

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

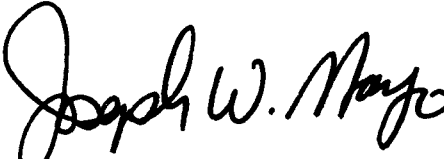
No. 2213

H.P. 1557

House of Representatives, April 22, 1999

An Act to Create and Regulate the Profession of Legal Document Technician.

Received by the Clerk of the House on April 21, 1999. Referred to the Committee on Business and Economic Development pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.


JOSEPH W. MAYO, Clerk

Presented by Representative STEDMAN of Hartland.

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

4 Sec. 1. 32 MRSA c. 134 is enacted to read:

6 CHAPTER 134

8 LEGAL DOCUMENT TECHNICIANS

10 §15301. Definitions

12 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

16 2. Department. "Department" means the Department of Professional and Financial Regulation.

18 3. Legal document technician. "Legal document technician" means a person who, for compensation, provides a legal form to a client or completes, files or serves a legal form pursuant to a specific request by a client.

20 §15302. Commissioner; powers and duties

22 The commissioner or the commissioner's designee has the following powers and duties in addition to all other powers and duties set forth in this chapter.

24 1. Standards. The commissioner shall administer and enforce standards under this chapter.

26 2. Rules. The commissioner shall adopt routine technical rules in accordance with Title 5, chapter 375, subchapter II-A to carry out the purposes of this chapter.

28 3. Complaints. The commissioner shall investigate all complaints and cases of noncompliance concerning violations of this chapter or rules adopted by the department, made on the commissioner's own motion or on written complaint filed with the department.

30 4. Contracts. The commissioner may enter into contracts to carry out the commissioner's duties under this chapter.

32 5. Hearings. The commissioner may conduct hearings to assist with investigations and to determine whether grounds exist for denial, suspension, revocation or refusal to renew a license or other actions necessary to the fulfillment of the commissioner's duties under this chapter.

2 6. Advisory council. The commissioner may select members of
3 the legal document technician profession, the bar and other
4 interested parties to serve on an advisory council to advise and
5 consult with the commissioner concerning the regulation of legal
6 document technicians. The member's occupation or profession does
7 not constitute a conflict of interest if that member serves on
8 the council.

10 **§15303. Licensing; requirements**

12 1. License required. A person may not claim to be a legal
13 document technician or practice as a legal document technician
14 unless the person is licensed in accordance with this chapter.

16 2. Requirements. An applicant for a license under this
17 chapter shall submit a written application with supporting
18 documents to the department on a form provided by the
19 department. To be considered by the department as qualified for
20 a license under this chapter, the applicant must:

22 A. Be 18 years of age or older;

24 B. Possess a high school diploma or its equivalent and any
25 other educational requirement or experience requirement that
26 the commissioner determines necessary;

28 C. If the commissioner determines that an examination is
29 necessary, pass an examination that the commissioner may
30 develop with the assistance of the advisory council to
31 demonstrate competency in the profession;

32 D. Certify to the department that the applicant:

34 (1) Has not been convicted of a felony in any
35 jurisdiction, a misdemeanor involving theft,
36 misrepresentation or dishonesty in any jurisdiction or
37 a violation of Title 4, section 807 or a comparable
38 violation in another jurisdiction;

40 (2) Has not been held liable in a civil action for
41 fraud, misrepresentation or the use of an unfair,
42 unlawful or deceptive business practice;

44 (3) Has not been held liable in a civil action for
45 negligent, reckless or willful failure to perform the
46 duties as a legal document technician;

48 (4) Has not had the applicant's license as a legal
49 document technician revoked; or

2 (5) Has not been convicted of any criminal violation
3 of this chapter;

4 E. Pay a one-time application fee of \$25 and a yearly
5 licensing fee of \$100. All fees are nonrefundable; and

6 F. Post a \$25,000 bond.

7
8 3. Register; certificate. The commissioner shall maintain
9 a register of all current, licensed legal document technicians.
10 Upon the approval of an initial application or renewal of a
11 license, the commissioner shall issue a certificate to the legal
12 document technician that the legal document technician shall
13 display prominently in the legal document technician's place of
14 business. The certificate must prominently display the
15 expiration date of the license on the face of the certificate.

16
17 **§15304. Allowed activities; prohibited activities**

18 1. Allowed activities. A legal document technician may:

19 A. Complete a legal document in a ministerial manner;

20 B. Provide general published factual information that has
21 been written or approved by an attorney pertaining to legal
22 procedures, rights or obligations;

23 C. Make available a published legal document; and

24 D. File or serve a legal document at the specific direction
25 of a client.

26
27 A legal document technician shall execute a contract with a
28 client before performing any services listed in this subsection.
29 The contract must state the specific services that will be
30 provided to the client. The contract must also state that the
31 legal document technician is not an attorney and may not provide
32 legal advice, and that a license from the State is not an
33 endorsement by the State of the quality of the legal document
34 technician's services or experience.

