

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

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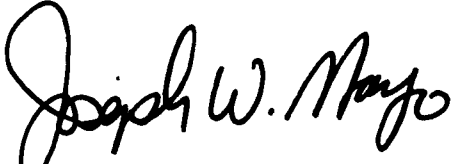
H.P. 933

House of Representatives, April 12, 1995

An Act to Make Minor Technical Adjustments to Various Professional Licensing Boards.

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

Reference to the Committee on Business and Economic Development suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative POVICH of Ellsworth.

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

Sec. 1. 5 MRSA §12004-A, sub-§41, as enacted by PL 1987, c. 786, §5, is amended to read:

41.	State Board of	Not-Authorized	32 MRSA @6201
	Substance Abuse	<u>\$35/Day</u>	
	Counselors	<u>Plus Expenses</u>	

Sec. 2. 10 MRSA §9063, as amended by PL 1993, c. 642, §32, is further amended to read:

§9063. Rules

The ~~board~~ commissioner is authorized to issue, amend and revoke rules as necessary to implement all procedures required of a state administrative agency pursuant to 24 Code of Federal Regulations, Paragraph 3282 and 42 United States Code, ~~Section~~ Sections 5401 ~~et-seq.~~ to 5426, including the implementation of a consumer complaint handling process and the holding of hearings. In the event of a conflict between this chapter and the National Manufactured Housing Construction and Safety Standards Act of 1974 involving the state administrative agency program, the National Manufactured Housing Construction and Safety Standards Act of 1974 prevails.

Sec. 3. 10 MRSA §9064, as amended by PL 1993, c. 642, §33, is further amended to read:

§9064. Standards

1. **Adoption, administration and enforcement of standards.** The ~~board~~ department is charged with the adoption, administration and enforcement of manufactured housing construction and safety standards. The standards adopted must meet the standards adopted pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code, ~~Section~~ Sections 5401 ~~et-seq.~~ to 5426.

2. **Rules.** The ~~board~~ department may adopt rules necessary to enforce the standards adopted under subsection 1.

Sec. 4. 10 MRSA §9065, as amended by PL 1993, c. 642, §34, is further amended to read:

§9065. Inspections

The ~~board~~ department, by authorized representatives, may enter, at reasonable times, any factory, warehouse or establishment in which manufactured housing is manufactured, stored or held for sale for the purpose of ascertaining whether the requirements of the federal manufactured housing construction

and safety standards and the rules of the ~~board~~ department have been and are being met.

Sec. 5. 10 MRSA §9066, sub-§1, as amended by PL 1993, c. 642, §35, is further amended to read:

1. Violations. A person who violates any of the following provisions relating to manufactured housing or rules adopted by the ~~board~~ department is subject to a civil penalty not to exceed \$1,000 for each violation. Each violation constitutes a separate violation with respect to each manufactured housing unit, except that the maximum penalty may not exceed \$1,000,000 for any related series of violations occurring within one year from the date of the first violation. It is a violation of this chapter for a person:

A. To manufacture for sale, lease, sell, offer for sale or lease or introduce, deliver or import into the State any manufactured housing that is manufactured on or after the effective date of any applicable federal manufactured housing construction and safety standard that does not comply with that standard;

B. To fail or refuse to permit access to or copying of records, fail to make reports or provide information or fail or refuse to permit entry or inspection as required by section 9065;

C. To fail to furnish notification of any defect as required by 42 United States Code, Section 5414;

D. To fail to issue a certification required by 42 United States Code, Section 5415 or to issue a certification to the effect that a manufactured home conforms to all applicable federal manufactured housing construction and safety standards, if that person in the exercise of due care has reason to know that the certification is false or misleading in a material respect;

E. To fail to establish and maintain records, or make such reports and provide information as the board department may reasonably require to enable ~~the--board~~ it to determine whether there is compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974; or fail to permit, upon request of a person duly authorized by the ~~board~~ commissioner, inspection of appropriate books, papers, records and documents relative to determining whether a manufacturer, distributor or dealer has acted or is acting in compliance with this chapter or with the National Manufactured Housing Construction and Safety Standards Act of 1974; or

2 F. To issue a certification pursuant to 42 United States
Code, Section 5403, Paragraph (a), if the person in the
4 exercise of due care has reason to know that the
certification is false or misleading in a material respect.

