

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Twin City Printery  
Lewiston, Maine  
1987

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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1-A. Emergency license for copper sulfate applications in public water supplies. The commissioner shall issue upon application, an emergency license within 48 hours of application to treat public water supplies with copper sulfate or related compounds. The board may not issue more than 2 consecutive licenses for the same body of water.

A. An emergency license may only be issued if the Department of Human Services, Division of Health Engineering has determined that:

(1) An abundant growth of taste or odor producing algae exists to such a degree that the water supply is in danger of becoming unhealthful or unpalatable;

(2) The abundance of algae is a sporadic event. For purposes of this section, "sporadic" means occurring not more than 2 years in a row; and

(3) The algae cannot effectively be controlled by other methods.

B. Any emergency license issued under this section is for one application or series of applications not to exceed 6 months, as provided in the terms of the license.

C. The board shall impose all conditions necessary to meet the requirements of this section and all other relevant provisions of law.

D. The Department of Environmental Protection and the Department of Human Services shall jointly adopt rules to carry out the purposes of this section.

**Sec. 3. Commencement of rulemaking.** Rulemaking concerning algae levels in public water supplies shall commence within 30 days of the effective date of this Act.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 22, 1987.

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## CHAPTER 395

S.P. 590 — L.D. 1743

### AN ACT Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws.

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1987; and

Whereas, certain independent agencies will terminate, unless continued by the Legislature, prior to June 30, 1987; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

### PART A

**Sec. 1.** 3 MRSA §505, sub-§3 is enacted to read:

3. Maine Historical Society. Notwithstanding the fact that the Maine Historical Society is a private, nonprofit corporation, it shall be reviewed by the joint standing committee of the Legislature having jurisdiction over audit and program review no later than June 30, 1987, and at least every 10 years thereafter, as long as it receives an appropriation from the State. The termination provisions of this chapter shall not apply to the Maine Historical Society.

**Sec. 2.** 3 MRSA §507, sub-§8, ¶B, as amended by PL 1985, c. 763, Pt. A, §4, is further amended to read:

B. Unless continued or modified by law, the following Group D-2 independent agencies shall terminate, not including the grace period, no later than June 30, 1987:

- (1) Advisory Committee on Maine Public Broadcasting;
- (2) Real Estate Commission;
- (3) Maine Athletic Commission;
- (4) Electricians' Examining Board;
- (5) State Claims Board Commission;
- (6) Board of Examiners on Speech Pathology and Audiology;
- (7) State Board of Social Worker Registration Licensure;
- (8) Board of Accountancy;
- (9) Arborist Examining Board;
- (10) Maine State Board for Registration Licensure of Architects and Landscape Architects;

~~(11) Board of Examiners for the Examination of Applicants for Admission to the Bar;~~

(12) State Board of Barbers;

(13) State Board of Cosmetology;

(14) Manufactured Housing Board;

~~(15) State Running Horse Racing Commission;~~

(16) State Board of Registration of Substance Abuse Counselors;

(17) State Board of Registration Licensure for Professional Foresters;

(18) State Board of Certification for Geologists and Soil Scientists;

(19) Board of Examiners in Physical Therapy;

~~(20) Maine Criminal Justice Planning and Assistance Agency;~~

(21) Maine Occupational Information Coordinating Committee;

(22) Bryant Pond Conservation School;

(23) State Historian;

(24) Historic Preservation Commission;

~~(25) Maine Historical Society;~~

(26) Oil and Solid Fuel Board; and

(27) State Board of Examiners of Psychologists.

Sec. 3. 3 MRSA §507, sub-§8-A, ¶A, as enacted by PL 1985, c. 763, Pt. A, §5, is repealed.

Sec. 4. 3 MRSA §507, sub-§8-A, ¶B, as enacted by PL 1985, c. 763, Pt. A, §5, is amended to read:

B. The evaluations and analyses of the justification reports for the programs of the following Group E-2 independent agencies shall be reviewed by the Legislature no later than June 30, 1988:

(1) Board of Trustees of the University of Maine;

(2) Board of Trustees of the Maine Maritime Academy;

(3) State Government Internship Advisory Committee;

~~(4) Maine Vocational Development Commission; and~~

~~(5) Post-secondary Education Commission of Maine;~~

(6) Electricians' Examining Board;

(7) Arborist Examining Board;

(8) Maine Occupational Information Coordinating Committee;

(9) Bryant Pond Conservation School;

(10) Advisory Committee on Maine Public Broadcasting;

(11) Board of Examiners of Psychologists;

(12) Board of Commissioners of the Profession of Pharmacy;

(13) Alcohol and Drug Abuse Planning Committee; and

(14) State Board of Social Worker Licensure.

Sec. 5. 3 MRSA §507, sub-§9, ¶A, as amended by PL 1985, c. 763, Pt. A, §6 and PL 1985, c. 785, Pt. B, §5, is repealed and the following enacted in its place:

A. The evaluations and analyses of the justification reports for the programs of the following Group E-1 departments shall be reviewed by the Legislature no later than June 30, 1989:

(1) Maine State Retirement System;

(2) Department of Labor; and

(3) Department of Administration, but limited to the Bureau of Human Resources, Bureau of Employee Relations and Bureau of Public Improvements.

Sec. 6. 3 MRSA §507, sub-§9, ¶B, as amended by PL 1985, c. 763, Pt. A, §6 and PL 1985, c. 785, Pt. A, §3, is repealed and the following enacted in its place:

B. The evaluations and analyses of the justification reports for the programs of the following Group F-2 departments shall be reviewed by the Legislature no later than June 30, 1990:

(1) Department of Finance;

(2) (Office of) Treasurer of State;

(3) Department of Audit;

(4) Department of Administration, except for the Bureau of Human Resources, Bureau of Employee Relations and Bureau of Public Improvements; and

(5) Department of the Attorney General.

Sec. 7. 3 MRSA §507, sub-§10, ¶A, as amended by PL 1985, c. 763, Pt. A, §7 and PL 1985, c. 785, Pt. B, §6, is repealed and the following enacted in its place:

A. Unless continued or modified by law, the following Group E-1, independent agencies shall terminate, not including the grace period, no later than June 30, 1989.

- (1) Board of Trustees, Group Accident and Sickness or Health Insurance;
- (2) Maine Labor Relations Board;
- (3) State Civil Service Appeals Board;
- (4) Educational Leave Advisory Board;
- (5) Workers' Compensation Commission; and
- (6) Board of Accountancy.

Sec. 8. 3 MRSA §507, sub-§10, ¶B, as amended by PL 1985, c. 695, §3; PL 1985, c. 763, Pt. A, §7; and PL 1985, c. 764, §1, is repealed and the following enacted in its place:

B. Unless continued or modified by law, the following Group G-2 independent agencies shall terminate, not including the grace period, no later than June 30, 1990. The Board of Emergency Municipal Finance, the Finance Authority of Maine and the Maine Municipal Bond Bank shall not terminate, but shall be reviewed by the Legislature no later than June 30, 1990:

- (1) Board of Emergency Municipal Finance;
- (2) Finance Authority of Maine;
- (3) Maine Municipal Bond Bank;
- (4) State Liquor Commission;
- (5) Capitol Planning Commission;
- (6) State Board of Property Tax Review;
- (7) Maine Health Care Finance Commission;
- (8) Maine Vocational-Technical Institute System;
- (9) Maine Commission for Women; and
- (10) Maine Human Rights Commission.

Sec. 9. 3 MRSA §507-B, sub-§10 is enacted to read:

10. Agencies scheduled for termination on June 30, 1987; continued. Pursuant to section 507, subsection 8, paragraph B, the following agencies scheduled for termination on June 30, 1987, are continued.

A. Real Estate Commission;

B. Maine Athletic Commission;

C. State Claims Board;

D. Board of Examiners on Speech Pathology and Audiology;

E. Maine State Board for Licensure of Architects and Landscape Architects;

F. State Board of Barbers;

G. State Board of Cosmetology;

H. Manufactured Housing Board;

I. State Board of Substance Abuse Counselors;

J. State Board of Licensure for Professional Foresters;

K. State Board of Certification for Geologists and Soil Scientists;

L. Board of Examiners in Physical Therapy;

J. State Historian;

N. Historic Preservation Commission; and

O. Oil and Solid Fuel Board.

Sec. 10. 4 MRSA §801, as amended by PL 1985, c. 124, §1, is repealed and the following enacted in its place:

§801. Board of bar examiners; purpose; appointment

The Supreme Judicial Court shall create a board of bar examiners for the purposes of designing, administering and passing judgment on examinations taken by those individuals seeking admission to the bar. The board shall make recommendations to the Supreme Judicial Court as to which individuals have successfully passed this examination process and fulfilled the other requirements of this chapter for admission to the bar. All procedural, administrative and budgetary actions of a board of bar examiners shall be subject to rules established by the Supreme Judicial Court and are deemed to be actions of the Supreme Judicial Court. The board shall be composed of 9 members, 7 of whom shall be licensed to practice law in the State and shall be appointed by the Governor on the recommendation of the Supreme Judicial Court. The remaining 2 members shall be public members and shall be appointed by the Governor.

Sec. 11. 4 MRSA §801-A, as enacted by PL 1977, c. 604, §1, is repealed.

Sec. 12. 4 MRSA §803, as repealed and replaced by PL 1985, c. 124, §3, is amended to read:

§803. Qualifications for taking bar examination

1. Evidence of graduation. Before taking the examination for admission to the bar of the State, each applicant shall produce to ~~the a board of bar examiners~~ satisfactory evidence that he graduated with a bachelor's degree from an accredited college or university or that he successfully completed at least 2 years' work as a candidate for that degree at an accredited college or university.

2. Further qualifications. Each applicant shall produce to ~~the a board of bar examiners~~ satisfactory evidence that he:

A. Graduated from a law school accredited by the American Bar Association;

B. Graduated from a law school accredited by the United States jurisdiction in which it is located, that he has been admitted to practice by examination in one or more jurisdictions within the United States and has been in active practice there for at least 3 years;

C. Graduated from a foreign law school with a legal education which, in the board's opinion, is equivalent to that provided in those law schools accredited by the American Bar Association; or

D. Successfully completed 2/3 of the requirements for graduation from a law school accredited by the American Bar Association and then pursued the study of law in the office of an attorney within the State for at least one year.

3. Eligibility for examination. When an applicant has satisfied ~~the a board of bar examiners~~ that these requirements have been fulfilled and has paid a fee fixed ~~by the board and approved~~ by the Supreme Judicial Court, he is eligible to take the examinations prepared or adopted by the board to determine if he has the qualifications required by this chapter for admission to the bar.

Sec. 13. 4 MRSA §805, as repealed and replaced by PL 1985, c. 124, §5, is repealed.

Sec. 14. 4 MRSA §805-A, sub-§2, as enacted by PL 1985, c. 124, §6, is amended to read:

2. Issuance of certificate of qualification. ~~The A board of bar examiners~~ shall issue a certificate of qualification stating that the applicant is a person of good moral character and possesses sufficient learning in the law to practice as an attorney in the courts of this State to each applicant who:

A. Produces satisfactory evidence of good moral character;

B. Attains the passing grades established by the board on those examinations required by the board; and

C. Establishes that he attended and observed any legal proceedings required by the board.

Sec. 15. 4 MRSA §1151, sub-§2, as amended by PL 1985, c. 748, §1 and c. 771, §1, is repealed and the following enacted in its place:

2. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 10, section 8003-A; Title 32, chapter 113; and Title 35, section 13-A, the Administrative Court shall have exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency, and shall have original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The Administrative Court shall have original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, no licensing agency may reinstate or otherwise affect a license suspended, revoked or modified by the Administrative Court pursuant to a complaint filed by the Attorney General, without the approval of the Attorney General.

Sec. 16. 5 MRSA §151, as amended by PL 1979, c. 606, §1, is repealed and the following enacted in its place:

§151. Funds of professional licensing boards

All money received by the Treasurer of State from the Board of Registration in Medicine, the Board of Examiners in Physical Therapy, the Board of Examiners of Psychologists, the State Board of Nursing, the Board of Accountancy, the Board of Veterinary Medicine, the Board of Osteopathic Examination and Registration, the State Board of Funeral Service, the State Board of Optometry, the Board of Dental Examiners, the State Board of Registration for Professional Engineers, the State Board of Certification for Geologists and Soil Scientists, the Nursing Home Administrators Licensing Board, the State Board of Licensure for Architects and Landscape Architects, the Electricians' Examining Board, the Oil and Solid Fuel Board, Maine State Pilotage Commission, the State Board of Barbers, State Board of Cosmetology, State Board of Registration for Land Surveyors, State Board of Social Worker Registration, the Examiners of Podiatrists, the Board of Chiropractic Examination and Registration, the Board of Examiners on Speech Pathology and Audiology, the Maine Real Estate Commission, the Board of Commercial Driver Education, the Board of Registration of Dietetic Practice, the State Board of Registration for Professional Foresters, the Board of Hearing Aid Dealers and Fitters, the Manufactured Housing Board, the Board of Occupational Therapists, Radiologic Technology Board of Examiners, Board of Registration of Substance Abuse Counselors, Maine Athletic Commission, Board of Underground Oil Storage

Tank Installers and the Board of Commissioners of the Profession of Pharmacy shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the law relating to each board respectively and as much thereof as may be required is appropriated for these purposes. The secretary of each board shall be reimbursed for all expenditures for books, stationery, printing and other necessary expenses incurred in the discharge of his duties. All such payments shall be made from the respective funds held in the State Treasury, after the approval of the State Controller. In no event may these payments exceed the amounts received by the Treasurer of State from the treasurer of each respective board. Any balance remaining to the credit of any board at the end of any year shall be carried forward to the next year.

Whenever there shall accumulate in the State Treasury to the account of any board or commission charged with the duty of issuing licenses for the conduct of any profession, trade or business, sums of money in excess of the amount required properly to cover the expense of performing the duties imposed upon the board or commission in connection with the granting of licenses and the supervision of persons licensed, the board or commission, with the approval of the Governor, may suspend the payment or reduce the amount of any license fees fixed by law for any renewal until, in the opinion of the board or commission, it shall be necessary to collect the full amount established by law.

Sec. 17. 5 MRSA §282, sub-§6, as enacted by PL 1983, c. 553, §1, is amended to read:

6. Supervise. To supervise and direct the administration of the State Claims Board Commission.

Sec. 18. 5 MRSA §1507, sub-§6, as enacted by PL 1975, c. 771, §67, is amended to read:

6. Claims. The Governor shall allocate funds from the account for the payment of claims approved or partially approved by the State Claims Board Commission under section 1510.

Sec. 19. 5 MRSA §1510-A, as amended by PL 1983, c. 553, §2, is further amended to read:

§1510-A. Certain claims against the State

1. Claims against state agency. A state agency may hear and decide any claim of \$2,000 or less against it, or any of its agents, except a claim that may be submitted under the Maine Tort Claims Act, Title 14, chapter 741, or under another specific statutory provision. Any agency paying all or part of a claim heard under this subsection shall make payment as soon as practicable from currently available agency funds and, if no funds are then available, from agency funds from the following fiscal year. An agency deciding a claim under this subsection shall make its final decision, and reasons for the decision,

in writing and shall, as soon as practicable, send a copy of that decision to the claimant by certified mail.

These claims shall include, but shall not be limited to, claims for damage or injury caused by patients, inmates, prisoners in the care or custody of the Department of Mental Health and Mental Retardation or of any institution administered by a department, by children in the custody of the Department of Human Services and for damage to sheep done by dogs or wild animals.

2. Claims against the State decided by the State Claims Commission. A claim under this section may be submitted to the State Claims Board Commission and heard and decided by it, if:

- A. The claim was submitted under subsection 1 to a state agency which refused to hear it;
- B. The claim was submitted under subsection 1 to a state agency and no final decision was made within 90 days of submission; or
- C. The claim cannot be submitted under a specific statutory provision other than subsection 1 because the claimant, as a result of an action or omission of a state agency or state agent, has not complied with time limits contained in that specific statutory provision.

Any payment resulting from a decision of the State Claims Board Commission on a claim submitted to it under this subsection shall be paid as soon as practicable by the state agency or agencies found responsible by the State Claims Board Commission or, if there is no clearly identifiable responsible state agency, the payment shall be paid from the state contingent fund.

3. Appeal from departmental decisions. Any claim disapproved in whole or part by a state agency hearing that claim under subsection 1 may be appealed to the State Claims Board Commission within 30 days from the disapproval or partial disapproval. The State Claims Board Commission shall hear de novo any claim so appealed.

Any payment resulting from a decision of the State Claims Board Commission on a claim submitted to it under this subsection shall be paid by the state agency or agencies found responsible by the State Claims Board Commission or, if there is no clearly identifiable responsible state agency, the payment shall be paid from the state contingent fund.

4. Appeal from State Claims Commission decision. Any party aggrieved by an award of the State Claims Board Commission may appeal therefrom to the Superior Court within 30 days after the date of the receipt of the notice of the award. The appeal shall be taken by filing a complaint setting forth, as in other civil matters, substantially the facts upon which the case shall be tried. Service shall be made on the opposing party and the State Claims Board Commission by sending a true



copy of the complaint by registered or certified mail within the time limit set out in this subsection. The complaint shall be filed in the Superior Court for the county where one or more of the parties reside or have their principal place of business or where the activity or property which is the subject of the proceeding is located. The court's determination shall be de novo and without a jury or, if all parties agree, by a referee or referees.

5. Jurisdiction over claims prior to January 4, 1977. The jurisdiction of the State Claims Board Commission over claims subject to this section includes those claims which have arisen prior to January 4, 1977, unless they have been ruled upon by the Governor and Executive Council or by the Legislature prior to January 4, 1977.

6. Hearings. Hearings on claims submitted under subsection 2 or appeals made under subsection 3 shall be held at a time and place which the State Claims Board Commission shall determine. The chairman shall assign either one or 3 members to hear and determine each claim. Hearings on claims under this section which are properly submitted to the State Claims Board Commission shall be held in accordance with the Maine Administrative Procedure Act, chapter 375. The decision of the board commission shall include the reasons for the findings.

7. Different procedures. A claim submitted under this section shall not be disapproved solely because a claim based on the same facts was submitted under a different statutory procedure and was disallowed.

8. Rules; report. The board commission may adopt rules and regulations to implement this section. The board commission shall, on or before January 30th of each year, report to the Legislature on all claims filed pursuant to this section.

Sec. 20. 5 MRSA §1510-B, as amended by PL 1981, c. 368, §1, is further amended to read:

§1510-B. No liability for wild animal damage

The State is not liable for damage done by wild animals to beehives or livestock. Neither state agencies nor the State Claims Board Commission may accept claims for such wild animal damage.

Sec. 21. 5 MRSA §1813, sub-§6, as amended by PL 1985, c. 158, §2, is further amended to read:

6. Surplus property. Providing for transfer of supplies, materials and equipment which are surplus from one state department or agency to another which may need them, and for the disposal by private and public sale of supplies, materials and equipment which are obsolete and unusable; provided, however, that if any political subdivision in the State or any educational institution enumerated in section 1813-A requests to purchase any such obsolete and unusable items, then the disposal shall be by private sale to that political subdivision or educa-

tional institution, ~~except that other state departments or agencies having an interest in that equipment shall have the option of first refusal;~~ that equipment to be retained for a period of at least one year in a current ongoing program. Any item purchased by a political subdivision or educational institution under this section shall not be sold or transferred by that political subdivision or educational institution for a period of 6 months from the date of the private sale and the State reserves the right to refuse to sell additional equipment to a political subdivision or educational institution if it is determined that the political subdivision or educational institution has not retained the equipment for the required period of 6 months;

Sec. 22. 5 MRSA c. 315, as amended, is repealed.

Sec. 23. 5 MRSA §7038, sub-§5 is enacted to read:

5. Schedules. The Department of Human Services shall be the first state agency scheduled for review by the Bureau of Human Resources. Findings of this process shall be reported to the joint standing committees of the Legislature having jurisdiction over audit and program review and human resources prior to June 1, 1988.

Sec. 24. 5 MRSA §12004, sub-§1, ¶A, sub-¶(3) is amended to read:

(3) Maine State Board for Registration Licensure of Architects and Landscape Architects	\$35/Day	32 MRSA §211
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Sec. 25. 5 MRSA §12004, sub-§1, ¶A, sub-¶(4) is repealed.

Sec. 26. 5 MRSA §12004, sub-§1, ¶A, sub-¶(14) is amended to read:

(14) State Board of Registration Licensure for Professional Foresters	Expenses Only \$30/Day	32 MRSA §5004
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Sec. 27. 5 MRSA §12004, sub-§1, ¶A, sub-¶(16), (35) and (36) are amended to read:

(16) State Board of Certification for Geologists and Soil Scientists	Expenses Only \$30/Day	32 MRSA §4907
(35) Real Estate Commission	\$35/Day	32 MRSA §4051-A §13062
(36) State Board of Social Worker Registration Licensure	Expenses Only	32 MRSA §7026

Sec. 28. 5 MRSA §12004, sub-§1, ¶A, sub-¶(38), as repealed and replaced by PL 1985, c. 295, §14, is amended to read:

(38) State Board of Registration of Substance Abuse Counselors Not Authorized 32 MRSA §6201

Sec. 29. 5 MRSA §12004, sub-§1, ¶A, sub-¶(42) is amended to read:

(42) Maine Athletic Commission 8 MRSA §141 32 MRSA §13501

Sec. 30. 5 MRSA §12004, sub-§2, ¶A, sub-¶(4) is amended to read:

(4) State Claims Board Commission \$100/Day 23 MRSA §152

Sec. 31. 7 MRSA §62, first ¶, as amended by PL 1979, c. 672, §14, is further amended to read:

There shall be appropriated annually from the State Treasury a sum of money equal to 5% of the amount contributed under Title 8, section 275, and additional sums of money as provided and limited by Title 8, ~~sections section 274 and 333~~, which shall be known as the state stipend for aid and encouragement to agricultural societies and hereafter designated as the "stipend." Forty-four percent of the amounts contributed under Title 8, ~~sections section 274 and 333~~, shall be divided for reimbursements in equal amounts to each recipient of the Stipend Fund which conducts ~~pari-mutuel~~ parimutuel racing in conjunction with its annual fair if the recipient has improved its racing facilities and has met the standards for facility improvements set by the commissioner for the recipients. If a recipient has not complied with the individual standards set by the commissioner ~~said~~ yearly reimbursements shall be paid in equal amounts to those recipients which have met such standards. A sum equal to 8% of the amount collected under Title 8, ~~sections section 274 and 333~~ shall be divided for reimbursement in amounts in proportion to the sums expended for premiums in the current year to each recipient of the Stipend Fund which does not conduct ~~pari-mutuel~~ parimutuel racing, if the recipient has improved its facilities and has met the standards for facility improvements set by the commissioner for the recipients. From the state stipend the commissioner may expend annually a sum not to exceed 2% for administrative and inspection services. The balance of this stipend shall be divided among the legally incorporated agricultural clubs, societies, counties and fair associations of the State, hereafter in this Title designated as "societies," according to the following schedule and method. ~~Said~~ The stipend shall be divided pro rata among the legally incorporated societies according to the amount of premiums and gratuities actually paid in full and in cash or valuable equivalent by ~~said~~ those societies upon horses, cattle, sheep, swine, poultry and agricultural and domestic product, provided that each of the qualifying societies which do not conduct ~~pari-mutuel~~ parimutuel racing shall receive shares which, considering the amount of premiums and gratuities actually paid during the fair season in question, are not less than the equivalent amount received by such societies during the 1976 fair season, and provided further, that no such so-

ciety whether specifically mentioned in this Title or otherwise ~~shall be~~ is entitled to any share of the stipend unless it shall have complied with the following requirements, which shall be considered by the commissioner as the basis upon which his apportionment of the stipend shall be made as provided in this section. No premiums or gratuities ~~shall may~~ be considered by the ~~said~~ commissioner in apportioning the amount of stipend to which any society is entitled except those offered and paid upon horses, cattle, sheep, swine, poultry, vegetables, grain, fruit, flowers, products derived from horses, cattle, sheep, swine, home canned foods, grange exhibits, farm exhibits, boys' and girls' club exhibits, exhibits of the mechanical arts, domestic and fancy articles produced in the farm home and pulling contests by horses and oxen. No society ~~shall be~~ is entitled to any share of the stipend unless it ~~shall have~~ has first obtained a license issued pursuant to section 65. No society, the Maine State Pomological Society excepted, ~~shall may~~ receive from the State a sum greater than that actually raised and paid by the society as premiums and gratuities in the classes provided and in no case ~~shall may~~ any society be entitled to any share of the stipend unless it ~~shall have~~ has raised and paid in premiums in the classes set forth at least \$200. No society ~~shall may~~ receive any portion of the stipend in excess of \$10,000, except that such limitation shall not apply to any additional stipend provided for by Title 8, section 274 ~~or 333~~. No society ~~shall may~~ receive any portion of such stipend unless it ~~shall have~~ has regularly entered and displayed in an attractive manner upon its exhibition grounds distinct exhibits or entries of vegetables, fruits, grains or dairy products, or of subordinate and other granges and 4-H clubs, of a quality acceptable to the commissioner or his regularly authorized agent and of varieties known to be common or standard to the county in which such exhibition is held.

Sec. 32. 8 MRSA c. 6-A, as amended, is repealed.

Sec. 33. 8 MRSA c. 13, as amended, is repealed.

