial worker; and

14 C. Engage in a nonclinical private practice.

15 In addition, a licensed master social worker having
16 met the requirements for licensure as a licensed
17 clinical social worker, except for having completed
18 the licensed clinical social worker examination, may
19 engage in the clinical consultation of licensed
20 master social worker, conditional for the purpose of
21 preparing the licensed master social worker, condi-
22 tional for eventual licensed clinical social workers'
23 status or regular licensure. This includes responsi-
24 bility for ongoing training and evaluation. The li-
25 icensed master social worker has an obligation to as-
26 sess the licensed master social worker, conditional's
27 competence and ethics and share this assessment with
28 the Board of Social Work Licensure at the time the
29 licensed master social worker applies for the li-
30 icensed clinical level.

31 In addition to paragraphs A, B and C, a person hold-
32 ing a "licensed master social worker, conditional"
33 license may engage in psychosocial evaluation, in-
34 cluding diagnosis and treatment of mental illness and
35 emotional disorders, and provide clinical consulta-
36 tion to licensed social workers, social work stu-
37 dents, other professionals practicing related profes-
38 sions and paraprofessionals engaging in related ac-
39 tivities.

1 A "licensed master social worker, conditional" may
2 not engage in private clinical practice, unless per-
3 mitted under section 7053, subsection 1, and must re-
4 ceive individual consultation 4 hours a month while
5 practicing social work in a clinical setting.

6 **Sec. 15.** 32 MRSA §7053-A, sub-§2, ¶E, as enacted
7 by PL 1985, c. 736, §12, is amended to read:

8 E. Engage in the clinical consultation of li-
9 censed master social workers for the purpose of
10 preparing the licensed master social worker for
11 eventual licensed clinical social workers' status
12 or regular licensure. This includes responsibili-
13 ty for ongoing training and evaluation. The li-
14 censed clinical social worker has an obligation
15 to assess the licensed master social worker's
16 competence and ethics and share this assessment
17 with the Board of Social Work-Registration Worker
18 Licensure at the time the licensed master social
19 worker applies for the licensed clinical level.

20 **Sec. 16.** 32 MRSA §7053-A, sub-§3, ¶C, as enacted
21 by PL 1985, c. 736, §12, is amended to read:

22 C. Engage in clinical private practice of social
23 work.

24 In addition, a certified social
25 worker-independent practice having met the re-
26 quirements for licensure as a licensed clinical
27 social worker, except for having completed the
28 licensed clinical social worker examination, may
29 engage in the clinical consultation of licensed
30 master social worker, conditional for the purpose
31 of preparing the licensed master social worker,
32 conditionals for eventual licensed clinical so-
33 cial workers' status or regular licensure. This
34 includes responsibility for ongoing training and
35 evaluation. The certified social worker - inde-
36 pendent practice has an obligation to assess the
37 licensed master social worker, conditional's com-
38 petence and ethics and share this assessment with
39 the Board of Social Work Licensure at the time
40 the licensed master social worker applies for the
41 licensed clinical level.

1 **Sec. 17. 32 MRSA §7060, first ¶, as amended by**
2 **PL 1985, c. 736, §19, is further amended to read:**

3 Licenses shall expire biennially on December 31st
4 or at such other times as the Commissioner of ~~Busi-~~
5 ~~ness,--Occupational--and~~ Professional and Financial
6 Regulation may designate. Biennial fees for renewal
7 of license shall be set by the board in an amount not
8 to exceed \$50 and shall be due and payable biennially
9 on or before the first day of January. Every 2nd re-
10 newal shall be contingent upon evidence of participa-
11 tion in a continuing professional education course or
12 program as approved by the board. A license may be
13 renewed up to 90 days after the date of expiration
14 upon payment of a late fee of \$10 in addition to the
15 renewal fee. Any person who submits an application
16 for renewal more than 90 days after the renewal date
17 shall be subject to all requirements governing new
18 applicants under this chapter, except that the board
19 may in its discretion, giving due consideration to
20 the protection of the public, waive examination if
21 the renewal application is made within 2 years from
22 the date of the expiration.