35 2. Prohibited activities. A legal document technician may
36 not provide advice, explanation, opinion or recommendation to a
37 client about legal rights, remedies, defenses, options,
38 strategies or selection of forms or any other service not listed
39 in subsection 1.

40
41 **§15305. License renewal; disciplinary action; complaints**

42 1. Renewal. A legal document technician license issued
43 under this chapter must be renewed on or before March 31st of
44 each year. A legal document technician shall complete a renewal
45 of the license on or before the expiration date of the license.

2 application on a form provided by the department that certifies
3 that there has been no change in the legal document technician's
4 application information from the original application. The
5 renewal fee is \$100. The department may renew an expired license
6 within 90 days after the renewal date upon payment of a late fee
7 of \$10 in addition to the renewal fee. A person who submits a
8 renewal application more than 90 days after license expiration is
9 subject to all requirements governing new applicants under this
10 chapter, except in the discretion of the department.

11 2. Disciplinary action. The commissioner may deny,
12 suspend, revoke or refuse to renew a license pursuant to Title 5,
13 section 10004 or Title 10, section 8003. The commissioner's
14 actions may be based upon any of the following grounds:

15 A. The practice of fraud or deceit in obtaining a license
16 under this chapter or in connection with a service within
17 the scope of the license issued;

18 B. Habitual substance abuse that has resulted in or is
19 foreseeably likely to result in the licensed person
20 performing a service in a manner that compromises, threatens
21 or adversely affects a client's legal rights or interests;

22 C. A current medical finding of mental incompetence that
23 adversely affects the licensed person's ability to perform
24 the services of a legal document technician;

25 D. Gross negligence by the licensed person that has
26 compromised, threatened or adversely affected a client's
27 legal rights or interests;

28 E. Aiding or abetting a person not licensed under this
29 chapter in the unauthorized practice of legal document
30 technician;

31 F. The licensed person has been subject to a legal
32 determination listed in section 15303, subsection 2,
33 paragraph D;

34 G. Revocation in any jurisdiction of a professional or
35 occupational license, certification or registration for
36 disciplinary reasons or rejection of any application for
37 reasons relating to untrustworthiness, beginning 3 years
38 before the date of application; or

39 H. Violating any provision of this chapter or any rule of
40 the department.

41 3. Procedure. Except as provided in Title 5, section
42 10004, a license may not be suspended, revoked or refused for
43 renewal for a reason set forth in subsection 2 without prior
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2 written notice and opportunity for hearing on the denial,
3 suspension, revocation or refusal to renew. A license may not be
4 denied, suspended, revoked or refused for renewal under this
5 section except by a written decision of the commissioner or the
6 commissioner's designee.

7
8 4. Complaints. A person may file a complaint with the
9 commissioner seeking disciplinary action against a legal document
10 technician or a person who practices as a legal document
11 technician without a license under this chapter concerning a
12 violation of this chapter or rules adopted by the department. A
13 complaint must be in writing. If the commissioner determines that
14 the complaint alleges facts that, if true, would require
15 suspension, revocation or refusal for renewal of the license or
16 other disciplinary action of a legal document technician, the
17 commissioner or the commissioner's designee may conduct a hearing
18 pursuant to Title 5, chapter 375, subchapter IV. If the
19 commissioner determines that a complaint does not state facts
20 that warrant disciplinary action, the complaint may be dismissed.

21
22 5. Criminal referrals. If the commissioner becomes aware
23 of an activity by a legal document technician or a person who
24 practices as a legal document technician without a license under
25 this chapter that may constitute a criminal violation under
26 section 15306, the commissioner shall refer the matter to the
27 district attorney whose district in which the activity was
28 conducted. This subsection does not preclude any other
29 disciplinary action that the commissioner may take pursuant to
30 this section.

31
32 6. Private civil actions. A person who is injured by an
33 unlawful or negligent act of a legal document technician or a
34 person who practices as a legal document technician without a
35 license under this chapter has the right to file a complaint in
36 District Court or Superior Court for damages, injunctive relief
37 or restitution. Court costs and attorney's fees must be awarded
38 to a plaintiff who prevails in an action brought under this
39 subsection.

40 **§15306. Criminal actions; injunction**

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42 A person who violates a provision of this chapter commits a
43 Class E crime. The State may bring an action in District Court
44 or Superior Court to enjoin a person from violating a provision
45 of this chapter, regardless of any other civil, criminal or
46 administrative proceeding that has been or may be instituted
47 against the person.

SUMMARY

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This bill creates and regulates the profession of legal document technician. A legal document technician is a person who, for compensation, provides a legal form to a client or fills in, files or serves a legal form pursuant to a specific request by a client. Under this bill, a legal document technician may not provide advice, explanation, opinion or recommendation to a client concerning legal rights, remedies, defenses, options, strategies or selection of forms or any other service that the legal document technician is not specifically authorized to provide. In addition to specifying the types of services that legal document technicians may provide, the bill enacts penalties for legal document technicians who provide unauthorized services.