Sec. 34. 10 MRSA §8001, as repealed and replaced by PL 1985, c. 737, Pt. A, §21 and as amended by PL 1985, c. 819, Pt. A, §15, is repealed and the following enacted in its place:

§8001. Department; organization

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, commercial sports, grantors of consumer credit and to license and regulate professions and occupations. The department shall be composed of the following bureaus, boards and commissions:

Banking, Bureau of;

Consumer Credit Protection, Bureau of;

Insurance, Bureau of;

Athletic Commission, Maine;

Pilotage Commission, Maine State;

Real Estate Commission;

Arborist Examining Board;

Auctioneers, Board of Licensing of;

Barbers, State Board of;

Commercial Driver Education, Board of;

Dietetic Practice, Board of Registration of;

Electricians' Examining Board;

Foresters, State Board of Licensure for Professional;

Funeral Service, State Board of;

Geologists and Soil Scientists, State Board of Certification for;

Hearing Aid Dealers and Fitters, Board of;

Manufactured Housing Board;

Nursing Home Administrators Licensing Board;

Occupational Therapy Practice, Board of;

Oil and Solid Fuel Board;

Physical Therapy, Board of Examiners in;

Plumbers' Examining Board;

Psychologists, State Board of Examiners of;

Radiologic Technology, Board of Examiners;

Respiratory Care Practitioners, Board of;

Social Worker Licensure, State Board of;

Speech Pathology and Audiology, Board of Examiners on;

Substance Abuse Counselors, State Board of; and

Veterinary Medicine, State Board of.

**Sec. 35.** 10 MRSA §9003, sub-§1, as amended by PL 1983, c. 812, §69, is further amended to read:

1. Established. The Manufactured Housing Board, established by Title 5, section 12004, subsection 1 and located in the Department of ~~Business, Occupational and Professional and Financial Regulation~~ shall have the responsibility of administering and enforcing this chap-

ter. The board shall consist of 5 ~~7~~ members appointed by the Governor.

**Sec. 36.** 10 MRSA §9003, sub-§§2 and 8, as enacted by PL 1977, c. 550, §1, are amended to read:

2. Composition and terms of the members. The members of the board shall include a representative who is a manufactured housing owner; a representative who is a professional engineer with demonstrated experience in construction and building technology; a representative who is a dealer ~~or mechanic~~; a representative who is a ~~general representative of the manufactured housing industry~~ an owner or operator of a mobile home park with 15 or fewer lots; a representative who is an owner or operator of a mobile home park with more than 15 lots; a representative who is a builder of manufactured housing; and a representative with a minimum of 2 years of practical experience in building code administration and enforcement and is currently employed as a code enforcement officer. The term of office of the appointed members is for 4 years, except that initially one member shall be appointed for one year; one member for 2 years; one member for 3 years; and 2 members for 4 years. Members may be appointed to successive terms. Members shall serve for their appointed term and until their successor is appointed and duly qualified, except that any member of the board may be removed for cause by the Governor. No board member may serve more than 2 consecutive terms.

8. Administration. Not later than August 1st of each year, the board shall submit to the Commissioner of ~~Business Professional and Financial Regulation~~ for the preceding fiscal year ending June 30th an annual report of its operations and financial position, together with such comments and recommendations as the board deems essential.

**Sec. 37.** 10 MRSA §9004, sub-§2, as amended by PL 1985, c. 785, Pt. B, §56, is further amended to read:

2. Employees. The executive director, with the advice of the board and the commissioner, may employ, subject to the Civil Service Law, persons necessary to carry out this chapter. Any person so employed shall be an employee of the Department of ~~Business, Occupational and Professional and Financial Regulation~~, except that they shall be under the direction and supervision of the executive director of the board.

**Sec. 38.** 10 MRSA §9061, sub-§§2 and 4, as enacted by PL 1981, c. 152, §16, are amended to read:

2. Commissioner. "Commissioner" means the Commissioner of ~~Business Professional and Financial Regulation~~.

4. Department. "Department" means the Department of ~~Business Professional and Financial Regulation~~ or its employees.

Sec. 39. 10 MRSA §9062, as enacted by PL 1981, c. 152, §16, is amended to read:

§9062. Duties

The board shall delegate the responsibility for administering the state administrative agency program to the Commissioner of Business Professional and Financial Regulation. The board is vested with the authority upon appropriate notice to discontinue participation in the federal enforcement program as a state administrative agency for this State.

Sec. 40. 10 MRSA §9064, as enacted by PL 1981, c. 152, §16, is amended to read:

§9064. Standards

1. Adoption, administration and enforcement of standards. The Department of Business Professional and Financial Regulation is charged with the adoption, administration and enforcement of manufactured home construction and safety standards. The standards adopted shall be identical to the standards promulgated pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code Section 5401 et seq. The Department of Business Professional and Financial Regulation shall discharge this duty consistent with rules and regulations promulgated by the United States Department of Housing and Urban Development.

2. Rules. The Department of Business Professional and Financial Regulation may adopt such rules and regulations as are necessary to enforce the standards promulgated under subsection 1.

Sec. 41. 10 MRSA §9072, as enacted by PL 1981, c. 152, §16, is amended to read:

§9072. Hearings

The Department of Business Professional and Financial Regulation may file a complaint with the Administrative Court which is authorized to conduct hearings and presentations of views consistent with Title 5, chapter 375.

Sec. 42. 14 MRSA §2602, sub-§10, as enacted by PL 1971, c. 468, §1, is amended to read:

10. Money deposited. By reason of any money deposited with him in a broker's trust account under Title 32, section ~~4004-A~~ 13178, except to the extent provided in that section.

Sec. 43. 20-A MRSA §202, sub-§15, as amended by PL 1985, c. 797, §8, is further amended to read:

15. Educational bureaus. The Bureau of Adult and Secondary Vocational Education, the Bureau of Instruction and the Bureau of School Management;

Sec. 44. 20-A MRSA §203, sub-§1, ¶E, as enacted by PL 1983, c. 489, §10, is amended to read:

E. Associate Commissioner, Bureau of Adult and Secondary Vocational Education;

Sec. 45. 20-A MRSA §251-A is enacted to read:

§251-A. Responsibilities of the commissioner

The commissioner is the chief executive officer of the department. In that capacity, the commissioner has primary responsibility for the following:

1. Enforcing regulatory requirements. Enforcing applicable regulatory requirements for school administrative units;

2. Providing technical assistance. Providing technical assistance to school administrative units; and

3. Providing educational leadership. Providing educational public leadership for the State.

Sec. 46. 20-A MRSA §256, sub-§1, as amended by PL 1985, c. 505, §1, is further amended to read:

1. Report to Governor and Legislature. The commissioner shall prepare and deliver to the Governor and Legislature an annual report on the status of public education in the State, including any suggestions and recommendations to improve public education and including the reporting requirements of section 13506, subsection 3-A. This annual report shall also include a description of the activities and accomplishments of the state board.

The commissioner may be invited by the Speaker of the House of Representatives and the President of the Senate annually, in January, to appear before a joint session of the Legislature to address the Legislature on the status of public education in the State and such related matters as the commissioner desires to bring to the Legislature's attention.

Sec. 47. 20-A MRSA §401-A is enacted to read:

§401-A. Responsibilities of the State Board of Education

The State Board of Education is intended to act as a body with certain policy-making, administrative and advisory functions. In those capacities, the board has the primary responsibility for the following:

1. Formulating policy. Formulating policy by which the commissioner shall administer certain regulatory tasks;

2. Advising commissioner. Advising the commissioner in the administration of all the mandated responsibilities of that position; and

3. Enforcing regulatory requirements. Enforcing

regulatory requirements for school administrative units.

Sec. 48. 20-A MRSA §402, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Meetings. Meetings of the state board shall be held at least quarterly in the offices of the department on call of the chairman or the commissioner on 5 days' written notice to members. If both the chairman and commissioner are absent, or refuse to call a meeting, any 3 members of the state board may call a meeting by similar notices in writing.

Sec. 49. 20-A MRSA §404, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§404. Records

The state board shall be responsible for the following records ~~and reports~~.

1. Records. The state board shall keep in the office of the commissioner a complete record of the minutes of its meetings and other procedures.

2. Report. ~~Biennially, on the first Monday of January, the state board shall make a report to the Governor which shall contain the report of the commissioner to the state board. The state board shall print this report and distribute it to the members of the Legislature and to school officers. The cost of printing the report shall be paid from the appropriation of the department.~~

Sec. 50. 20-A MRSA §405, sub-§3, ¶D, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

D. Act Review, when necessary, decisions made by the commissioner on applications for additions to, dissolution of, transfers among, withdrawals from and closing of schools in school administrative districts and community school districts;

Sec. 51. 20-A MRSA §405, sub-§4, as amended by PL 1983, c. 806, §7, is repealed.

Sec. 52. 20-A MRSA §405, sub-§5, as amended by PL 1985, c. 785, Pt. B, §79, is repealed.

Sec. 53. 20-A MRSA §1255, first ¶, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

The ~~state board commissioner~~ shall determine the necessity for reapportionment.

Sec. 54. 20-A MRSA §1255, sub-§§1, 2, 3, 8 and 9, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

1. Duties of the commissioner. The ~~state board commissioner~~ shall determine if a district is apportioned in accordance with the principles of one man, one vote, if:

A. ~~It He~~ receives a request by the board of directors;

B. ~~It He~~ receives a petition signed by district voters equal to at least 10% of the voters who voted in the last gubernatorial election in the district; or

C. ~~It He~~ determines a district is not apportioned according to the principles of one man, one vote.

2. Awaiting census results. If the ~~state board commissioner~~ receives a request within 12 months before a Federal Decennial Census or Federal Estimated Census, ~~the board~~ he may wait until after the new census figures are available to make a determination.

3. Findings and order. If the ~~state board commissioner~~ finds the district's representation is not apportioned in accordance with the principle of one man, one vote, ~~it he~~ shall, within 7 days of that decision, notify the municipal officers in each municipality in the district and the school board to create a reapportionment committee. The notification shall include the time and place for the first meeting of the committee which shall be held not later than 20 days after the ~~notification~~ notification.

8. Commissioner approval. The ~~state board commissioner~~ shall approve or disapprove the committee plan within 30 days of receiving it.

9. Failure to gain commissioner approval. If a plan has not been adopted by the committee or approved by the ~~board commissioner~~ within the time limits, ~~the commissioner~~ he shall prepare a suitable plan and submit it to the state board for approval.

Sec. 55. 20-A MRSA §1255, sub-§10, as amended by PL 1983, c. 806, §17, is further amended to read:

10. Putting the approved plan into effect. On approval of a plan ~~by the state board~~, the commissioner shall send a certified copy to the municipal officers and school directors. The original plan shall be retained in the ~~state board~~ department files.

A. The approved plan shall be effective immediately. The committee shall determine the terms of the directors who shall be elected at the next annual municipal elections so as to comply with section 1253.

B. If the approved plan requires a reduction of the number of directors to be elected in a municipality, all of the existing directors representing the municipality shall, within 7 days after the date of approval and under the supervision of the board of directors, choose by lot which directors' terms shall terminate.

C. If the approved plan requires that additional directors be elected in a municipality, the municipal officers shall fill the vacancies by appointment. A new director shall serve until a successor is elected and qualified at the next annual municipal election.

D. Except as provided in paragraph B, the current board of directors shall serve until the next annual municipal elections or until a date established in accordance with section 1003, subsection 2.

E. The reapportionment committee shall thereupon be dissolved.

Sec. 56. 20-A MRS §1255, sub-§§12 and 13 are enacted to read:

12. State board review of commissioner's decisions. A school administrative district or interested parties may request that the state board reconsider decisions made by the commissioner in this section. The state board shall have the authority to overturn a decision made by the commissioner. In exercising this power, the state board is limited by this section.

13. Rules. The state board may adopt rules to carry out this section.

Sec. 57. 20-A MRS §1401, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§1401. Additions

A municipality not originally in a school administrative district may be included as follows.

1. Application. The board of directors of the municipality wishing to join with an existing school administrative district may file an application with the state board commissioner on a form to be provided by the state board him.

A. The state board commissioner shall study the need for the municipality to join the school administrative district and recommend an agreement by which the municipality may become a member.

B. The agreement may contain a new method of sharing costs among the member municipalities of the district in accordance with section 1301. The article set out in section 1203, subsection 6, paragraph D, authorizing units to vote on alternate methods of sharing costs shall be used if the agreement recommended by the state board commissioner contains a provision for using one of the alternate methods of sharing costs.

C. This agreement shall be forwarded to the secretary of the school administrative district and to the clerk of the municipality desiring to join the district.

2. First meeting. Within 45 days after receipt of the agreement by the municipal clerk, a regular or special town meeting or city election in the joining municipality, shall vote on the agreement. The vote shall conform to the following procedure.

A. The article voted on shall be:

"Article : Shall the municipality vote to join School Administrative District No..... as a participating municipality of the district subject to the terms and conditions of the agreement prepared by the State Board of Education commissioner dated ..... 19..?"

Yes No "

(A copy of the agreement shall be posted with each warrant.)

B. The election of the directors and the vote on the agreement shall be conducted on the same day. This election shall follow the procedures used for the election of municipal officials by the municipality.

C. The vote on the agreement shall be called using the same methods as the municipality uses in conducting its business at regular or special town meetings or city elections.

D. If the municipality is organized under a special legislative charter, it shall call a referendum following the procedures outlined in its charter.

E. The municipal clerk shall send a certified copy of the results of the vote to the secretary of the school administrative district.

3. Second meeting. If the board of directors finds that the vote was in the affirmative, the board shall call a district referendum within 45 days in accordance with sections 1351 to 1354 to vote on the following article.

"Article : Shall the district vote to admit the municipality of ..... (name the municipality) ..... into School Administrative District No..... as a participating municipality of the district subject to the terms and conditions of the agreement prepared by the State Board of Education commissioner dated ..... 19.....?"

Yes No "

(A copy of the agreement shall be posted with each warrant.)

A. The municipal clerks within the district shall forward to the state board commissioner a certified report of the total number of affirmative and negative votes cast on the article.

B. On receipt of the results of the voting from all municipalities, the state board commissioner shall meet, compute and record the result of the voting.

4. Commissioner finding. If the state board commissioner finds that a majority of the voters of the district and a majority of the voters of the municipality favor admission of the municipality into the district, the state board he shall make a finding to that effect and record it on its records.

A. The ~~state board commissioner~~ shall notify by registered mail the clerk of the municipality seeking to join the school administrative district and the secretary of the school administrative district of the results of the vote.

B. If the ~~state board commissioner's~~ finding is that a majority is for joining, ~~it he~~ shall issue an amended certificate for the school administrative district, which shall be filed in the same manner as the original certificate.

5. Certificate. The issuance of an amended certificate shall be conclusive evidence of the admission of that municipality to the school administrative district.

Sec. 58. 20-A MRSA §1402, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§1402. Combining of districts

If one school administrative district wishes to join with another school administrative district, the following procedure shall be used.

1. Application. Each district's board of directors shall file an application with the ~~state board commissioner~~ on a form to be prepared by ~~the state board~~ him.

A. The ~~state board commissioner~~ shall receive the applications, make a study of the necessity for combining the districts and recommend an agreement by which the districts may combine.

B. This agreement shall be forwarded to the secretary of each school administrative district.

2. Meeting. Within 45 days after receipt of the agreement each district's board of directors shall call a district meeting in accordance with sections 1351 to 1354 to vote on the following article.

"Article : To see if School Administrative District No.... will vote to join School Administrative District No.... in a merger to form a larger district subject to the terms and conditions of the agreement prepared by the ~~State Board of Education~~ commissioner dated ..... 19.....

Yes No "

(A copy of the agreement shall be posted with each warrant.)

3. Return. The secretary of each school administrative district shall file a return with the ~~state board commissioner~~ immediately following the votes in the district on the question of merger.

4. Commissioner's finding. If the ~~state board commissioner~~ finds that a majority of the voters in each district have voted in favor of the merger, ~~the state board~~ he

shall make a finding to the effect ~~and record the same on its records.~~

5. Notice. The ~~state board commissioner~~ shall notify by registered mail the secretary of each district of the results of the vote.

6. Certificate. If the ~~state board commissioner's~~ finding is that a majority is for merging, ~~it he~~ shall issue a new certificate for the enlarged school administrative district and assign a number. The certificate shall be filed in the same manner as the original certificate.

7. Evidence. The issuance of the certificate by the ~~state board commissioner~~ shall be conclusive evidence of the merger of the school administrative districts.

Sec. 59. 20-A MRSA §1403, as amended by PL 1983, c. 364, §1, is further amended to read:

§1403. Dissolution of a district

1. Ten percent petition. Upon receipt of a petition which seeks to dissolve a school administrative district and establishes a maximum figure for the cost of preparing a dissolution agreement signed by 10% of the number of voters in a municipality who voted at the last gubernatorial election, the municipal officers shall call and hold a special election, in the manner provided for the calling and holding of town meetings or city elections to vote on the dissolution of the school administrative district.

A. At least 10 days before the election, a posted or otherwise advertised public hearing on the petition shall be held by the municipal officers.

B. The petition must be approved by secret ballot by a 2/3 vote of the voters present and voting before it may be presented to the board of directors and the ~~state board commissioner~~. Voting in towns shall be conducted in accordance with Title 30, sections 2061 and 2062, even if the towns have not accepted the provisions of Title 30, section 2061, and voting in cities shall be conducted in accordance with Title 21.

2. Form. The question to be voted upon shall be in substantially the following form:

"Article : Be it resolved by the residents of the Town of that a petition for dissolution be filed with the directors of School Administrative District No. and with the ~~State Board of Education~~ commissioner, that the dissolution committee be authorized to expend \$ and that the (municipal officers; i.e. selectmen, town council, etc.) be authorized to issue notes in the name of the Town of or otherwise pledge the credit of the Town of in an amount not to exceed \$ for this purpose?

Yes No "

3. Notice of vote; finding by commissioner. If residents of a participating municipality vote favorably on a petition for dissolution, the clerk shall immediately give written notices, by registered mail, to the secretary of the school administrative district, ~~the state board~~ and the commissioner which shall include:

A. The petition adopted by the voters, including the positive and negative votes cast; and

B. An explanation by the municipal officers, stating to the best of their knowledge, the reason or reasons why the municipality seeks to dissolve the district.

4. Agreement for dissolution; notice; changes in agreement; final agreement. The agreement for dissolution shall comply with the following.

A. The commissioner, after consultation with the district board of directors, municipal officers of the participating municipalities, and representatives of the group which filed the petition with the municipality, shall direct the municipal officers of each municipality to select representatives to a committee as follows: One member from the municipal officers, the group filing the petition; and one member from the general public; and one member from the group filing the petition if the group is represented in the municipality, otherwise an additional one member of the general public. The commissioner shall also direct the directors representing each municipality to select one member of the board of directors who represents that municipality to serve on the committee. The municipal officer and the member of the board of directors shall serve on the committee only so long as they hold their respective offices. Vacancies will be filled by the municipal officers and board of directors. The chairman of the board of directors shall call a meeting of the committee within 30 days of the filing of the notice of the vote in subsection 3. The chairman of the board shall open the meeting by presiding over the election of a chairman of the committee. The responsibility for the preparation of the agreement shall rest with the committee, subject to the approval of the ~~State Board of Education~~ commissioner. The committee may draw upon the resources of the department for information not readily available at the local level and employ competent advisors within the fiscal limit authorized by the voters. The agreement shall be submitted to the ~~state board~~ and the commissioner within 90 days after the committee is formed. Extensions of time may be granted by the commissioner upon the request of the committee.

(1) The agreement shall contain provisions to provide educational services for all students in the district. The agreement shall provide that during the first year following the dissolution, students may attend the school they would have attended if the district had not dissolved. The allowable tuition rate for students sent from one municipality to another in the former school administrative district shall be

determined under section 5805, subsection 1, except that it shall not be subject to the state per pupil average limitation in section 5805, subsection 2.

(2) The agreement shall establish the dissolution to take effect at the end of the district's fiscal year.

(3) The agreement shall establish that the dissolution will not cause a need within 5 years from the effective date of dissolution for school construction projects which would be eligible for state funds. This limitation does not apply where a need for school construction existed prior to the effective date of the dissolution or where a need for school construction would have arisen even if the district had not dissolved.

(4) The agreement shall establish how transportation services will be provided.

(5) The agreement shall provide for administration of the new administrative units, which should not include the creation of new supervisory units if at all possible.

(6) The agreement shall make provision for the distribution of financial commitments arising from outstanding bonds, notes and any other contractual obligations that extend beyond the proposed date of dissolution.

(7) The agreement shall make appropriate provision for the distribution of any outstanding financial commitments to the superintendent of the school administrative district.

(8) The agreement shall provide for the continuation and assignment of collective bargaining agreements as they apply to the new or reorganized school administrative unit for the duration of those agreements and shall provide for the continuation of representational rights.

(9) The agreement shall provide for the continuation of continuing contract rights under section 13201, subsection 2.

(10) The agreement shall provide for the disposition of all real and personal property and other monetary assets.

(11) The agreement shall provide for the transition of administration and governance of the schools to properly elected governing bodies of the newly created administrative units and shall provide that the governing bodies shall not be elected simultaneously with the vote on the article to dissolve unless the ~~state board~~ commissioner finds there are extenuating circumstances which necessitate simultaneous elections.

B. Within 60 days of the receipt of the agreement,



the ~~state board~~ commissioner shall either give it conditional approval or recommend changes ~~with the advice of the commissioner~~. The changes shall be based upon the standards set forth in paragraph A and the ~~board's commissioner's~~ findings of whether the contents of the plan will provide for appropriate educational and related services to the students of the district and for the orderly transition of assets, governance, and other matters related to the district.

C. If the ~~state board~~ commissioner gives conditional approval of the agreement, ~~the commissioner~~ he shall notify the directors and the municipal officers by registered mail of the time and place of a public hearing at least 20 days prior to the date set for the hearing, to discuss the merits of the proposed agreement of dissolution. The chairman of the board of directors will conduct the hearing.

(1) The directors shall post a public notice in each municipality of the time and location of the hearing at least 10 days before the hearing.

(2) Within 30 days following the hearing, the committee shall forward the final agreement to the commissioner ~~and the state board~~.

D. If the ~~state board~~ commissioner recommends changes it he shall:

(1) Send the agreement back to the committee for necessary corrections ;

(1-A) Establish a maximum time within which to make the corrections; and

(2) Indicate that the corrected agreement shall be returned to the ~~state board~~ commissioner for conditional approval before it goes to public hearing as set forth in paragraph C.

5. Date of vote; notice; warrant; polling hours. The date and time for voting shall be established as follows.

A. The ~~state board~~ commissioner shall determine the date upon which all municipalities shall vote upon the dissolution agreement submitted to them. The election shall be held as soon as practicable and the ~~state board~~ commissioner shall attempt to set the date of the vote to coincide with a statewide election.

B. At least 35 days before the date set in paragraph A, the board of directors shall give written notice by registered or certified mail to the town or city clerk of each municipality having a right to vote on the dissolution agreement.

C. The town or city clerk shall immediately notify the municipal officers upon receipt of the notice, and the municipal officers shall meet and immediately issue a warrant for a special town meeting or city election, as the case may be, to be held on the date designated by the ~~state board~~ commissioner. No other date may be used.

D. In the respective warrants, the municipal officers shall direct that the polls shall be open at 10 o'clock in the forenoon and shall remain open until 8 o'clock in the afternoon.

6. Public hearing; voting procedures. The following requirements apply to the voting procedures.

A. At least 10 days before the election, a posted or otherwise advertised public hearing on the dissolution question shall be held by the municipal officers.

B. Except as otherwise provided in this section, the voting at the meetings held in towns shall be conducted in accordance with Title 30, sections 2061 and 2062, even if the towns have not accepted the provisions of Title 30, section 2061.

C. The voting at the meeting held in cities shall be conducted in accordance with Title 21.

7. Article. The article shall be in the following form.

"Article : Shall School Administrative District No. be dissolved subject to the terms and conditions of the dissolution agreement dated 19 ?

Yes	No "
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8. Ballots; posting of agreement. The dissolution agreement need not be printed on the ballot. Copies of the agreement shall be posted in each participating municipality in the same manner as specimen ballots are posted under Title 30, chapter 207.

9. Restriction on dissolution petitions. No participating municipality within a district may petition for dissolution within 2 years after the date of:

A. A municipal vote on a petition for dissolution if the petition received less than 60% of the votes cast; or

B. ~~B.~~ A district vote on a dissolution agreement if the agreement received less than 45% of the votes cast.

10. Costs of dissolution agreements. If the school administrative district votes to permit dissolution, then the district shall reimburse the petitioning municipality for the authorized expenses incurred by the dissolution committee. If the district votes not to permit dissolution, then the district will not be required to reimburse the petitioning municipality for those expenses.

11. Determination of vote. The town and city clerks shall, within 24 hours of determination of the result of the vote in their respective municipalities, certify the total number of votes cast in the affirmative and the total number of votes cast in the negative on the article to the board of directors.

12. Determination of results; notification of commis-

tioner; execution of agreement. Determination of results shall comply with the following.

A. Upon receipt of the results of the voting from all municipalities, the board of directors shall meet and shall compute and record the total number of votes cast in the municipalities in the affirmative and in the negative on the dissolution article.

