

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

Legislative Document

No. 2487

H.P. 1776

House of Representatives, January 12, 2000

An Act to Amend the Jurisdiction of the District Court.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.

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

2
4 **Sec. 1. 4 MRSA §2-A**, as enacted by PL 1997, c. 683, Pt. E, §1, is amended to read:

6 **§2-A. Justice of the Supreme Judicial Court to sit in District**
8 **Court**

10 The Chief Justice of the Supreme Judicial Court may assign a
12 Justice or Active Retired Justice of the Supreme Judicial Court
14 to sit in the District Court ~~or the Administrative Court~~, and
16 when so directed the justice has authority and jurisdiction in
18 the District Court ~~or the Administrative Court~~ as if the justice
were a regular judge of that court. When assigned under this
section, the justice may hear all matters and issue all orders,
notices, decrees and judgments that any Judge of the District
Court ~~or the Administrative Court~~ is authorized to hear and issue.

20 The order of the Chief Justice of the Supreme Judicial Court
22 directing a Justice or an Active Retired Justice of the Supreme
24 Judicial Court to sit in the District Court ~~or the Administrative~~
~~Court~~ must be filed with the Executive Clerk of the Supreme
Judicial Court, but need not be docketed or otherwise recorded in
any case heard by that justice.

26 **Sec. 2. 4 MRSA §8, first ¶**, as amended by PL 1983, c. 653, is
28 further amended to read:

30 The Supreme Judicial Court ~~shall have~~ has the power to
32 prescribe, by general rules, for the ~~Administrative~~, Probate,
34 District and Superior Courts of Maine, the forms of process,
36 writs, pleadings and motions, and the practice and procedure in
38 civil actions at law. Said rules ~~shall~~ may neither abridge,
40 enlarge nor modify the substantive rights of any litigant. They
shall take effect on such date not less than 6 months after their
promulgation as the Supreme Judicial Court may fix. After their
promulgation the Supreme Judicial Court may repeal, amend, modify
or add to them from time to time with or without a waiting
period. After the effective date of said rules as promulgated or
amended, all laws in conflict therewith ~~shall be~~ are of no
further force or effect.

42 **Sec. 3. 4 MRSA §9-B**, as amended by PL 1991, c. 885, Pt. E, §2
44 and affected by §47, is further amended to read:

46 **§9-B. Committee on judicial responsibility and disability**

48 The Supreme Judicial Court has the power and authority to
50 prescribe, repeal, add to, amend or modify rules relating to a
committee to receive complaints, make investigations and make

2 recommendations to the Supreme Judicial Court in regard to
3 discipline, disability, retirement or removal of justices of the
4 Supreme Judicial Court and the Superior Court and judges of the
5 District Court, and the probate courts ~~and the Administrative~~
6 ~~Court.~~

7 **Sec. 4. 4 MRSA §121**, as enacted by PL 1989, c. 891, Pt. A,
8 §1, is amended to read:

9 **§121. Justice or Active Retired Justice of Superior Court**
10 **assigned to sit in District Court**

11 A Justice or an Active Retired Justice of the Superior Court
12 may be assigned by the Chief Justice of the Supreme Judicial
13 Court to sit in the District Court ~~or the Administrative Court~~
14 and when so directed the justice has authority and jurisdiction
15 in the District Court ~~or the Administrative Court~~ as if the
16 justice were a regular judge of that court; and whenever the
17 Chief Justice of the Supreme Judicial Court so directs, the
18 justice may hear all matters and issue all orders, notices,
19 decrees and judgments that any Judge of the District Court ~~or the~~
20 ~~Administrative Court~~ is authorized to hear and issue.
21

22 The order of the Chief Justice of the Supreme Judicial Court
23 directing a Justice or an Active Retired Justice of the Superior
24 Court to sit in the District Court ~~or the Administrative Court~~
25 must be filed with the Executive Clerk of the Supreme Judicial
26 Court, but need not be docketed or otherwise recorded in any case
27 heard by that justice.
28

29 **Sec. 5. 4 MRSA §152, sub-§5, ¶O**, as enacted by PL 1989, c.
30 392, §1, is amended to read:

31 O. Actions in which the pleading demands a judgment:

32 (1) To exclude a person from a vested or contingent
33 interest in or lien upon specific property within the
34 State;

35 (2) That a vested or contingent interest in or lien
36 upon specific property within the State be enforced; ~~or~~

37 ~~(2-A) That real property be partitioned by sale; or~~

38 (3) Otherwise affecting title to any real property;

39 **Sec. 6. 4 MRSA §152, sub-§8**, as enacted by PL 1989, c. 573,
40 §1, is amended to read:
41

2 **8. Consent to minor's abortion.** Original jurisdiction,
concurrent with that of the Probate Court, to grant equitable
relief in proceedings brought under Title 22, section 1597-A; ;

4 **Sec. 7. 4 MRSA §152, sub-§§9 and 10** are enacted to read:

6 **9. Licensing jurisdiction.** Except as provided in Title 5,
8 section 10004; Title 8, section 279-B; Title 10, section 8003,
9 subsection 5; Title 20-A, sections 10712 and 10713; Title 29-A;
10 Title 32, chapters 105 and 114; and Title 35-A, section 3132,
11 exclusive jurisdiction upon complaint of an agency or, if the
12 licensing agency fails or refuses to act within a reasonable
13 time, upon complaint of the Attorney General to revoke or suspend
14 licenses issued by the agency. The District Court has original
15 jurisdiction upon complaint of a licensing agency to determine
16 whether renewal or reissuance of a license of that agency may be
17 refused. The District Court has original concurrent jurisdiction
18 to grant equitable relief in proceedings initiated by an agency
19 or the Department of the Attorney General alleging any violation
20 of a license or licensing laws or rules.

22 Notwithstanding any other provisions of law, a licensing agency
23 may not reinstate or otherwise affect a license suspended,
24 revoked or modified by the District Court pursuant to a complaint
25 filed by the Attorney General without the approval of the
26 Attorney General; and

28 **10. Appellate jurisdiction.** Exclusive jurisdiction to
29 review disciplinary decisions of occupational licensing boards
30 and commissions taken pursuant to Title 10, section 8003. Title
31 5, chapter 375, subchapter VII governs this procedure as far as
32 applicable, substituting "District Court" for "Superior Court."

34 **Sec. 8. 4 MRSA §157, sub-§1, ¶A,** as amended by PL 1999, c.
35 510, §1, is further amended to read:

36 A. The Governor, subject to review by the joint standing
37 committee of the Legislature having jurisdiction over
38 judiciary matters and to confirmation by the Legislature,
39 shall appoint to the District Court ~~21~~ 33 judges. At least
40 one judge must be appointed from each district who is a
41 resident of a county in which the district lies, except that
42 in District 3 there must be 2 judges appointed who are
43 residents of a county in which the district lies; in
44 District 6 there must be 2 judges appointed who are
45 residents of a county in which the district lies; and in
46 District 9 there must be 2 judges appointed who are
47 residents of a county in which the district lies. Each
48 District Court Judge has a term of office of 7 years.

2 To be eligible for appointment as a District Judge, a person
must be a member of the bar of the State. The term
4 "District Judge" includes the Chief Judge and Deputy Chief
Judge.

6 **Sec. 9. 4 MRSA §157-C**, as amended by PL 1983, c. 112, is
further amended to read:

8
10 **§157-C. Judge or Active Retired Judge of the District Court to
sit in Superior Court**

12 A Judge or an Active Retired Judge of the District Court ~~or~~
~~Administrative-Court~~ may be assigned by the Chief Justice of the
14 Supreme Judicial Court to sit in the Superior Court in any
county, and when so directed ~~he shall have~~ has authority and
16 jurisdiction therein as if ~~he were~~ a regular Justice of the
Superior Court; and whenever the Chief Justice of the Supreme
18 Judicial Court so directs, ~~he that judge~~ he may hear all matters and
issue all orders, notices, decrees and judgments that any Justice
20 of the Superior Court is authorized to hear and issue.

22 No Judge or Active Retired Judge of the District Court ~~or~~
~~Administrative-Court~~ so sitting in the Superior Court ~~shall~~ may
24 act in any case in which ~~he that judge~~ he has sat in the District
Court ~~or--Administrative--Court~~ nor in which ~~he that judge~~ he
26 otherwise has an interest.