23 **Sec. 18. 32 MRSA §7062, as enacted by PL 1977,**
24 **c. 673, §3, is amended to read:**

25 §7062. Reports.

26 No later than August 1st of each year, the board
27 shall submit to the Commissioner of Business Profes-
28 sional and Financial Regulation, for the preceding
29 fiscal year ending June 30th, an annual report of its
30 operations and financial position, together with
31 those comments and recommendations which the board
32 deems essential.

33 **Emergency clause.** In view of the emergency cited
34 in the preamble, this Act shall take effect when ap-
35 proved.

FISCAL NOTE

1
2 Part A, sections 24 and 25 provide a per diem for
3 2 professional regulatory boards which will be ab-
4 sorbed by current dedicated revenues requiring no ad-
5 ditional allocation or fee increase. Part A, sections
6 19, 41 to 60, 62, 70 and 71 should result in overall
7 savings to the Department of Educational and Cultural
8 Services which are unquantifiable at this time. Part
9 A, section 209, increases dedicated revenue to cover
10 additional administrative costs which will result in
11 future allocation for the Real Estate Commission over
12 a period of time.

13 Part B, section 2, lapses an amount equal to the
14 federal Medicaid allocation back to the General Fund
15 which is anticipated to be a minimum of \$38,000 a
16 year.

1 STATEMENT OF FACT

2 PART A

3 Section 1 of the bill clarifies that the state
4 appropriation received by the Maine Historical Society
5 is subject to legislative review and that the society
6 itself is not subject to the termination provision
7 of the sunset law.

8 Sections 2 to 9 update the sunset schedule by up-
9 dating the titles of 5 boards in the review list;
10 continuing the review of the Electricians' Examining
11 Board, the Arborist Examining Board, the Maine Occu-
12 pational Information Coordinating Committee, Bryant
13 Pond Conservation School and the Advisory Committee
14 on Maine Public Broadcasting into the next year to be
15 completed no later than June 30, 1988; deleting names
16 of agencies that had been earlier repealed; clarifying
17 the 1989 and 1990 review schedule of departments
18 and independent agencies; clarifying that the Maine
19 Historical Society is not subject to termination by
20 deleting it from the review list; continuing those
21 independent agencies scheduled for review this year;
22 and terminating the Board of Examiners for the Exami-
23 nation of Applicants for Admission to the Bar, the
24 State Running Horse Racing Commission; and the Maine
25 Criminal Justice Planning and Assistance Agency by
26 failing to continue them.

27 Sections 10 to 13 change the status of the cur-
28 rent Board of Examiners for the Examination of Appli-
29 cants for Admission to the Bar from an agency within
30 the Executive Branch of State Government to an orga-
31 nizational unit created under the rule-making author-
32 ity of the Supreme Judicial Court.

33 Section 14 updates references to professional li-
34 censing boards.

35 Sections 15 to 18, 85 to 100 and 210 change the
36 name of the State Claims Board to the State Claims
37 Commission.

38 Section 19 allows schools and various political
39 subdivisions of the State to have access to state

1 surplus property that is equal to state departments
2 and agencies.

3 Section 20 repeals the laws dealing with the
4 Maine Criminal Justice Planning and Assistance Agen-
5 cy.

6 Section 21 specifies that the Department of Human
7 Services shall be the first state agency scheduled
8 for a state agency management study by the Bureau of
9 Human Resources.

10 Sections 22 to 27 change the names of 5 boards,
11 provide a per diem for 2 boards and repeal the Board
12 of Examiners of Applicants for Admission to the Bar.

13 Section 28 repeals the Maine Athletic Commission.

14 Section 29 repeals the laws dealing with the
15 State Running Horse Racing Commission.

16 Section 30 updates specific references to the De-
17 partment of Professional and Financial Regulation and
18 the various agencies contained within that depart-
19 ment.

20 Sections 31, 33 to 37, 148, 149, 165 to 167 and
21 192 update the name of the Department of Business,
22 Occupational and Professional Regulation to the De-
23 partment of Professional and Financial Regulation.