6 **Sec. 6. 10 MRSA §9068, first ¶**, as amended by PL 1993, c. 642,
§36, is further amended to read:

8
10 The ~~board~~ department shall establish a monitoring inspection
fee in an amount established by the Secretary of the United
12 States Department of Housing and Urban Development. This
monitoring inspection fee is an amount paid by the manufacturer
for each home produced in this State.

14
16 **Sec. 7. 10 MRSA §9071**, as amended by PL 1993, c. 642, §37, is
further amended to read:

18 **§9071. Revenue**

20 The fees received by the ~~board~~ commissioner under the State
Administrative Agency Program must be paid by the Treasurer of
22 State to be used for carrying out the duties of the program. Any
balance of these fees may not lapse but must be carried forward
24 as a continuing account to be expended for the same purpose in
the following fiscal years.

26
28 **Sec. 8. 10 MRSA §9084, 5th ¶**, as amended by PL 1993, c. 642,
§38, is further amended to read:

30 All mobile home park licenses expire annually on a date
established by the ~~board~~ Commissioner of Professional and
32 Financial Regulation. Licenses may be renewed upon application
and upon payment of the prescribed fee, subject to compliance
34 with rules of the board and with this subchapter. The board
shall provide licensees with notice of the renewal date and
36 necessary forms no less than 30 days prior to the expiration of
the license.

38
40 **Sec. 9. 32 MRSA §1658-D, sub-§1**, as repealed and replaced by
PL 1975, c. 463, §3, is amended to read:

42 **1. Minors.** No A dealer may not sell or furnish a hearing
aid to a person of 18 years or less without a written statement,
44 signed by a physician with specialized training in the field of
otolaryngology ~~or-by-an-audiologist~~, that ~~such~~ the person has had
46 an ear or hearing examination within 90 days of the purchase or
furnishing of a hearing aid and that a hearing aid is recommended
48 for ~~such~~ the person.

50 **Sec. 10. 32 MRSA §1952, sub-§1** is amended to read:

1. **Certain property.** Any A person with reference to trees on ~~his~~ that person's own premises, or on the property of ~~his~~ that person's regular employer;

Sec. 11. 32 MRSA §1952, sub-§4, as amended by PL 1971, c. 347, §2, is further amended to read:

4. Others. Highway contractors, subcontractors, and their employees in the removal of trees during the performance of contracts for the construction or maintenance of highways, and the removal of interfering shade or ornamental trees or interfering parts of shade or ornamental trees by a general ~~contractor~~ contractors in the conduct of ~~his~~ their regular business.

Sec. 12. 32 MRSA §2002, sub-§3, as enacted by PL 1983, c. 413, §104, is amended to read:

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

The board ~~shall~~ may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, ~~provided that if~~ the request for hearing is received by the board within 30 days of the ~~applicant's~~ person's receipt of written notice of the denial ~~of his application~~, the reasons ~~therefor~~ for the denial and ~~his~~ the person's right to request a hearing. Hearings ~~shall~~ must be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 13. 32 MRSA §2053, as amended by PL 1983, c. 413, §108, is further amended to read:

§2053. Applications

Applications for examination ~~shall~~ must be in writing on forms prescribed by the board, ~~shall be notarized~~ and ~~shall~~ must be accompanied by the prescribed fee. The application form ~~shall~~ may require whatever information the board finds necessary to judge qualifications of the applicant.

Sec. 14. 32 MRSA §2054, as amended by PL 1983, c. 413, §109, is further amended to read:

2 **§2054. Nonresidents**

4 Each nonresident applicant, ~~a resident of another state or~~
6 ~~provincer,~~ for an original license or a renewal license shall file
8 an irrevocable consent that actions against ~~him~~ the applicant may
10 be filed in any appropriate court of any county or district of
12 this State, where some part of the transaction occurred out of
14 which the alleged cause of action arose, and that process in any
 action may be served on the applicant by leaving 2 copies ~~thereof~~
 of the process with the board. The consent ~~shall~~ must stipulate
 and agree that the service of process ~~shall~~ must be taken and
 held to be valid and binding for all purposes. The board shall
 send a copy of the process to the applicant by registered mail at
 the address shown in its records.