28 The order of the Chief Justice of the Supreme Judicial Court
directing a Judge or an Active Retired Judge of the District
30 Court ~~or--Administrative-Court~~ to sit in the Superior Court ~~shall~~
must be filed with the Executive Clerk of the Supreme Judicial
32 Court, but need not be docketed or otherwise recorded in any case
heard by ~~him~~ that judge.

34 **Sec. 10. 4 MRSA §157-E**, as enacted by PL 1989, c. 891, Pt. A,
36 §6, is repealed.

38 **Sec. 11. 4 MRSA §184** is enacted to read:

40 **§184. Licensing and appellate actions**

42 **1. Notice and hearing.** In any action within the District
Court's jurisdiction under section 152, subsection 9 or 10, all
44 parties must be afforded an opportunity for hearing after
reasonable notice.

46 **2. Complaint filed.** On commencement of any case, a written
48 complaint must be filed with the District Court. A copy of the
complaint and summons must be served on the defendant either by
50 personal delivery in hand, by leaving it with a person of

2 suitable age or discretion at the defendant's dwelling place or
4 usual place of abode or by sending it by certified mail to the
6 defendant's last known address. The summons must inform the
8 defendant of the time limit for filing an answer to the complaint
and the consequences of failing to do so. The complaint must
contain a conclusion indicating the violation of a statute or
rule, citing the statute or rule violated and stating the relief
requested.

10 3. **Witness sworn.** At the hearing, before any testimony is
12 received, the presiding judge shall swear in the witness.

14 4. **Official record.** The presiding judge shall prepare an
16 official record, including testimony and exhibits, in each case
18 but need not have a transcript of the testimony prepared unless
required for rehearing or appeal. The record of the hearing may
be taken by stenographic notes or by mechanical or electronic
recording.

20 5. **Disposition by agreement.** On approval of the presiding
22 judge, disposition of any case may be made by agreement or
consent decree.

24 6. **Emergency proceedings.** The District Court has
26 jurisdiction to revoke temporarily or suspend a license without
28 notice or hearing upon the verified complaint of a licensing
30 agency or the Attorney General. The complaint must be
32 accompanied by affidavits demonstrating that summary action is
34 necessary to prevent an immediate threat to the public health,
36 safety or welfare. Upon issuance of an order revoking or
suspending a license under this section, the District Court shall
promptly schedule a hearing on the agency's complaint, which
hearing must take precedence over all other matters except older
matters of the same character on the docket of the court. Any
order temporarily suspending or revoking a license expires within
30 days of issuance unless renewed by the court after such
hearing as it may determine necessary.

38 This subsection may not be considered to abridge or affect the
40 jurisdiction of the Superior Court to issue injunctive relief or
42 to exercise such other powers as may be authorized by law or rule
of the court.

44 7. **Decisions.** After hearing, on default or by agreement of
46 the parties, the District Court may suspend, revoke or modify the
48 license of any party properly served with process or, if the
applicable law so provides, the court may order issuance of a
license to an applicant according to the terms of the applicable
law. The District Court may take any other action with relation

2 to the party that could have been taken before the enactment of
former section 1155 by the agency involved in the hearing.

4 Every final decision of the District Court must be in writing or
stated in the record and must include findings of fact and
6 conclusions of law sufficient to apprise the parties and any
interested member of the public of the basis for the decision. A
8 copy of the decision must be delivered or promptly mailed to each
party to the proceeding or their representatives of record.
10 Written notice of the party's rights to review of the decision
and of the action required and the time within which that action
12 must be taken in order to exercise the right of review must be
given to each party together with the decision.

14
16 8. Fines. Notwithstanding any other provisions of this
chapter, the District Court may impose a fine of a specific sum,
18 which may not be less than \$50 nor more than \$1,500 for any one
offense or as may be provided by the statutes relating to the
20 licensing question. Such a fine may be imposed instead of or in
addition to any suspension, revocation or modification of a
22 license by the court. Section 1057 applies to any fine imposed
by this subsection.

24 9. Rules of procedure. The Supreme Judicial Court may
adopt, amend, repeal or modify rules governing the forms of
26 complaints, pleadings and motions and the practice, procedure and
evidence in and appeals from the District Court. The rules may
28 not abridge or enlarge the substantive rights of any litigant.
The rules must be filed with the Secretary of State in the manner
30 required by Title 5, section 8056, subsection 1, paragraph B.

32 **Sec. 12. 4 MRSA §454, first ¶,** as amended by PL 1997, c. 134,
34 §6, is further amended to read:

36 There is established a Maine Criminal Justice Sentencing
38 Institute under the administrative supervision of the State Court
40 Administrator to provide a continuing forum for the regular
42 discussion of the most appropriate methods of sentencing
44 convicted offenders and adjudicated juveniles by judges in the
46 criminal justice system, prosecutors, law enforcement and
48 correctional personnel, representatives of advisory and advocacy
50 groups and such representatives of the defense bar as the Chief
Justice of the Supreme Judicial Court may invite. All Supreme
Judicial Court, Superior Court, and District Court and
Administrative-Court Judges, all District Attorneys and attorneys
within the Criminal Division of the Office of the Attorney
General are, and such other criminal justice personnel as the
Chief Justice of the Supreme Judicial Court may authorize may be,
members of the institute.

2 **Sec. 13. 4 MRSA c. 25**, as amended, is repealed.

4 **Sec. 14. 4 MRSA §1701, sub-§1**, as enacted by PL 1995, c. 451,
§1, is amended to read:

6 **1. Commission established.** The Judicial Compensation
Commission, referred to in this chapter as the "commission,"
8 established by Title 5, section 12004-G, subsection 23-A shall
study and make recommendations concerning the salary, benefits
10 and retirement to be paid for all justices and judges of the
Supreme Judicial Court, the Superior Court, and the District
12 Court ~~and the Administrative Court.~~

14 **Sec. 15. 5 MRSA §5304**, as amended by PL 1987, c. 402, Pt. A,
§54, is further amended to read:

16 **§5304. Appeals**

18 Any person who is aggrieved by the decision of any licensing
20 agency in possible violation of this chapter may file a statement
of complaint with the Administrative District Court designated in
22 chapter 375.

24 **Sec. 16. 5 MRSA §8001**, as reallocated by PL 1977, c. 696,
§48, is amended to read:

26 **§8001. Short title**

28 This chapter ~~and Title 4, chapter 25 shall be~~ is known and
30 may be cited as the "Maine Administrative Procedure Act."

32 **Sec. 17. 5 MRSA §8002, sub-§7, ¶C**, as enacted by PL 1977, c.
551, §3, is amended to read:

34 C. Any agency bringing a complaint to Administrative
36 District Court under section 10051.

38 **Sec. 18. 5 MRSA §10003, sub-§1**, as amended by PL 1977, c. 694,
§37, is further amended to read:

40 **1. Opportunity for hearing.** Subject to the provisions of
42 section 10004, an agency shall may not amend or modify any
license unless it has afforded the licensee an opportunity for
44 hearing in conformity with subchapter IV, nor shall may it refuse
to renew any license unless it has afforded the licensee either
46 an opportunity for an agency hearing in conformity with
subchapter IV or an opportunity for a hearing in the
48 Administrative District Court. In any such proceeding deemed
determined by the agency to involve a substantial public
50 interest, an opportunity for public comment and participation

2 shall ~~must~~ also be given by public notice in conformity with
subchapter IV.

4 **Sec. 19. 5 MRSA c. 375, sub-c. VI** is amended by repealing the
subchapter headnote and enacting the following in its place:

6 **SUBCHAPTER VI**

8 **DISTRICT COURT**

10 **Sec. 20. 5 MRSA §10051**, as amended by PL 1995, c. 140, §1, is
12 further amended to read:

14 **§10051. Jurisdiction of District Court; retained powers of agency**

16 **1. Jurisdiction.** Except as provided in section 10004;
18 Title 8, section 279-B; Title 10, section 8003; Title 20-A,
sections 10712 and 10713; Title 29-A; Title 32, chapters 105 and
20 114; and Title 35-A, section 3132, the Administrative District
Court has exclusive jurisdiction upon complaint of any agency or,
22 if the licensing agency fails or refuses to act within a
reasonable time, upon complaint of the Attorney General, to
24 revoke or suspend licenses issued by the agency and has original
jurisdiction upon complaint of an agency to determine whether
renewal or reissuance of a license of that agency may be refused.