24 Section 32 changes the composition of the Manu-
25 factured Housing Board, specifies that the represen-
26 tative with experience in building code administra-
27 tion and enforcement must be currently employed as a
28 code enforcement officer and updates the name of the
29 Department of Professional and Financial Regulation.

30 Sections 38, 39 and 72 rename the Bureau of Voca-
31 tional Education as the Bureau of Adult and Secondary
32 Vocational Education.

33 Section 40 provides a concise statement of pur-
34 pose for the commissioner.

35 Section 41 amends the commissioner's annual re-
36 porting requirement by specifying that the report in-

1 clude a review of the State Board of Education.

2 Section 42 provides a concise statement of pur-
3 pose for the State Board of Education.

4 Section 43 amends the meeting requirements of the
5 State Board of Education by specifying that the board
6 is not restricted to 4 meetings a year in the Depart-
7 ment of Educational and Cultural Service's office
8 space.

9 Section 44 repeals a biennial reporting require-
10 ment from the State Board of Education to the Gover-
11 nor. This function is replaced by the contents of
12 section 41.

13 Section 45 amends the responsibility of the State
14 Board of Education with regard to school administra-
15 tive district and community school district withdraw-
16 als, reorganizations and other changes.

17 Section 46 repeals an outdated state board re-
18 sponsibility to review certain Department of Educa-
19 tional and Cultural Services' decisions.

20 Section 47 repeals a set of outdated state board
21 responsibilities to oversee the establishment of
22 school administrative districts.

23 Sections 48 to 51 transfer the responsibility for
24 school administrative district reapportionment from
25 the State Board of Education to the commissioner and
26 authorize the state board to review any of the com-
27 missioner's decisions in this realm.

28 Sections 52 to 60 transfer the responsibility for
29 school administrative district reorganization from
30 the State Board of Education to the commissioner and
31 authorize the state board to review any of the com-
32 missioner's decisions in this realm.

33 Section 61 clarifies requirements of the school
34 accreditation process.

35 Section 62 repeals the mandatory requirement that
36 all public secondary schools must go through, but not
37 necessarily pass, the state accreditation process

1 starting in 1989.

2 Sections 63 and 64 transfer the responsibility
3 for authorizing the postponement of school lunch
4 programs from the State Board of Education to the com-
5 missioner and authorize the state board to review any
6 of the commissioner's decisions in this realm.

7 Section 65 provides authority for local school
8 administrative units to offer substance abuse
9 programs and authorizes the Department of Educational
10 and Cultural Services to provide technical services
11 to aid in the implementation of this programming.

12 Section 66 provides a distinction between special
13 education programs and services.

14 Section 67 reduces the mandated responsibility
15 for the Department of Educational and Cultural Ser-
16 vices to review each approved special education pro-
17 gram from once every year to at least once every 5
18 years.

19 Section 68 clarifies the authority by which a
20 school administrative unit can offer a special educa-
21 tion program.

22 Section 69 authorizes a school administrative
23 unit to offer or contract for special education ser-
24 vices.

25 Sections 70 and 71 provide clarified authority
26 for the Department of Educational and Cultural Ser-
27 vices to approve special education programs and ser-
28 vices.

29 Sections 73 and 74 provide a new reimbursement
30 procedure for adult education.

31 Sections 75 to 79 transfer the responsibility for
32 approving additional degrees for in-state institu-
33 tions of higher education from the Legislature to the
34 State Board of Education.

35 Sections 80 and 81 authorize a process by which
36 state agencies and other branches of State Government
37 can obtain a list of teacher addresses held by the

1 Department of Educational and Cultural Services.

2 Section 82 authorizes the commissioner to approve
3 or disapprove all nonstate funded school construction
4 projects.

5 Section 83 clarifies that a person is not pro-
6 tected from criminal or civil liability and is sub-
7 ject to prosecution if that person makes a false re-
8 port of suspected child abuse and neglect.

9 Section 84 ensures that in nearly all cases, par-
10 ents will be provided with certain information when
11 their child is taken into state custody.