16 **Sec. 15. 32 MRSA §2056, 2nd ¶,** as amended by PL 1983, c. 413,
18 §111, is further amended to read:

20 ~~Where~~ When the arborist conducts business at more than one
22 address, additional certificates ~~shall~~ must be issued. When an
24 employee of a licensed arborist does not ~~himself~~ hold a license,
26 ~~he shall have with him~~ the employee must carry, when working, a
 card or written authorization signed by the licensed arborist
 showing under whose supervision ~~he~~ the employee is working and by
 ~~whom he is employed~~ the name of the employer. The board ~~shall~~ may
 not issue more than one license card to an individual qualified
 to receive a license, except as provided in section 2058.

28 **Sec. 16. 32 MRSA §2057, last ¶,** as amended by PL 1983, c. 413,
30 §112, is further amended to read:

32 Any arborist whose license expires while ~~he~~ the arborist is
34 in federal service on active duty with the Armed Forces of the
36 United States, ~~or the National Guard, or is~~ called into service
38 or training, ~~or is~~ in training or education under the supervision
40 of the United States preliminary to induction into the military
42 service may have ~~his~~ the license renewed without paying any
44 intervening renewal license fees ~~if~~ within one year after
 termination of that service, training or education other than by
 dishonorable discharge, ~~and if he~~ the arborist furnishes the
 board with an affidavit to the effect that ~~he~~ the arborist has
 been so engaged and that ~~his~~ the service, training or education
 has been so terminated.

46 **Sec. 17. 32 MRSA §2058,** as amended by PL 1983, c. 204, §5, is
48 further amended to read:

50 **§2058. Renewals**

52 ~~It shall be~~ is the duty of the board to notify every person
 licensed under this subchapter of the date of expiration of ~~his~~
 that person's certificate and the ~~amount of~~ fee required for its

annual renewal. ~~Such~~ The notice shall must be mailed to ~~such~~ the person's last known address at least 30 days in advance of the expiration of ~~such~~ the license. Applications for renewal licenses shall must contain whatever information is necessary for the board to determine whether the applicant should continue to hold a license and shall must be accompanied by the required fee, which shall ~~be~~ is returnable if the applicant is denied a renewal license. ~~Lost licenses shall be replaced on application by the licensed arborist and payment of \$2.~~ A licensed arborist must file an application and fee of \$5 for replacement of a lost license.

Sec. 18. 32 MRSA §2059, as amended by PL 1983, c. 413, §113, is further amended to read:

§2059. Fees

An application fee and an examination fee may be established by the board in amounts ~~which~~ that are reasonable and necessary for their respective purposes. ~~When~~ After an applicant is notified ~~that he is eligible of the applicant's eligibility~~ for a license following examination, ~~he shall remit the applicant must~~ submit the annual license fee before a license is issued.

The fee for an original or renewal annual license shall may not exceed \$50.

Sec. 19. 32 MRSA §2060, as amended by PL 1965, c. 226, §76, is further amended to read:

§2060. Reciprocity

In the event that a nonresident applicant for a license holds a valid arborist license from another state or province, ~~he the applicant~~ may on application for a license be waived of examination by the board, ~~provided that if~~ if the other state or province in which he ~~the applicant~~ holds ~~such the~~ license requires qualification and examination equivalent to this subchapter. If ~~said the law of the~~ other state or province law partially meets the standards of this subchapter, the board may decide in which respect it is lacking and what requirements the applicant must meet for waiver of examination, or whether written examination shall must be waived.

Sec. 20. 32 MRSA §12228, sub-§4, as enacted by PL 1987, c. 489, §2, is amended to read:

4. Examination; administration. The examination to be passed as a condition for the granting of a certificate shall must be in writing, shall must be held twice a year and shall must be the Uniform Certified Public Accountant Examination prepared by the Board of Examiners of the American Institute of

2 Certified Public Accountants or any other examination approved by
3 the board. The time for holding the examination shall must be
4 fixed by the board and may be changed from time to time. The
5 board shall prescribe by rule the methods of applying for and
6 conducting the examination, including methods for grading papers
7 and determining a passing grade required of an applicant for a
8 certificate, provided except that the board, to the extent
9 possible, shall see to it that the grading of the examination and
10 the passing grades are uniform with those applicable in all other
11 states. The board may make the use of all or any part of the
12 Advisory Grading Service of the American Institute of Certified
13 Public Accountants or any other examination approved by the board
14 and may contract with 3rd parties to perform such administrative
15 services with respect to the examination as it considers
16 appropriate to assist it in performing its duties under this
section.