B. The board of directors shall notify the state board commissioner by registered mail or by hand delivery of the results of the vote.

C. If the state board commissioner finds that a majority of the voters voting on the article have voted in the affirmative, ~~it~~ he shall notify the directors of the district to take steps to dissolve the district in accordance with the terms of the agreement for dissolution.

13. Recount; checklists and ballots; disputed ballots. The following provisions apply to recounts, checklists, ballots and disputed ballots.

A. If, within 7 days of the computation and recording of the results of the voting from all municipalities, the municipal officers of any participating municipality request to the commissioner in writing a recount of the votes in the district, the commissioner shall immediately cause the checklists and all the ballots cast in all of the participating municipalities to be collected and kept at the commissioner's office so they may be recounted by interested municipalities.

B. The town clerks of the participating municipalities are authorized to deliver the checklists and ballots to the commissioner, notwithstanding any other provision of law to the contrary.

C. The commissioner shall resolve any question with regard to disputed ballots.

14. Execution of agreement; certified record; certificate of withdrawal. When the agreement for dissolution has been put in effect by the directors of the school administrative district, the directors shall notify the state board commissioner by certified mail that the agreement of dissolution has been executed.

A. A complete certified record of the transaction involved in the dissolution shall be filed with the state board commissioner.

B. The state board commissioner shall immediately issue a certificate of dissolution to be sent by certified mail for filing with the directors of the school administrative district and shall file a copy in the office of the Secretary of State.

15. Indebtedness; indebtedness defined; indebtedness after dissolution. The following provisions apply to outstanding indebtedness.

A. Whenever a district having outstanding indebtedness dissolves, the district shall remain intact for the purpose of securing and retiring the indebtedness; the dissolution agreement may provide for alternate means for retiring outstanding indebtedness.

B. "Outstanding indebtedness" means bonds or notes for school construction projects issued by the board of directors pursuant to the authorization established under chapter 609 or Title 20, sections 3457 to 3460 or obligations to the Maine School Building Authority pursuant to any contract, lease or agreement made by the board of directors pursuant to approval thereof in a district meeting of the school administrative district, but does not include any indebtedness of any municipality assumed by the school administrative district at the time of formation nor any contract, lease or agreement of the Maine School Building Authority to which by operation of law the school administrative district has become the assignee.

16. General purpose aid. When a school administrative district dissolves the general purpose aid for the individual municipalities shall be computed in accordance with chapter 605.

17. Committee recall. If the state board commissioner determines that the dissolution committee has failed to comply with the requirements of this section, ~~it~~ he may authorize the municipal officers and the district's board of directors to recall their representatives and to appoint new representatives to the committee.

Sec. 60. 20-A MRSA §1404, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Vote required. If the state board commissioner is petitioned pursuant to the authority of subsection 1, the board of directors of the school administrative district shall require the member municipalities of the district to vote on an article which shall be substantially as follows.

"Article : Shall School Administrative District No. be dissolved subject to the terms and conditions of the dissolution agreement dated 19 , and the towns of form a community school district which shall be responsible for the operation of grades ?

Yes No "

Sec. 61. 20-A MRSA §1404, sub-§4, as amended by PL 1983, c. 485, §16, is further amended to read:

4. Commissioner. The state board commissioner shall carry out ~~its~~ his duties under sections 1403 and 1602 regarding the dissolution of a school administrative district and the creation of a new community school district, except that the municipal officers and the board of directors shall be responsible for developing a plan to provide for the continuity of the educational program for each

municipality to be included within the dissolution agreement.

Sec. 62. 20-A MRSA §1405, sub-§1, as enacted by PL 1983, c. 364, §3, is amended to read:

1. Petition. The residents of a participating municipality within a school administrative district composed of 3 or more municipalities may petition to withdraw from the district in the same manner as they would petition for the dissolution of a school administrative district in accordance with section 1403, except that only a simple majority vote of those casting valid ballots in the municipality is required before the petition may be presented to the board of directors and to the state board commissioner.

Sec. 63. 20-A MRSA §1405, sub-§4, as enacted by PL 1983, c. 364, §3, is amended to read:

4. Commissioner recommended dissolution. The state board's commissioner's responsibilities to initiate dissolution proceedings are as follows.

A. If a member town representing more than 50% of the total population in a district votes to withdraw from the district, then the state board commissioner shall analyze the educational impact of the town's withdrawal upon the district. The board shall utilize departmental staff in carrying out its responsibility under this subsection. The district's board of directors and the municipal officers from the remaining towns shall be consulted.

B. If the state board commissioner finds that it is impractical for the remaining towns to continue as a district, then it shall initiate the dissolution process set out in section 1403 by having the district submit the following article to the voters at a district meeting called in accordance with sections 1351 to 1354.

"Article : Be it resolved by the voters of School Administrative District No. that a dissolution committee be appointed and authorized to expend \$ , and the directors of School Administrative District No. be authorized to issue notes or otherwise pledge the credit of School Administrative District No. in an amount not to exceed \$ for this purpose?

Yes No "

C. If the voters approve the article by a majority vote of those voting and present, then the rest of the dissolution process set forth in section 1403 shall apply except:

(1) A 2nd member from the general public shall be selected by the municipal officers to fill the position on the dissolution committee normally held by a representative of the group which would have filed the dissolution petition; and

(2) Costs of preparing a dissolution agreement shall be borne solely by the district.

Sec. 64. 20-A MRSA §1406, sub-§2, ¶¶C and E, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

C. The following question shall appear on the ballot when the transfer of a municipality is considered.

"Article : Shall School Administrative District No. vote to permit the municipality of to transfer into School Administrative District No. as a participating municipality of that district subject to the terms and conditions of the agreement of transfer approved by the State Board of Education commissioner dated 19 ?

Yes No "

(A copy of the agreement shall be posted with each warrant which directs the citizens to vote upon the question.)

E. A complete certified record of the transaction involved in the transfer shall be filed with the state board commissioner. The state board He shall issue immediately a certificate of transfer to the secretary of each school administrative district by registered mail to be filed with the directors of the districts involved and shall file a copy of the certificate of transfer in the office of the Secretary of State.

Sec. 65. 20-A MRSA §§1408 and 1409 are enacted to read:

§1408. State board review of commissioner's decisions

A school administrative unit or other interested parties may request that the state board reconsider decisions made by the commissioner under this subchapter. The state board may have the authority to overturn decisions made by the commissioner. In exercising this power, the state board is limited by this subchapter.

§1409. Rules

The state board may adopt rules to carry out this subchapter.

Sec. 66. 20-A MRSA §4511, sub-§3, as enacted by PL 1983, c. 859, Pt. A, §§20 and 25, is repealed and the following enacted in its place:

3. Specific requirements. In addition to standards that are adopted in subsection 1, accreditation standards shall include, but not be limited to, the following.

A. The school has a clearly written statement reflective of the needs, beliefs and values of the school community. It is supported by stated goals and objectives and is consistent with the district's philosophy.

B. The school is effectively managed and provides leadership that promotes the achievement of educational excellence.

C. The school demonstrates evidence of a well planned and periodically evaluated curriculum which has consistently resulted in exemplary educational programming.

D. The school demonstrates a carefully coordinated effort to provide instructional processes which have consistently resulted in a learning environment which promotes excellence. A variety of instructional techniques is used by a majority of the teachers.

E. The school has a carefully planned staff development program guided by sound educational theory that promotes exemplary practices.

F. The school has a climate which promotes individual self-esteem, high expectations for achievement and a positive attitude toward learning.

G. The school has a collaboratively planned community relations program which promotes close cooperation between the school and the community toward the achievement of the school's goals and objectives.

H. The school facility offers an effective setting for the delivery of high quality programs and services.

Sec. 67. 20-A MRSA §4512, sub-§5, as enacted by PL 1983, c. 859, Pt. A, §§20 and 25, is amended to read:

5. Accreditation process. All school administrative units operating a secondary school shall undergo the state accreditation process on a 5-year cycle as established by the commissioner starting in the 1989-90 school year. Upon request from a secondary school, the commissioner shall have the authority to grant a waiver from the accreditation process. The commissioner shall grant a waiver on the basis of extenuating circumstances as defined by rule.

Sec. 68. 20-A MRSA §6602, sub-§8, as amended by PL 1983, c. 422, §18, is further amended to read:

8. Application for postponement. An administrative unit, which had been authorized by the commissioner to postpone the establishment of a National School Lunch Program, may apply to the commissioner for a renewal of the postponement. The commissioner, with the approval of the state board, may grant the requested postponement provided that:

A. The school board has held a public hearing on its proposed application; and

B. One of the following conditions is met:

(1) It has been documented to the commissioner's satisfaction that the administrative unit lacks space

for the program and there is no appropriate alternative source of meals for the students;

(2) It is impossible for the administrative unit to contract for or to otherwise procure Type A meals for its students; or

(3) The lack of need for the program, as determined by the school board is documented to the commissioner's satisfaction and was evident at the public hearing.

If the postponement is granted for the conditions in paragraph B, subparagraphs (1) and (2), it shall be for 3 years. If the postponement is granted for the condition in paragraph B, subparagraph (3), it shall be for 4 years.

Sec. 69. 20-A MRSA §6602, sub-§8-A is enacted to read:

8-A. State board review of commissioner's decisions. A school administrative unit or interested parties may request that the state board reconsider decisions made by the commissioner in subsection 8. The state board shall have the authority to overturn decisions made by the commissioner. In exercising this power, the state board is limited by this section.

Sec. 70. 20-A MRSA §§6604 and 6605 are enacted to read:

§6604. Substance abuse programs

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

A. "Chemical health coordinator" means a person who serves as the coordinator of a local school administrative unit's chemical primary and secondary prevention and education program.

2. Local programs. School units may institute special programs to address health and related problems.

To further these objectives, school units may employ specialized personnel such as chemical health coordinators and others knowledgeable in the field of substance abuse and may cooperate with public and private agencies in substance abuse education, prevention, early intervention, rehabilitation referral and related programs.

§6605. Department role

1. Personnel. The commissioner shall appoint, subject to the Civil Service Law, supervisors and consultants knowledgeable in the area of substance abuse.

2. Technical assistance. The department, through its supervisors and consultants, shall offer technical assistance to public and approved private schools and cooperating community-based organizations to aid in the

establishment and implementation of school-based substance abuse programs and health education curricula.

3. Cooperation; coordination. The department shall carry out its planning activities related to alcohol and drug education and prevention subject to coordination with the Alcohol and Drug Abuse Planning Committee.

4. Information collection and sharing. The Department of Educational and Cultural Services shall be authorized to gather information about substance abuse prevention and intervention programs initiated by state or federal agencies whose efforts are directed toward private and public schools of the State, for the purpose of sharing that information with school administrative units.

Sec. 71. 20-A MRSA §7001, sub-§§9 and 10 are enacted to read:

9. Special education program. A "special education program" is a full-time or part-time educational program designed to provide an equal educational opportunity to exceptional students through the delivery of special education services by qualified individuals.

10. Special education services. "Special education services" are educational services provided by qualified individuals as defined by the commissioner. Special education services shall be provided by qualified individuals employed or contracted by the school administrative unit.

Sec. 72. 20-A MRSA §7205, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§7205. Review and assistance

It is the intent of the Legislature that a representative of the commissioner visit each special education program each year at least once every 5 years for the purpose of review and assistance. Nothing in this section prohibits a school administrative unit from requesting that a representative of the commissioner visit a particular special education program for the purpose of review and assistance whenever necessary. The commissioner shall comply with each request in a timely fashion.

Sec. 73. 20-A MRSA §7251, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§7251. Local special education programs

A school administrative unit may establish an appropriate program of special education program.

Sec. 74. 20-A MRSA §7251-A is enacted to read:

§7251-A. Local special education services

A school administrative unit may offer or contract for special education services.

Sec. 75. 20-A MRSA §7252, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 76. 20-A MRSA §§7252-A and 7252-B are enacted to read:

§7252-A. Special education programs; approval

Special education programs may be established for the delivery of special education services to exceptional students in accordance with section 7204, subsection 4. A special education program may be offered by a school administrative unit, an approved private school or a state licensed agency. All special education programs offered by approved private schools or state licensed agencies shall:

1. Supervision. Be provided under the supervision of the school administrative unit responsible for the education of the exceptional student enrolled in the program;

2. Description. Be described in a master contractual agreement between the agency or private school and the commissioner; and

3. Approval. Be approved in advance of the enrollment of any exceptional student.

§7252-B. Special education services; approval

The commissioner shall adopt or amend rules to define allowable special education services and the qualifications of individuals who provide special education services. Each school administrative unit, approved private school or licensed state agency providing special education services shall submit a report at such time and in such form as the commissioner may require.

Sec. 77. 20-A MRSA §7503, sub-§8, ¶E, as enacted by PL 1983, c. 316, §2, is amended to read:

E. The board members shall be representative of a broad range of professionals, parents and citizens interested in the education of deaf and hearing impaired students. They shall include the parents of a current Governor Baxter School for the Deaf student and the parents of a deaf and hearing-impaired student in a school administrative unit. In addition, they may include:

(1) Professionals not employed by the Governor Baxter School for the Deaf who serve deaf and hearing impaired students;

(2) Parents of deaf and hearing impaired students at the Governor Baxter School for the Deaf and in school administrative unit programs;

(3) Representatives of handicap advocacy groups;

(4) School administrative unit administrators or special education directors;

(5) Members of the deaf and hearing impaired community; and

(6) Interested citizens.

Sec. 78. 20-A MRSA §7805, as enacted by PL 1985, c. 768, §1, is amended to read:

§7805. Transitional services coordinator

The position of transitional services coordinator to the Department of Educational and Cultural Services, Division of Special Education shall be established to coordinate the department's activities and involving both the Bureau of Adult and Secondary Vocational Education and ~~the Division of Adult Education~~, regarding the coordinated delivery system for handicapped youths in transition from school to community. This coordinator will also serve as staff to the committee as established in section 7803.

Sec. 79. 20-A MRSA §8606, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 80. 20-A MRSA §8606-A is enacted to read:

§8606-A. Reimbursement procedures

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

A. "Adult education program costs" includes expenditures for salaries and supplies as identified in section 8607.

B. "Foundation year" means the 2nd school year prior to the year of allocation of funds.

C. "Maximum allowable expenditures," for state subsidy purposes, means an amount not to exceed the sum of funds raised through taxation and expended in accordance with section 8607 in the foundation year, plus the amount of subsidy paid by the State during the foundation year.

2. Commissioner certification. Prior to December 15th of each year, the commissioner shall prepare and certify to the Legislature and to the Bureau of the Budget a recommendation for the funding level for the various program categories in adult education for payment in the next fiscal year.

A. The requested funding level shall be for the authorized reimbursement rates established in section 8607 and may not exceed the maximum allowable expenditures in the foundation year.

B. A school administrative unit shall provide the commissioner with information which the commissioner shall request to carry out the purpose of this chapter according to time schedules which the commissioner

shall establish. The commissioner may withhold subsidy payment or a portion of the subsidy payment from a school administrative unit when information is not filed in specified format and content and within the specified time schedule.

C. The recommendation in this certificate shall include local program cost adjustment to the equivalent of the year prior to the year of allocation.

3. State reimbursement. State reimbursement for expenditures on adult education programs shall be based on each administrative unit's actual adult education program costs in the foundation year.

A. The reimbursement shall be based on the unit's expenditures for the foundation year in accordance with the maximum allowable expenditures and the cost adjustment as in subsection 2.

B. State reimbursement will be paid to each eligible school administrative unit during the 2nd quarter of the State's fiscal year.

4. Action by the Legislature. The Legislature shall appropriate the necessary funds to meet the state obligation as defined in subsections 1 and 2.

5. Rule-making authority. The commissioner shall have the authority to promulgate rules to administer this section. Upon the effective date of this provision, the commissioner shall begin to promulgate rules which ensure that the maximum allowable expenditures for the initial foundation year accurately reflect the total costs of adult education for that year.

Sec. 81. 20-A MRSA §10702, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Authorization. Has legislative authorization to confer degrees in accordance with ~~section~~ sections 10704 and 10704-A.

Sec. 82. 20-A MRSA §10704, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§10704. Initial authority to confer certain degrees

An educational institution may confer certain degrees if it has been granted initial authority under an Act of the Legislature.

Sec. 83. 20-A MRSA §10704-A is enacted to read:

§10704-A. Authority to confer additional degrees

An educational institution initially authorized by the Legislature to offer certain degrees under section 10704 may offer additional degrees with the approval of the state board.

Sec. 84. 20-A MRSA §10705, sub-§1, as enacted by

PL 1981, c. 693, §§5 and 8, is amended to read:

1. Authority. It has been authorized by the Legislature under sections 10704 and 10704-A to grant degrees;

Sec. 85. 20-A MRSA §10707, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Degree-granting authority. Applications for legislative authority to grant degrees shall be made on application to the state board on forms provided by the commissioner.

Sec. 86. 20-A MRSA §13004, sub-§2-B is enacted to read:

2-B. Teacher addresses. Home addresses held by the department of teachers certified to teach in the State may be made available in response to the following:

A. Formal request from a commissioner or chief executive officer of other state agencies, including the judicial branch when access to that information may be necessary in carrying out an official function; and

B. Formal request by majority vote of any joint standing committee of the Legislature when access to that information may be necessary in carrying out an official function.

The use of these addresses by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished and by the law under which they may be furnished. It shall be unlawful for any person to solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or acquiesce in the use of, any list of or names of, or any information concerning, persons applying for or receiving assistance, directly or indirectly, derived from the records, papers, files or communications of the State or subdivisions or agencies, or acquired in the course of the performance of official duties. Any person violating this subsection shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

Sec. 87. 20-A MRSA §15905-A is enacted to read:

§15905-A. Approval of nonstate funded projects

1. Approval authority. The commissioner must approve each nonstate funded project.

2. Rules. The commissioner may adopt or amend rules relating to the approval of nonstate funded projects.

Sec. 88. 22 MRSA §1607, as amended by PL 1977, c. 347, §7, is further amended to read:

§1607. Application

This chapter does not apply to fairs, exhibitions and

similar events held by agricultural societies and associations, pomological societies or poultry associations as defined and regulated under Title 7, chapter 3, or military activities. It shall not apply to persons, associations, corporations, trusts or partnerships licensed under Title 8, chapters 11, ~~18~~ and 19.

Sec. 89. 22 MRSA §4014, sub-§1, as amended by PL 1983, c. 783, §5, is further amended to read:

1. Reporting and proceedings. A person, including an agent of the department, participating in good faith in reporting under this subchapter, or participating in a related child protection investigation or proceeding, including, but not limited to, a multidisciplinary team, out-of-home abuse investigating team or other investigating or treatment team, is immune from any criminal or civil liability for the act of reporting or participating in the investigation or proceeding. Good faith does not include instances when a false report is made and the person knows the report is false. Nothing in this section may be construed to bar criminal or civil action regarding perjury or regarding the abuse or neglect which led to a report, investigation or proceeding.

Sec. 90. 22 MRSA §4033, sub-§3-A is enacted to read:

3-A. Information provided to parents. When the court makes a preliminary protection order on a child who is physically removed from his parents or custodians, the following information shall be provided to the parents or custodians in written form by the petitioner at the time of removal of the child:

A. The assigned caseworker's name and work telephone number;

B. The location where the child will be taken; and

C. A copy of the complete preliminary protection order.

This information is not required if the petitioner includes in the petition a sworn statement of his belief that providing the information would cause the threat of serious harm to the child, the substitute care giver, the petitioner or any other person.

Sec. 91. 23 MRSA c. 3, sub-c. III, first 2 lines are repealed and the following enacted in their place:

### SUBCHAPTER III

#### STATE CLAIMS COMMISSION

Sec. 92. 23 MRSA §152, as amended by PL 1985, c. 785, Pt. A, §§96 and 97 and PL 1985, c. 785, Pt. B, §§101 and 102, is repealed and the following enacted in its place:

§152. Composition; appointment; powers

The State Claims Commission, established by Title 5, section 12004, subsection 2, shall consist of 5 members. Four of the members shall be appointed by the Governor, 2 of whom shall be qualified appraisers and 2 of whom shall be attorneys-at-law. The Governor shall designate one of the attorneys-at-law to be chairman. The members of the commission appointed by the Governor shall serve for terms of 4 years. They shall be sworn, and for inefficiency, willful neglect of duty or for malfeasance in office may, after notice and hearing, be removed by the Governor on the address of both branches of the Legislature or by impeachment. In case of a vacancy occurring through death, resignation or removal, the Governor shall appoint a successor for the whole term of the member whose place he takes, subject to removal as provided in this section.

Members of the State Claims Commission shall be compensated according to the provisions of Title 5, chapter 379.

In carrying out its duties, the commission shall not be bound by common law or statutory rules of evidence, or by technical or formal rules of procedure. It shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant and unduly repetitious testimony. A majority of the commission, being present, may determine all matters, but the chairman shall resolve all questions of admissibility.

The commission shall have authority to make rules and prescribe forms to secure a speedy, efficient and inexpensive disposition of all proceedings. Each member of the commission, for its official purposes, may administer oaths, certify to official acts and issue all process necessary to the performance of the duties of the commission. A reporter shall record hearings when required by the commission.

The commission shall maintain an office in Kennebec County. The Commissioner of Finance shall appoint, subject to the Civil Service Law, a clerk of the commission to keep its records and to perform such other duties as the commission shall prescribe. The clerk shall have authority to certify to all official acts of the commission, administer oaths, issue subpoenas, and issue all processes, notices, orders or other documents necessary to the performance of the duties of the commission.

The Commissioner of Finance shall appoint and fix the compensation of a reporter to the commission, and shall review and approve all charges made by such reporter for transcripts of the record of hearings before the commission. The Commissioner of Finance may appoint, subject to the Civil Service Law, such clerical assistants for the commission as he may deem necessary.

The 5th member of the commission shall be appointed for each hearing or series of hearings within the county where the land taken lies. He shall be a member of the board of county commissioners of the county wherein the land taken is situated and shall be appoint-

ed by the chairman of the State Claims Commission upon recommendation which shall be made, upon request, by the board of county commissioners of that particular county. In the event that any board of county commissioners should fail to make the required recommendation, then the chairman of the State Claims Commission may appoint a member of such board to serve. He shall be sworn by the chairman of the State Claims Commission and shall serve as a member of that commission only for the particular hearing or hearings for which he is appointed. He shall participate fully in such hearings and the awards made as a result thereof. Each such member shall be paid at the same per diem rate as that fixed for other members of the commission. Any member of the board of county commissioners thus designated shall serve only for the particular hearing or hearings set forth in his appointment and such service shall be as a member of the State Claims Commission and not in his capacity as a member of the board of county commissioners.

**Sec. 93.** 23 MRSA §153, as amended by PL 1981, c. 470, Pt. A, §§122 and 123, is further amended by adding at the end a new paragraph to read:

If, at any time after being notified by the department that it is planning to purchase or take over the owner's property and the owner then decides to sell that property, or some portion of the property, the owner or owners or designated representative is responsible for informing any potential purchaser that the department intends to purchase or take the property. The department, as early in its property owner notification process as possible, shall remind the property owner of this responsibility.

**Sec. 94.** 23 MRSA §154, sub-§2, ¶H, as amended by PL 1981, c. 470, Pt. A, §127, is further amended to read:

H. If the offer is not acceptable and the State cannot negotiate an agreement on the amount of just compensation within 60 days from the date of taking, the owner may apply to the department within said 60 days and have the matter referred to the State Claims Board Commission for assessment of the damage. Acceptance and cashing this check will not jeopardize negotiation and will not be construed as acceptance of the offer; and

**Sec. 95.** 23 MRSA §154, sub-§3, ¶F, as amended by PL 1981, c. 470, Pt. A, §128, is further amended to read:

F. If the offer is not acceptable and the State cannot negotiate an agreement on the amount of just compensation within 60 days from the date of taking, the owner may apply to the department within said the 60 days and have the matter referred to the State Claims Board Commission for assessment of the damage. Acceptance and cashing this check will not jeopardize negotiation and will not be construed as acceptance of the offer; and

**Sec. 96.** 23 MRSA §154-D, last ¶, as enacted by PL



1983, c. 272, is amended to read:

Any person displaced by a taking or acquisition who remains in occupancy after the date of acquisition shall pay rent from the date of the acquisition. The consideration paid by the tenant or displaced person shall not exceed fair rental value of the property based on short-term occupancy. If the tenants or displaced person and the department cannot reach agreement as to fair rental value for the initial 90-day period after acquisition, each may apply to the State Claims ~~Board~~ Commission in writing for a determination as to the fair rental value. The State Claims ~~Board's~~ Commission's jurisdiction to determine the fair rental value shall be limited solely to the initial 90-day period. Any consideration to be paid by the tenant or displaced person after the initial 90-day period shall be determined solely by the department.

Sec. 97. 23 MRSA §155, as amended by PL 1975, c. 771, §239, is further amended to read:

#### §155. Negotiation

The department shall have 60 days from the date of taking within which to negotiate with the owner or owners of record for an agreement as to the amount of just compensation. If within that time the owner rejects the state's State's offer of just compensation, such owner may apply to the department and have the matter referred to the State Claims ~~Board~~ Commission for assessment of the damage. If, at the expiration of that time, no such agreement for just compensation has been made, the department shall immediately file a petition with the State Claims ~~Board~~ Commission setting forth the pertinent facts including the names and addresses of the owner or owners of record and the holders of any mortgages, tax liens or other encumbrances, a copy of the notice of condemnation, the statement of the department and a plan of the property involved as served upon the owner or owners of record in accordance with section 154 and requesting a hearing and an award of just compensation.