12 Sections 101 to 105 change the referred level of
13 regulation from "registration" to "licensure."

14 Sections 106 and 107 update references to the De-
15 partment of Professional and Financial Regulation.

16 Section 108 changes the referred level of regula-
17 tion for architects and landscape architects from
18 "registration" to "licensure."

19 Section 109 changes the referred level of regula-
20 tion for architects and landscape architects from
21 "registration" to "licensure" and increases the
22 State's regulation of landscape architects from a
23 "title" to a "practice" law.

24 Section 110 provides a limited grandfathering
25 provision for all currently "registered" and all
26 "nonregistered" practicing landscape architects.

27 Sections 111 to 112 change the referred level of
28 regulation for architects and landscape architects
29 from "registration" to "licensure."

30 Section 113 makes a number of changes. First,
31 this section changes the referred level of regulation
32 for architects and landscape architects from "regis-
33 tration" to "licensure." Second, this section re-
34 stricts resident licensure from other states to those
35 individuals who hold a valid, unexpired license is-
36 sued by another state. Finally, this section repeals
37 an outdated grandfathering provision.

1 Sections 114 and 115 change the referred level of
2 regulation for architect and landscape architect from
3 "registration" to "licensure."

4 Sections 116 and 117 repeal the current limita-
5 tion on the Board of Barbers' authority to regulate
6 only those professionals who practice for "hire or
7 reward" and replaces it with new discretionary au-
8 thority for the board to allow unlicensed practice
9 that does not threaten the public health and welfare.

10 Sections 118 to 120, 123 to 129 and 132 to 135
11 change the referred level of regulation for barbers
12 from "certificate of registration" to "licensure."

13 Sections 121 and 145 clarify that individuals who
14 work in shops licensed by both the Board of Barbers
15 and the State Board of Cosmetology need not have li-
16 censes from both boards.

17 Section 122 makes several changes. First, this
18 section deletes the Director of the Bureau of Health
19 as an ex officio member of the Board of Barbers. Sec-
20 ond, this section changes the referred level of regu-
21 lation for barbers from "certificate of registration"
22 to "licensure." This section updates a reference to
23 the Department of Professional and Financial Regula-
24 tion. This section also decreases the number of re-
25 quired shop inspections from 2 to one. Finally, this
26 section establishes that, when necessary, the board
27 shall consult with the Department of Human Services
28 about the sanitary inspection process.

29 Sections 130 and 131 delete all references to
30 specific fee amounts.

31 Section 136 establishes a new fee structure for
32 the Board of Barbers.

33 Section 137 deletes the requirement that the
34 Board of Barbers must establish a pattern of miscon-
35 duct before it takes disciplinary action.

36 Section 138 permits owners of 2-family residences
37 to make electrical installations and alterations
38 without state regulation and requires that wiring in-
39 stalled by owners of new homes must be certified be-

1 fore being activated.

2 Sections 139 and 140 enlarge the scope of practice for cosmetologists to include pedicuring, repeal
3 the current limitation on the State Board of
4 Cosmetology's authority to regulate only those professionals who practice for "hire or reward" and replaces it with new discretionary authority for the
5 board to allow unlicensed practice that does not
6 threaten the public health and welfare.
7
8
9

10 Section 141 creates the regulatory category of
11 "apprentice manicurist."

12 Sections 142 to 144, 147, 151, 153, 154 and 157
13 change the referred level of regulation for cosmetol-
14 ogists from "certificates of registration" to "licen-
15 sure."

16 Section 146 makes several changes. First, this
17 section deletes the Director of the Bureau of Health
18 as an ex officio member of the Board of Cosmetology.
19 Second, this section changes the referred level of
20 registration for cosmetologists from "certificate of
21 registration" to "licensure." This section updates a
22 reference to the Department of Professional and Fi-
23 nancial Regulation. Finally, this section establishes
24 that, when necessary, the board shall consult with
25 the Department of Human Services about the sanitary
26 inspection process.

27 Section 150 conforms use of regulatory language
28 for the Board of Cosmetology.

29 Section 152 makes several changes. First, this
30 section changes all regulatory references for cosme-
31 tologists from "certificate of registration" to "li-
32 censure." Second, this section deletes all references
33 to specific fee amounts. Finally, this section estab-
34 lishes a scope of practice for apprentice manicur-
35 ists.