18 **Sec. 21. 32 MRSA §12240, sub-§4,** as enacted by PL 1987, c.
19 489, §2, is amended to read:

20 **4. Examination; administration.** The examination to be
21 passed as a condition for the granting of a certificate shall
22 must be in writing, held twice a year, and include Parts I and II
23 of the "Examination in Accounting Practice" portion of the
24 Uniform Certified Public Accountant Examination prepared by the
25 Board of Examiners of the American Institute of Certified Public
26 Accountants or any other examination approved by the board and
27 shall must also include other applicable subjects in the field of
28 accounting, such as auditing, theory of accounts, practical
29 accounting problems, commercial law as it affects accountancy,
30 federal and state taxation and such other subjects pertinent to
31 accounting as the board may specify by rule. The examination may
32 include all or part of the examination of the National Society of
33 Public Accountants or any other examination approved by the
34 board. The time for holding that examination shall must be
35 fixed by the board and may be changed from time to time. The
36 board shall prescribe by rule the methods of applying for and
37 conducting the examination, including methods for grading papers
38 and determining a passing grade required of an applicant for a
39 certificate, provided except that the board, to the extent
40 possible, shall see to it that the grading of the examination and
41 the passing grades are uniform with those applicable in all other
42 states. The board may contract with 3rd parties to perform those
43 administrative services with respect to the examination as it
44 considers appropriate to assist it in performing its duties under
45 this section.

46 **Sec. 22. 32 MRSA §13908, sub-§4, ¶A,** as enacted by PL 1993, c.
47 659, Pt. A, §12 and affected by §15, is amended to read:
48
49
50

2 A. ~~Si~~ At least 6 hours must be in courses in surveying
practice or in courses in ~~at--least~~ one of the following
4 areas:

6 (1) General business administration or management;

8 (2) Land use regulation;

10 (3) Other related land use fields, including, but not
limited to, civil or environmental engineering, site
evaluation for septic system design, soils, landscape
12 architecture, geology, forestry, title examination and
insurance, and other legal issues related to real
14 estate;

16 (4) Computer application skills or programming;

18 (5) Communication, including, but not limited to,
speech and technical writing; or

20 (6) Other subject matters the understanding of which
22 appreciably aids a land surveyor in the performance of
professional duties.

24 **Sec. 23. 32 MRSA §13972, sub-§6**, as amended by PL 1991, c.
26 801, §4 and affected by §§9 and 10, is further amended to read:

28 **6. Educational requirement.** The applicant must have
satisfactorily completed a the minimum of--75 classroom hours
30 required by the appraisal qualification board of the appraisal
foundation in courses of study approved by the board that relate
32 to the basic principles of real estate appraisal. The required
75 classroom hours must include no fewer than ~~60-classroom-hours~~
34 ~~of--study--relating--to--the--basic--principles--of--real--estate~~
~~appraising--and--no--fewer--than~~ 15 classroom hours of study
36 specifically relating to the Uniform Standards of Professional
Appraisal Practice.

38 A. The courses of study required to satisfy these minimum
40 classroom hours must be approved by the board and be
consistent with and equivalent to standards set by the
42 appraisal foundation, whether these courses of study are
conducted by an accredited university, college, technical
44 college, junior college or other group.

46 **Sec. 24. 32 MRSA §13972, sub-§6-A**, as enacted by PL 1993, c.
48 404, Pt. A, §21, is amended to read:

50 **6-A. Experience requirement.** The applicant must
demonstrate experience in the real estate appraisal field ~~for-2~~
52 ~~of-the-5-years-immediately-preceding-application~~ as required by
the appraisal qualification board of the appraisal foundation.

2 **Sec. 25. 32 MRSA §13972-A, sub-§1, ¶E** is enacted to read:

4 E. The applicant must submit evidence of completion of the
6 minimum classroom hour requirement as set by the appraisal
 qualification board of the appraisal foundation.

8 **Sec. 26. 32 MRSA §13972-A, sub-§2**, as enacted by PL 1993, c.
10 404, Pt. A, §22, is amended to read:

12 **2. Registration.** Upon receiving an application pursuant to
14 subsection 1 that is satisfactory to the board, the board shall
16 furnish to the applicant a registration for real estate appraiser
18 trainee, which expires 12 months from the date of issuance. The
 registration is renewable upon payment of the registration fee
 and evidence of meeting the continuing education requirement as
 set by the appraisal qualification board of the appraisal
 foundation.