26 **2. Complaining agency.** The complaining agency shall ~~retain~~
28 retains every other power granted to it by statute or necessarily
implied therein, except the power of revoking or suspending
30 licenses issued by it. Such retained powers shall include, but
are not be limited to, the granting or renewing of licenses, the
32 investigating and determining of grounds for the filing of a
complaint under this section, and the prosecution of such
34 complaints.

36 **3. Appellate jurisdiction.** The Administrative District
Court has exclusive jurisdiction to review disciplinary decisions
38 of occupational licensing boards and commissions taken pursuant
to Title 10, section 8003 and licensing decisions of the Bureau
40 of Liquor Enforcement taken pursuant to Title 28-A, sections
453-A, 458 and 653. ~~The--Maine--Administrative--Procedure--Act,~~
42 ~~chapter~~ Chapter 375, subchapter VII, governs these proceedings as
far as applicable, substituting "Administrative District Court"
44 for "Superior Court."

46 **4. Violations.** The Administrative District Court shall ~~have~~
48 has exclusive jurisdiction to hear complaints of the Public
Utilities Commission for violations of Title 35-A, section 704.

2 **Sec. 21. 7 MRSA §1456**, as repealed and replaced by PL 1977,
c. 694, §118, is amended to read:

4 **§1456. Cancellation of permit**

6 The permit to operate the sales rings may be canceled by the
Administrative District Court pursuant to Title 4, chapter ~~25~~ 5.

8 **Sec. 22. 7 MRSA §2955, 4th ¶**, as amended by PL 1977, c. 694,
10 §141, is amended to read:

12 The Administrative District Court as designated by Title 4,
chapter ~~25~~ 5 may, upon proper evidence, decline to grant a
14 license or may suspend or revoke a license already granted upon
due notice and after hearing. Violation of this chapter or of any
16 order, rule or regulation made, or conviction of violating any
other law or regulation of the State relating to the production,
18 distribution and sale of milk, ~~shall-be~~ is sufficient cause to
suspend, revoke or withhold such license.

20 **Sec. 23. 7 MRSA §3152, sub-§4-A**, as enacted by PL 1987, c.
22 447, §5, is amended to read:

24 **4-A. Eligible marketing cooperative.** "Eligible marketing
cooperative" means an association of milk producers organized to
26 negotiate producer prices higher than the minimum producer prices
established pursuant to the New England Milk Marketing Order and
28 which the commissioner has determined will not, through its
operation, evade, impair or undermine the purposes of this
30 chapter. Notwithstanding Title 4, section ~~1151~~ 152, subsection ~~2~~
9 and Title 5, section 10051, subsection 1, the commissioner may
32 revoke the eligible status of a marketing cooperative upon a
determination that it has through its operation evaded, impaired
34 or undermined the purposes of this chapter.

36 **Sec. 24. 7 MRSA §3155-A, sub-§4**, as enacted by PL 1987, c.
38 447, §12, is amended to read:

40 **4. Administrative enforcement.** When the commissioner, after
such investigation as ~~he--deems~~ the commissioner determines
42 appropriate, believes that a violation of this section has
occurred, ~~he~~ the commissioner may order the eligible marketing
cooperative to cease that violation. In lieu of, or in addition
44 to, such an order and notwithstanding Title 4, section ~~1151~~ 152,
subsection ~~2~~ 9 and Title 5, section 10051, subsection 1, the
46 commissioner may also revoke the eligible status of the
cooperative for purposes of this chapter for a period not to
48 exceed one year for a first violation, 2 years for a 2nd
violation and permanently for a 3rd or subsequent violation.
50 Before issuing such an order or revoking a cooperative's

2 eligibility, the commissioner shall afford the cooperative an
3 opportunity for a hearing. Any person aggrieved by a final order
4 or decision issued under this subsection may obtain judicial
5 review in Superior Court by filing a petition in accordance with
6 Title 5, section 11001 and the Maine Rules of Civil Procedure,
7 Rule 80C. In responding to such a petition, the commissioner may
8 seek enforcement of his the order or decision, including civil
9 penalties for any violation found, and the court, if it upholds
10 the order or decision, may order its enforcement, including civil
11 penalties.

12 **Sec. 25. 7 MRSA §3991, sub-§2, ¶D,** as amended by PL 1993, c.
13 468, §25, is further amended to read:

14 D. If the commissioner concludes that suspension or
15 revocation of the license is in order, shall file a
16 complaint in the Administrative District Court in accordance
17 with Title 4, chapter 25 5.

20 **Sec. 26. 8 MRSA §271, sub-§1,** as amended by PL 1997, c. 528,
21 §11, is further amended to read:

22 1. **Licensing.** If the commission is satisfied that all of
23 this chapter and rules prescribed by the commission have been
24 substantially complied with during the past year and will be
25 fully complied with during the coming year by the person,
26 association or corporation applying for a license; that the
27 applicant, its members, directors, officers, shareholders,
28 employees, creditors and associates are of good moral character;
29 that the applicant is financially responsible; and that the award
30 of racing dates to the applicant is appropriate under the
31 criteria contained in subsection 2, it may issue a license for
32 the holding of harness horse races or meets for public exhibition
33 with pari-mutuel pools, which must expire on December 31st. The
34 fee for a license is \$100 or \$10 per week, whichever is higher.
35 The commission shall provide a booklet containing harness racing
36 laws and rules and relevant portions of the Maine Administrative
37 Procedure Act to every initial licensee and a fee not to exceed
38 \$10 must be included in the license fee to cover the cost of this
39 publication. The commission shall provide necessary revisions of
40 this booklet to those persons renewing licenses at the time of
41 renewal and shall include the cost of the revisions, not to
42 exceed \$10, in the renewal fee. The license must set forth the
43 name of the licensee, the place where the races or race meets are
44 to be held and the specific race dates and time of day or night
45 during which racing may be conducted by the licensee. The
46 location stated in the license where the race or race meet is to
47 be held may be transferred to any other licensee on the dates set
48 forth in the license during which the racing may be conducted,
49 but, with respect to that transfer, the transfer may only be made
50

2 to another licensee and the licensee is liable for compliance
3 with all laws and regulations governing the conduct of harness
4 racing. Any such license issued is not transferable or
5 assignable. The Administrative District Court Judge, as
6 designated in Title 4, chapter 25 5, may revoke any license
7 issued at any time for violation of the commission's rules or
8 licensing provisions upon notice and hearing. The license of any
9 corporation is automatically revoked, subject to Title 5, chapter
10 375, upon the change in ownership, legal or equitable, of 50% or
11 more of the voting stock of the corporation and the corporation
12 may not hold a harness horse race or meet for public exhibition
13 without a new license.

14 **Sec. 27. 8 MRSA §275-D, sub-§11**, as enacted by PL 1997, c.
15 528, §24, is amended to read:

16 **11. Revocation.** The Administrative District Court Judge,
17 as designated in Title 4, chapter 25 5, may revoke any license
18 issued at any time for violation of the commission's rules or
19 licensing provisions upon notice and hearing. The license of any
20 corporation is automatically revoked, subject to Title 5, chapter
21 375, upon the change in ownership, legal or equitable, of 50% or
22 more of the voting stock of the corporation, and the corporation
23 may not conduct off-track betting without a new license.

24 **Sec. 28. 12 MRSA §685-C, sub-§8**, as amended by PL 1987, c.
25 816, Pt. KK, §12, is further amended to read:

26 **8. Enforcement, inspection and penalties for violations.**
27 Standards, rules and orders issued by the commission pursuant to
28 this chapter shall have the force and effect of law. No
29 development may be undertaken, except in conformance with this
30 chapter, the standards, rules and orders enacted or issued
31 pursuant to this chapter, and any real estate or personal
32 property existing in violation of such ~~shall-be~~ is a nuisance.
33 For the purposes of inspection and to assure ~~ensure~~ ensure compliance
34 with standards, orders and permits issued or adopted by the
35 commission, authorized commission staff, forest rangers and the
36 state supervisor or consultant personnel may conduct ~~such~~
37 investigations, examinations, tests and site evaluations deemed
38 necessary to verify information presented to it, and may obtain
39 access to any lands and structures regulated pursuant to this
40 chapter.