36 Section 155 makes 2 changes. First, this section
37 deletes all references to specific fee amounts. Sec-
38 ond, this section establishes a 90-day time limit for
39 the payment of license fees and gives the Board of
40 Cosmetology the authority to waive this time limit in

1 extenuating circumstances.

2 Section 156 makes 2 changes. First, this section
3 changes for cosmetology all regulatory references
4 from "certificate of registration" to "licensure."
5 Second, this section deletes all references to spe-
6 cific fee amounts.

7 Sections 160 and 161 make 3 changes. First, this
8 section changes all regulatory references for cosme-
9 tology from "certificate of registration" to "licen-
10 sure." Second, these sections delete all references
11 to specific fee amounts. Finally, section 161, gives
12 the Board of Cosmetology the authority to waive the
13 existing 90-day time limit for license renewals in
14 extenuating circumstances.

15 Section 162 makes 2 changes. First, this section
16 changes all regulatory references for cosmetologists
17 from "certificate of registration" to "licensure."
18 Second, this section deletes the current requirement
19 that the Board of Cosmetology must establish a pat-
20 tern of misconduct before it can take disciplinary
21 action.

22 Section 163 establishes a new fee structure for
23 the Board of Cosmetology.

24 Section 164 authorizes oil and solid fuel compli-
25 ance officers to review the burner installation
26 records of any licensee.

27 Sections 168 and 170 authorize a person to in-
28 stall or alter oil and solid fuel burning or plumbing
29 equipment in a one-family or 2-family residence that
30 conforms with national standards without state regu-
31 lation.

32 Section 169 replaces the current method of
33 statutorily set fees for the Oil and Solid Fuel Board
34 with a fee cap system to allow the board to set fees
35 within the cap.

36 Section 171 repeals the current laws of the Maine
37 Real Estate Commission. These laws are replaced by
38 the contents of section 209.

1 Sections 172 to 175 and 184 update the name of
2 the Department of Business, Occupational and Profes-
3 sional Regulation to the Department of Professional
4 and Financial Regulation and the name of the Central
5 Licensing Division to the Division of Licensing and
6 Enforcement.

7 Sections 176 to 183 and 185 to 188 replace the
8 words registration, certification or their deriva-
9 tives with the word licensure or its derivatives to
10 clarify the extent of the Board of Forestry's regula-
11 tory authority. Section 180 corrects a spelling er-
12 ror.

13 Sections 189 and 190 change the title of the
14 Board of Registration of Substance Abuse Counselors
15 to the State Board of Substance Abuse Counselors and
16 amends the statutory references to the Department of
17 Professional and Financial Regulation.

18 Section 191 changes the title of the Board of
19 Registration of Substance Abuse Counselors; amends
20 the definition of the board's "consumer" member; re-
21 peals "registered substance abuse counselor, provi-
22 sional license," and replaces it with a voluntary
23 "associate substance abuse counselor;" creates an
24 "inactive" status; and requires registration of all
25 practitioners who provide the primary service of sub-
26 stance abuse counseling.

27 Section 193 amends the title protection clause to
28 repeal the "registered substance abuse counselor,
29 provisional," and to include the "inactive" status,
30 the "licensed substance abuse counselor" and "as-
31 sociate substance abuse counselor."

32 Section 194 exempts from licensure any practi-
33 tioner not providing substance abuse counseling as
34 their primary service.

35 Section 195 requires that all practitioners pro-
36 viding the primary service of substance abuse coun-
37 seling must be registered, certified or licensed and
38 defines the level of licensure required to practice
39 in state-certified or private agencies.

40 Section 196 changes the title of the Board of

1 Registration of Substance Abuse Counselors.

2 Section 197 changes the title of the board and
3 amends the membership to include licensed, certified
4 and registered substance abuse counselors.

5 Sections 198 and 199 amend the registration terms
6 to reflect the new levels of licensure.

7 Section 200 applies the previous registration re-
8 quirements as the new requirements for licensure and
9 certification as a licensed substance abuse counselor
10 or an associate substance abuse counselor.