20 A person may not be registered as a real estate appraiser trainee
22 for more than 5 years.

24 **Sec. 27. 32 MRSA §13979, sub-§1, ¶A**, as enacted by PL 1989, c.
 806, §3, is amended to read:

26 A. Hold a valid real estate appraiser license under this
28 Act and demonstrate experience as a real estate appraiser
30 ~~for 2 of the 5 years immediately preceding application as~~
 required by the appraisal qualification board of the
 appraisal foundation;

32 **Sec. 28. 32 MRSA §13979, sub-§1, ¶B**, as amended by PL 1991, c.
34 801, §5 and affected by §§9 and 10, is further amended to read:

36 B. Satisfactorily complete a the minimum of 105 classroom
38 hours required by the appraisal qualification board of the
40 appraisal foundation in courses of study approved by the
42 board that relate to real estate appraisal theory and
44 practice. To meet the 105 classroom hour requirement, an
46 applicant must successfully complete no fewer than 90
 ~~classroom hours in courses of study approved by the board~~
 ~~that relate to real estate appraisal theory and practice,~~
 plus 15 classroom hours in courses of study approved by the
 board that relate specifically to the Uniform Standards of
 Professional Appraisal Practice.

48 (1) The courses of study required to satisfy these
50 minimum classroom hours must be approved by the board
 and be consistent with and equivalent to standards set
 by the appraisal foundation, whether these courses of
 study are conducted by an accredited university,

college, technical college, junior college or other group;

Sec. 29. 32 MRSA §13979, sub-§2, ¶A, as enacted by PL 1989, c. 806, §3, is amended to read:

A. Hold a valid real estate appraisal appraiser license under this Act and demonstrate experience as a real estate appraiser ~~for--2--of--the--5--years--immediately--preceeding~~ application as required by the appraisal qualification board of the appraisal foundation;

Sec. 30. 32 MRSA §13979, sub-§2, ¶B, as amended by PL 1991, c. 2, §7, is further amended to read:

B. Satisfactorily complete ~~no--fewer--than--165~~ the minimum classroom hours required by the appraisal qualification board of the appraisal foundation in courses of study approved by the board that relate to real estate appraisal theory and practice. To meet the 165 classroom hour requirement, an applicant must successfully complete no fewer than ~~150-classroom-hours-in-courses-of-study-approved~~ by-the-board-that-relate-to-real-estate-appraisal-theory-and practice,--plus 15 classroom hours in courses of study approved by the board that relate specifically to the Uniform Standards of Professional Appraisal Practice.

(1) The courses of study required to satisfy these minimum classroom hours must be approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group;

Sec. 31. 32 MRSA §13981, sub-§2, as enacted by PL 1989, c. 806, §3, is amended to read:

2. Continuing education. As a prerequisite to renewal of a license, applicants must have completed ~~20-clock-hours-of~~ the minimum requirement for continuing education as set by the appraisal qualification board of the appraisal foundation within 2 years prior to the date of application for renewal in programs or courses approved by the board. For purposes of this section, the board may establish, by rule, a core educational requirement.

STATEMENT OF FACT

This bill accomplishes the following.

2 1. The bill amends the per diem salary for members of the
3 State Board of Substance Abuse Counselors to be consistent with
4 other professional regulatory boards.

6 2. The bill also changes references to the Manufactured
7 Housing Board to the Commissioner of Professional and Financial
8 Regulation and the Department of Professional and Financial
9 Regulation in order to be in accordance with federal requirements
10 regarding manufactured housing boards.

12 3. The bill also makes minor technical changes to the laws
13 governing hearing aid dealers and fitters.

14 4. The bill also corrects gender references, eliminates the
15 need for notarized applications and sets a reasonable fee for
16 replacement of lost licenses in the laws concerning the licensing
17 of arborists.

18 5. The bill also amends the accountancy laws to allow the
19 Board of Accountancy to consider other examinations for
20 certification than those currently specified in law.

22 6. The bill also amends the real estate appraisal laws by
23 replacing the specified educational licensing requirements with
24 requirements set by the appraisal qualification board of the
25 appraisal foundation.

28 7. The bill also clarifies that courses for the continuing
29 education requirement for license renewal as a professional land
30 surveyor may be in surveying practice or in other related courses
to the practice of surveying.