41 Any person who violates any provision of this chapter, or the
42 terms or conditions of any standards, rules, permits or orders
43 adopted or issued pursuant to this chapter, is subject to a civil
44 penalty, payable to the State, of not more than \$10,000 for each
45 day of the violation.

50

2 In addition to the other penalties provided, the commission may,
3 in the name of the State of Maine, institute any appropriate
4 action, injunction or other proceeding to prevent, restrain,
5 correct or abate any violation hereof or of the orders or
6 standards or rules promulgated hereunder. This action may
7 include, but is not limited to, proceedings to revoke or suspend
8 any commission permit or approval, taken either before the
9 commission itself in accordance with Title 5, section 10004,
10 before the Administrative District Court in accordance with Title
11 4, ~~sections 1152 to 1157~~, chapter 5 or, notwithstanding the
12 provisions of Title 4, section ~~1151~~ 152, subsection 2, 9 or Title
13 5, section 10051, before the Superior Court as part of an
14 enforcement action brought by the commission.

15 In addition to any such penalties or remedies provided in this
16 subsection, the court may order restoration of any area affected
17 by any action or inaction found to be in violation of any of the
18 provisions of this chapter or of any order, standard, rule or
19 permit of the commission, or any decree of the court, to the
20 condition of such area prior to the violation. When such
21 restoration is not practicable, the court may order other actions
22 to be taken by the person charged with the violation which are in
23 mitigation of the damage caused by the violation.

24 A person who willfully or knowingly falsifies any statement
25 contained in a permit application or other information required
26 to be submitted to the commission ~~shall be~~ is in violation of
27 this chapter and subject to the penalties of this chapter.

28 **Sec. 29. 12 MRSA §1884, last ¶**, as enacted by PL 1997, c. 678,
29 §13, is amended to read:

30 In addition, the bureau may in the name of the State
31 institute any appropriate action, injunction or other proceeding
32 to prevent, restrain, correct or abate any violation of this
33 subchapter or of the rules or permits issued under it. This
34 action may include, but is not limited to, proceedings to revoke
35 or suspend any bureau permit or approval taken before the
36 Administrative District Court in accordance with Title 4, section
37 ~~1151~~ 152, subsection 2, 9 and Title 4, ~~sections 1152 to 1157~~
38 chapter 5 or, notwithstanding the provisions of Title 5, section
39 10051, before the Superior Court, as part of an enforcement
40 action brought by the bureau.

41 **Sec. 30. 12 MRSA §6371, sub-§3**, as enacted by PL 1977, c. 661,
42 §5, is amended to read:

43 **3. Suspension for violations.** Violation of any section of
44 marine resources' laws ~~shall be~~ is grounds for suspension of any
45 and all licenses or certificates issued under this Part. In order
46

2 to suspend a license or certificate for a violation, the
3 commissioner shall follow the procedures for license suspension
4 or revocation in the Administrative District Court, as provided
5 under Title 4, chapter 25 5.

6 **Sec. 31. 12 MRSA §6373, first ¶**, as enacted by PL 1977, c. 661,
7 §5, is amended to read:

8
9 In order to suspend a license or certificate for refusal to
10 allow a shellfish inspection or for violation of shellfish
11 sanitation regulations, the commissioner shall follow the
12 procedures for license suspension or revocation in the
13 Administrative District Court, as provided under Title 4, chapter
14 25 5. The suspension for these reasons ~~shall~~ must be a summary
15 action necessary to prevent an immediate threat to the public
16 health, safety and welfare and ~~shall~~ must be an emergency
17 proceeding under Title 4, section ~~1153 184~~, subsection 6.

18
19 **Sec. 32. 12 MRSA §8833, sub-§2**, as enacted by PL 1979, c. 545,
20 §3, is amended to read:

21
22 **2. Revocation.** The director may revoke, suspend or refuse
23 to renew any registration of any mill for violation of sections
24 8830 and 8831 under the authority granted in Title 5, section
25 10004. The Administrative District Court, acting pursuant to
26 Title 4, chapter 25 5, may revoke the registration granted to any
27 mill for violation of sections 8830 and 8831 for a period not to
28 exceed 2 years, after which time the mill may make application
29 for reinstatement as a registered mill.

30
31 **Sec. 33. 12 MRSA §9321, sub-§2**, as repealed and replaced by PL
32 1983, c. 504, §2, is amended to read:

33
34 **2. Revocation.** The director or ~~his~~ the director's delegate
35 may revoke any permit during a period of high forest fire danger
36 or any permit which results in creation of a nuisance condition
37 without compliance with the provisions of Title 4, chapter 25 5
38 or Title 5, chapter 375.

39
40 **Sec. 34. 12 MRSA §9322, sub-§3**, as repealed and replaced by PL
41 1993, c. 555, §2, is amended to read:

42
43 **3. Resident guides.** Upon application, the Director of the
44 Bureau of Forestry may issue a statewide yearly permit for
45 out-of-door fires to resident guides licensed by the Department
46 of Inland Fisheries and Wildlife. The director may restrict the
47 scope of a permit to correspond with the classification of the
48 guide license. Use of the permit is conditional upon the
49 permittee:

- 2 A. Possessing a valid guide license;
- 4 B. Complying with any landowner campfire restrictions;
- 6 C. Complying with applicable out-of-door burning laws; and
- 8 D. Complying with out-of-door fire restrictions established
by the director for the area in which and the time during
which fires are made.

10 The director shall revoke the permit of any person who violates
12 any condition or restriction established by this subsection. The
14 director is not required to comply with the provisions of Title
4, chapter 25 5 or Title 5, chapter 375 in revoking a permit
under this subsection.

16 **Sec. 35. 13-A MRSA §1210, sub-§1**, as amended by PL 1989, c.
18 501, Pt. L, §19, is further amended to read:

20 1. Notwithstanding Title 4, chapter 25 5, and Title 5,
22 chapter 375, the authority of a foreign corporation to do
business in this State may be revoked by the Secretary of State,
as provided by subsections 2 and 3, when:

24 A. The corporation has failed to file its annual report
26 within the time specified by this Act or has failed to pay
any fees, franchise taxes or penalties prescribed by this
28 Act when they have become due and payable; ~~or~~

30 B. The corporation has failed to appoint and maintain a
registered agent in this State as required by section 1212;
32 ~~or~~

34 C. The corporation has failed, after change of its
registered office or registered agent, to file in the office
36 of the Secretary of State a statement of such change as
required by section 1212; ~~or~~

38 D. The corporation has failed to file in the office of the
40 Secretary of State within the required time any articles of
merger as required by section 1206 or amended application
42 for authority as required by section 1207; or

44 E. A misrepresentation has been made of a material fact in
any application, report, affidavit or other document
46 required by this Act.

48 **Sec. 36. 13-A MRSA §1302, sub-§1**, as amended by PL 1995, c.
50 458, §5, is further amended to read:

2 1. A corporation required to deliver an annual report for
3 filing as provided by section 1301 that fails to deliver its
4 properly completed annual report to the Secretary of State shall
5 pay, in addition to the regular annual report fee, the sum of
6 \$25, providing the report is received by the Secretary of State
7 prior to revocation or suspension. Upon a corporation's failure
8 to file the annual report and to pay the annual report fee or the
9 penalty, the Secretary of State, notwithstanding Title 4, chapter
10 25 5 and Title 5, chapter 375, shall revoke a foreign
11 corporation's authority to do business in this State and suspend
12 a domestic corporation from doing business. The Secretary of
13 State shall use the procedures set forth in section 1210,
14 relative to revoking the right of foreign corporations to do
15 business in this State, for suspending domestic corporations. A
16 foreign corporation whose authority to do business in this State
17 has been revoked under this subsection that wishes to do business
18 again in this State must be authorized as provided in section
19 1202. A domestic corporation that has been suspended under this
20 subsection may be reinstated by filing the current annual report,
21 together with the current annual filing fee, and by paying the
22 reinstatement fee of \$125 for each year the corporation failed to
23 file an annual report. The maximum reinstatement fee may not
24 exceed \$500, regardless of the number of delinquent reports or
25 the period of delinquency.

