

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2010

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Legislative Document

No. 1608

H.P. 1136

House of Representatives, December 23, 2009

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**An Act To Establish an Office of Administrative Law Judges for  
Licensing Boards**

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

Received by the Clerk of the House on December 21, 2009. Referred to the Committee on Business, Research and Economic Development pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SMITH of Monmouth.  
Cosponsored by Senator GOODALL of Sagadahoc and  
Representatives: BEAUDETTE of Biddeford, DOSTIE of Sabattus, FLAHERTY of  
Scarborough, HAYES of Buckfield, McCABE of Skowhegan, NELSON of Falmouth,  
O'BRIEN of Lincolnville, WATSON of Bath.

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

2 **Sec. 1. 10 MRSA §8001, sub-§3-A,** as enacted by PL 2001, c. 182, §5, is  
3 amended to read:

4 **3-A. Office of Securities.** Office of Securities; and

5 **Sec. 2. 10 MRSA §8001, sub-§3-B** is enacted to read:

6 **3-B. Independent Office of Administrative Law Judges.** Independent Office of  
7 Administrative Law Judges; and

8 **Sec. 3. 10 MRSA §8003, sub-§2-B** is enacted to read:

9 **2-B. Independent Office of Administrative Law Judges.** Effective October 1,  
10 2011, the Independent Office of Administrative Law Judges, as set forth in section 8001,  
11 subsection 3-B, is established within the department. The Independent Office of  
12 Administrative Law Judges is responsible for hearing and deciding all occupational and  
13 professional licensing enforcement actions that are brought against a licensee or a  
14 registrant and referred by the Office of Licensing and Registration.

15 A. The commissioner may appoint a director of the Independent Office of  
16 Administrative Law Judges, who must be either a licensed attorney admitted to the  
17 practice of law in the State or a retired judge of the District Court or Superior Court.  
18 The director may hire administrative law judges necessary to perform the  
19 responsibilities under this section. An administrative law judge must be admitted to  
20 the practice of law in the State and registered with the Board of Overseers of the Bar  
21 or be a retired judge of the District Court or Superior Court. The director may hire  
22 clerical and technical assistants necessary to discharge the duties of the office and  
23 shall outline their duties and fix their compensation, subject to the Civil Service Law.

24 B. The Maine Rules of Evidence apply in all enforcement actions brought under this  
25 subsection against a licensee or registrant, and the parties may conduct and use the  
26 same discovery procedures as provided in the Maine Rules of Civil Procedure.

27 C. A person aggrieved by an enforcement of the Independent Office of  
28 Administrative Law Judges may, within 30 days of the enforcement action, appeal to  
29 the District Court.

30 **Sec. 4. Transition.** The Commissioner of Professional and Financial Regulation  
31 shall identify the statutory and rule changes necessary to implement this Act, including,  
32 but not limited to, identifying those changes necessary to authorize the Independent  
33 Office of Administrative Law Judges, established in the Maine Revised Statutes, Title 10,  
34 section 8003, subsection 2-B, to hear and decide all licensing board enforcement actions  
35 and for licensing boards to receive, review and investigate licensing complaints for  
36 referral to the Independent Office of Administrative Law Judges. The commissioner  
37 shall submit a report that includes the commissioner's findings and recommendations,  
38 including suggested legislation to implement the statutory changes, to the joint standing  
39 committee of the Legislature having jurisdiction over business, research and economic  
40 development matters by January 15, 2011. After receipt and review of the report, the

1 joint standing committee of the Legislature having jurisdiction over business, research  
2 and economic development matters may submit legislation to the First Regular Session of  
3 the 125th Legislature.

4 **Sec. 5. Effective date.** Those sections of this Act that amend the Maine Revised  
5 Statutes, Title 10, section 8001, subsection 3-A and enact Title 10, section 8001,  
6 subsection 3-B and Title 10, section 8003, subsection 2-B take effect October 1, 2011.

7 **SUMMARY**

8 This bill establishes the Independent Office of Administrative Law Judges to decide  
9 cases related to licensing complaints from licensing boards under the Department of  
10 Professional and Financial Regulation.