Sec. 98. 23 MRSA §156, as amended by PL 1981, c. 470, Pt. A, §130, is further amended to read:

#### §156. Hearing before board

The State Claims ~~Board~~ Commission shall immediately enter the petition of the department upon its docket and assign a date for hearing at the earliest possible date. The chairman of the board shall assign no more than 3 members of the board for hearings, one of whom shall be an appraiser and one an attorney at law. Notice of the time and place for the hearing shall be mailed by registered or certified mail to the department and to the owner or owners of record and to the holders of any mortgage, tax lien or any other encumbrance on the property involved at least 14 days before the date of the hearing. In the event the notice required is returned to the State Claims ~~Board~~ Commission marked "refused" or "unclaimed" by the United States post office, the State Claims ~~Board~~ Commission may, at its option, reschedule

the hearing by giving the notice required in this paragraph, or it may cause the matter to be heard on the day originally scheduled by causing service to be made upon the party not served by certified or registered mail in a manner allowed for service of a summons on a complaint in the Superior Court, which notice shall be served at least 5 days before the originally scheduled hearing. The hearing shall be held in quarters suitable for a full presentation of all evidence and located as conveniently as possible for all interested parties in the county where the land is situated. Before making an award, the State Claims ~~Board~~ Commission shall view the property involved with or without the presence of the interested parties, but it shall first notify the interested parties of the time when it will view the property. The department shall be represented at the hearing and may present in open hearing evidence as to title, engineering maps and data, and its opinion, evidence and appraisal or appraisals as to the fair market value of the property involved before and after the taking. In all matters where a verbatim record of the proceedings is made by an official board reporter, a transcript of the same shall be furnished to the interested parties, upon request, and upon payment of a reasonable charge for transcribing and preparing such record. In making its award, the State Claims ~~Board~~ Commission shall not be limited by the range of testimony produced before it but may reach its decision on the basis of the view, the testimony and its own judgment. The State Claims ~~Board~~ Commission may continue a hearing from time to time for cause shown or by agreement of parties; and where such continuance is made at the request of the landowner, may require that interest be waived for the period of the continuance.

As promptly as possible after the conclusion of the hearing, the State Claims ~~Board~~ Commission shall make an award in writing specifying:

1. Owners and encumbrances. The owner or owners of record and the holder of any mortgage, tax lien or other encumbrance of record;
2. Nature of interest taken. The nature of the interest taken;
3. Commission's decision on elements of damage. The State Claims ~~Board's~~ Commission's decision as to each of the elements of damage listed in section 154, subsection 2 or 3, or the elements of damage as set forth in section 154, subsection 4, and such other elements of damage as are legally compensable;
4. Gross damage. The gross damage which shall be the net damage not including interest;
5. Net amount of award. The net amount of the award which shall be the net damage less the amount paid the owner or owners at the date of taking;
6. Interest on award. The interest, if any, due on the net amount of the award from the date of taking to the date of the award;

7. Award. The award which shall be the net damage, less the amount paid the owner or owners at the date of taking plus interest on the net amount of the award; and

8. Withholding. The withholding, if any, authorized pursuant to section 244-A, subsection 4.

No interest shall may be allowed on so much of the net damage as has been paid to the owner or owners. An attested copy of each award shall be sent forthwith to the department and to the party or parties named in the award. The department shall, within 30 days, designate to the State Claims Board Commission the award or awards from which it intends to appeal and forward to the State Claims Board Commission a check payable to the clerk of courts for the county where said land is situated for the use of the party or parties designated in the award. The State Claims Board Commission shall forthwith serve upon the party or parties named in the award an attested copy of the award together with a notice that the department has expressed its intention to appeal the award and that the amount of the award will be paid in to the clerk of courts for the county in which the land is situated subject to withdrawal as provided in section 158, and shall forward such check together with an attested copy of the award to the clerk of courts aforesaid.

In all other cases, the department shall, within said the 30 days, forward to the State Claims Board Commission a check payable to the party or parties named in the award and the State Claims Board Commission shall forthwith serve upon the party or parties named therein an attested copy of the award, the check aforesaid and a notice clearly outlining the rights of appeal. If the party or parties named in the award refuse to accept it and appeal therefrom to the Superior Court, the department, upon notice from the State Claims Board Commission, shall forward to the State Claims Board Commission a check in the amount of the award payable to the clerk of courts for the county where the land is situated for the use of the party or parties named in the award which the State Claims Board Commission shall forthwith file with that clerk together with an attested copy of its award.

Service as required in this section shall be made by registered or certified mail or by personal service as required for service of a summons on a complaint in the Superior Court.

Upon certification by the Department of Transportation that after due diligence the address of owners of record cannot be determined or where the board's commission's notice by registered or certified mail is returned to the board commission unclaimed or unknown or where personal service cannot be made, the chairman of the board commission may order service by publication. The chairman of the board commission may appoint a guardian ad litem to protect the interests and rights of any minor or incompetent persons notified under this section and determine and set reasonable compensation

to be paid to that guardian ad litem. This compensation shall be paid by the Department of Transportation. Notice of the time and place of the review and hearing shall be published once a week for 3 successive weeks in a newspaper of general circulation in the county in which the subject property is located. The last of these notices shall be published no later than 7 days prior to the hearing. The board commission shall then proceed with the hearing as in other cases and the appeal provisions shall be available to the Department of Transportation and the record owner or owners, or any one of them, who appears and makes application for appeal pursuant to section 157.

After the appeal period from the decree of the State Claims Board Commission or a judgment of any court has expired, any sum of money directed by a decree of the board commission or by a judgment of any court to be paid over, which remains unclaimed for 60 days, shall be disposed of consistent with Title 33, chapter 27.

Notwithstanding Title 1, section 302, this section shall apply to all actions and proceedings pending on the effective date of this Act.

Sec. 99. 23 MRSA §157, as amended by Pl 1975, c. 771, §246, is further amended to read:

#### §157. Appeals

The department or any party or parties aggrieved by an award of the State Claims Board Commission may appeal therefrom to the Superior Court in the county where the land is situated within 30 days after the date of the receipt by the appellant of the notice of award. Such appeal shall be taken by filing a complaint setting forth substantially the facts upon which the case shall be tried like other cases. The appellant shall serve notice of such appeal on the opposing party and on the State Claims Board Commission by sending by registered or certified mail within the time above limited a true copy of said the complaint and returning therewith to the State Claims Board Commission whatever check or checks that may have been forwarded to him with the notice of award.

The court shall determine the same by a verdict of its jury or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for just compensation, with interest where such is due, and for costs in favor of the party entitled thereto; except that if the department appeals and if the department does not prevail, interest where such is due and costs shall be paid by the department and the owner or owners shall be reimbursed by the department for a reasonable attorney's fee.

If either the owner or owners of record or the department appeal and the just compensation finally awarded, exclusive of interest, is less than the gross damage determined by the State Claims Board Commission, exclusive of any interest allowed, then the court shall give judgment in favor of the department for the excess of

the gross damage determined by the State Claims Board Commission, inclusive of interest, over the final award and for its costs from the time of appeal. Execution may be issued on such judgment.

If either the owner or owners of record or the department appeal and the just compensation finally awarded, exclusive of interest, is not less than the gross damage determined by the State Claims Board Commission, exclusive of any interest allowed, then the court shall give judgment to the owner or owners for the amount in which the final award is in excess of the money deposited in court, plus the amount paid the owner or owners, exclusive of any interest awarded by the State Claims Board Commission, and for interest on such excess from the date of taking and for costs from the time of appeal. No interest shall may be allowed on so much of any award as has been paid into court or on any amount paid to the owner or owners. The clerk shall certify the final judgment of the court to the department which shall enter the same of record, and order the same to be paid by the Treasurer of State. The judgment and certificate of judgment shall specify the withholding, if any, authorized pursuant to section 244-A, subsection 4.

In case of the decease of any person entitled to claim damages under this subchapter, the heirs, executors, administrators or assigns of such person shall have the right to prosecute the appeal provided for in this section under the same conditions and limitations as the original owner had, and may be substituted for the appellant in any proceedings commenced by said appellant. In case any landowner assigns, transfers or sells his right to claim damages, his assignee, transferee or vendee shall have the same rights as above set forth.

Sec. 100. 23 MRSA §158, as repealed and replaced by PL 1983, c. 266, is amended to read:

§158. Withdrawal of money deposited

If the department or any party named in an award has duly taken an appeal from an award of the State Claims Board Commission in accordance with section 157 and the amount of the award has been paid in to the clerk of courts for the county in which the land is situated, the department or any party named in the award may petition the Superior Court in that county for investment in a certificate of deposit or other secure high interest fund of all or any part of the funds thus deposited. Upon that petition, the court may order all or any part of the funds thus deposited to be invested forthwith in the name of the clerk of courts or his successor or authorized representative without prejudice to the petitioner's right to have the amount of compensation adjudicated in the appeal pending.

Sec. 101. 23 MRSA §159, as amended by PL 1975, c. 771, §248, is further amended to read:

§159. Interpleader

If difficulty questions of law should arise before the State Claims Board Commission as to entitlement to or apportionment of just compensation, then it is authorized to make a blanket award to all parties interested. If no appeal is taken and no agreement is reached by the parties named in the award within 60 days from the date of such award, the State Claims Board Commission shall certify the facts and legal questions to the department. The department shall then interplead the parties named in the award by a complaint filed in the Superior Court in the county wherein the land is situated and shall pay in the amount of said the award to the clerk of courts of said the county to be paid in accordance with the court's order. For purposes of this section, the department shall be acting to prevent double or multiple liability.

Sec. 102. 23 MRSA §161, sub-§2, as amended by PL 1981, c. 470, Pt. A, §132, is further amended to read:

2. Determination. Any determination by the department in the administration of this section shall be final and nothing herein shall be construed to give any person a cause of action in the State Claims Board Commission or the Superior Court.

Sec. 103. 23 MRSA §244-A, sub-§4, as amended by PL 1981, c. 470, Pt. A, §135, is further amended to read:

4. Advance payments. The additional payment authorized by subsection 1 may be made to the displaced person while determination of the acquisition cost of the dwelling is either unsettled or is pending before the State Claims Board Commission or the Superior Court. Such a payment is not authorized until and unless an agreement between the Department of Transportation and the displaced person is signed which shall authorize withholding from any subsequent award by the State Claims Board Commission or judgment of the court any amount determined from the agreement to be refunded by the displacee to the department by reason of the award or judgment being in excess of the determined net damage and offering price paid pursuant to section 154. A copy of the agreement shall be filed with the State Claims Board Commission with the petition or within 10 days after it is signed if the petition is already filed and a copy shall be filed in any subsequent case appealed to the Superior Court with the complaint or answer, or both. The State Claims Board Commission and court shall take judicial notice of the facts set forth in such agreement.

Sec. 104. 23 MRSA §246, as amended by PL 1981, c. 470, Pt. A, §136, is further amended to read:

§246. Appeal

1. State Claims Commission. If the department is unable to negotiate any payment authorized under section 244, subsection 1, paragraph A, or section 244-A, subsection 1, at what it deems to be a reasonable amount, either the department or the displaced person, or both, may apply to the State Claims Board Commission in writing for

a determination and assessment. The proceedings shall then be the same as in condemnation proceedings under subchapter III.

2. Commissioner of Transportation. Any person aggrieved by a determination as to eligibility for any payment, except those enumerated in subsection 1, authorized by this subchapter may have his application reviewed by the Commissioner of Transportation or his delegate whose determination shall be final and nothing herein shall be construed to give any person a cause of action in the State Claims ~~Board~~ Commission or the Superior Court.

Sec. 105. 23 MRSA §652, sub-§1, as amended by PL 1971, c. 593, §22, is further amended to read:

1. Change of grade. Whenever the department shall change the grade of any state or state aid highway as provided in chapters 1 to 19 to the injury of an owner of adjoining land, such owner may within 24 months after completion of the work according to the records of the department apply to the department in writing for a determination and assessment of his damages. If the department is unable to settle such damages at what it deems a reasonable amount, the department or interested parties may apply to the ~~Land Damage Board~~ State Claims Commission in writing for a determination and assessment of the damages. The proceedings shall then be the same as in condemnation cases.

Sec. 106. 23 MRSA §652, sub-§2, ¶E, as amended by PL 1971, c. 593, §22, is further amended to read:

E. If the department is unable to settle at what it deems a reasonable settlement, the department or owner may apply to the ~~Land Damage Board~~ State Claims Commission in writing for a determination of the alleged cause and assessment of the damage. The proceedings shall then be the same as in condemnation cases.

Sec. 107. 32 MRSA c. 3-A, sub-c. I, first 2 lines are repealed and the following enacted in their place:

#### SUBCHAPTER I

#### BOARD OF LICENSURE

Sec. 108. 32 MRSA §211, first ¶, as amended by PL 1983, c. 812, §192, is further amended to read:

The Maine State Board for ~~Registration~~ Licensure of Architects and Landscape Architects, as established by Title 5, section 12004, subsection 1, shall administer this chapter. The board shall consist of 8 members appointed by the Governor, of which 5 shall be ~~registered~~ licensed and practicing architects, one of whom may be a professor of architecture; 2 shall be registered and practicing landscape architects; and one shall be a representative of the public.

Sec. 109. 32 MRSA §213, last ¶, as repealed and replaced by PL 1983, c. 413, §4, is amended to read:

The board shall annually elect a chairman and a secretary. Five members of the board shall constitute a quorum for all purposes. No ~~certificate of registration~~ license may be issued, except in an affirmative vote of at least 5 members of the board.

Sec. 110. 32 MRSA §214, sub-§2, as enacted by PL 1983, c. 413, §6, is amended to read:

2. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a ~~certificate~~ license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a ~~certificate~~ license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 111. 32 MRSA §216, as repealed and replaced by PL 1983, c. 413, §8, is amended to read:

#### §216. Records

The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions. The board shall keep a register of all applicants for ~~registration~~ licensure and a register of all ~~registrants~~ licensees.

Sec. 112. 32 MRSA §217, as amended by PL 1977, c. 604, §7, is further amended to read:

#### §217. Reports

Not later than August 1st of each year, the board shall submit to the Commissioner of ~~Business Professional and Financial~~ Regulation a report of its transactions of the preceding fiscal year ending June 30th, and shall transmit to him a complete statement of all receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

Sec. 113. 32 MRSA §217-B, as amended by PL 1983, c. 758, §3, is further amended to read:

#### §217-B. Budget

The board shall submit to the Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~ its budgetary requirements in the same manner as is provided in Title 5, section 1665.

Sec. 114. 32 MRSA §218, last ¶, as repealed and replaced by PL 1983, c. 413, §9, is amended to read:

The board may suspend or revoke a ~~certificate license~~ pursuant to Title 5, section 10004. The board may refuse to renew or the Administrative Court may revoke, suspend or refuse to renew any ~~certificate license~~ issued under this chapter if the holders of the license have violated any provision of this chapter or any rule or order of the board.

Sec. 115. 32 MRSA §220, as amended by PL 1977, c. 564, §§118-I and 118-J, is further amended to read:

§220. Practice forbidden unless registered; qualifications

1. Architects.

A. No person shall ~~may~~ practice architecture or hold himself out to practice architecture within the State or use the title "architect" or call himself an architect or sign drawings or specifications as an architect, unless he shall be duly ~~registered~~ licensed by the board.

As used in this chapter, the practice of architecture shall consist of rendering or offering to render service to clients by consultations, investigations, preliminary studies, plans, specifications, contract documents and a coordination of structural factors concerning the aesthetic or structural design and inspection of construction of buildings or any other service in connection with the designing or inspection of construction of buildings located within the State, regardless of whether such persons are performing one or all of these duties, or whether they are performed in person or as the directing head of an office or organization performing them.

The practice of architecture shall not include the practice of landscape architecture as defined in this chapter. A ~~registered~~ licensed architect may do such landscape architectural work as is incidental to his work.

B. Qualifications.

(1) To be qualified for admission to the examination to practice architecture in this State an applicant must submit evidence to the board that:

(a) He has completed a course of study in a school or college of architecture approved by the board, with graduation therefrom as evidenced by a diploma setting forth a satisfactory degree, and 3 years of practical experience in the office of an experienced architect or architects engaged in the

practice of architecture as a profession; or

(b) Training or practical experience, or a combination of both, which in the opinion of the board, is fully equivalent to that required in division (a).

(2) No corporation as such shall ~~may~~ be ~~registered~~ licensed to practice architecture in this State, but it shall be lawful for a corporation to practice architecture providing at least 1/3 of the directors, if a corporation, or 1/3 of the partners, if a partnership, are licensed under the laws of any state to practice architecture and the person having the practice of architecture in his charge is himself a director, if a corporation, or a partner, if a partnership, and licensed to practice architecture under this chapter and all drawings, plans, specifications and administration of construction or alterations of buildings or projects by such corporation are under the personal direction of such registered architect. One-third of the directors or partners shall be licensed under the laws of any state to practice engineering, architecture, landscape architecture or planning. In cases where the number of directors or partners is not divisible by 3 the number of directors or partners shall be the number that results from rounding up or rounding down to the nearest number.

2. Landscape architects.

A. No person shall ~~use the title "Maine registered landscape architect"~~ may practice landscape architecture or use the title "landscape architect" or call himself a ~~Maine registered~~ landscape architect or sign drawings or specifications as a ~~Maine registered~~ landscape architect unless he shall be duly ~~registered~~ licensed by the board.

As used in this chapter, the practice of landscape architecture shall consist of rendering or offering to render services to clients by consultations, investigations, preliminary studies, plans, specifications, contract documents involving the development of land and incidental water areas where and to the extent that the dominant purpose of such services is the preservation, enhancement or determination of proper land uses, natural land features, naturalistic and aesthetic values, the settings and approaches to buildings, structures, facilities or other improvements, and natural drainage and the consideration, determination and solution of inherent problems of the land relating to erosion, wear and tear, blight or other hazards. Also the practice of landscape architecture shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined herein.

The practice of landscape architecture shall not include the practice of architecture as defined in this chapter. A ~~registered~~ licensed landscape architect may do such architectural work as is incidental to his work.

B. Qualifications.

(1) To be qualified for admission to the examination to practice landscape architecture in this State an applicant must submit evidence that:

(a) He has completed a course of study in a school or college of landscape architecture approved to the board, with graduation therefrom as evidenced by a diploma setting a satisfactory degree, and 2 years of practical experience in landscape architectural work of a grade and character satisfactory to the board; or

(b) Training or practical experience, or a combination of both, which in the opinion of the board, is fully equivalent to that required in division (a).

(2) No corporation as such ~~shall may be registered~~ licensed to practice landscape architecture in this State, but it shall be lawful for a corporation to practice landscape architecture providing at least 1/3 of the directors, if a corporation, or 1/3 of the partners, if a partnership, are licensed under the laws of any state to practice landscape architecture and the person having the practice of landscape architecture in his charge is himself a director, if a corporation, or a partner if a partnership, and licensed to practice landscape architecture under this chapter and all drawings, plans, specifications and administration of construction or alterations of buildings or projects by such corporation are under the personal direction of such registered architect. One-third of the directors of partners shall be licensed under the laws of any state to practice engineering, architecture, landscape architecture or planning. In cases where the number of directors or partners is not divisible by 3, the number of directors or partners shall be the number that results from rounding up or rounding down to the nearest number.

Sec. 116. 32 MRSA §220-A is enacted to read:

§220-A. Application

Any person registered by the board as a Maine registered landscape architect prior to the effective date of this section shall automatically be licensed as a landscape architect.

Any person who is practicing the profession of landscape architecture, but is not licensed with the board prior to the effective date of this section, shall comply with the requirements of section 220 by January 1, 1990.

Sec. 117. 32 MRSA §221, as amended by PL 1977, c. 694, §§545 and 546, is further amended to read:

§221. Examinations

Examinations for registration licensure as an architect or landscape architect shall be held by the board at least

once each year, provided that applications have been received during the time announced. The board shall make all necessary rules and regulations, in accordance with the Maine Administrative Procedure Act, Title 5, section 8051, et seq., governing the time, place and method of giving and grading examinations, shall publish appropriate announcements and shall conduct examinations at the time designated for all applicants who desire to be registered licensed as an "architect" or "landscape architect" and to engage in performing the functions of an architect or landscape architect. The board shall have the power to provide a reasonable division into classes of the various applicants and the examination to be taken in each class. Examinations shall consist of such technical and professional subjects and oral questioning as the board may from time to time prescribe. The rules for the manner in which examinations are conducted and the content of the examination shall be adopted in accordance with the Maine Administrative Procedures Act, Title 5, section 8051 et seq.

Sec. 118. 32 MRSA §222, sub-§§3, 4, 5 and 6, as enacted by PL 1977, c. 463, §3, are amended to read:

3. License; resident. For a ~~certificate of registration license~~ for a resident by transfer of ~~registration license~~ from another state or country, an amount shall be fixed by the board.

4. License; nonresident. For a ~~certificate of registration license~~ for a nonresident an amount shall be fixed by the board which shall not exceed the sum of \$200.

5. Renewal. For the annual renewal of a ~~registration license~~ certificate an amount shall be fixed by the board which shall not exceed the sum of \$25.

6. Reissuance. For the reissuance of a lapsed or suspended ~~certificate~~ license, an amount shall be fixed by the board which shall not exceed the sum of \$50.

Sec. 119. 32 MRSA §223, as enacted by PL 1977, c. 463, §3, is amended to read:

§223. Licensure without examination

1. Resident licensure from other states. ~~Certificates of registration~~ Licenses may be issued to residents who hold ~~or have held certificates of registration unexpired licenses~~ from other states, provided the requirements of such ~~certificates of registration licenses~~ are deemed equivalent to requirements for registration licensure in this State by examination, and provided the applicants submit such other evidence of his ability as may be required by the board.

2. Nonresident licensure. ~~Certificates of registration~~ Licenses may be issued to nonresidents who hold an unexpired ~~certificate of registration license~~ issued to him by any state or territory or possession of the United States or any country, provided the requirements of the registration licensure under which ~~certificates of regis-~~

~~tration licenses~~ were issued do not contravene this chapter and are deemed the equivalent of requirements for ~~registration licensure~~ in this State by examination, and provided the applicant submit such other evidence of his ability as may be required by the board.

3. ~~Certification by National Council of Architectural Registration. Certificates of registration Licenses~~ may be issued to persons who have passed a standard National Council of Architectural Registration Boards' examination and have received certification thereof by the National Council of Architectural Registration Boards, and the further evidence of continued honorable professional conduct after the passing of such examination.

4. ~~Certification by the Council of Landscape Architectural Registration Board. Certificates of registration Licenses~~ may be issued to persons who have passed a standard Council of Landscape Architectural Registration's examination and have received certification thereof, and the further evidence of continued honorable professional conduct after the passing of such examination.

5. ~~Prior practice. Certificates of registration may be issued to a resident of the State who has been actively engaged in the practice of landscape architecture as defined in this chapter and has used the title "landscape architect" for a minimum of one full year preceding the enactment of this legislation, provided that proof of the applicant's practice of landscape architecture and use of the title "landscape architect" is presented to the satisfaction of the board, and provided such application is made on or before December 31, 1978.~~

Sec. 120. 32 MRSA §224, as amended by PL 1983, c. 224, §11, is further amended to read:

#### §224. License

The board shall issue a ~~certificate of registration license~~, upon payment of the fee provided for in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. ~~Certificates Licenses~~ shall bear a serial number and the full name of the registrant, and shall bear the signatures of the chairman and secretary, and the seal of the board.

Issuance of a ~~certificate of registration license~~ by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a ~~registered licensed architect or registered licensed landscape architect~~ while the ~~certificate license~~ remains unexpired and unrevoked. The ~~certificate license~~ shall be synonymous with ~~registration licensure~~, with the full meaning and effect of a license to practice architecture or landscape architecture.

~~Certificates of registration Licenses~~ shall expire on the last day of June of each year. Renewal may be effected at any time during the month of June by payment of the renewal fee. A ~~certificate license~~ may be renewed

up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Section 121. 32 MRSA §225, as enacted by PL 1977, c. 463, §3, is amended to read:

#### §225. Seal

Each ~~registrant licensee~~ shall upon ~~registration licensure~~ obtain a seal of such design as the board shall authorize and direct. Plans and specifications, prepared by or under the direct supervision of a ~~registered licensed architect~~ in the case of an architect registrant, and under the direct supervision of a ~~registered licensed landscape architect~~ in the case of a landscape architect registrant, shall be stamped with the seal during the life of the ~~registrant's certificate licensee's license~~, and it shall be unlawful for anyone to stamp or seal any documents with the seal after the ~~certificate of the registrant license~~ named thereon has expired or has been revoked, unless the ~~certificate license~~ shall have been renewed or reissued.