26 **Sec. 37. 13-B MRSA §1210, sub-§1**, as amended by PL 1993, c.
27 316, §42, is further amended to read:

28
29 **1. Secretary of State may revoke authority.** Notwithstanding
30 Title 4, chapter 25 5, and Title 5, chapter 375, the authority of
31 a foreign corporation to carry on activities in this State may be
32 revoked by the Secretary of State, as provided by subsections 2
33 and 3, when:

34
35 A. The corporation has failed to file its annual report
36 within the time specified by this Act, or has failed to pay
37 any fees or penalties prescribed by this Act, when they have
38 become due and payable;

39
40 B. The corporation has failed to appoint and maintain a
41 registered agent in this State as required by section 1212;

42
43 C. The corporation has failed, after change of its
44 registered office or registered agent, to file in the office
45 of the Secretary of State a statement of such change as
46 required by section 1212;

47
48 D. The corporation has failed to file in the office of the
Secretary of State within the required time any articles of

2 merger as required by section 1206 or amended application
for authority as required by section 1207; or

4 E. A misrepresentation has been made of a material fact in
any application, report, affidavit or other document
6 required by this Act.

8 **Sec. 38. 13-B MRSA §1302, sub-§1**, as repealed and replaced by
PL 1993, c. 349, §36, is amended to read:

10
12 **1. Failure to file annual report.** Any corporation that is
required to deliver an annual report for filing, as provided by
14 section 1301, and fails to deliver its properly completed annual
report to the Secretary of State, shall pay the sum of \$10 for
16 each failure to file on time. Upon a corporation's failure to
file the annual report and to pay the annual report fee and the
18 penalty, the Secretary of State, notwithstanding Title 4, chapter
25 5 and Title 5, chapter 375, shall revoke a foreign
20 corporation's authority to carry on activities in this State and
suspend a domestic corporation from carrying on activities. The
22 Secretary of State shall use the procedures set forth in section
1210, relative to revoking the right of foreign corporations to
24 carry on activities in this State, for suspending domestic
corporations. A foreign corporation whose authority to carry on
26 activities in this State has been revoked under this subsection
that wishes to carry on activities again in this State must be
28 authorized as provided in section 1202. A domestic corporation
that has been suspended under this subsection may be reinstated
30 by filing the current annual report and by paying the penalty
accrued.

32 **Sec. 39. 15 MRSA §1003, sub-§2**, as enacted by PL 1987, c. 758,
§20, is amended to read:

34
36 **2. Court.** "Court" means any Justice of the Supreme Judicial
Court or Superior Court or any active retired justice and any
38 District Court Judge or active retired judge, ~~---or---any
Administrative Court Judge or active retired judge when assigned
under Title 4, section 157-C or 1158.~~

40
42 **Sec. 40. 22 MRSA §1471-D, sub-§7, ¶D**, as enacted by PL 1977,
c. 694, §339, is amended to read:

44 D. This subsection shall is not be governed by the
46 provisions of Title 4, chapter 25 5 or Title 5, chapter 375.

48 **Sec. 41. 22 MRSA §2144, sub-§4, ¶C**, as enacted by PL 1983, c.
570, is amended to read:

2 C. Any license issued under this chapter may be suspended
or revoked for violation of applicable laws and rules
4 committing, permitting, aiding or abetting any illegal
practices in the operation of the provider of conduct or
6 practices detrimental to the welfare of persons to whom home
health care services are provided. When the department
8 believes that a license shall must be suspended or revoked,
it shall file a complaint with the Administrative District
10 Court in accordance with Title 4, section 1153 184 or the
Maine Administrative Procedure Act, Title 5, chapter 375.

12 **Sec. 42. 22 MRSA §2500, 2nd ¶**, as enacted by PL 1981, c. 203,
§2, is amended to read:

14 Whenever, upon inspection, conditions are found which
16 violate this chapter or regulations adopted thereunder, or which
may endanger the life, health or safety of persons living in or
18 attending any licensed establishment under this chapter, the
department may request an emergency suspension of license of the
20 Administrative District Court pursuant to Title 4, section 1153
184, subsection 6, and the court may grant suspension subject to
22 reinstatement following a hearing before the court if cause is
not shown.

24 **Sec. 43. 22 MRSA §7802, sub-§3, ¶C**, as enacted by PL 1983, c.
26 386, §2, is amended to read:

28 C. Whenever, upon investigation, conditions are found
which, in the opinion of the department, immediately
30 endanger the health or safety of persons living in or
attending a facility, the department may request the
32 Administrative District Court for an emergency suspension
pursuant to Title 4, section 1153 184, subsection 6.

34 **Sec. 44. 24 MRSA §2314**, as amended by PL 1997, c. 592, §4, is
36 further amended to read:

38 **§2314. Suspension or revocation of certificate of authority**

40 Notwithstanding Title 4, ~~section-1151~~ chapter 5 and Title 5,
42 section 10051, the superintendent may suspend or revoke a
certificate of authority granted under this chapter for cause at
44 any time pursuant to a hearing held in accordance with Title 5,
chapter 375, subchapter IV.

46 **Sec. 45. 24-A MRSA §416, sub-§1**, as amended by PL 1983, c.
48 419, §1, is further amended to read:

50 1. Notwithstanding Title 4, ~~section-1151~~ chapter 5, and
Title 5, section 10051, the superintendent shall refuse to

2 continue or shall suspend or revoke an insurer's certificate of
3 authority:

4 A. If such action is required by any provision of this
5 Title;

6 B. If a foreign insurer and it no longer meets the
7 requirements for a certificate of authority, on account of
8 deficiency of capital or surplus or otherwise;

9 C. If a domestic insurer and it has failed to cure an
10 impairment of capital or surplus within the time allowed
11 therefor by the superintendent under this Title or is
12 otherwise no longer qualified for the certificate of
13 authority;

14 D. If the insurer's certificate of authority to transact
15 insurance therein is suspended or revoked by its state of
16 domicile, or state of entry into the United States, if an
17 alien insurer; or

18 E. For failure of the insurer to pay taxes on its premiums
19 as required by law.

20
21 **Sec. 46. 24-A MRSA §417, sub-§§1 and 3, as amended by PL 1983,**
22 **c. 419, §2, are amended to read:**

23 1. Notwithstanding Title 4, ~~section 1151, chapter 5~~ and
24 Title 5, section 10051, the superintendent may refuse to continue
25 or may suspend or revoke an insurer's certificate of authority,
26 if ~~he~~ the superintendent finds, after a hearing thereon or upon
27 waiver of hearing by the insurer, that the insurer has violated
28 or failed to comply with any lawful order of the superintendent,
29 or has willfully violated or willfully failed to comply with any
30 lawful rule of the superintendent, or has violated any provision
31 of this Title other than those for violation of which suspension
32 or revocation is mandatory.

33 3. Notwithstanding Title 4, ~~sections 1151 and 1153, chapter~~
34 5 and Title 5, section 10051, the superintendent may, without
35 notice or a hearing thereon, immediately suspend the certificate
36 of authority of any insurer as to which proceedings for
37 receivership, conservatorship, rehabilitation or other
38 delinquency proceedings have been commenced against the insurer
39 in any state by the public official charged with supervising the
40 insurance industry in that state. Upon suspending a certificate
41 of authority under this subsection, the superintendent shall
42 promptly schedule a hearing on the matter, to be held within 30
43 days of the suspension. The superintendent shall make a
44 determination within 30 days after the conclusion of that hearing.

2 **Sec. 47. 24-A MRSA §4216, sub-§1**, as amended by PL 1997, c.
3 683, Pt. B, §14, is further amended by amending the first
4 paragraph to read:

6 1. Notwithstanding Title 4, ~~section--1151~~ chapter 5 and
7 Title 5, section 10051, the superintendent may suspend or revoke
8 a certificate of authority issued to a health maintenance
9 organization under this chapter if the superintendent finds that
10 any of the following conditions exist after a hearing held in
11 accordance with Title 5, chapter 375, subchapter IV:

12 **Sec. 48. 29-A MRSA §853**, as enacted by PL 1993, c. 683, Pt.
13 A, §2 and affected by Pt. B, §5, is amended to read:

14 **§853. Suspension and revocation**

15 Notwithstanding Title 4, section ~~1151~~ 152, subsection 2 9
16 and Title 5, sections 10003 and 10051, the Secretary of State may
17 suspend, revoke or deny any license, registration or renewal
18 issued pursuant to this chapter.

