

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 176

S.P. 65

In Senate, January 31, 2013

An Act To Amend and Clarify the Maine Uniform Securities Act

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

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator WHITTEMORE of Somerset.
Cosponsored by Representative MORRISON of South Portland and
Senator: GRATWICK of Penobscot, Representatives: DOAK of Columbia Falls,
FITZPATRICK of Houlton.

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

2 **Sec. 1. 32 MRSA §16409**, as enacted by PL 2005, c. 65, Pt. A, §2, is amended to
3 read:

4 **§16409. Withdrawal or nonrenewal of licensing of broker-dealer, agent, investment**
5 **adviser and investment adviser representative**

6 Withdrawal of licensing by a broker-dealer, agent, investment adviser or investment
7 adviser representative becomes effective 60 days after the filing of the application to
8 withdraw or within any shorter period authorized by the administrator, unless a
9 revocation or suspension proceeding is pending when the application is filed. If a
10 proceeding is pending, the administrator shall make a determination with respect to the
11 withdrawal application as part of the proceeding. The administrator may institute a
12 revocation or suspension proceeding under section 16412 within one year after the
13 withdrawal became effective automatically or within one year of a license's becoming
14 ineffective due to nonrenewal under section 16406 and issue a revocation or suspension
15 order as of the last date on which licensing was effective.

16 **Sec. 2. 32 MRSA §16508, sub-§1**, as enacted by PL 2005, c. 65, Pt. A, §2, is
17 amended to read:

18 **1. Criminal penalties.** A person that intentionally or knowingly ~~violates~~ engages in
19 an act that results in a violation of this chapter, or a rule adopted or order issued under
20 this chapter, except section 16504 or the notice filing requirements of section 16302 or
21 16405, or that intentionally or knowingly violates section 16505 knowing the statement
22 made to be false or misleading in a material respect, upon conviction, commits a Class C
23 crime. In any prosecution under this section, the State need not prove that the defendant
24 knew that any instrument involved was a security, that any instrument was required to be
25 registered under section 16301 or that any license was required under sections 16401 to
26 16404 or otherwise prove knowledge of this chapter or an intent to violate this chapter.
27 An individual convicted of violating a rule or order under this chapter may be fined, but
28 may not be imprisoned, if the individual did not have knowledge of the rule or order.

29 **Sec. 3. 32 MRSA §16604, sub-§4**, as amended by PL 2011, c. 37, §3, is further
30 amended to read:

31 **4. Civil fine; final orders and remedies.** In a final order under subsection 3, the
32 administrator may: order remedies described in subsection 1; censure that person; bar that
33 person from association with any issuer, broker-dealer or investment adviser in this State;
34 order restitution; or impose a civil fine not to exceed \$5,000 per violation. For a violation
35 involving an investor 65 years of age or older, the amount of the civil fine may be
36 doubled to an amount not to exceed a maximum of \$10,000 per violation.

37 **SUMMARY**

38 The Maine Uniform Securities Act currently provides the Securities Administrator of
39 the Office of Securities within the Department of Professional and Financial Regulation

1 with the authority to institute a revocation or suspension proceeding against a licensee
2 within one year after withdrawal of a license by a licensee. This bill allows the
3 administrator also to institute a revocation or suspension proceeding within one year of a
4 license's becoming ineffective due to nonrenewal.

5 The bill clarifies that the culpable mental state that must be proven to support a
6 criminal conviction of a person under the Maine Uniform Securities Act is that the person
7 intentionally or knowingly engaged in conduct that violated the Act and that no proof of
8 knowledge of the law is required.

9 The Maine Uniform Securities Act provides for an order of restitution as part of a
10 civil or criminal action under the Act. The bill allows the administrator to order
11 restitution in a final order as part of an administrative proceeding. The Maine Uniform
12 Securities Act provides that an order of the administrator may be appealed to the Superior
13 Court by the person against whom the order is issued.