11 Section 201 defines the requirements for regis-
12 tration as a substance abuse counselor.

13 Sections 202 and 203 repeal and replace the li-
14 censure qualifications for substance abuse counsel-
15 ors. Further, it includes provisions to automatically
16 license currently registered substance abuse counsel-
17 ors; requires licensure by 1990 for those not prac-
18 ticing in state-licensed facilities and requires reg-
19 istration of all substance abuse counselors by 1988.

20 Section 204 amends the application and examina-
21 tion fee to include the newly created licensure lev-
22 els.

23 Section 205 amends the law to include licenses.

24 Sections 206 to 208 amend the laws to repeal ref-
25 erence to the "provisional" license and include ref-
26 erence to the newly created licensure levels.

27 Section 209 accomplishes 2 major tasks:

28 1. Enactment of a new set of laws for the Maine
29 Real Estate Commission. These new laws replace the
30 Maine Revised Statutes, Title 32, chapter 59, which
31 was repealed in section 171. Of major significance is
32 a completely revamped licensure structure which al-
33 lows easier entry into the profession and encourages
34 increased professionalism from those who remain in
35 the profession. This new set of laws also include nu-
36 merous other changes ranging in importance from major
37 policy to technical adjustments. These changes are

1 described in detail in the 1986 report of the Joint
2 Standing Committee on Audit and Program Review, (rec-
3 ommendation 52, page 171); and

4 2. Moves the laws governing the Maine Athletic
5 Commission from the Maine Revised Statutes, Title 8
6 to Title 32, as well as providing new requirements
7 for licensed medical personnel to be in attendance at
8 events sanctioned by the Maine Athletic Commission.

9 Section 211 convenes an Interdepartmental Task
10 Force on Out-of-State Placements as recommended in
11 the committee's 1986 report, number 140.

12 **PART B**

13 Part B, section 1 exempts nonstate funded school
14 construction projects from the State Board of Educa-
15 tion's approval authority.

16 Section 2 identifies the Governor Baxter School
17 for the Deaf as a reimbursable Medicaid service
18 provider and requires that state funds for these ser-
19 vices are provided by the Department of Educational
20 and Cultural Services.

21 Section 3 creates a journeyman-in-training li-
22 cense for electricians.

23 Section 4 replaces "oil burner man" with "oil
24 burner technicians" in conformance with current law.

25 Section 5 amends the statutory references to the
26 Department of Professional and Financial Regulation.

27 Section 6 includes "accredited institutions" as
28 qualified educational programs; clarifies the educa-
29 tional requirement for electricians of 576 hours; re-
30 duces the requirements for limited licensure in ac-
31 cordance with the areas of specialty; and defines the
32 licensure requirements for the
33 journeyman-in-training.

34 Section 7 amends the law to set a
35 journeyman-in-training examination fee for electri-
36 cians of \$10.

1 Section 8 requires electricians to update their
2 national electrical code course every 2 renewal peri-
3 ods.

4 Sections 9 to 12 change the title of the State
5 Board of Social Worker Registration and amend the
6 statutory references to the Department of Profession-
7 al and Financial Regulation.

8 Section 13 allows a "licensed clinical social
9 worker" candidate with clinical experience and a
10 graduate degree completed prior to 1987, to complete
11 their post-graduate training requirements in a pri-
12 vate setting.

13 Section 14 authorizes "licensed master social
14 workers" who have the same educational and clinical
15 background as a "licensed clinical social worker" to
16 provide consultation to "licensed master social work-
17 er, conditionals." In addition, it authorizes quali-
18 fying licensed master social worker, conditionals to
19 receive post-graduate experience in a private set-
20 ting.

21 Section 15 changes the title of the State Board
22 of Social Worker Registration.

23 Section 16 authorizes certified social workers -
24 independent practice who have the same educational
25 and clinical background as a "licensed clinical so-
26 cial worker" to provide consultation to "licensed
27 master social worker, conditionals."

28 Sections 17 and 18 amend the statutory references
29 to the Department of Professional and Financial Regu-
30 lation.

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