Sec. 122. 32 MRSA §301, sub-§1, ¶D, is amended to read:

D. Removing superfluous hair from the face, neck or upper part of body; ; or

Sec. 123. 32 MRSA §302, sub-§2, as amended by PL 1983, c. 339, §§1 and 2, is further amended to read:

2. Exceptions. The practice of barbering shall be carried on only by persons duly ~~registered licensed~~ to practice barbering in this State and only in a licensed barber shop, except as provided in this subsection. A duly ~~registered licensed~~ barber may practice barbering:

- A. Upon patients in hospitals or nursing homes;
- B. Upon residents of summer camps;
- C. Upon inmates or residents of institutions of the Department of Mental Health and Mental Retardation;
- D. Upon an invalid or handicapped person in that person's place of residence;
- E. Upon a resident of a nursing home;
- F. Upon a hotel or motel occupant in that person's hotel or motel room; and
- G. Upon a person in the person's residence, if the barber maintains or is employed in a licensed barber

shop.

Sec. 124. 32 MRSA §303-A, as amended by PL 1985, c. 797, §67, is further amended to read:

§303-A. Instructors of barbering

No person may be engaged to instruct in any of the branches of barbering unless that person has a certificate license to practice barbering issued under this chapter and a certificate of registration license as instructor of barbering issued under the this chapter.

The board and the Department of Educational and Cultural Services shall make rules for the examination of applicants for certificates of registration licenses as instructors of barbering, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. Examination applications shall be furnished by the board. The application shall be filed with the secretary of the board and shall be accompanied by an examination fee of ~~\$35~~. If examination is satisfactory, the applicant shall pay a fee of ~~\$15~~ to receive the initial instructor certificate of registration license, which shall be valid until the next renewal period. The renewal fee for instructor certificate of registration licensure shall be ~~\$15 biennially~~ collected by the board.

Sec. 125. 32 MRSA §304, first ¶, as repealed and replaced by PL 1977, c. 398, §5, is amended to read:

Any person engaged in the practice of barbering in this State without having obtained a certificate of registration license as provided by this chapter or employing a person to practice barbering who does not have such a certificate license, unless the person is an apprentice within the meaning of this chapter, or falsely pretending to be qualified to practice barbering under this chapter or violating any of the provisions of this chapter shall be deemed guilty of a Class E crime. Every such person shall be deemed guilty of a separate and distinct offense for each month or part thereof during which such practice or employment shall be repeated or continued after prosecution has been begun against any such person for the violation of any of the provisions of this chapter.

Sec. 126. 32 MRSA §305, as enacted by PL 1977, c. 398, §6, is repealed and the following enacted in its place:

§305. Practicing in same shops

In any shop licensed with the Board of Barbers and the State Board of Cosmetology, both of the barber and cosmetology professions may be practiced by licensed individuals in that shop. These individuals are not required to be licensed by both boards. Partitions between or separate rooms for the 2 practices shall not be required in any such shop.

Sec. 127. 32 MRSA §351, as amended by PL 1985, c. 785, Pt. B, §130, is further amended to read:

§351. Board

1. Membership. The State Board of Barbers, as established by Title 5, section 12004, subsection 1, and in this chapter designated as the "board," shall consist of 5 4 members who shall be citizens of this State, 3 of whom shall have been engaged in the practice of barbering for at least 3 years immediately prior to their appointment and one of whom shall be a representative of the public. ~~The 5th member of the board shall be the Director of Health who shall have no board vote.~~

The 4 ~~voting~~ members of the board shall be appointed by the Governor and their terms shall be for 3 years. None of them shall be eligible to serve more than 3 consecutive 3-year terms. The barber members shall at all times be registered licensed barbers.

Any vacancy in the board shall be filled by the appointment by the Governor of a person to hold office during the unexpired term. The person appointed shall be qualified in the same manner as the board member being replaced. No person operating or employed by a school of barbering ~~shall may~~ be appointed as a member of the board. If any member of the board, after appointment, shall become affiliated in any way with any such school, that person's membership on the board shall immediately terminate and the unexpired term of that member shall be filled by the Governor.

2. Meetings; chairman; quorum. The board shall meet at least once a year to conduct its business and to elect a chairman. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members. The chairman shall serve for a term of one year or until a successor is elected. All meetings of the board shall be open to the public, except that the board may hold closed sessions to prepare, approve, grade or administer examinations, or to prepare or provide a response upon request of an applicant for review of his examination. Three ~~voting~~ members of the board shall constitute a quorum for all purposes.

3. Employees. The board shall employ, subject to the Civil Service Law, an executive secretary. The salary of the executive secretary shall be determined by the Bureau of Human Resources and shall be paid from funds received under this chapter. The executive secretary of the board shall keep a record of all proceedings, certificates of registration and licenses; issue all notices, except those required to be issued by the Administrative Court Judge under Title 4, chapter 25; attest all such papers and orders as the board shall direct; make sanitary inspections at least ~~twice~~ once a year of shops and other establishments subject to license under this chapter as directed by the board, and shall, on or before August 1st of each year, submit a report to the Commissioner of ~~Business, Occupational and Professional and Financial~~ Regulation, for the preceding fiscal year ending June 30th, giving a full statement of all receipts and expenditures and a statement of the work performed



by the board during the year, together with such recommendations as deemed necessary. The board shall employ, subject to the Civil Service Law, inspectors who may be registered barbers and who shall, under the direction of the executive secretary, make inspections of shops and other establishments subject to license. Whenever necessary, the inspectors employed by the board shall consult with the Department of Human Services for technical information and proper procedure regarding sanitary shop inspections. The salary of such inspectors shall be determined by the Bureau of Human Resources and shall be paid from funds received under this chapter. The board shall have the right to dismiss, for cause, the executive secretary or the inspectors.

4. Compensation. The members of the board shall be compensated according to the provisions of Title 5, chapter 379, for no more than 18 meetings per calendar year or, in the case of the chairman for no more than 25 days per calendar year. Expenses as related to duties out of the State shall be reimbursable for no more than 5 calendar days per calendar year unless approved in advance by the Governor.

Sec. 128. 32 MRSA §352, sub-§1, as amended by PL 1985, c. 748, §35, is further amended to read:

1. Board to administer, coordinate and enforce. The board shall administer, coordinate and enforce this chapter, evaluate the qualifications and supervise the examinations of applicants for ~~registration~~ licensure under this chapter and shall, at its discretion, investigate allegations of violations of this chapter. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

Any member or employee of the board may enter and make reasonable examination of any barber shop during business hours for the purpose of ascertaining whether or not the rules are being observed.

The board shall submit to the Commissioner of Professional and Financial Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665.

The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours, to maintain copies of all application materials with the department and to provide any information the commissioner requires in order to assure that the board is operating administratively within the requirements of this chapter.

Sec. 129. 32 MRSA §352, sub-§2, ¶C is amended to read:

C. Requirements for licenses and ~~certificates of registration~~ registrations consistent with this chapter.

Sec. 130. 32 MRSA §352, sub-§4, as amended by PL 1983, c. 841, §10, is further amended to read:

4. Diseases. No person who has a communicable disease may give service in any barber shop or school. The board shall have the right to require the physical examination of any person who, while employed in any such barber shop or school, is suspected of having any communicable disease. Failure to submit to such an examination shall be grounds for suspension or revocation of the person's ~~certificate of registration~~, license or permit.

Sec. 131. 32 MRSA c. 7, sub-c. III, first 2 lines are repealed and the following enacted in their place:

### SUBCHAPTER III

#### LICENSURE

Sec. 132. 32 MRSA §401, as amended by PL 1985, c. 748, §37, is further amended to read:

#### §401. Registration and licenses

No person ~~shall~~ may practice barbering in this State unless that person shall first have obtained a ~~certificate of registration~~ license as provided in this chapter or unless that person shall be acting within the scope of employment as an apprentice.

An apprentice barber may not independently practice barbering but may, as an apprentice, do any or all acts constituting the practice of barbering under the immediate personal supervision of a ~~registered~~ licensed barber. Only one such apprentice shall be employed in any licensed shop.

No barber technician may independently practice barbering but may, as a barber technician, do only the following acts constituting the practice of barbering: Shampooing and drying of hair, and manicuring provided the barber technician has taken a course of instruction prescribed by the board.

No person, firm or corporation may operate or cause to be operated a shop where barbering is practiced unless that shop or establishment has been duly licensed. ~~The fee for a license to operate a barber shop and the annual renewal thereof shall be \$25.~~ Shop licenses that require a special inspection, such as new barber shops, change of barber shop location and change of barber shop ownership, shall be ~~\$30~~ charged a separate fee in the first instance including the license, and ~~\$25~~ for each annual renewal thereof. ~~The license~~ All shop licenses shall run from the first day of January in every year and the fee fees shall be payable to the board.

Upon the death of any person in whose name a shop is licensed, that shop license shall continue to be valid for 60 days following the death of that person.

Booths, attached to or within a barber shop, that are operated independently thereof, shall be subject to license fees in the same manner as an independent shop.

Each student upon enrollment in a school of barbering licensed by the Commissioner of Educational and Cultural Services shall make written application for a student permit therefor on a form prescribed and supplied by the board. The application shall contain satisfactory evidence of the qualifications required of the applicant under this chapter and shall be notarized. The applicant shall pay to the secretary of the board a fee of \$5 and the permit shall expire with termination or completion of the school course for which the permit was obtained. No permit may be issued to a person who has not attained 17 years of age.

A student permit shall not be required of an apprentice who obtains a certificate of registration pursuant to section 405.

Sec. 133. 32 MRSA §402, first ¶, as repealed and replaced by PL 1977, c. 398, §9, is amended to read:

Any person shall be eligible to obtain a certificate of registration license under this chapter for the practice of barbering:

Sec. 134. 32 MRSA §402, sub-§4, as repealed and replaced by PL 1977, c. 398, §9, is amended to read:

4. Examination. Who has satisfactorily passed an examination conducted by the board to determine his fitness to receive such a certificate license.

Sec. 135. 32 MRSA §402, next to last ¶, as amended by PL 1979, c. 694, §3, is further amended to read:

The applications shall be filed with the secretary of the board and shall be accompanied by an examination fee of \$20. If the examination is satisfactory, the applicant shall pay a fee of \$25 to receive a first license, which shall be valid until the next renewal period. The board shall determine the exact amount of this fee. If not successful, the applicant shall have the privilege of taking a 2nd examination by payment of a fee of \$20 at any subsequent examination held by the board within a period of one year. Any applicant, who has failed a 2nd examination, may take a further examination at a time to be determined by the board upon payment of a \$20 fee for each subsequent examination.

Sec. 136. 32 MRSA §403, as repealed and replaced by PL 1977, c. 398, §9, is amended to read:

#### §403. Temporary permit

If any applicant to practice barbering qualifies for examination, the board may issue to such an applicant, until the results of the applicant's examination have been given, a permit to practice barbering under the supervision of a person registered licensed to practice barbering. The permit shall terminate with the examination following applicant's qualification. If the applicant fails the first examination following qualification, the applicant may renew his permit to practice barbering under

supervision of a person registered licensed to practice barbering until the results of the next consecutive examination have been given, at which time the permit expires and shall not be renewable. The applicant shall not be considered an apprentice. The applicant shall pay to the board a fee of \$5.

Sec. 137. 32 MRSA §404, as amended by PL 1983, c. 413, §28, is further amended to read:

#### §404. Reciprocity with other states

The board may waive the examination and grant registration licensure to any applicant who shall present proof of current registration or licensure in another state, other jurisdiction of the United States or another country which grants similar privileges to persons registered under this chapter and maintains professional standards deemed by the board to be equivalent to those set forth in this chapter, provided that no cause exists for denial of a license under section 408. Such an applicant shall pay the same fee as provided in section 407-A.

The board may allow an applicant to take the examination who presents proof of training or experience, of an amount at least equal to that required under section 402, subsection 3, in another state, other jurisdiction of the United States or another country which maintains professional standards deemed by the board to be equivalent to those set forth in this chapter, provided that no cause exists for denial of a license under section 408. Such an applicant shall pay the examination fee as provided in section 402-A.

Sec. 138. 32 MRSA §405, first and 3rd paragraphs, as repealed and replaced by PL 1977, c. 398, §9, are amended to read:

The board shall furnish to each registered apprentice a certificate of registration of apprenticeship.

Each apprentice shall make application on a form supplied by the board for certificates of registration registrations. The application shall be filed with the secretary of the board and shall be accompanied by a registration fee of \$10. The certificate of registration shall expire 18 months from date of issue and shall be renewable. The certificate registration shall be displayed as provided for barbers' certificates licenses in section 407. The term "apprentice" shall appear in conspicuous print upon the certificate registration.

Sec. 139. 32 MRSA §406, as repealed and replaced by PL 1977, c. 398, §9, is amended to read:

#### §406. Technicians

Every barber technician, in order to avail himself of this chapter, shall, before entering employment as a barber technician, file with the secretary of the board, on forms which shall be provided by the board, the name and place of business of the employer, the date on which

employment will be commenced and the barber technician's full name and age. That age shall not be less than 17 years. The forms shall be accompanied by a registration fee of ~~\$5~~. Any barber technician who shall change his place of employment shall promptly notify the board and furnish it with the name and place of business of the new employer and the date of the change.

The board shall furnish to each barber technician a ~~certificate of registration~~ in the form prescribed by the board, bearing the seal of the board, certifying that the holder is a barber technician. It shall be the duty of the holder of such a ~~certificate of registration~~ to post it in a conspicuous place where it may readily be seen by all persons, on or before the first day of January in each year. ~~The fee for such a certificate shall be \$10 in the first instance and \$10 for each biennial renewal thereof.~~ The certificate registration shall run from the first day of January of each ~~biennium~~.

A barber technician shall not be considered an apprentice nor shall any time which he has been registered and been employed as a barber technician count toward training for eligibility to obtain a ~~certificate of registration license~~ as a barber.

Sec. 140. 32 MRSA §407, as amended by PL 1985, c. 748, §§38 and 39, is further amended to read:

§407. Licenses; renewal;

The board shall furnish to each ~~registered licensed~~ barber a ~~certificate of registration license~~. It shall be the duty of the holder of such ~~certificate of registration license~~ to post it in a conspicuous place where it may be readily seen by all persons served.

The ~~certificate of registration license~~ shall be renewed on or before the first day of January annually, and the holder of the certificate of registration shall pay ~~the sum of \$35~~ a fee for each annual renewal.

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 141. 32 MRSA §407-A is enacted to read:

§407-A. Fees

Fees may be established by the board in amounts which are reasonable and necessary for their respective purposes. With the exception of the various examination fees which are to be collected upon the administration of such examinations, all fees are to be collected by the

board on an annual basis. The fees may not exceed the following amounts:

- A. For an instructor's examination, \$45;
- B. For an instructor's license, \$25;
- C. For a shop license, \$35;
- D. For a barber's examination, \$25;
- E. For a barber's license, \$40;
- F. For a student permit, \$10;
- G. For a temporary permit, \$10;
- H. For an apprentice's registration, \$10; and
- I. For a technician's registration, \$10.

Sec. 142. 32 MRSA §408, sub-§5, as enacted by PL 1977, c. 398, §9, is amended to read:

5. Certain conduct. Repeated acts or continued Acts or conduct while serving customers which is dangerous or injurious, or potentially so, to customers.

Sec. 143. 32 MRSA §1105, last ¶, as amended by PL 1983, c. 413, §33, is further amended to read:

Nothing in this chapter may prevent a person from making electrical installations in a single-family single-family residence occupied by him or to be occupied by him as his bona fide personal abode, providing that the installation conforms with the standards of the National Electric Code. Any electrical installations made under the authority of this paragraph, after July 1, 1987, in a newly constructed residence, shall require certification by a state or local inspector, master electrician or limited electrician in house wiring prior to the activation of electricity by the utility company.

Sec. 144. 32 MRSA §1551, sub-§4, ¶A, as enacted by PL 1977, c. 398, §10, is amended to read:

A. Applying the hands or mechanical or electrical apparatus with or without cosmetic preparations, tonics, lotions, creams, antiseptics or clays to massage, cleanse, stimulate, manipulate, exercise or otherwise to improve or to beautify the scalp, face, neck, shoulders, arms, hands or to manicure the fingernails or toenails of any person;

Sec. 145. 32 MRSA §1551, sub-§5-A is enacted to read:

5-A. Apprentice manicurist. "Apprentice manicurist" means any person who is engaged in learning and acquiring a knowledge of the practice of nail care under the direction and supervision of a person licensed under this chapter to practice cosmetology or manicuring in accor-

dance with the rules of the board relating to apprentices.

Sec. 146. 32 MRSA §1552, sub-§2, as amended by PL 1985, c. 506, Pt. A, §67, is further amended to read:

2. Exceptions. The practice of cosmetology shall be carried on only by persons duly registered licensed to practice in this State and only in a licensed beauty shop, except as provided in this subsection. A duly registered licensed cosmetologist may practice cosmetology:

- A. Upon patients in hospitals or nursing homes;
- B. Upon residents of summer camps;
- C. Upon inmates or residents of institutions of the Department of Mental Health and Mental Retardation and the Department of Corrections;
- D. Upon an invalid or handicapped person in that person's place of residence;
- E. Upon a resident of a nursing home;
- F. Upon a hotel or motel occupant in that person's hotel or motel room; and
- G. Upon a person in the person's residence, when done for the usual fees.

Sec. 147. 32 MRSA §1553-A, as enacted by PL 1983, c. 841, §18, is amended to read:

§1553-A. Instructors of cosmetology

No person may be engaged to instruct in any of the branches of cosmetology unless that person has a certificate license to practice cosmetology under this chapter, except physicians as specified.

The board and the Department of Educational and Cultural Services shall make rules for the examination of applicants for certificates of registration licensure as instructors of cosmetology, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. Examination applications shall be furnished by the board. The application shall be filed with the secretary of the board and shall be accompanied by an examination fee of ~~\$50~~ which shall include registration licensure, if examination is satisfactory. All certificates of registration licenses as instructors shall expire June 30th biennially. ~~The renewal fee for instructors shall be \$16 biennially.~~

Sec. 148. 32 MRSA §1555, first ¶, as repealed and replaced by PL 1977, c. 398, §10, is amended to read:

Any person engaged in the practice of cosmetology in this State without having obtained a certificate of registration license as provided by this chapter or employing a person to practice cosmetology who does not have such a certificate license, unless the person is an apprentice

within the meaning of this chapter, or falsely pretending to be qualified to practice cosmetology under this chapter or violating any of the provisions of this chapter shall be deemed guilty of a Class E crime. Every such person shall be deemed guilty of a separate and distinct offense for each month or part thereof during which such practice or employment shall be repeated or continued after prosecution has been begun against any such person for the violation of any of the provisions of this chapter.

Sec. 149. 32 MRSA §1556, as enacted by PL 1977, c. 398, §10, is repealed and the following enacted in its place:

§1556. Practicing in same shops

In any shop licensed with the Board of Barbers and the State Board of Cosmetology, both of the barber and cosmetology professions may be practiced by licensed individuals in that shop. Those individuals are not required to be licensed by both boards. Partitions between or separate rooms for the 2 practices shall not be required in any such shop.

Sec. 150. 32 MRSA §1601, as amended by PL 1985, c. 785, Pt. B, §132, is further amended to read:

§1601. Board

1. Membership. The State Board of Cosmetology, as established by Title 5, section 12004, subsection 1, and in this chapter designated as the "board," shall consist of 7 ~~6~~ members who shall be citizens of this State, 5 of whom shall have been engaged in the practice of cosmetology for at least 3 years immediately prior to their appointment and one of whom shall be a representative of the public. ~~The 7th member of the board shall be the Director of Health who shall have no board vote.~~

The ~~6~~ voting members of the board shall be appointed by the Governor and their terms shall be for 3 years. None of them may be eligible to serve more than 3 consecutive 3-year terms or to serve more than 9 years consecutively, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. The cosmetologist members shall at all times be registered cosmetologists and shall be actively engaged in the practice during their membership on the board. A board member may be removed by the Governor for cause.

Any vacancy in the board shall be filled by the appointment by the Governor of a person, qualified as was the board member being replaced, to hold office during the unexpired term of the member whose place is thus filled.

No person operating or employed by a school of cosme-

tology may be appointed as a member of the board. If any member of the board, after appointment, shall become affiliated in any way with any such school, that person's membership on the board shall immediately terminate and the unexpired term of that member shall be filled by the Governor.

2. Meetings; chairman; quorum. The board shall meet at least once a year to conduct its business and to elect a chairman. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members. All meetings of the board shall be open to the public, except that the board may hold closed sessions to prepare, approve, grade or administer examinations, or to prepare or provide a response upon request of an applicant for review of his examination. Four ~~voting~~ members of the board shall constitute a quorum for all purposes.

3. Employees. The board shall employ, subject to the Civil Service Law, an executive secretary. The salary of the executive secretary shall be determined by the Bureau of Human Resources and shall be paid from funds received under this chapter. The executive secretary of the board shall keep a record of all proceedings, certificates of registration and licenses; issue all notices, except those required to be issued by the Administrative Court Judge under Title 4, chapter 25; attest all papers and orders as the board shall direct; make sanitary inspections at least twice a year of shops and other establishments subject to a license under this chapter as directed by the board, and shall report annually on or before August 1st of each year to the Commissioner of ~~Business, Occupational and Professional and Financial~~ Regulation, for the preceding fiscal year ending June 30th, giving a full statement of all receipts and expenditures and a statement of the work performed by the board during the year, together with recommendations as deemed necessary. The board shall employ, subject to the Civil Service Law, inspectors who may be registered cosmetologists and who shall, under the direction of the executive secretary, make inspections of shops and other establishments subject to license. Whenever necessary, the inspectors employed by the board shall consult with the Department of Human Services for technical information and proper procedure regarding sanitary shop inspections. The salary of such inspectors shall be determined by the Bureau of Human Resources and shall be paid from funds received under this chapter. The board shall have the right to dismiss, for cause, the executive secretary or the inspectors.

4. Compensation. The members of the board shall be compensated according to the provisions of Title 5, chapter 379 for no more than 18 meetings per calendar year, or, in the case of the chairman, for no more than 25 days per calendar year. Expenses as related to duties out of the State shall be reimbursable for no more than 5 calendar days per calendar year unless approved in advance by the Governor.

Sec. 151. 32 MRSA §1602, sub-§1, as amended by PL 1983, c. 413, §68, is further amended to read:

1. Board to administer, coordinate and enforce. The board shall administer, coordinate and enforce this chapter, evaluate the qualifications and supervise the examinations of applicants for ~~registration licensure~~ under this chapter and shall, at its discretion, investigate allegations of violations of this chapter. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions. Any member or employee of the board may enter and make reasonable examination of any beauty shop during business hours for the purpose of ascertaining whether or not the rules are being observed.

Sec. 152. 32 MRSA §1602, 2nd ¶, as enacted by PL 1977, c. 604, §18, is amended to read:

On or before August 1st of each year, the board shall submit to the Commissioner of ~~Business Professional and Financial~~ Regulation, for the preceding fiscal year ending June 30th, its annual report of its operations and financial position, together with such comments and recommendations as the commissioner deems essential.

Sec. 153. 32 MRSA §1602, last ¶, as amended by PL 1983, c. 758, §8, is further amended to read:

The board shall submit to the Commissioner of ~~Business, Occupational and Professional and Financial~~ Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665.

Sec. 154. 32 MRSA §1603, as amended by PL 1983, c. 841, §20, is further amended to read:

#### §1603. Register of names

The board shall keep a register in which shall be entered the names of all persons to whom ~~certificates registrations~~, licenses and permits are issued under this chapter and that register shall be at all times open to public inspection.

Sec. 155. 32 MRSA c. 23, sub-c. III, first 2 lines are repealed and the following enacted in their place:

### SUBCHAPTER III

#### LICENSURE

Sec. 156. 32 MRSA §1651, as repealed and replaced by PL 1977, c. 398, §10, is amended to read:

#### §1651. Registration and licenses

No person ~~shall~~ may practice cosmetology in this State unless that person shall first have obtained a ~~certificate of registration~~ license as provided in this chapter or unless that person shall be acting within the scope of employment as an apprentice.

An apprentice cosmetologist may not independently practice cosmetology but may, as an apprentice, do any or all acts constituting the practice of cosmetology under the immediate personal supervision of a registered licensed cosmetologist. Only one such apprentice shall be employed in any licensed beauty shop.

No person, firm or corporation shall may operate or cause to be operated a shop where cosmetology is practiced unless that shop has been duly licensed by the board. ~~The fee for a license to operate a beauty shop shall be \$30 for a new shop or change in location or ownership and \$20 but not exceeding \$35 for each biennial renewal thereof. Any new shop or a currently licensed shop that undergoes a change in location or ownership shall be required to either apply or reapply, respectively, for licensure with the board. The license shall run from the first day of July biennially and the fee shall be payable to the board. Booths, attached to or within a beauty shop that are operated independently thereof, shall be subject to license fees in the same manner as an independent shop.~~

An apprentice manicurist may not independently practice manicuring but may, as an apprentice, do any or all acts constituting the practice of manicuring and pedicuring under the immediate personal supervision of a licensed cosmetologist or licensed manicurist. Only one such apprentice shall be employed in any licensed beauty shop.

Sec. 157. 32 MRSA §1652, first ¶, as repealed and replaced by PL 1977, c. 398, §10, is amended to read:

Any person shall be eligible to obtain a certificate of registration license under this chapter for the practice of cosmetology:

Sec. 158. 32 MRSA §1652, sub-§4, as repealed and replaced by PL 1977, c. 398, §10, is amended to read:

4. Examination. Who has satisfactorily passed an examination conducted by the board to determine his fitness to receive such certificate license.

