

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 593

H.P. 465

House of Representatives, February 8, 2001

An Act to Establish the Office of Securities within the Department of Professional and Financial Regulation.

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative O'NEIL of Saco.

Cosponsored by Senator DOUGLASS of Androscoggin and

Representatives: CRESSEY of Baldwin, GLYNN of South Portland, SULLIVAN of Biddeford, Senators: ABROMSON of Cumberland, LaFOUNTAIN of York.

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

2
3 **Sec. 1. 2 MRSA §6, sub-§4**, as amended by PL 1997, c. 643, Pt.
4 H, §2, is further amended to read:

6 **4. Range 88.** The salaries of the following state officials
and employees are within salary range 88:

8 Director, Bureau of Employee Relations;

10 Director, Bureau of Air Quality;

12 Director, Bureau of Land and Water Quality;

14 Director, Bureau of Remediation and Waste Management;

16 Deputy Commissioner, Environmental Protection;

18 Director, Office of Consumer Credit Regulation; and

20 Director, Office of Licensing and Registration; and

22 Administrator, Office of Securities.

24 **Sec. 2. 9-B MRSA §212-A**, as amended by PL 1995, c. 502, Pt.
26 H, §5, is repealed.

28 **Sec. 3. 10 MRSA §8001, sub-§3-A** is enacted to read:

30 3-A. Office of Securities. Office of Securities; and

32 **Sec. 4. 19-A MRSA §2201, sub-§12**, as enacted by PL 1995, c.
34 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

36 **12. Reporting.** On or before April 1, 1994, or as soon as
economically feasible and at least annually, all boards subject
38 to this section and the Department of Professional and Financial
Regulation, Division of Administrative Services shall provide to
40 the department specified information, on magnetic tape or other
machine-readable form, according to standards established by the
42 department, about applicants for licensure and all current
licensees. The Department of Professional and Financial
44 Regulation, Office of Securities Division shall provide the
specified information for only those current licensees that are
46 residents of this State. The information to be provided must
include all of the following information about the licensee:

48 A. Name;

50 B. Address of record;

- 2 C. Federal employer identification number or social
security number;
- 4 D. Type of license;
- 6 E. Effective date of license or renewal;
- 8 F. Expiration date of license; and
- 10 G. Active or inactive status.

12 **Sec. 5. 24-A MRSA §6207, sub-§1**, as enacted by PL 1987, c.
14 482, §1, is amended to read:

16 **1. Copy of declaration; filing.** A copy of the declaration
18 prepared pursuant to the Maine Condominium Act, Title 33, chapter
31, along with a copy of any registration statement filed with
20 the United States Securities and Exchange Commission or the
~~Bureau of Banking, Office of Securities Division~~, shall must be
22 filed with the superintendent prior to the sale of any of the
condominium units; and

24 **Sec. 6. 24-A MRSA §6208, 2nd ¶**, as enacted by PL 1987, c. 482,
§1, is amended to read:

26 If a registration statement for the cooperative is filed
28 with the ~~Bureau of Banking, Office of Securities Division~~,
pursuant to the Revised Maine Securities Act, Title ~~13~~ 32,
30 chapter 105, a copy shall must be simultaneously filed with the
superintendent and a copy shall must be given to every purchaser
32 of a membership interest or share in the cooperative at least 10
days prior to the sale of the interest or share. Any information
34 required to be filed with the superintendent pursuant to this
chapter and contained in the referenced registration materials
36 may be filed in that format with the superintendent and need not
be submitted under separate cover. If a registration statement is
38 not filed with the Office of Securities Division, a disclosure
statement containing, to the extent applicable, all the
40 information required to register a security by qualification,
pursuant to Title 32, section 10404, shall must be filed with the
42 superintendent and given to every subscriber at least 10 days
prior to the sale. In the alternative, a provider may elect to
44 provide each subscriber a disclosure statement containing those
provisions stated in section 6209 determined to be required by
46 the superintendent.

48 **Sec. 7. 32 MRSA c. 105, sub-c. 1** is amended by repealing the
subchapter headnote and enacting the following in its place:

50

SUBCHAPTER I

OFFICE OF SECURITIES AND SECURITIES ADMINISTRATOR

Sec. 8. 32 MRSA §§10102 and 10103 are enacted to read:

§10102. Office of Securities

There is created within the Department of Professional and Financial Regulation the Office of Securities, referred to in this subchapter as the "office," which is responsible for the administration and enforcement of the Revised Maine Securities Act; the Maine Commodity Code; and the law regulating the sale of business opportunities.

§10103. Administrator and other personnel

1. Appointment; term; qualifications. The activities of the office are directed by the Securities Administrator, who is appointed by the Commissioner of Professional and Financial Regulation. The administrator is appointed for a term that is coterminous with the term of the Governor, or until a successor is appointed and qualified. Any vacancy occurring must be filled by appointment for the unexpired portion of the term. The administrator may be removed from office for cause by the commissioner, and Title 5, section 931, subsection 2 does not apply. A person appointed as administrator must have knowledge of, or experience in, the theory and practice of securities.

