

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2109

H.P. 1497

House of Representatives, January 7, 1992

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

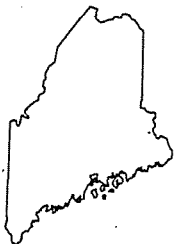
Presented by Representative BUTLAND of Cumberland.

Cosponsored by Representative DiPIETRO of South Portland and Senator COLLINS of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Clarify the Administrative Practices of the State Tax Assessor
Pertaining to State-issued Licenses.**



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

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4 **Sec. 1. 36 MRSA §175, sub-§1**, as repealed and replaced by PL 1987, c. 402, Pt. A, §178, is amended to read:

6 **1. Information provided to State Tax Assessor.** Every
8 department, board, commission, division, authority, district or
10 certificate of authority to conduct a profession, trade or
12 business shall annually, ~~beginning in 1988 on or before April~~
14 ~~1st, furnish~~ provide to the State Tax Assessor, in such form as
16 the State Tax Assessor may prescribe, a list of all licenses or
18 certificates of authority issued or renewed by that agency during
20 the preceding calendar year. The list provided to the State Tax
22 Assessor shall must contain the name, address, Social Security or
24 federal identification number of the licensees and such other
26 identifying information as the State Tax Assessor may adopt by
rule ~~require~~. Notwithstanding other provisions of law, all
persons seeking a license or certificate of authority or a
renewal ~~beginning on or after January 1, 1987,~~ shall provide and
the responsible agency shall collect the information required by
the State Tax Assessor under this section. Failure by persons to
provide a licensing or certifying agency that information shall
~~result~~ results in an automatic denial of any request for a
license or certificate of authority or a renewal.

28 **Sec. 2. 36 MRSA §175, sub-§2**, as amended by PL 1989, c. 880,
Pt. C, §2, is further amended to read:

30 **2. Failure to file or pay taxes; determination to prevent**
32 **renewal, reissuance or other extension of license or**
34 **certificate.** If the State Tax Assessor determines, from the
36 information ~~formulated~~ provided under subsection 1 or otherwise,
38 that any person who holds a state-issued license or certificate
40 of authority issued by that agency has neglected or refused
42 either to file any returns at the time required under this Title
44 or to pay any tax liability due under this Title ~~which~~ that has
46 been demanded, the State Tax Assessor shall notify the person in
48 writing that refusal to file the required tax return or to pay
50 the ~~overdue~~ ordered tax liability may result in loss of license
or certificate of authority. The revocation notice is also
conditioned upon the continuing failure to file or pay after at
least 2 specific requests to file required returns or to pay a
demanded liability. If the person continues for a period in
excess of 30 days from notice of possible denial of renewal or
reissuance of a license or certificate of authority to fail to
file or show reason why the person is not required to file or if
the person continues not to pay, the State Tax Assessor shall
notify the person in writing of the determination to prevent
renewal ~~or~~ reissuance or extension of the license or

2 certificate of authority by the issuing agency. A review of this
3 determination is available by requesting a petition for
4 reconsideration under section 151, subject to appeal to the
5 Superior Court in accordance with the Maine Administrative
6 Procedure Act, ~~Title 5, Chapter 375~~. Either by failure to
7 proceed to the next step of appeal or by exhaustion of the steps
8 of appeal, the determination of the State Tax Assessor's right to
prevent renewal or reissuance becomes final unless otherwise
determined by appeal.

10 **Sec. 3. 36 MRSA §175, sub-§3**, as amended by PL 1989, c. 880,
12 Pt. C, §2, is repealed and the following enacted in its place:

14 **3. Refusal to renew, reissue or otherwise extend license or**
15 **certificate.** Notwithstanding any other provision of law, any
16 issuing agency that is notified by the State Tax Assessor of the
17 assessor's final determination to prevent renewal or reissuance
18 of a license or certificate of authority under subsection 2 shall
19 refuse to reissue, renew or otherwise extend the license or
20 certificate of authority. Notwithstanding Title 5, sections
21 10003 and 10005, an action by an issuing agency pursuant to this
22 subsection is not subject to the requirements of Title 5, chapter
23 375, subchapters IV and VI, and no hearing by the issuing agency
24 or in Administrative Court is required. A refusal by an agency
25 to reissue, renew or otherwise extend the license or certificate
26 of authority is deemed a final determination within the meaning
27 of Title 5, section 10002.

28 **Sec. 4. 36 MRSA §175, sub-§§4 and 5** are enacted to read:

30 **4. Subsequent reissuance, renewal or other extension of**
31 **license or certificate.** The agency may reissue, renew or
32 otherwise extend the license or certificate of authority in
33 accordance with the agency's statutes and rules after the agency
34 receives a certificate issued by the State Tax Assessor that the
35 person is in good standing with respect to all returns due or
36 with respect to any tax due as of the date of issuance of the
37 certificate. An agency may waive any applicable requirement for
38 reissuance, renewal or other extension if it determines that the
39 imposition of that requirement places an undue burden on the
40 person and that a waiver of the requirement is consistent with
41 the public interest.

44 **5. Financial institutions excluded.** This section does not
45 apply to any registration, permit, order or approval issued
46 pursuant to Title 9-B.

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STATEMENT OF FACT

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The State Tax Assessor has the authority to prevent the renewal or reissuance of a license or certificate of authority to conduct a profession, trade or business of any person failing to file a timely tax return or pay taxes due. The bill eliminates the current forum for duplicative appeals of such action. The bill establishes that an agency's refusal to renew or reissue a license under these circumstances is deemed a final determination within the meaning of the Maine Administrative Procedure Act.