Sec. 159. 32 MRSA §1652, next to the last ¶, as repealed and replaced by PL 1977, c. 398, §10, is amended to read:

The applications shall be filed with the secretary of the board and shall be accompanied by an examination fee of ~~\$15~~. If the examination is satisfactory, the applicant shall pay a fee of ~~from \$10 to \$15~~ within 90 days to receive a first license, which shall be valid until the next renewal period. The board shall ~~determine the exact amount of this fee~~ have the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant shall have the privilege of taking a 2nd examination by ~~payment of a fee of \$10~~ at any subsequent examination held by the board within a period of one year. Any applicant, who has failed a 2nd examination, may take a further examination at a time to

be determined by the board upon payment of a ~~\$10~~ fee for each subsequent examination.

Sec. 160. 32 MRSA §1653, as repealed and replaced by PL 1977, c. 398, §10, is amended to read:

§1653. Temporary permit

If any applicant to practice cosmetology qualifies for examination, the board may issue to such an applicant, until the results of the applicant's examination have been given, a permit to practice cosmetology under the supervision of a person registered licensed to practice cosmetology. The permit shall terminate with the issuance of the results of the examination following the applicant's qualification. If the applicant fails the first examination following qualification, the applicant may renew his permit to practice cosmetology, until the results of the next consecutive examination have been given, at which time the permit expires and shall not be renewable. The applicant shall not be considered an apprentice. ~~The applicant shall pay to the board a fee of \$5.~~

Sec. 161. 32 MRSA §1654, as amended by PL 1983, c. 841, §23, is further amended to read:

§1654. Reciprocity with other states

The board may waive the examination and grant registration licensure to any applicant who shall present proof of current ~~registration or~~ licensure in another state, other jurisdiction of the United States or another country which grants similar privileges to persons registered under this chapter and maintains professional standards deemed by the board to be equivalent to those set forth in this chapter, provided that no cause exists for denial of a license under section 1657-A. Such an applicant shall pay the ~~same~~ fee as provided in section ~~1657~~ 1657-B.

The board may allow an applicant to take the examination who presents proof of training or experience, of an amount at least equal to that required under section 1652, subsection 3, in another state, other jurisdiction of the United States or another country which maintains professional standards deemed by the board to be equivalent to those set forth in this chapter, provided that no cause exists for denial of a license under section ~~1658~~ 1657-A. Such an applicant shall pay the ~~same~~ fee as provided in section ~~1652~~ 1657-B.

Sec. 162. 32 MRSA §1655, first and 3rd paragraphs, as repealed and replaced by PL 1977, c. 398, §10, are amended to read:

The board shall furnish to each registered apprentice a ~~certificate of registration of~~ apprenticeship.

Each apprentice shall make application on a form supplied by the board for ~~certificates of registration~~. The application shall be filed with the secretary of the board and shall be accompanied by a registration fee of ~~\$10~~. The ~~certificate of registration~~ shall expire 18 months

from date of issue and shall be renewable. The ~~certificate registration~~ shall be displayed as provided for ~~certificates licenses~~ in section ~~1652~~ 1657. The term "apprentice" shall appear in conspicuous print upon the ~~certificate registration~~.

Sec. 163. 32 MRSA §1655-A, 2nd ¶, as enacted by PL 1983, c. 841, §24, is amended to read:

To be eligible for a student permit, a student cosmetologist must be at least 16 years of age and have completed the 10th grade in a secondary school. The application shall include evidence of the student cosmetologist's enrollment in a school of cosmetology licensed by the Commissioner of Educational and Cultural Services. ~~The student shall pay a registration fee of \$5.~~

Sec. 164. 32 MRSA §1656, as amended by PL 1981, c. 501, §60, is further amended to read:

§1656. Demonstrations; manicuring

1. Demonstrators. Any person ~~registered~~ licensed to practice cosmetology may apply to the board of ~~registration~~ as a demonstrator. A ~~certificate of registration~~ license limited to demonstrations only may be issued upon complying with such requirements as may be determined by the board and ~~upon payment of the fee of \$25 for an initial license, which is valid until the next renewal date. Certificates shall be renewed biennially on or before July 1st by paying a renewal fee of \$30.~~

2. Manicuring. A ~~certificate of registration~~ license limited to manicuring only may be issued upon complying with such examination requirements as may be determined by the board and upon payment of the fees as provided by this chapter.

Sec. 165. 32 MRSA §1657, as amended by PL 1983, c. 413, §73, is further amended to read:

§1657. Licenses; renewal

The board shall furnish to each ~~registered~~ licensed cosmetologist a ~~certificate of registration~~ license bearing the seal of the board and the names of all of its members, certifying that the holder thereof is entitled to practice cosmetology in this State. It shall be the duty of the holder of such ~~certificate of registration~~ license to post it in a conspicuous place where it may be readily seen by all persons served.

The ~~certificate of registration~~ license shall be renewed on or before the first day of July biennially. ~~The holder of the certificate of registration shall pay the board for the biennial renewal a sum between \$20 and \$35, as determined by the board.~~

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the

license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration. The board shall have the authority to waive the 90-day time period for extenuating circumstances.

Sec. 166. 32 MRSA §1657-A, as repealed and replaced by PL 1983, c. 413, §74, is amended to read:

§1657-A. Suspension, revocation and refusal to issue or to renew license

The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to renew a license of any person ~~registered~~ licensed under this chapter for any of the following reasons:

1. Obtaining registration or license by fraud. Obtaining registration or license by means of fraud, misrepresentation or concealment of material facts;

2. Violation of any lawful order, rule. Violating any lawful order or rule adopted by the board;

3. Violations. Violating any provision of this chapter;

4. Conviction of a crime. Being convicted of a crime in any court of the United States, if the acts for which the person is convicted are found by the board to have a direct bearing on whether the person should be entrusted to serve the public in a capacity which is subject to license or registration under this chapter, subject to the limitations of Title 5, chapter 341; or

5. Certain conduct. ~~Repeated acts~~ Acts or continued conduct while serving customers which ~~is are~~ dangerous or injurious, or potentially so, to customers.

The board may reissue a license ~~or registration~~ to any person whose license ~~or registration~~ has been revoked, if 4 or more members of the board vote in favor of reissuance.

Sec. 167. 32 MRSA §1657-B is enacted to read:

§1657-B. Fees

1. Fees. Fees may be established by the board in amounts that are reasonable and necessary for their respective purposes. With the exception of the various examination fees which are to be collected upon the administration of the examinations and apprenticeship registrations, all fees are to be collected by the board on a biennial basis. The fees may not exceed the fol-

## lowing amounts:

- A. For an instructor's examination, \$50;
- B. For original and biennial renewal of instructor's license, \$16;
- C. For original and biennial renewal of shop license, \$35;
- D. For a hairdresser's examination, \$15;
- E. For original and biennial renewal of a hairdresser license, \$35;
- F. For a student permit, \$5;
- G. For a temporary permit, \$5;
- H. For original and renewal of an apprentice's registration, \$10;
- I. For original and biennial renewal of a demonstrator's license, \$30; and
- J. For original and renewal of a manicurist's license, \$35.

Sec. 168. 32 MRSA §2315, as amended by PL 1979, c. 606, §10, is further amended to read:

§2315. State oil and solid fuel compliance officers

State oil and solid fuel compliance officers, upon written complaint of any owner, lessee or tenant of a building, state fire inspector, fire chief, fire department inspector, personnel of an electric utility or local electrical inspector, or whenever they shall deem it necessary, for purposes of examination of the burner installation, may at all reasonable hours enter into and upon all buildings or premises within their jurisdiction and inspect the buildings or premises. The inspectors may enter any building only with the permission of the person having control thereof or, after hearing, upon order of the court. Whenever any such compliance officer shall find any burner installation in any building or structure which does not comply with the requirements of this chapter, he shall order the burner to be removed or remedied, and the order shall forthwith be complied with by the owner or occupant of that building or structure. The owner or occupant may, within 7 days, appeal to the Oil and Solid Fuel Board, which shall, within 10 days, review the order and file its decision thereon, which decision shall be complied with within such time as may be fixed in the decision of the board. In the event any person, firm or corporation fails or refuses to carry out any such order of any oil or solid fuel burner compliance officer or decision of the board, a court may order appropriate injunctive relief. State oil and solid fuel compliance officers shall have the authority to review the burner installation records of any person licensed under this chapter.

Sec. 169. 32 MRSA §2351, first ¶, as repealed and replaced by PL 1985, c. 506, Pt. A, §68, is amended to read:

An Oil and Solid Fuel Board, as established by Title 5, section 12004, subsection 1, and in this chapter called the "board," shall consist of the Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~ or a representative appointed by the commissioner, the Commissioner of Public Safety or a representative and 5 other members, called in this chapter the "appointive members," who shall be appointed by the Governor.

Sec. 170. 32 MRSA §2352, first ¶, as amended by PL 1985, c. 785, Pt. B, §135, is further amended to read:

The Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~, with the advice and consent of the board, shall be empowered to appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. Any persons so employed shall be located in the Department of ~~Business, Occupational and Professional and Financial Regulation~~ and under the administrative and supervisory direction of the Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~. In addition, the board may enter into contracts to carry out its responsibilities under this chapter.

Sec. 171. 32 MRSA §2357, as enacted by PL 1975, c. 767, §10, is amended to read:

§2357. Reports

Not later than August 1st of each year, the board shall submit to the Commissioner of ~~Business Professional and Financial Regulation~~ for the preceding fiscal year ending June 30th an annual report of its operations and financial position, together with such comments and recommendations as the board deems essential.

Sec. 172. 32 MRSA §2402, sub-§2, as amended by PL 1983, c. 413, §123, is further amended to read:

2. Fees. An application fee and an examination fee may be established by the board in amounts which are reasonable and necessary for their respective purposes. Original and renewal license fees shall be as follows may be established by the board in amounts which are reasonable and necessary for their respective purposes. The fees may not exceed the following amounts:

- A. Master, original license, \$50 \$100; biennial renewal fee, \$100 \$200;
- B. Journeyman, original license, \$25 \$50; biennial renewal fee, \$50 \$100; and
- C. Apprentice, original license, \$10 \$20; biennial renewal fee, \$20 \$40.



When the unexpired term of license of an applicant is or will be more than one year at time of licensure, the board may require the applicant to pay an additional fee not to exceed 1/2 the biennial renewal fee.

A person holding a license as a master oil burner technician is not required to pay a fee to be licensed as a master solid fuel burner technician, as long as he meets all other requirements and pays the examination fee required by section 2403. A person holding a license as a master solid fuel burner technician is not required to pay a fee to be licensed as a master oil burner technician, as long as he meets all other requirements and pays the examination fee required by section 2403. Any person who has paid a fee for both master licenses held simultaneously shall be given a credit for one license fee less the examination fee, which shall be applied to the next renewal.

Sec. 173. 32 MRSA §3821-A is enacted to read:

§3821-A. Consultant

The board shall contract with a psychologist familiar with the board's purpose and operation who shall be available as needed to respond to inquiries from applicants for licensure, primarily inquiries regarding the component of the licensure process dealing with credentials review. The psychologist consultant shall advise, consult and assist the board with the credentials review process, as well as other matters as needed.

Sec. 174. 32 MRSA c. 59, as amended, is repealed.

Sec. 175. 32 MRSA §4907, first ¶, as amended by PL 1983, c. 812, §243, is further amended to read:

The State Board of Certification for Geologists and Soil Scientists as established by Title 5, section 12004, subsection 1, shall administer this chapter and its office shall be within the Department of ~~Business, Occupational and Professional and Financial Regulation~~. The board shall consist of 7 members, 5 of whom shall be appointed by the Governor from the following categories: One academic geologist; one independent consultant or salaried geologist; one independent consultant or salaried soil scientist; one other soil scientist and a representative of the public. The 6th and 7th members shall be the State Soil Scientist with the Maine Soil and Water Conservation Commission, ex officio, and the State Geologist or his designee, who shall be a geologist employed in State Government, ex officio. No person, except the representative of the public, shall may be eligible for appointment to the board unless certified under this chapter.

Sec. 176. 32 MRSA §4908, sub-§§1 and 2, as amended by PL 1983, c. 553, §46, are further amended to read:

1. Register. ~~The Central Licensing Division of Licensing and Enforcement of the Department of Business, Occupational and Professional and Financial Regulation shall compile and maintain a complete and up-to-date list of all licenses. The list shall be made available to any person upon request.~~

2. Reports. On or before August 1st of each year, the board shall submit to the Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~ for the preceding fiscal year ending June 30th, its annual report of its operations and financial position, together with such comments and recommendations as the commissioner deems essential.

The board shall submit to the Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~ its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget.

Sec. 177. 32 MRSA §4908, sub-§3, as amended by PL 1985, c. 785, Pt. B, §143, is further amended to read:

3. Employees. The Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~, with the advice and consent of the board, shall be empowered to appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. Any person employed shall be located in the Department of ~~Business, Occupational and Professional and Financial Regulation~~ and under the administrative and supervisory direction of the Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~.

Sec. 178. 32 MRSA §4911, first ¶, as amended by PL 1983, c. 413, §182, is further amended to read:

Certificates shall expire on December 31st biennially and shall become invalid on that date unless renewed. It shall be the duty of the ~~Central Licensing Division of Licensing and Enforcement of the Department of Business Professional and Financial Regulation~~ to notify, at his last known address, every person registered under this chapter of the date of the expiration of his license and the amount of the fee that shall be required for its renewal for a 2-year period. The notice shall be mailed at least one month in advance of the expiration date.

Sec. 179. 32 MRSA c. 75, first 2 lines are repealed and the following enacted in their place:

CHAPTER 75

FORESTER LICENSING

Sec. 180. 32 MRSA §5002, as amended by PL 1979, c. 118, §1, is further amended to read:

§5002. Use of title

Except as specifically authorized, no person shall may engage in the practice of forestry as defined in this chapter or in any manner advertise or hold himself out as engaged in such practice, without first being licensed as a registered licensed professional forester under this chapter. Nothing in this chapter shall may be construed as preventing or prohibiting any person from managing or otherwise conducting forestry practices on land

owned, leased, rented or held under any contractual arrangement by such person; nor shall may anything herein prohibit any person from practicing forestry under the supervision of a registered licensed forester; nor shall may anything herein prohibit employees of a federal governmental agency from practicing for said the federal governmental agency.

Sec. 181. 32 MRSA §5003, sub-§§1 and 3, as enacted by PL 1975, c. 490, are amended to read:

1. Board. "Board" shall mean the Maine State Board of Registration Licensure for Professional Foresters.

3. Licensed professional forester. "Registered Licensed professional forester" shall mean a person who has registered and is licensed under the provisions of this chapter.

Sec. 182. 32 MRSA §5004, as amended by PL 1983, c. 812, §245, is further amended to read:

#### §5004. State Board of Licensure

A State Board of Registration Licensure for Professional Foresters within the Department of Business, Occupational and Professional and Financial Regulation, as established by Title 5, section 12004, subsection 1, shall administer the provisions of this chapter. The board shall consist of 5 professional foresters and one public member who shall be selected and appointed by the Governor, and the forester members shall be qualified as required by section 5005. Appointments shall be for 5-year terms, except that no more than one forester member's term may expire in any one calendar year and appointments for terms of less than 5 years may be made in order to comply with this limitation. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 4 years from the date of the expiration, regardless of the date of his appointment. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term.

Sec. 183. 32 MRSA §5009, sub-§3, as enacted by PL 1983, c. 413, §189, is amended to read:

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee as an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of

his application, the reasons for the denial of his application and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 184. 32 MRSA §5012, as repealed and replaced by PL 1981, c. 470, Pt. A, §154, is amended to read:

#### §5012. General requirements for licensure

The minimum qualifications and requirements for registration licensure as a registered licensed professional forester shall be as follows: Graduation from a curriculum in forestry of 4 years or more in a school or college approved by the board or graduation from a post-graduate curriculum in forestry leading to a degree higher than a bachelor's degree in a school or college approved by the board. Applicants who have not graduated from such a curriculum may substitute 2 years' experience in forestry work of a character satisfactory to the board for each year of the undergraduate requirement of this section.

Sec. 185. 32 MRSA §5013, as amended by PL 1983, c. 413, §191, is further amended to read:

#### §5013. Applications; fees

Applications for registration licensure shall be made on forms prescribed and furnished by the board, and shall contain statements made under oath as to residence, the applicant's education, a detailed summary of his technical experience, and shall contain the names of not less than 5 references, 3 or more of whom shall be foresters having personal or professional knowledge of his forestry experience. Notwithstanding any other provision of law, any communications solicited or received by the board as references may be kept confidential by the board and any discussion of these references may be conducted in executive session. An application fee may be established by the board in an amount which is reasonable and necessary for its purpose. The registration fee for a license as a registered licensed professional forester shall be fixed by the board, but shall not exceed \$25 for 2 years and shall be paid before the issuance of the license. Should the applicant fail to remit the registration licensure fee within 30 days after being notified by certified mail that his application has been accepted, he shall forfeit the right to have a license so issued and the applicant may be required to again submit an original application.

Sec. 186. 32 MRSA §5014, as amended by PL 1983, c. 413, §192, are further amended to read:

#### §5014. Issuance of license; endorsement of documents

The board shall issue a license upon payment of the registration licensure fee as provided in this section to

any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. Licenses shall show the full name of the registrant licensee. The issuance of a license by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered licensed professional forester while the license remains unrevoked or unexpired. Plans, maps and reports issued by the registrant licensee shall be endorsed with his name and license number during the life of the registrant's licensee's license, but it shall be a Class E crime for anyone to endorse any document with that name and license number after the license of the registrant licensee named thereon has expired or has been revoked or suspended, unless the license has been renewed or reissued. It is a Class E crime for any registered licensed professional forester to endorse any plan, map or report unless he shall have actually prepared such plan, map or report, or shall have been in the actual charge of the preparation thereof.

Sec. 187. 32 MRSA §5015, as amended by PL 1983, c. 413, §193, is further amended to read:

#### §5015. Expiration and renewal of license

The Central Licensing Division of Licensing and Enforcement of the Department of Business Professional and Financial Regulation shall compile and maintain a complete and up-to-date list of all licensed foresters in the State. The list shall be made available to any person upon request at cost.

Licenses shall expire on December 31st 2 years following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the Central Licensing Division of Licensing and Enforcement to notify, at his last registered address, every person registered licensed under this chapter of the date of the expiration of his license and the amount of the fee that shall be required for its renewal for 2 years, that notice to be mailed at least one month in advance of the date of the expiration of that license. The board shall fix the renewal fee for licenses, which fee shall not exceed the sum of \$25 for 2 years. Renewal of licenses for the following 2 years may be effected at any time during the month of December of the year in which the license is due for renewal by payment of the renewal fee fixed by the board. A license may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date shall be subject to all requirements governing new applicants under this chapter. The board shall make an exception to the foregoing renewal provision in the case of a person who is in the Armed Services of the United States.

Sec. 188. 32 MRSA §5016, as enacted by PL 1975, c. 490, is amended to read:

#### §5016. Firms; partnerships and corporations

Registration Licensure shall be determined upon a basis of individual and personal qualifications. No firms, companies, partnerships or corporations shall may be registered licensed under this chapter.

Sec. 189. 32 MRSA §5017, as enacted by PL 1975, c. 490, is amended to read:

#### §5017. Reciprocity

A person not a resident of and having no established place of business in Maine, or who has recently become a resident thereof, may not practice or offer to practice forestry nor use the title, "registered licensed professional forester," unless such person is legally registered licensed as a forester in his own state or country and has submitted evidence to the board that he is so registered licensed, and the state or country in which he is registered licensed observes the same rules of reciprocity in regards to persons registered licensed under the provisions of this chapter, and the state or country in which he is so registered licensed has substantially equivalent requirements for registration licensure as set forth in this chapter. It shall be the judgment of the board that these requirements for registration licensure are of a substantially equivalent nature.

A person practicing as a registered licensed professional forester under the provisions of this section must show proof to the board each calendar year of his continued registration licensure as a registered licensed forester in another state.

Sec. 190. 32 MRSA §5018, as amended by PL 1983, c. 413, §§194 and 195, is further amended to read:

#### §5018. Revocation; suspension; refusal to renew and reissuance of licenses

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

Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any registrant licensee. These complaints shall be in writing, shall be sworn to by the person making them and shall be filed with the board.

The board is empowered to designate a person or persons to investigate and report to it upon said the charge. Such person or persons so designated shall be reimbursed

for expenses in the same manner as prescribed for the board in section 5010.

Any person aggrieved by final board action shall be entitled to judicial review thereof in the Superior Court in the manner provided in Title 5, chapter 375, subchapter VII.

The board, for reasons it may deem sufficient, may reissue a license to a registrant licensee whose license has been revoked, provided 4 or more members of the board vote in favor of such reissuance. A new license to replace any license revoked, lost, destroyed or mutilated may be reissued, subject to the rules of the board, and a charge set by the board shall be made for such reissuance.

Sec. 191. 32 MRSA §5019, first ¶, as amended by PL 1983, c. 413, §196, is further amended to read:

It shall be unlawful for any person to practice forestry or offer to practice forestry or to use in connection with his name, or otherwise assume, use or advertise any title or description that directly or indirectly conveys the impression that he is a registered licensed professional forester in this State unless he is registered licensed or exempt in accordance with the provisions of this chapter. Any person who shall present, or attempt to use as his own, the license of another, or any person who shall give any false or forged evidence to the board or any member thereof in obtaining a license, or any person who shall attempt to use an expired, suspended or revoked license, or any person, firm, partnership or corporation who shall violate any provision of this chapter is guilty of a Class E crime for each offense. The board, or any person or persons designated by the board to act on its behalf, is empowered to prefer charges for any violation of this chapter in any court of competent jurisdiction in any county in the State in which the violation shall have occurred. It shall be the duty of all duly constituted officers of the law of the State, or of any political subdivisions thereof, to enforce the provisions of this chapter and to prosecute any persons, firms, partnerships or corporations violating the same. The Attorney General shall act as legal advisor to the board and shall render such legal assistance as may be necessary in carrying out the provisions of this chapter.

Sec. 192. 32 MRSA §6201, as amended by PL 1983, c. 812, §249, is further amended to read:

§6201. State Board of Substance Abuse Counselors

The State Board of Registration of Substance Abuse Counselors within the Department of Business, Occupational and Professional and Financial Regulation as established by Title 5, section 12004, subsection 1, shall carry out the purposes of this chapter.

Sec. 193. 32 MRSA §6202, as enacted by PL 1977, c. 466, §2, is amended to read:

§6202. Objective

The objective of this legislation is to establish a State Board of Registration of Substance Abuse Counselors, which will establish and ensure high professional standards among substance abuse counselors and which will encourage and promote quality treatment and rehabilitation services for substance abusers.

Sec. 194. 32 MRSA §6203, as enacted by PL 1977, c. 466, §2, is amended to read:

§6203. Definitions

As used in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings.

1. Board. "Board" means the State Board of Registration of Substance Abuse Counselors.

2. Consumer of substance abuse services. A "consumer of substance abuse services" is a nonprovider who has received substance abuse counseling services within the State of Maine person affected by or recovered from alcoholism, chronic intoxication, drug abuse or drug dependency having evidenced a minimum of 2 years of sobriety or abstention from drug abuse.

3. Nonprovider. A "nonprovider" means an individual who neither is presently nor has been any of the following:

- A. A substance abuse counselor;
- B. An administrator or board member of a facility or program which provides substance abuse services; or
- C. The spouse of any of those persons listed in paragraphs A and B.

4. ~~Provisionally registered substance abuse counselor~~. "~~Provisionally substance abuse counselor~~" means a substance abuse counselor as provisionally registered under this chapter.

4-A. Associate substance abuse counselor. "Associate Substance Abuse Counselor" means a practitioner who provides the primary service of professional substance abuse counseling to the public, who demonstrates a competency in substance abuse counseling to particular settings, client populations or who are lacking in some areas of counseling skills to be capable of working independently.

5. Licensed substance abuse counselor. "Registered Licensed substance abuse counselor" means a substance abuse counselor as registered under this chapter an individual who is providing the primary service of professional substance abuse counseling to the public, who has demonstrated a broad range of clinical skills in the field of substance abuse counseling and is capable of working

with a wide range of clients, in a wide range of treatment settings, and has demonstrated a competency to work independently.

5-A. Inactive substance abuse counselor. "Inactive substance abuse counselor" means a licensed, certified or registered substance abuse counselor who registers with the board for a leave from the field for a period not to exceed 2 years. Inactive substance abuse counselors are not required to take the written or oral examinations nor provide documentation of continuing education during the period they have abstained from practice. Inactive substance abuse counselors must notify the board for license renewal prior to resuming their practice.

6. Substance abuse counseling services. "Substance abuse counseling services" are those counseling services offered as part of the treatment and rehabilitation of persons abusing chemical substances. The purpose of substance abuse counseling services is to help individuals, families and groups confront and resolve problems caused by the abuse of chemical substances.

7. Registered substance abuse counselor. A "registered substance abuse counselor" is a person who presents himself to the public or gives or offers substance abuse counseling services as the primary service provided to any public or private individual, corporation or agency in the State.

Sec. 195. 32 MRSA §6204, as enacted by PL 1977, c. 466, §2, is amended to read:

#### §6204. Reporting

No later than August 1st of each year, the board shall submit to the Commissioner of Business Professional and Financial Regulation, for the preceding fiscal year ending June 30th, an annual report of its operations and financial position, together with such comments and recommendations as the board deems essential.