19 **Sec. 49. 29-A MRSA §1612, 3rd ¶**, as enacted by PL 1993, c.
20 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

21 Notwithstanding Title 4, section ~~1151~~ 152, subsection 2 9
22 and Title 5, sections 10003 and 10051, the Secretary of State has
23 the authority to suspend a motor vehicle dealer license upon the
24 dealer's failure to maintain insurance as required by this
25 section.

26 **Sec. 50. 29-A MRSA §2552, first ¶**, as amended by PL 1995, c.
27 65, Pt. A, §124 and affected by §153 and Pt. C, §15, is further
28 amended to read:

29 Notwithstanding Title 4, section ~~1151~~ 152, subsection 2, 9
30 and Title 5, sections 10003 and 10051, the Secretary of State
31 shall immediately revoke, without preliminary hearing, the
32 license to operate a motor vehicle of an habitual offender.

33 **Sec. 51. 30-A MRSA §4451, sub-§6, ¶A**, as enacted by PL 1989,
34 c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

35 A. The Administrative District Court may revoke the
36 certificate of a code enforcement officer, in accordance
37 with Title 4, chapter 25 5, when it finds that:

38 (1) The code enforcement officer has practiced fraud
39 or deception;

40

2 (2) Reasonable care, judgment or the application of a
duly trained and knowledgeable code enforcement
4 officer's ability was not used in the performance of
the duties of the office; or

6 (3) The code enforcement officer is incompetent or
unable to perform properly the duties of the office.
8

10 **Sec. 52. 31 MRSA §498, sub-§2, ¶A**, as amended by PL 1991, c.
780, Pt. U, §28, is further amended to read:

12 A. Notwithstanding Title 4, chapter 25 5 and Title 5,
14 chapter 375, the authority of a foreign limited partnership
to do business in this State may be revoked by the Secretary
of State as provided in paragraphs C and D when:

16 (1) The foreign limited partnership fails to deliver
18 its annual report for filing within the time specified
by this chapter or fails to pay any fees or penalties
20 as prescribed by this chapter when they become due and
payable;

22 (2) The foreign limited partnership fails to appoint
24 and maintain a registered agent in this State as
required by section 494;

26 (3) The foreign limited partnership fails, after change
28 of its registered office or registered agent, to file
with the Secretary of State a statement of the change
30 required by section 494;

32 (4) The foreign limited partnership has failed to file
34 with the Secretary of State an amended application for
authority required by section 495; or

36 (5) A misrepresentation of a material fact is made in
38 any application, report, affidavit or other document
required by this chapter.

40 **Sec. 53. 31 MRSA §530, sub-§1**, as amended by PL 1995, c. 458,
§18, is further amended to read:

42
44 **1. Failure to file annual report.** A limited partnership
required to deliver an annual report for filing as provided by
46 section 529 that fails to deliver its properly completed annual
report to the Secretary of State shall pay, in addition to the
48 regular annual report fee, the sum of \$25, providing the report
is received by the Secretary of State prior to revocation or
suspension of the limited partnership. Upon a limited
50 partnership's failure to file the annual report and to pay the

2 annual report fee or the penalty, the Secretary of State,
3 notwithstanding Title 4, chapter 25 5 and Title 5, chapter 375,
4 shall revoke a foreign limited partnership's authority to do
5 business in this State and suspend a domestic limited partnership
6 from doing business. The Secretary of State shall use the
7 procedures set forth in section 498, subsection 2, relative to
8 revoking the right of foreign limited partnerships to do business
9 in this State, for suspending domestic limited partnerships. A
10 foreign limited partnership whose authority to do business in
11 this State has been revoked under this subsection that wishes to
12 do business again in this State must be authorized as provided in
13 section 492. A domestic limited partnership that has been
14 suspended under this subsection may be reinstated by filing the
15 current annual report together with the current annual filing fee
16 and by paying the reinstatement fee of \$125 for each year the
17 limited partnership failed to file an annual report. The maximum
18 reinstatement fee may not exceed \$500, regardless of the number
19 of delinquent reports or the period of delinquency.

20 **Sec. 54. 31 MRSA §719, sub-§2, ¶A**, as enacted by PL 1993, c.
21 718, Pt. A, §1, is amended to read:

22 A. Notwithstanding Title 4, chapter 25 5 and Title 5,
23 chapter 375, the authority of a foreign limited liability
24 company to do business in this State may be revoked by the
25 Secretary of State as provided in paragraphs C and D when:

26 (1) The foreign limited liability company fails to
27 deliver its annual report for filing within the time
28 specified by this chapter or fails to pay any fees or
29 penalties as prescribed by this chapter when they
30 become due and payable;

31 (2) The foreign limited liability company fails to
32 appoint and maintain a registered agent in this State
33 as required by section 714;

34 (3) The foreign limited liability company fails, after
35 change of its registered office or registered agent, to
36 file with the Secretary of State a statement of the
37 change required by section 714;

38 (4) The foreign limited liability company has failed
39 to file with the Secretary of State an amended
40 application for authority required by section 715; or

41 (5) A misrepresentation of a material fact is made in
42 any application, report, affidavit or other document
43 required by this chapter.

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2 **Sec. 55. 31 MRSA §758, sub-§1**, as amended by PL 1995, c. 458,
§24, is further amended to read:

4 **1. Failure to file annual report.** A limited liability
company required to deliver an annual report for filing as
6 provided by section 757 that fails to deliver its properly
completed annual report to the Secretary of State shall pay, in
8 addition to the regular annual report fee, the sum of \$25, if the
report is received by the Secretary of State prior to revocation
10 or suspension of the limited liability company. Upon a limited
liability company's failure to file the annual report and to pay
12 the annual report fee or the penalty, the Secretary of State,
notwithstanding Title 4, chapter 25 5 and Title 5, chapter 375,
14 shall revoke a foreign limited liability company's authority to
do business in this State and suspend a domestic limited
16 liability company from doing business. The Secretary of State
shall use the procedures set forth in section 719, subsection 2,
18 relative to revoking the right of foreign limited liability
companies to do business in this State, for suspending domestic
20 limited liability companies. A foreign limited liability company
whose authority to do business in this State has been revoked
22 under this subsection that wishes to do business again in this
State must be authorized as provided in section 712. A domestic
24 limited liability company that has been suspended under this
subsection may be reinstated by filing the current annual report
26 together with the current annual filing fee and by paying the
reinstatement fee of \$125 for each year the limited liability
28 company failed to file an annual report. The maximum
reinstatement fee may not exceed \$500, regardless of the number
30 of delinquent reports or the period of delinquency.

32 **Sec. 56. 31 MRSA §859, sub-§1, ¶A**, as enacted by PL 1995, c.
633, Pt. B, §1, is amended to read:

34 A. Notwithstanding Title 4, chapter 25 5 and Title 5,
36 chapter 375, the status of a foreign partnership as a
limited liability partnership with respect to doing business
38 in this State may be revoked by the Secretary of State as
provided in paragraphs C and D when:

40 (1) The foreign limited liability partnership fails to
42 deliver its annual report for filing within the time
specified by this chapter or fails to pay any fees or
44 penalties as prescribed by this chapter when they
become due and payable;

46 (2) The foreign limited liability partnership fails to
48 appoint and maintain a registered agent in this State
as required by section 807;

50

- 2 (3) The foreign limited liability partnership fails,
4 after change of its registered office or registered
agent, to file with the Secretary of State a statement
of the change required by section 807;
- 6 (4) The foreign limited liability partnership fails to
8 file with the Secretary of State an amended application
for authority required by section 855; or
- 10 (5) A misrepresentation of a material fact is made in
12 any application, report, affidavit or other document
required by this chapter.