2. Organization. With the approval of the commissioner, the administrator shall organize the office in such a manner as the administrator considers necessary to carry out the administrator's responsibilities.

3. Employees. The administrator may employ personnel as the business of the office may require, subject to the commissioner's approval and in accordance with the Civil Service Law. The qualifications of the personnel must reflect the needs and responsibilities of the office's regulatory functions. The administrator may authorize senior personnel of the office to carry out the administrator's duties and authority.

The administrator may employ or engage such expert, professional or other assistance as may be necessary to assist the office in carrying out its functions.

In addition to salaries or wages, all employees of the office must receive their actual expenses incurred in the performance of their official duties.

2 4. Training of office personnel. At the expense of the
office, the administrator may train the office's employees, or
4 have them trained, in a manner the administrator determines
desirable, to carry out the purposes of the office.

6 **Sec. 9. 32 MRSA §10702, sub-§3,** as enacted by PL 1999, c. 184,
§23, is amended to read:

8
10 **3. Contracts with other agencies.** The administrator may
employ and engage experts, professionals and other personnel of
12 other state and federal regulatory agencies as necessary to
assist the Office of Securities Division in carrying out its
14 regulatory functions. The administrator may contract office
staff to other state and federal agencies to assist those
16 agencies in carrying out their regulatory functions. Contracts
for services under this subsection are designated sole source
18 contracts and are not subject to the procurement requirements of
Title 5, chapter 155.

20 **Sec. 10. 32 MRSA §10708, sub-§8,** as enacted by PL 1989, c.
542, §65, is repealed.

22 **Sec. 11. 32 MRSA §11210** is enacted to read:

24 §11210. Short title

26 This chapter is known and may be cited as the "Maine
28 Commodity Code."

30 **Sec. 12. 33 MRSA §1604-106,** as enacted by PL 1981, c. 699, is
amended to read:

32 **§1604-106. Public offering statement; condominium securities**

34
36 If an interest in a condominium is currently registered with
the Securities and Exchange Commission of the United States or
38 the Office of Securities Division ~~of the Bureau of Banking~~ of
this State, a declarant satisfies all requirements relating to
40 the preparation of a public offering statement of this Act if he
the declarant delivers to the purchaser a copy of the public
42 offering statement filed with the Securities and Exchange
Commission or the Office of Securities Division. When a
44 condominium is located in a state other than Maine, under the
laws of which a public offering statement is required in detail
46 similar to the requirements of this Act, a declarant satisfies
all requirements relating to the preparation of a public offering
48 statement if he the declarant delivers to the purchaser a copy
of such that public offering statement.

50 **Sec. 13. Transition.** The following provisions apply to the
reassignment of the duties and responsibilities of the Department

2 of Professional and Financial Regulation, Bureau of Banking,
3 Securities Division to the Office of Securities.

4 1. The Office of Securities is the successor in every way
5 to the powers, duties and functions transferred under this Act
6 and formerly held by the Securities Division.

8 2. All rules, regulations and procedures of the Securities
9 Division in effect upon the effective date of the Act remain in
10 effect until rescinded, revised or amended.

12 3. All contracts, agreements and compacts of the Securities
13 Division in effect upon the effective date of this Act remain in
14 effect until they expire or are altered by the parties involved
15 in the contracts, agreements or compacts.

16 4. Any positions authorized and allocated, subject to the
17 personnel laws, to the Securities Division are transferred to the
18 Office of Securities and may continue to be authorized.

20 5. All records, property and equipment previously belonging
21 to or allocated for the use of the Securities Division become, on
22 the effective date of this Act, the property of the Office of
23 Securities.

26 **Sec. 14. Maine Revised Statutes amended; revision clause.**

27 Wherever in the Maine Revised Statutes the words "Securities
28 Division" appear or reference is made to those words or that
29 division, they are amended to read and mean "Office of
30 Securities" or that office, and the Revisor of Statutes shall
31 implement this revision when updating, publishing or republishing
32 the statutes.

34 **SUMMARY**

36 This bill moves the Securities Division from the Bureau of
37 Banking to a separate office within the Department of
38 Professional and Financial Regulation to be known as the "Office
39 of Securities." The Securities Administrator is appointed by the
40 Commissioner of Professional and Financial Regulation, for a term
41 coterminous with the Governor's, and may be removed for cause.
42 The administrator is given compensation commensurate with other
43 agency heads within the Department of Professional and Financial
44 Regulation and is given like authority to appoint and train
45 personnel, cooperate and contract with other agencies and
46 organize the Office of Securities. The administrator may also
47 delegate the administrator's duties and authorities to senior
48 office personnel. The substantive regulatory authority of the
49 agency and the administrator remain unchanged.