Sec. 196. 32 MRSA §6205, as enacted by PL 1977, c. 466, §2, is repealed and the following enacted in its place:

§6205. Unlawful use of title "inactive substance abuse counselor" or "licensed substance abuse counselor," "associate substance abuse counselor" or "registered substance abuse counselor"

No person may represent himself to the public, or assume or use the title or designation "inactive substance abuse counselor," "licensed substance abuse counselor," "associate substance abuse counselor," "registered substance abuse counselor" or the abbreviation "I.S.A.C.," "L.S.A.C.," "A.S.A.C." or "R.S.A.C." or any other title, designation, words, letters or device tending to indicate that such a person is a "licensed," "associate" or "registered" substance abuse counselor, unless such person is licensed or registered with and holds a current and valid license or certificate of registration from the

board. Any person who offers or gives substance abuse counseling services in violation of this section shall be punished, upon conviction, by a fine of not less than \$50 and not more than \$500 for each such offense.

Sec. 197. 32 MRSA §6206, as enacted by PL 1977, c. 466, §2, is amended to read:

#### §6206. Exemptions

Nothing in this chapter shall may prevent any person from engaging in or offering substance abuse counseling services provided that such person does not represent himself as, or use the title of, "~~provisionally registered~~" substance abuse counselor or "~~registered~~" providing the primary service of a substance abuse counselor.

Sec. 198. 32 MRSA §6207, as enacted by PL 1977, c. 466, §2, is repealed and the following enacted in its place:

#### §6207. Registration required

1. Substance abuse counselor. In order to safeguard the health and safety of Maine's citizens, any person who performs or offers to perform substance abuse counseling services as the primary service provided and referring to himself as a substance abuse counselor shall be required to submit evidence that he is qualified to so practice and shall be registered, certified or licensed in accordance with this chapter.

2. Evidence of qualifications. Any individual who is providing the primary service of professional substance abuse counseling to the public and who is not employed in a program certified or licensed by the State shall be required to submit evidence that he is qualified to practice and shall be licensed as a licensed substance abuse counselor as provided in this subchapter.

3. Registration. Any individual who is providing the primary service of professional substance abuse counseling to the public, has demonstrated a competency in substance abuse counseling to particular settings or client populations and is employed in a program certified or licensed by the State must be registered with the board or may be certified as an associate substance abuse counselor as provided in this subchapter.

Sec. 199. 32 MRSA c. 81, sub-c. II, first 3 lines are repealed and the following enacted in their place:

### SUBCHAPTER II

#### STATE BOARD OF SUBSTANCE ABUSE COUNSELORS

Sec. 200. 32 MRSA §6208-A, sub-§1, as amended by PL 1983, c. 812, §250, is further amended to read:

1. Membership. The State Board of Registration of Substance Abuse Counselors, as established by Title 5,

section 12004, subsection 1, shall consist of 9 members appointed by the Governor. Seven members shall be licensed, certified or registered substance abuse counselors. Two members shall be nonproviders, one of whom shall be a consumer of substance abuse services.

Sec. 201. 32 MRSA §6212, sub-§§1 and 3, as enacted by PL 1977, c. 466, §2, are amended to read:

1. Set standards. In addition to those standards set forth in section 6213, the board in consultation with the Office of Alcoholism and Drug Abuse Prevention may set additional standards of eligibility for persons desiring to become registered substance abuse counselors.

3. Registration and standards. The board may register and set standards of practice for provisionally registered or licensed, certified and registered substance abuse counselors working in Maine.

Sec. 202. 32 MRSA c. 81, sub-c. III, first 2 lines are repealed and the following enacted in their place:

### SUBCHAPTER III

#### REGISTRATION AND LICENSURE

Sec. 203. 32 MRSA §6213, as amended by PL 1981, c. 501, §80, is amended to read:

§6213. Eligibility requirements for associate or licensed substance abuse counselor

To be eligible to apply for registration as a licensed or associate substance abuse counselor, an applicant shall:

1. Age limit. Be at least 18 years of age;
2. Qualifications. Have been employed in the profession of substance abuse counseling for a minimum of 2 years or have the equivalent of 2 years of paid employment as a substance abuse counselor. In determining such equivalent, an applicant shall have been employed at least one year in the profession of substance abuse counseling and the board may substitute work-based educational experience for the remaining period of required paid employment at a rate of no less than 2 months of work-based educational experience for each one-month period of required paid employment. In determining such equivalent, an applicant shall have been employed at least 1 1/2 years in the profession of substance abuse counseling and the board may substitute volunteer work for the remaining period of required paid employment at a rate of no less than 2 months of volunteer work for each one-month period of required paid employment; and
3. Abstinence from drugs and alcohol. Have abstained from the active abuse of alcohol or any other drug which in the judgment of the board has been or could have been detrimental to the applicant's performance or competency as a substance abuse counselor. It is strongly recommended that applicants have abstained for at least

the 2-year period immediately preceding the date on which application is made. In considering an applicant for registration, the board shall not consider a history of previous alcoholism or drug addiction as an essential qualification nor disqualification for registration certification or licensure.

Sec. 204. 32 MRSA §6213-A is enacted to read:

§6213-A. Eligibility requirements for registered substance abuse counselor

To be eligible to apply for registration as a registered substance abuse counselor, an applicant shall notify the State Board of Substance Abuse Counselors and provide their name, address and any other information as deemed necessary by the board.

Sec. 205. 32 MRSA §6214, as enacted by PL 1977, c. 466, §2, is repealed.

Sec. 206. 32 MRSA §§6214-A and 6214-B are enacted to read:

§6214-A. Qualifications

1. Licensed substance abuse counselor. The board shall issue a license to practice substance abuse counseling upon the affirmative vote of at least 5 members of the board to any applicant who has satisfactorily met the following minimal requirements:

- A. Met the eligibility requirements set forth in section 6213;
- B. Obtained a passing grade, as established by the board, on any examinations the board may prescribe by its rules;
- C. Completed 30 semester hours of college-level course work in appropriate social science fields or its equivalent in appropriate substance abuse training; and
- D. Met any other criteria the board may prescribe by its rules.

2. Associate substance abuse counselor. The board may issue a certificate of registration as an associate substance abuse counselor upon the affirmative vote of 5 members of the board to any applicant who has met the following minimal requirements:

- A. Met the eligibility requirements set forth in section 6213;
- B. Obtained a passing grade on the written exam and a provisionally passing grade on the oral exam, as established by the board and prescribed by its rules; and
- C. Met any other criteria the board may prescribe by its rules.

3. Reapplication for certificate. Any applicant who is not issued a license or a certificate of registration may again apply for registration after a period of not less than 6 months from the date of the last denial.

#### §6214-B. Application

Any person registered by the board as a registered substance abuse counselor, R.S.A.C., prior to the effective date of this section, shall automatically be licensed as a licensed substance abuse counselor, L.S.A.C.

Any person registered by the board as a registered substance abuse counselor, provisional, R.S.A.C., provisional; or not registered by the board, but who is providing the primary service of professional substance abuse counseling to the public and who is not employed in a program certified or licensed by the State, prior to the effective date of this section, shall comply with the requirements of section 6207, subsection 2, by July 1, 1990.

Any person who is providing the primary service of professional substance abuse counseling to the public and who is employed in a program certified or licensed by the State shall comply with the requirements of section 6207, subsection 3, by January 1, 1988.

Sec. 207. 32 MRSA §6215, as repealed and replaced by PL 1983, c. 413, §217, is repealed and the following enacted in its place:

#### §6215. Application; membership fees

Application for registration as a registered substance abuse counselor, licensure as a licensed substance abuse counselor or certification as an associate substance abuse counselor shall be on forms prescribed and furnished by the board. Application and examination fees may be established by the board in amounts which are reasonable and necessary for their respective purposes. A biennial registration fee for registered substance abuse counselors shall be established by the board in an amount not to exceed \$50 biennially. A biennial registration fee for licensed substance abuse counselors and associate substance abuse counselors shall be established by the board in an amount not to exceed \$100 biennially. The payment of fees shall be suspended during the term of inactive status.

Sec. 208. 32 MRSA §6217-A, first ¶, as repealed and replaced by PL 1983, c. 413, §218, is amended to read:

The board may suspend or revoke a license or certificate of registration pursuant to Title 5, section 10004. In addition, the board may refuse to issue or renew or the Administrative Court may suspend, revoke or refuse to renew a license or certificate of registration on any of the following grounds:

Sec. 209. 32 MRSA §6217-A, sub-§§1 and 4, as repealed and replaced by PL 1983, c. 218, are amended to read:

1. ~~Fraud or deceit.~~ The practice of fraud or deceit in obtaining a ~~certificate of provisional registration~~ license or a certificate of registration under this chapter or in connection with services rendered as a substance abuse counselor;

4. ~~Aiding and abetting misrepresentation.~~ Aiding or abetting a person, not duly ~~certified as a provisionally registered~~ licensed or registered as a substance abuse counselor, in representing oneself as a ~~provisionally registered~~ licensed substance abuse counselor, associate substance abuse counselor or registered substance abuse counselor in this State;

Sec. 210. 32 MRSA §6218, as repealed and replaced by PL 1983, c. 413, §219, is amended to read:

#### §6218. Issuance after denial, suspension or revocation

The board, for reasons it may deem sufficient, may issue or reissue a ~~certificate of provisional registration~~ license or certificate of registration to any person whose ~~certificate of provisional registration~~ license or certificate of registration has been denied, suspended or revoked, provided that at least 5 members of the board vote in favor of that issuance.

Sec. 211. 32 MRSA §6219, as amended by PL 1983, c. 413, §220, is further amended to read:

#### §6219. Expiration and renewal

~~The certificate of provisional registration is nonrenewable and shall expire 3 years from the date of initial issuance.~~ The license and certificate of registration shall expire biennially on August 31st or at such other time as the Commissioner of Business Professional and Financial Regulation may designate. ~~Registration Licensure or registration~~ may be renewed for the succeeding 2-year period upon written application of the registrant, the approval of the board and the payment of the fee provided. A fee for renewal of license or certificate of registration shall be set by the board in an amount not to exceed \$25 and shall be due and payable on or before the expiration date. Before a license or certificate of registration may be renewed, the applicant shall present evidence of continued professional learning and training of a type which is acceptable to the board.

~~Registration Licensure, certification or registration~~ may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration or if the applicant is a registered inactive ~~substance abuse counselor~~. The board shall be responsible for mailing notification of the date of expiration of a eer-

tificate of provisional registration license or a certificate of registration to any provisionally registered or registered licensed substance abuse counselor, associate substance abuse counselor, inactive substance abuse counselor or registered substance abuse counselor not later than 30 days prior to the date of expiration.

Sec. 212. 32 c.c. 113 and 115 are enacted to read:

CHAPTER 113

REAL ESTATE BROKERAGE LICENSE ACT

SUBCHAPTER I

GENERAL PROVISIONS

§13001. Definitions

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

1. Real estate. "Real estate" means all estates and lesser interests in land and an existing business if real estate is a part of the business.

2. Real estate brokerage. "Real estate brokerage" means a single instance of offering, attempting to conduct or conducting services on behalf of another for compensation, or with the expectation of receiving compensation, calculated to result in the transfer of an interest in real estate. Real estate brokerage includes, but is not limited to, the following activities conducted in behalf of another:

- A. Listing real estate for sale or exchange;
- B. Promoting the purchase, sale or exchange of real estate;
- C. Procuring of prospects calculated to result in the purchase, sale or exchange of real estate;
- D. Advertising or holding oneself out as offering any services described in this subsection;
- E. Negotiating the purchase, sale or exchange of real estate;
- F. Buying options on real estate or selling real estate options or the real estate under option;
- G. Acting as a finder to facilitate the purchase, sale or exchange of real estate; and
- H. Buying, selling or exchanging real estate.

§13002. Exceptions to brokerage

Real estate brokerage shall not include the following:

1. Transactions by owner or lessor. Transactions conducted by any person who is the owner or lessor of the real estate, or to their regular employees with regard to the employer's real estate, provided that the real estate transaction services rendered by the employee are performed as an incident to the usual duties performed for the employer;

2. Attorney-at-law in the performance of duties as an attorney-at-law. This exception does not apply to attorneys who are regularly engaged in real estate brokerage; and

3. Exception. Any person licensed as an auctioneer under chapter 5, hired to call bids at an auction, if the person employed does not prepare contracts or otherwise control the actual sale or take custody of any part of the purchase price.

§13003. License required

It is unlawful for any person or entity to engage in real estate brokerage without a current real estate brokerage agency license issued under this chapter or a license authorizing the person to engage in brokerage activity on behalf of a brokerage agency.

§13004. Civil actions

No person or entity may bring or maintain any action in the courts of this State for the collection of compensation for real estate brokerage services, without first proving that the person or entity was properly licensed by the Real Estate Commission at the time the cause of action arose.

§13005. Penalties

Any person or entity violating this chapter shall be punished, upon conviction, by a fine of not more than \$2,000 for each violation, plus the amount of compensation received in the subject transaction, by imprisonment for not more than 6 months, or by both. Any officer or agent of an entity, who shall personally participate in or be accessory to any violation of this chapter, shall be subject to the penalties prescribed under this section. Any court of competent jurisdiction shall have full power to try any violation of this chapter and, upon conviction, the court may at its discretion revoke or suspend the license of the person or entity so convicted. All fines and penalties over and above the cost of court proceedings shall inure to the commission. A violation of this chapter includes performing or attempting to perform those acts which constitute prohibited practices.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in Administrative Court or whether criminal proceedings may have been instituted.



SUBCHAPTER IICOMMISSION§13061. Declaration of policy

It is declared to be the policy of the State that licensees shall be supervised by the Real Estate Commission in a manner to ensure that they meet standards which will promote public understanding and confidence in the business of real estate brokerage.

§13062. Real Estate Commission; organization

1. Real Estate Commission composition. The Real Estate Commission, established by Title 5, section 12004, subsection 1, shall be referred to in this chapter as the "commission." The commission shall consist of 4 industry members and one public member.

2. Qualifications. Each industry member of the commission shall have been a real estate broker or associate broker by vocation in this State for at least 5 years prior to appointment. The public member shall have had no professional or financial connection with the real estate business.

3. Geographic distribution. There shall be at no time more than one member of the commission from any one county.

4. Terms; removal. Terms of the members of the commission shall be for 3 years. No person may be appointed for more than 2 consecutive 3-year terms. Members may be removed by the Governor for cause.

5. Quorum; procedure. A majority of the members of the commission constitutes a quorum for the transaction of business under this chapter.

6. Appointments. The members of the commission shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over business legislation and to confirmation by the Senate. Appointments shall be made for a 3-year term, except that at least one appointive member's term shall expire each calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of that expiration, regardless of the date of his appointment.

7. Chairman. The commission shall annually elect a chairman from its members.

§13063. Compensation

Each member of the commission appointed by the Governor shall be compensated according to Title 5, chapter 379.

§13064. Seal; evidence; inspection of records

The commission shall adopt a seal, with such design as the commission may prescribe engraved on the seal, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the commission, duly certified and authenticated by the seal of the commission, shall be received in evidence in all courts equally and with like effects as the original. Records kept in the office of the commission under authority of this chapter shall be open to public inspection as provided in Title 1, section 405, under such rules as shall be prescribed by the commission. Copies of public records shall be made available to the public at cost.

Access to records relating to the content of license examinations may be restricted or prohibited in order to preserve the integrity of license examination.

§13065. Rules

The commission may establish guidelines and rules by which this chapter shall be administered. Rules shall be subject to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II and consistent with the law to govern the following.

1. Adjudicatory hearings. The commission may adopt rules governing the conduct of hearings, including provisions governing communications among the members of the commission and the staff in order to assure that members are not prejudiced in a case through ex parte communications. These rules shall not be construed to prohibit communications with regard to matters other than the merits of a case pending hearing before the commission.

2. Investigations. The commission may adopt rules governing investigations and filing and processing of complaints in order to assure prompt, effective investigations of alleged violations of this chapter as necessary to protect and promote the interests of the public and the industry.

3. Brokerage practice. The commission may adopt rules consistent with the standards set forth in this chapter governing real estate brokerage practices in order to establish standards of practice which serve the interests of both the public and the industry.

4. License qualifications. The commission may adopt rules relating to the qualifications and application for any license authorized under this chapter as are deemed necessary to assure that applicants are sufficiently trustworthy and competent to transact the business for which they will be licensed.

5. Fees. The commission may establish by rule fees

in amounts which are reasonable and necessary for their respective purposes. With the exception of the fee specified in section 13225, the set fee for any one purpose may not exceed \$100.

6. Education. The commission may adopt rules to be applied in determining whether educational programs meet the license qualifications required under this chapter.

7. Supervision of employees. The commission shall adopt rules defining the authority and responsibility of designated brokers in supervising sales agents, as well as other brokerage related employees and independent contractors.

8. Other. The commission may adopt and enforce such other rules as are necessary for the performance of its duties under this chapter.

#### §13066. Hearings

1. Petitions for hearings. The commission shall conduct hearings on the following petitions.

A. Upon petition for hearing filed by the director or his representative alleging violation of this chapter by any person or entity, the commission shall conduct a hearing or refer the matter to the Attorney General or the district attorney requesting prosecution.

B. Upon petition by any person aggrieved by the director's decision to dismiss a complaint or refusal to pursue an investigation of alleged violations of this chapter, the commission shall conduct a hearing, provided that the petition is filed in compliance with commission rules.

C. Upon petition of any original or renewal license applicant who is aggrieved by the director's decision to deny an examination or license, provided that the petition is filed in compliance with commission rules, the commission shall conduct a hearing.

D. Upon its own motion for purposes deemed appropriate and consistent with the duties imposed by this chapter, the commission may conduct hearings.

2. Oaths, affirmations and subpoenas. In the discharge of the duties imposed by this chapter, the commission may administer oaths and affirmations, certify to official acts and issue subpoenas to compel the attendance of witnesses and the production of documents deemed necessary as evidence in connection with the administration of this chapter. Whenever a person refuses to obey a subpoena duly issued by the commission, the Superior Court for Kennebec County or any court of this State, within the jurisdiction of which the person resides or transacts business, shall have jurisdiction to issue that person an order requiring him to comply with the subpoena and any failure to obey that order may be punished by the court as contempt. Refusal to obey a commission

subpoena also constitutes a violation of this chapter.

#### §13067. Causes for disciplinary action

1. Disciplinary sanctions. After the hearing, the commission shall have the power to impose disciplinary sanctions at any time when a person or entity is found guilty of one or more of the following:

A. Any act or conduct, whether the same or different character than specified in this chapter, which constitutes or demonstrates bad faith, incompetency, untrustworthiness or dishonest, fraudulent or improper dealings;

B. The licensee performs or attempts to perform any act or acts for which a license may lawfully be denied to any applicant;

C. Subject to Title 5, chapter 341, the licensee is convicted in any court of any Class A, B or C crime or any other crime which bears directly on the practice of real estate brokerage;

D. Making any substantial misrepresentation, by omission or commission, but shall not include innocent misrepresentation;

E. Engaging in any activity requiring a license under this chapter which is beyond the scope of acts authorized by the license held;

F. Violating any rule promulgated by the commission or any provision of this chapter;

G. Failing to act in a reasonably prudent manner in order to protect and promote the interests of the principal with absolute fidelity;

H. Failing to act in a reasonably prudent manner in order to avoid error, exaggeration or concealment of pertinent information;

I. Violation of this chapter by a licensed or unlicensed employee or independent contractor shall be cause for disciplinary action against the agency and designated broker if:

(1) The designated broker had prior knowledge and did not take reasonable action to prevent the violation;

(2) The designated broker permitted or authorized a person to engage in activity for which they were not properly licensed; or

(3) The designated broker failed to exercise a reasonable degree of supervision over employees and independent contractors commensurate with their qualifications and experience;

J. Offering, promising, allowing, giving or paying,

directly or indirectly, any part or share of his compensation arising or accruing from a real estate brokerage transaction to any person who is not licensed to perform the service for which he is or would be compensated, if a license is required under this chapter for performance of that service. No licensee may be employed by or accept brokerage compensation from any person other than the agency under which he is at the time licensed. An agency may share compensation with a nonresident licensee when the service by the nonresident is performed outside this State;

K. Continuing to act in a capacity requiring a license under this chapter after expiration, suspension or revocation of that license; and

L. Failure to produce to the director any requested documents in the licensee's possession or under his control concerning any transaction under investigation.

### §13068. Decisions

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

2. Violation of chapter. If, after hearing, the commission finds that a violation of this chapter has occurred, it may:

A. Reprimand the person or entity;

B. Require the person or entity to comply with such terms and conditions as it determines necessary to correct the basis for the violation or prevent further violations by issuing a cease and desist order. Violation of a cease and desist order shall constitute a violation of this chapter;

C. Assess the violator a fine of no more than \$2,000 a violation;

D. Suspend or revoke any license issued under this chapter; or

E. Report its findings and recommendations to the Attorney General or the district attorney recommending prosecution.

3. Appeals. Appeals from decisions of the commission shall be to the Administrative Court. Appeals shall be based on questions of law. The procedure for appeals under this section shall be as provided in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII, except that for purposes of this section, all references to the Superior Court shall be construed as references to the Administrative Court. Further appeal shall be directly to the Law Court.

### §13069. Director

1. Appointment. The Commissioner of Professional and Financial Regulation, with the advice of the Real Estate Commission and subject to the Civil Service Law, shall appoint a director of the commission.

2. Duties. The director is responsible for the management of the commission's affairs, within the guidelines, policies and rules established by the commission and for carrying out the duties allocated to the director under this chapter. Duties of the director may be carried out by the director's designee, other than a member of the commission.

3. Employees. The director may employ a deputy and such clerical assistants, technical assistants and investigators as deemed necessary by the director to discharge the duties imposed by this chapter and shall outline their duties and fix their compensation, subject to the Civil Service Law and available commission funds.

4. Disposal of fees; expenses. The fees collected under this chapter shall be paid forthwith by the director to the Treasurer of State with a detailed statement and shall constitute a fund to be known as the Real Estate Fund. The fund shall be kept as a separate account by the Treasurer of State and he shall pay from it, upon vouchers signed by the director and approved by the Commissioner of Professional and Financial Regulation, the cost and expenses of administering this chapter. All of the costs and expenditures of the commission shall be paid only from this fund and in no event may any payments of the expenses of the commission exceed the amount received by the treasurer from the director. Any money remaining in the Real Estate Fund at the end of the fiscal year shall be carried forward to the credit of that fund for the succeeding year. The commission may, within the money available in the Real Estate Fund, defray the cost of an educational program for licensees or the public. This program may include the dissemination of information pertinent to the real estate business and material for school curricula.

5. Advocate. The director shall seek to protect the interests of the public and the industry in the administration of this chapter. In this capacity, the director may serve as an advocate in any proceeding before the commission, presenting evidence and argument in support of a recommended disposition.

6. Investigations. The director shall investigate the actions of any licensee under this chapter, or any person or entity who assumes to act in a capacity requiring a license under this chapter, upon receipt of a verified written complaint or in accordance with the guidelines prescribed by commission rule. Upon completion of the investigation, the director shall take one of the following actions:

A. Dismiss the complaint;

B. With the consent of the parties and subject to approval of the commission and commission counsel, execute a consent agreement; or

C. Issue a staff petition for hearing before the commission, which may include a recommended disposition.

7. Subpoenas. The director may issue subpoenas to compel the attendance of witnesses at hearings and to compel the production of documents and other records deemed necessary in connection with the administration of this chapter. Whenever a person refuses to obey a subpoena duly issued by the director, the Superior Court for Kennebec County or any court of this State, within the jurisdiction of which the person resides or transacts business, shall have jurisdiction to issue to that person an order requiring him to comply with the subpoena and any failure to obey that order may be punished by the court as contempt. Refusal to obey the director's subpoena also constitutes a violation of this chapter.

8. Denial of licenses. The director may only issue a license to persons or entities meeting the requirements of this chapter. If it appears to the director that grounds for denial of a license or renewal exists, the director shall deny the license or renewal and notify the applicant in writing of the basis for denial together with notice of the applicant's right to a hearing before the commission, if requested in accordance with commission rules within a 30-day period. The director shall not issue a license to any applicant for renewal if the license has been expired for more than 90 days, unless the applicant passes the license examination designated by commission rule for this purpose.

### SUBCHAPTER III

#### REAL ESTATE BROKERAGE AGENCY

##### §13171. Real estate brokerage agency

"Real estate brokerage agency" or "agency" means any person or entity engaged in real estate brokerage services through its designated broker, associates or employees and licensed by the commission as a real estate brokerage agency.

##### §13172. Original application

Each applicant for an original agency license shall submit a properly completed application upon blanks furnished by the director, signed under oath by the authorized agency official, together with the prescribed fee.

##### §13173. Agency license qualifications

1. Designated broker. The owner or a duly authorized agency official shall hold a Maine real estate broker license and be designated by the agency to act for it in the conduct of real estate brokerage.

2. Employees. Every person employed by or on behalf of the agency in the performance of real estate brokerage shall be properly licensed under this chapter.

3. Reputation. The agency and its owner or principal officers, if previously engaged in any business, shall bear a good reputation for honesty, truthfulness, fair dealing and competency.

4. Nonresidents. The following applies to nonresidents.

A. Nonresident applicants shall hold a similar license in good standing and maintain an active place of business in its resident jurisdiction.