14 **Sec. 57. 31 MRSA §874, sub-§1**, as enacted by PL 1995, c. 633,
Pt. B, §1, is amended to read:

16

18 **1. Failure to file annual report; revocation of status.** A
limited liability partnership required to deliver an annual
20 report for filing, as provided by section 873, that fails to
deliver its properly completed annual report to the Secretary of
22 State shall pay, in addition to the regular annual report fee,
the sum of \$25, provided that the report is received by the
24 Secretary of State prior to revocation of its status as a limited
liability partnership. Upon a partnership's failure to file the
26 annual report and to pay the annual report fee or the penalty,
the Secretary of State, notwithstanding Title 4, chapter 25 5 and
Title 5, chapter 375, shall revoke the status of that partnership
28 as a foreign limited liability partnership or a registered
limited liability partnership. The Secretary of State shall use
30 the procedures set forth in section 859, subsection 1 relative to
revoking the status of a partnership as a foreign limited
32 liability partnership for revoking the status of a partnership as
a registered limited liability partnership. A foreign limited
34 liability partnership whose limited liability partnership status
has been revoked under this subsection that wishes to do business
36 again as a limited liability partnership in this State must
follow the procedures set forth in section 808, subsection 3
38 relative to reinstatement of registered limited liability
partnerships. A partnership whose status as a registered limited
40 liability partnership has been revoked under this subsection may
be reinstated by filing the current annual report together with
42 the current annual filing fee and by paying the reinstatement fee
of \$125 for each year the limited liability partnership failed to
44 file an annual report. The maximum reinstatement fee may not
exceed \$500, regardless of the number of delinquent reports or
46 the period of delinquency.

48 **Sec. 58. 32 MRSA §64-A, sub-§1, ¶D**, as enacted by PL 1983, c.
378, §2, is amended to read:

50

2 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
4 the Administrative District Court in accordance with Title
4, chapter 25 5.

6 **Sec. 59. 32 MRSA §90-A, sub-§4, ¶D**, as amended by PL 1993, c.
575, §2, is further amended to read:

8
10 D. Except in the specific circumstances where ~~the--Maine~~
~~Administrative-Procedure-Act~~, Title 5, section 10004 may be
12 invoked, if the board or its staff concludes that suspension
or revocation of the license is in order, the board or its
14 staff shall hold a hearing or request the Attorney General
to file a complaint in the Administrative District Court in
accordance with Title 4, chapter 25 5 to commence either
16 full or emergency proceedings.

18 **Sec. 60. 32 MRSA §503-A, sub-§1, ¶D**, as enacted by PL 1983, c.
378, §4, is amended to read:

20
22 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
the Administrative District Court in accordance with Title
24 4, chapter 25 5.

26 **Sec. 61. 32 MRSA §1077, sub-§1, ¶D**, as enacted by PL 1983, c.
378, §7, is amended to read:

28
30 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
the Administrative District Court in accordance with Title
32 4, chapter 25 5.

34 **Sec. 62. 32 MRSA §1356, first ¶**, as amended by PL 1995, c. 355,
§14, is further amended to read:

36
38 The board may suspend or revoke the registration of an
engineer or the certificate of an engineer-intern pursuant to
Title 5, section 10004. The board may refuse to issue or renew or
40 the Administrative District Court, pursuant to Title 4, chapter
25 5, may revoke, suspend or refuse to renew the registration of
42 a registered professional engineer or the certificate of an
engineer-intern who is found guilty of:

44
46 **Sec. 63. 32 MRSA §2105-A, sub-§1-A, ¶E**, as enacted by PL 1985,
c. 724, §12, is amended to read:

48 E. If the board concludes that suspension or revocation of
the license is in order, file a complaint in the

2 Administrative District Court in accordance with Title 4,
chapter 25 5.

4 **Sec. 64. 32 MRSA §2431-A, sub-§1, ¶D**, as enacted by PL 1983,
c. 378, §30, is amended to read:

6 D. If the board concludes that suspension or revocation of
8 the license is in order, the board shall file a complaint in
10 the Administrative District Court in accordance with Title
4, chapter 25 5.

12 **Sec. 65. 32 MRSA §2591-A, sub-§1, ¶D**, as enacted by PL 1983,
c. 378, §38, is amended to read:

14 D. If the board concludes that suspension or revocation of
16 the license is in order, the board shall file a complaint in
18 the Administrative District Court in accordance with Title
4, chapter 25 5.

20 **Sec. 66. 32 MRSA §2594-D, sub-§2**, as amended by PL 1993, c.
600, Pt. A, §187, is further amended to read:

22 **2. Consent to physical or mental examination; objections to**
24 **admissibility of physician's testimony waived.** For the purposes
26 of this section, every physician assistant licensed under these
rules who accepts the responsibility of rendering medical
28 services in this State by the filing of an application and of
annual licensure:

30 A. Is deemed to have given consent to a mental or physical
examination when directed in writing by the board; and

32 B. Is deemed to have waived all objections to the
34 admissibility of the examining physician's testimony or
reports on the ground that these constitute a privileged
36 communication.

38 Pursuant to Title 4, section ~~1153~~ 184, subsection 6, the
40 Administrative District Court shall immediately suspend the
license of a physician assistant who can be shown, through the
42 results of the medical or physical examination conducted under
this section or through other competent evidence, to be unable to
44 render medical services with reasonable skill and safety to
patients by reason of mental illness, alcohol intemperance,
46 excessive use of drugs or narcotics or as a result of a mental or
physical condition interfering with the competent rendering of
48 medical services.

50 **Sec. 67. 32 MRSA §3270-C, sub-§2**, as amended by PL 1993, c.
600, Pt. A, §207, is further amended to read:

2 **2. Consent to physical or mental examination; objections to**
3 **admissibility of physician's testimony waived.** For the purposes
4 of this section, every physician assistant registered under these
5 rules who accepts the privilege of rendering medical services in
6 this State by the filing of an application and of biannual
7 registration renewal:

8 A. Is deemed to have consented to a mental or physical
9 examination when directed in writing by the board; and

10 B. Is deemed to have waived all objections to the
11 admissibility of the examining physician's testimony or
12 reports on the ground that these constitute a privileged
13 communication.

14 Pursuant to Title 4, section ~~1153~~ 184, subsection 6, the
15 Administrative District Court shall immediately suspend the
16 certificate of a physician assistant who can be shown, through
17 the results of the medical or physical examination conducted
18 under this section or through other competent evidence, to be
19 unable to render medical services with reasonable skill and
20 safety to patients by reason of mental illness, alcohol
21 intemperance, excessive use of drugs or narcotics or as a result
22 of a mental or physical condition interfering with the competent
23 rendering of medical services.

24 **Sec. 68. 32 MRSA §3282-A, sub-§1, ¶D**, as repealed and replaced
25 by PL 1991, c. 824, Pt. A, §68, is amended to read:

26 D. If the board concludes that suspension or revocation of
27 the license is in order, the board shall file a complaint in
28 the Administrative District Court in accordance with Title
29 4, chapter ~~25~~ 5.

30 **Sec. 69. 32 MRSA §3655-A, sub-§1, ¶D**, as amended by PL 1993,
31 c. 600, Pt. A, §248, is further amended to read:

32 D. If the board concludes that suspension or revocation of
33 the license is in order, the board may file a complaint in
34 the Administrative District Court in accordance with Title
35 4, chapter ~~25~~ 5.

36 **Sec. 70. 32 MRSA §4175, 3rd ¶**, as amended by PL 1989, c. 890,
37 Pt. A, §5 and affected by §40, is further amended to read:

38 The Administrative District Court may revoke the certificate
39 of an operator, in accordance with Title 4, chapter ~~25~~ 5, when it
40 is found that the operator has practiced fraud or deception; that
41 reasonable care, judgment or the application of the operator's
42

2 knowledge or ability was not used in the performance of the
operator's duties; or that the operator is incompetent or unable
4 properly to perform the operator's duties.

6 **Sec. 71. 32 MRSA §4864, first ¶**, as amended by PL 1997, c. 246,
§21, is further amended to read:

8 The board, on its own motion or upon complaint made to it,
10 may hold a hearing to determine whether or not violations of this
chapter or the standards for the practice of veterinary medicine
12 adopted by the board have been violated. Hearings conducted under
this section are "adjudicatory proceedings" and must be conducted
14 in accordance with the provisions of Title 5, chapter 375,
subchapter IV. The board has the authority to issue subpoenas
16 subject to the provisions of Title 5, section 9060. If the board
considers a licensee has committed any of the acts set forth in
18 this section, it shall either report its findings to the Attorney
General for prosecution in the Administrative District Court for
20 suspension or revocation in accordance with Title 4, chapter 25
5, or place the licensee on probation for a certain period of
22 time during which the licensee shall file periodic affidavits of
the licensee's practice in accordance with the standards set by
24 the board, or censure, by letter, the licensee. The following
acts are grounds for disciplinary action by the board or for
26 revocation or suspension by the Administrative District Court:

28 **Sec. 72. 32 MRSA §4865-A, first ¶**, as amended by PL 1993, c.
404, Pt. A, §11, is further amended to read:

30 The board, on the board's own motion or upon complaint made
to the board, may hold a hearing held in accordance with rules
32 adopted by the board to determine whether or not violations of
this chapter relating to veterinary technicians have occurred.
34 Hearings conducted under this section are considered
"adjudicatory proceedings" and are conducted in accordance with
36 the provisions of Title 5, chapter 375, subchapter IV. The board
may issue subpoenas subject to the provisions of Title 5, section
38 9060. If the board considers that a veterinary technician has
committed any of the acts set forth in this section, the board
40 shall either report the board's findings to the Attorney General
for prosecution in the Administrative District Court for
42 suspension or revocation of the veterinary technician's
registration in accordance with Title 4, chapter 25 5; place the
44 licensee on probation for a certain period of time during which
the licensee shall file periodic affidavits of the licensee's
46 duties in accordance with the standards set by the board; or
censure, by letter, the veterinary technician. The following acts
48 are grounds for disciplinary action by the board or for
revocation or suspension by the Administrative District Court:

2 **Sec. 73. 32 MRSA §4913, sub-§1**, as amended by PL 1983, c. 413,
§184, is further amended to read:

4 **1. Powers of board and District Court Judge concerning**
5 **complaints.** The board shall investigate or cause to be
6 investigated all complaints against certified geologists or soil
7 scientists and persons granted temporary authorizations pursuant
8 to this chapter and all cases of violations of this chapter. The
9 board may, pursuant to Title 5, section 10004, suspend or revoke
10 a license issued by it. In addition, the board may refuse to
11 issue or renew the license, or the ~~Administrative~~ District Court
12 may, pursuant to Title 4, chapter 25 5, suspend, revoke or refuse
13 to renew the license of any registrant who is found guilty of:

14 A. The practice of any fraud or deceit in obtaining a
15 certificate or registration;

16 B. Any gross negligence, incompetence or misconduct in the
17 practice of geology or soil science;

18 C. Any felony or any crime adversely affecting the ethical
19 standards of the professions regulated by this chapter,
20 subject to the limitations of Title 5, chapter 341; or

21 D. Any violation of this chapter or any rule of the board.

22 **Sec. 74. 32 MRSA §5018, first ¶**, as amended by PL 1987, c. 395,
23 Pt. A, §190, is further amended to read:

24 The board may, pursuant to Title 5, section 10004, revoke or
25 suspend the license of a professional forester. In addition, the
26 board may refuse to issue or renew the license, or the
27 ~~Administrative~~ District Court may, pursuant to Title 4, chapter
28 25 5, revoke, suspend or refuse to renew the license, of a
29 professional forester who has been found guilty of any deceit,
30 misconduct, misrepresentation, fraud, incompetence or gross
31 negligence in ~~his~~ professional practice, or has been guilty of
32 any fraud or deceit in obtaining ~~his~~ a license, or aids or abets
33 any person ~~alleged~~ alleged to have been defrauded in the
34 violation of any provisions of this chapter or fails in any
35 material respect to comply with the provisions of this chapter.

36 **Sec. 75. 32 MRSA §12274, sub-§1, ¶A**, as enacted by PL 1987, c.
37 489, §2, is amended to read:

38 A. Report its findings to the Attorney General for
39 prosecution in the ~~Administrative~~ District Court for
40 suspension in accordance with Title 4, chapter 25 5; or

2 **Sec. 76. 32 MRSA §13068, sub-§1**, as enacted by PL 1987, c.
395, Pt. A, §212, is amended to read:

4 **1. Licensing.** After hearing, the commission may affirm,
5 modify or reverse the director's decision to deny an examination,
6 license or renewal license, or, in its discretion, file a
7 complaint in the Administrative District Court pursuant to Title
8 4, chapter 25 5 and Title 5, section 10051, to determine whether
9 a license may be denied.

10 **Sec. 77. 33 MRSA §153** is repealed and the following enacted
11 in its place:

12 **§153. Sale or mortgage of estates subject to contingent**
13 **remainders**

14 **1. Sale or mortgage.** When real estate is subject to a
15 contingent remainder, executory devise or power of appointment,
16 the Superior Court, the District Court or the Probate Court for
17 the county or district in which the real estate is situated may,
18 upon the petition of any person who has an estate in possession
19 in the real estate and after notice and other proceedings as
20 required, appoint one or more trustees and authorize the trustee
21 or trustees:

22 A. To sell and convey the estate or any part of the estate
23 in fee simple, if such a sale and conveyance appears to the
24 court to be necessary or expedient; or

25 B. To mortgage the estate, either with or without power of
26 sale, for such an amount, on such terms and for such
27 purposes as may seem to the court judicious or expedient.

28 The conveyance or mortgage is valid and binding upon all parties.

29 **2. Petition.** The petition must set forth the nature of the
30 petitioner's title to the real estate, the source from which the
31 title was derived, the names and addresses of all persons known
32 to be interested in the real estate and any other facts necessary
33 for a full understanding of the matter.

34 **Sec. 78. 35-A MRSA §704, sub-§3**, as enacted by PL 1987, c.
35 141, Pt. A, §6, is amended to read:

36 **3. Violation of rules.** If the commission finds that a
37 public utility has willfully or recklessly violated any
38 substantive rule promulgated by the commission pursuant to the
39 authority granted in this section, the commission may bring a
40 complaint against the public utility before the Administrative
41 District Court as provided in Title 5, section 10051, subsection
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4, except that the jurisdiction in the Administrative District
2 Court shall does not include the issuance, renewal, denial or
3 revocation of a license of a public utility. The Administrative
4 District Court may impose fines in accordance with Title 4,
5 section ~~1156~~ 184, subsection 8.

6
7 **Sec. 79. Transition provisions.**

8
9 1. The District Court is the successor in every way to the
10 powers, duties and functions of the former Administrative Court.

11 2. Any positions authorized and allocated subject to the
12 personnel laws to the former Administrative Court are transferred
13 to the District Court and may continue to be authorized. The
14 Chief Judge and the Associate Judge of the former Administrative
15 Court are District Court judges for all purposes. Their terms as
16 District Court judges are for the balances of the terms for which
17 they were confirmed as judges of the Administrative Court; no
18 appointment or confirmation is required for each to serve the
19 remainder of their terms as District Court judges.

20 3. All records, property and equipment previously belonging
21 to or allocated for the use of the former Administrative Court
22 become, on the effective date of this Act, part of the property
23 of the District Court.

24
25 **Sec. 80. Maine Revised Statutes amended; revision clause.**

26
27 Wherever in the Maine Revised Statutes the words "Administrative
28 Court" appear or reference is made to those words, they are
29 amended to read and mean "District Court," and the Revisor of
30 Statutes shall implement this revision when updating, publishing
31 or republishing the statutes.

32
33
34 **SUMMARY**

35
36 This bill amends the jurisdiction of the District Court in 2
37 ways. First, it gives the District Court the equitable
38 jurisdiction to order the partition of property by sale. Both
39 the Superior Court and the probate courts currently have this
40 equity jurisdiction in the situation where a life tenant is
41 followed by a contingent remainder. Boyer v. Boyer, 1999 ME 128
42 (August 5, 1999).

43
44 Second, this bill gives the District Court all the
45 jurisdiction, powers and responsibilities of the Administrative
46 Court and eliminates the Administrative Court. The 2 sitting
47 Administrative Court judges become District Court judges, serving
48 the remainder of their terms without reappointment or
49 reconfirmation.