B. Nonresident agency applicants shall file an irrevocable consent that actions may be commenced against the applicant in the proper court of any county of this State in which a cause of action may arise or in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of the State on the director of the commission. The consent shall stipulate and agree that service of the process or pleading on the director shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant personally within this State. The instrument containing the consent shall be authenticated by the seal of the corporation or by the acknowledged signature of the member or officer of the corporation, if otherwise. All applications, when applicable, shall include a duly certified copy of the resolution of proper officers or managing board authorizing the proper officer to execute the resolution. In case any process or pleadings mentioned in the case are served upon the director, it shall be by duplicate copies, one of which shall be filed in the office of the commission and the other immediately forwarded by certified mail to the main office of the applicant against whom the process or pleadings are directed.

5. Place of business. Every agency holding an active license shall maintain a fixed and definite place of business where its designated broker and employees may be personally contacted without unreasonable delay.

6. Branch office. Other locations where real estate brokerage business is regularly conducted or which are advertised as locations where the public may contact the agency or its employees concerning brokerage services shall be licensed as a branch office, except that places of residence need not be licensed as a branch office. In order to qualify for a branch office license, the agency designated broker must designate himself or another broker to act as branch manager, in which case the manager shall have designated broker responsibilities for that office. The designated broker may designate himself to act as manager for all branch offices.

##### §13174. License denial

A license may be denied to any agency applicant:

1. Complete and accurate application. Who fails to submit a complete and accurate application;

2. Proof of qualifications. Who fails to submit satisfactory proof that it has met the qualifications specified in this chapter and is sufficiently trustworthy and competent to transact real estate brokerage services in such a manner as to safeguard the interests of the public;

3. Conviction of crime. Subject to Title 5, chapter 341, if the owner or principal entity officials have been convicted of any Class A, B or C crime or any crime which bears directly on the practice of real estate brokerage; or

4. Revocation of license. If the agency and its owner or its principal officers have had any professional or occupational license revoked for disciplinary reasons, or an application rejected for reasons relating to untrustworthiness, within 3 years prior to the date of application.

#### §13175. Agency changes

Any change of address, name or other material changes in the conditions or qualifications set forth in the original application shall be reported to the director no later than 10 days after the change. Upon proper application and payment of the prescribed fee, the commission records shall be changed and a new license shall be issued for the unexpired term of the current license, if appropriate.

#### §13176. Trade names

Agencies may conduct business under a trade name, provided that their license is issued under the trade name. If an agency is licensed with a trade name, that trade name shall be used by the agency, its employees and independent contractors in all real estate brokerage related advertising. The director may refuse to issue a license under a specific trade name if the name is deemed to be misleading, deceptive or will likely result in confusion with other existing businesses.

#### §13177. Real estate brokerage contracts

All exclusive right-to-sell contracts, exclusive agency contracts and any nonexclusive contract relating to one to 4 family residential properties shall be in writing, signed by the person to be charged and shall specifically identify the date upon which the contract will expire. If the parties to the contract desire to continue the contract, a new contract must be executed.

Brokerage contracts may not be enforced against any principal who in good faith subsequently engages the services of another agency on an exclusive right-to-sell basis following the expiration date of the first contract. Any contract provisions extending a licensee's right to a fee following expiration of the contract shall not exceed 6 months.

#### §13178. Trust accounts

Every agency shall maintain a trust account or accounts in a banking institution located in the State for the sole purpose of depositing all earnest money deposits and all other money held by it as an agency in which its clients or other persons with whom it is dealing have an interest. The trust account and withdrawal orders, including all checks drawn on the account, shall name the subject agency and be identified as a real estate trust account. Real estate trust accounts shall be free from trustee process, except by those persons for whom the brokerage agency has made the deposits and then only to the extent of the interest. The designated broker, except for an amount necessary to maintain the accounts not to exceed an amount prescribed by commission rule, shall withdraw from the accounts all fees due within 30 days after, but not until consummation or termination of the transaction when the designated broker makes or causes to be made a full accounting to his principal. The designated broker shall maintain, at the agency's place of business, contracts and other necessary records to verify the adequacy and proper use of the accounts. These accounts and records shall be opened for inspection by the director or his authorized representative at the agency's place of business during generally recognized business hours. Upon order of the director, the designated broker shall authorize the director in writing to confirm the balance of funds held in all agency trust accounts.

#### §13179. Supervision of employees

The designated broker shall exercise a reasonable level of supervision commensurate with the level of qualification and experience of agency employees and independent contractors supervised, in order to protect and promote the interests of its clients with absolute fidelity. The designated broker shall not permit or authorize any person to engage in any activity for which they are not properly licensed.

#### §13180. Termination of employment

When any broker, associate broker or real estate sales agent is discharged or terminates his employment with a brokerage agency, it shall be the duty of the designated broker to immediately deliver the license of the broker, associate broker or real estate sales agent to the commission. The designated broker shall simultaneously address a communication to the last known address advising the broker, associate broker or sales agent that his license has been delivered or mailed to the commission. A copy of the communication shall accompany the license when delivered to the commission.

Upon receipt of the notice of termination by the licensee, the license shall become void and may only be reinstated or placed on inactive status after proper application and payment of the prescribed fee. It is unlawful for any broker, associate broker or real estate sales agent to perform any brokerage services without first receiving a new active license.

§13181. Contents; display

The director shall issue to each agency a license in the form and size prescribed by the commission. The license of each broker, associate broker and sales agent shall be delivered or mailed to the designated broker and be kept in the custody and control of the designated broker. It is the duty of the designated broker to conspicuously display the agency license in his place of business.

§13182. Agency license renewal

Agency licenses shall expire on December 31st, or at such times as the Commissioner of Professional and Financial Regulation may designate, of each biennial period for which it was issued. Upon proper application and payment of the prescribed fee, a renewal license shall be issued for each ensuing biennial period in the absence of any reason or condition which might warrant denial of a license. The suspension, revocation or expiration of an agency or designated broker's license shall automatically suspend every license granted to any person by virtue of his employment by the agency whose license has been suspended, revoked or expired pending a change of employer and the issuance of a new license. The new license shall be issued without charge if granted during the same biennial period in which the original was granted.

§13183. Acts authorized

An agency, through its designated broker, may perform all of the brokerage services contemplated by this chapter and may employ or retain others to perform brokerage services on behalf of the agency. The designated broker may also delegate any of his duties and authority provided for under this chapter, but when doing so shall not be relieved of any responsibility imposed by this chapter.

## SUBCHAPTER IV

## BROKERS, ASSOCIATE BROKERS, SALES AGENTS

## AND TIMESHARE AGENTS

§13191. General qualifications

1. Application. Applicants shall submit a properly completed application upon forms furnished by the director, together with the prescribed fee.

2. Age. The applicant shall have reached his 18th birthday at the time of his application.

3. Residence. The applicant shall provide evidence of his legal residence.

4. High school. The applicant shall be a high school graduate or hold an equivalency certificate.

5. Reputation. The applicant shall have a good repu-

tion for honesty, truthfulness, fair dealing and competency. A recommendation of at least 3 persons, not related to the applicant who have acknowledged before a notary public that they have known the applicant for at least one year immediately preceding the date of the application that the applicant has such a reputation, shall be a rebuttable presumption of meeting that qualification.

6. Active license. Upon application for an active license, the applicant shall provide a written statement from the designated broker of the agency, who will be employing the applicant, authorizing issuance of the applicant's license under the agency.

7. Single license. No more than one license may be issued to any person for the same period of time. In the event of a change in an employer, another license shall not be issued until the current license has been returned or for which a satisfactory accounting has been made.

§13192. License denial

A license may be denied to any applicant:

1. Complete application. Who fails to submit a complete application within 30 days after being notified of the materials needed to complete the application;

2. Proof that applicant is trustworthy. Who fails to provide satisfactory proof that he is trustworthy and competent to transact real estate brokerage services in such manner as to safeguard the interests of the public;

3. Revocation of license. Who has had any professional or occupational license revoked for disciplinary reasons or an application rejected for reasons relating to untrustworthiness within 3 years prior to the date of application; or

4. Conviction of crime. Subject to Title 5, chapter 341, who has been convicted of any Class A, B or C crime or any crime which bears directly on the practice of real estate brokerage.

§13193. Nonresidents

All nonresident license applicants shall be required to file a properly completed irrevocable consent to service, as described for agencies in section 13173, subsection 4, paragraph B. In lieu of education and experience requirements, nonresident original license applicants must hold a similar active license in good standing in their place of legal residence and shall appear at such time and place as the director may designate for the purpose of written examination pertaining to Maine real estate laws.

§13194. License renewal

Licenses shall expire on December 31st, or at such other times as the Commissioner of Professional and Financial Regulation may designate, of each biennial period for which it was issued, except those licenses issued

under section 13200. The director shall issue a renewal license for each ensuing biennial period in the absence of any reason or condition which might warrant the refusal of granting a license, upon receipt of the written request of the applicant, the biennial fee for the license and upon the applicant presenting evidence of compliance with the requirements of section 13197. The director shall deny a renewal license to any applicant whose license has lapsed for more than 90 days, unless the renewal license applicant passes the license examination designated by commission rule for this purpose.

#### §13195. Changes

Any change of address, name or other material change in the conditions or qualifications set forth in the original application shall be reported to the director no later than 10 days after the change. Upon proper application and payment of the prescribed fee, the commission records shall be changed and a new license shall be issued for the unexpired term of the current license, if appropriate.

#### §13196. Inactive licenses

Any resident licensee, who does not desire to perform any of the activities described in section 13001, and who wants to preserve his license while not engaged in any brokerage activity, may surrender his license to the commission for placement on inactive status. The commission may only place the license on inactive status upon proper application by the licensee. During inactive status, the licensee shall be required to renew his license biennially, but shall not be required to maintain a place of business or meet the educational provisions of section 13197.

Licensees who have surrendered their licenses pursuant to this section may have their licenses reinstated to active status by demonstrating compliance, within the previous biennium, with section 13197 and proper application for an active license, except that any license placed on inactive status after the effective date of this section and remaining inactive for 3 or more years may only be reactivated, either by successfully passing a license examination designated by commission rule for this purpose or by successfully completing 12 course hours meeting commission established guidelines.

#### §13197. Continuing education

1. Requirement. As a prerequisite to renewal of a license, applicants shall have completed 12 clock hours of continuing education within 2 years prior to the date of application in programs or courses approved by the commission. This requirement shall not apply to agency and company licenses.

2. Program approval. Each application for approval of a continuing education program shall be submitted according to the guidelines prescribed by the commission, together with the required application fee. The fee shall

be retained whether or not the application is approved, except that the commission may waive the application fee for any program or course for the purpose of promoting the intent of this section and which meets the standards prescribed by rule.

3. Core requirement. The commission may establish a core educational requirement for each license type, not to exceed 6 clock hours, in which case the remaining requirement shall be fulfilled from elective programs approved by the commission.

4. Voluntary certification program. The commission may establish a program for recognizing real estate brokers who have advanced education, training and experience in a specialized discipline related to the field of real estate. Standards to be met in order to be certified shall be prescribed by rules adopted by the commission, subject to the Maine Administrative Procedure Act, Title 5, chapter 375.

#### §13198. Real estate broker

1. Definition. "Real estate broker" or "broker" means any person employed by or on behalf of an agency to perform brokerage and licensed by the commission as a broker.

2. Professional qualifications. Each applicant for a broker license shall have met one of the following qualifications:

A. One-year full-time practice of real estate brokerage as a licensed associate broker immediately preceding the date of application and completion of a course of study meeting commission established guidelines; or

B. One year's experience as a sales agent within the 3 years immediately preceding the date of application and satisfactory completion of 2 years in a degree program meeting commission established guidelines.

3. Acts authorized. Each broker license granted shall entitle the holder to perform all of the acts contemplated under this chapter in behalf of an agency, including being designated by the agency to act for it or as a branch office manager.

#### §13199. Associate real estate broker

1. Definition. "Associate real estate broker" or "associate broker" means any person employed by or on behalf of an agency to perform real estate brokerage services and licensed by the commission as an associate broker.

2. Professional qualifications. Each applicant for an associate broker license shall have met one of the following qualifications.

A. The applicant shall have practiced as a real estate sales agent for 2 years within the 5 years immediate-

ly preceding the date of application, satisfactorily completed a course of study meeting commission established guidelines and shall appear at such time and place as the director may designate for the purpose of a written associate broker examination. An applicant may sit for the examination upon completion of the course of study. Regardless of the results of the examination, the commission shall not issue a license under this section until an individual has completed 2 years as a licensed real estate sales agent. For the purposes of this paragraph, "course of study" consists of 45 sessions of not more than 2 1/2 hours of instruction for each session.

B. The applicant shall have practiced as a real estate sales agent for 2 years within the 5 years immediately preceding the date of application and shall have satisfactorily completed a course of study in a degree program meeting commission established guidelines.

C. The applicant shall have satisfactorily completed one year in a degree program meeting commission established guidelines and shall appear at such times and places as the director may designate for a written sales agent examination.

3. Acts authorized. Each associate broker license granted shall entitle the holder to perform all of the acts contemplated by this chapter, in behalf of an agency, except serving as a designated broker or a branch office manager.

#### §13200. Real estate sales agent

1. Definition. "Real estate sales agent" or "sales agent" means any person employed by or on behalf of an agency to perform real estate brokerage services in a training capacity and licensed by the commission as a sales agent.

2. Professional qualification. Each applicant for a sales agent license shall meet one of the following qualifications.

A. The applicant shall satisfactorily complete a course of study meeting commission established guidelines.

B. The applicant may appear at such time and place as the director may designate for the purpose of a written sales agent examination.

3. Acts authorized. Each sales agent license granted shall entitle the holder to perform all brokerage services contemplated by this chapter which are specifically authorized by the designated broker and which are within the guidelines established by the commission for sales agents.

4. License term. Sales agent licenses shall be issued for 2 years and may not be renewed. A new sales agent license may not be reissued within 5 years following the

date the previous sales agent license was issued.

5. Waiver. The commission may grant waivers to allow individuals to remain licensed as sales agents beyond the 2-year term specified in subsection 4. Waivers shall be granted on the basis of extenuating circumstances as defined by rules promulgated by the commission.

#### §13201. Timeshare agent

1. Definition. "Timeshare agent" means a person licensed by the commission to perform real estate brokerage services limited to transactions involving timeshare interests and vacation licenses.

2. Professional qualifications. The applicant shall present evidence that he has successfully completed an educational program meeting guidelines established by the commission and pertaining to the sale of timeshares in the State, except that the provisions of this subsection need not be met if the applicant elects to qualify by written examination designated by commission rule for this purpose.

3. Authorized acts. Each license granted shall entitle the holder to perform real estate brokerage services limited to transactions involving timeshares or vacation licenses.

### SUBCHAPTER V

#### HOME SERVICE CONTRACTS

##### §13221. Definitions

1. Definitions. As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

A. "Contract fee" means the consideration received or to be received by a home service company for the issuance and delivery of any binder or service contract.

B. "Holder" means any person entitled to receive services or payment from a home service company pursuant to a home service contract.

C. "Home service company" means any person who issues and performs or arranges to perform service or defrays the cost of service pursuant to a home service contract.

D. "Home service contract" means any contract, however described or denominated, whereby, for a set fee and specified duration, a person agrees to defray the cost of repair or replacement or provide or arrange for the repair or replacement of all or any part of any structural component, appliance or system of a home necessitated by wear and tear, deterioration or inherent defect or by failure of an inspection to detect the likelihood of any such loss.



E. "Home service contract sales agent" means any person with whom the home service company has a contract and who is utilized by that company for the purpose of selling or issuing home service contracts directly or through its employees or agents.

F. "Home service contract sales associate" means the employees or agents of the home service contract sales agent utilized for selling or offering for sale home service contracts.

G. "Impaired" means the circumstance which exists when liabilities exceed assets.

H. "Insolvent" means the inability to pay debts as they become due in the usual course of business.

2. Exceptions. The following exceptions apply to this subchapter.

A. Except as otherwise provided in this subchapter, provisions of the insurance laws of this State do not apply to any home service company granted a license under this subchapter. This provision does not apply to an insurance company licensed and regulated pursuant to Title 24-A.

B. Provisions of this subchapter do not apply to any person who issues any service or maintenance contract or performance guarantee which provides for maintenance, repair, service, replacement, operation or performance of any product which is or which is similar to that manufactured, sold or leased by the issuer and no such person, his employees or agents may be required to be licensed or regulated under this subchapter. This subchapter does not apply to any contract of insurance, as defined in Title 24-A, and does not apply to any home repair contract regulated by Title 9, chapter 360. This subchapter does not apply to any program offering a warranty on a new home which is underwritten by an insurer licensed to do business in this State and the insurance policy underwriting the program has been filed with and approved by the Bureau of Insurance.

#### §13222. Rules

The commission may adopt or promulgate rules necessary and proper to effectuate provisions of this subchapter pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

#### §13223. Review of decisions

Any person aggrieved by any decision or order of the director pursuant to this subchapter has the right to request a review and determination by the commission, provided that the request is made within 30 days of the date of the decision or order. The commission may reverse, modify or affirm any such decision or order.

#### §13224. License required

1. Restriction on activity. No home service company in this State may sell, offer to sell, arrange or solicit the sale of or receive applications for home service contracts unless authorized under an existing license issued by the director.

#### §13225. Application for license

1. Form; qualifications for license. Each application for a license shall be on a form prescribed by or acceptable to the commission and shall be verified by the applicant, by an officer or other authorized representative of the applicant. The director may not issue a license to any home service company unless the home service company is qualified therefor, as follows:

A. Is a solvent natural person or other solvent legal entity formed under the laws of this State or of any other state, district, territory or possession of the United States;

B. Furnishes the director with satisfactory evidence that the management of the home service company is competent and trustworthy;

C. Proposes to use, and uses in its business, a name, together with a trademark or emblem, if any, which is distinctive and not so similar to the name or trademark of any association, corporation or organization already doing business in this State as will tend to mislead or confuse the public;

D. Files the bond required or otherwise complies with section 4125;

E. Is otherwise in compliance with this subchapter; and

F. Establishes, to the satisfaction of the director, that it employs or has contracted with licensed or skilled tradesmen and is able to perform the services described by it in the home service contract. This qualification does not apply if the home service contract provides for payment or reimbursement for the cost of services instead of providing or arranging for completion of the service.

2. Additional information. In addition to information relative to its qualifications as required under subsection 1, the application shall show:

A. A list of the names, addresses and official positions of the persons responsible for the affairs of the applicant, including all members of the board of trustees, executive committee or other governing body or committee and the principal officers in the case of a partnership or association;

B. A copy of the home service contract made or to be made between the applicants and any other person;

C. The most recent financial statement of the appli-

cant prepared by an independent certified public accountant, showing the applicant's assets, liabilities, net worth and sources of financial support; and

D. A license application fee in the amount of \$1,000.

§13226. Required deposit or bond

1. Amount of deposit. To assure the faithful performance of its obligations to its holders in the event of insolvency, every home service company, prior to the issuance of its license by the director, shall deposit and continuously maintain with the Treasurer of State securities of the type eligible for deposit by insurers under which securities shall have at all times a market value of not less than \$50,000.

2. Bond in lieu of deposit. In lieu of any deposit or securities required under subsection 1, the home service company may file with the director a surety bond in like amount. The bond shall be one issued by an insurer, duly authorized to transact surety insurance in this State, be for the same purpose as the deposit in lieu of which it is filed and be subject to the director's approval. No such bond may be cancelled or subject to cancellation, unless at least 30 days advance notice in writing is filed with the director.

3. Purpose. Securities and bonds posted by a home service company pursuant to this section shall be for the benefit of and subject to action thereon in the event of insolvency of the home service company by any person or persons sustaining an actionable injury due to the failure of the home service company to faithfully perform its obligations to its holders.

4. Safekeeping of securities. The State is responsible for the safekeeping of all securities deposited with the Treasurer of State under this subchapter at the expense of the depositor. The securities are not, on account of being in this State, subject to taxation, but shall be held exclusively and solely to guarantee the home service company's faithful performance of its obligations to its holders.

5. Substitution. The depositing home service company, during its solvency, may exchange or substitute other securities of like quality and value for securities on deposit, receive the interest and other income accruing to the securities and inspect the deposit at all reasonable times.

6. Release. The deposit or bond shall be maintained unimpaired as long as the home service company continues in business in this State. Whenever the home service company ceases to do business in this State and furnishes the director proof satisfactory to the director that it has discharged or otherwise adequately provided for all its obligations to its holders in this State, the director, with the advice and consent of the commission, shall authorize release of the deposited securities to the parties entitled thereto, on presentation of the receipts

for the securities, or shall authorize release of any bond filed in lieu of the deposit.

7. Exemption. Home service companies whose net worth exceeds the capital and surplus requirements of this State to obtain a license to write liability insurance as a domestic insurer are exempt from this section.

§13227. Reserves

1. Amount. A home service company shall maintain a single-funded reserve for its liability to furnish repairs and replacement services under its issued and outstanding contracts. The reserve shall be sufficient to cover anticipated liability for repairs and replacement services on outstanding contracts and shall be based on sound actuarial principles, but the reserve shall at all times not be less than 50% of annual contract fees, net of reinsurance, received in this State, less any amounts theretofore paid on account of the liability incurred during the applicable years. The commission, with the advice of the Superintendent of Insurance, may establish higher reserve standards if it determines that the reserves established by a home service company are inadequate to cover its liabilities under outstanding contracts.

2. Exclusion. For the purposes of this section, the reserve shall not include contract fees on home service contracts:

A. To the extent that provision is made for reinsurance, whether in an insurer or home service company, of the outstanding risk on these contracts; or

B. When the home service company has insured, with an insurer admitted in this State, all risk or loss incurred under these contracts, provided that the policy of insurance, including the coverage further provides that, in the event of the insolvency, bankruptcy or dissolution of the home service company, the insurer shall pay losses under the contracts directly to claimants and that in the event of the home service company's inability to administer claims, the insurer shall assume full responsibility for administration of claims.

§13228. License expiration; renewal

Each license as a home service company issued under this subchapter expires 2 years from the date of issuance or expires upon termination of the surety bond required under section 4125, if not otherwise in compliance with that section. In the absence of any reason or condition warranting refusal of granting a license, the home service company license may be renewed biennially upon its request and upon payment of the license fee in the amount of \$1,000.

§13229. Grounds for suspension or revocation of license or denial of renewal

1. With notice. The license of a home service company may be revoked, suspended or renewal denied, sub-

ject to the Maine Administrative Procedure Act, Title 5, chapter 375, if it is determined that the home service company:

A. Has violated any lawful order of the director or any provision of this subchapter;

B. Is in such condition or using such methods and practices in the conduct of its business as to render its further conduct of business in this State hazardous or injurious to its holders or to the general public;

C. Has refused to be examined or to produce its accounts, records and files for examination or if any of its officers have refused to give information with respect to its affairs or have refused to perform any other legal obligation as to that examination when required by the director;

D. Has failed to pay any final judgment rendered against it in this State within 60 days after the judgment became final;

E. Has, with such frequency as to indicate its general business practice in this State, and without just cause, refused to pay proper claims arising under its contract obligations, or, without just cause, has compelled holders to accept less than the amount due them or to employ attorneys or to bring suit against the service company to secure full payment or settlement of these claims; or

F. Has failed to maintain a single-funded reserve for its liability to furnish repairs and replacement services under its issued and outstanding contracts, as required under section 4126.

2. Suspension without notice. The commission may immediately suspend, without advance notice or hearing, notwithstanding the Maine Administrative Procedure Act, Title 5, chapter 375, the license of any home service company for up to 30 days if it finds that one or more of the following circumstances exist.

A. The home service company is insolvent or impaired.

B. Proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings regarding the home service company have been commenced in any state in either state court or federal court.

C. The financial condition or business practice of the home service company otherwise pose an imminent threat to the public health, safety or welfare of the residents of this State.

3. Insurer; certificate of authority. Violation of this subchapter by an insurer shall be grounds for suspension or revocation of the insurer's certification of authority in this State.

4. False or misleading statements. A license or registration may be revoked or suspended or renewal refused if it is determined that the home service company or sales agent has engaged in making false or misleading statements in either written or oral communications with regard to the advertising, offering or sale of home service contracts, to include, but not be limited to, representations related to the benefits and service available under the home service contract.

§13230. Automatic termination of sales agent registration

Revocation, suspension or nonrenewal of a home service company license shall serve to automatically terminate the registration of its sales agents.

§13231. Order, notice of suspension or revocation of license

1. Method. Suspension or revocation of a home service company's license shall be by order mailed to the home service company by registered or certified mail, and upon receipt, the home service company shall promptly relay notice of the suspension or revocation to the home service company's sales agents in this State. The home service company may not solicit or write any new home service contracts in this State during the period of any such suspension or revocation.

2. Publication. In his discretion, the director may cause notice of any such revocation or suspension to be published in one or more newspaper of general circulation published in this State.

§13232. Duration of suspension; obligation during suspension period; reinstatement

1. Duration. Suspension of a home service company's license shall be for such period, not to exceed one year, as is fixed in the order of suspension, unless the suspension or the order upon which the suspension is based is modified, rescinded or reserved.

2. Obligations. During the period of suspension, the home service company shall file its annual statement and pay fees and licenses, as required under this subchapter, as if the license had continued in full force.

3. Reinstatement. Upon expiration of the suspension period, if within that period the license has not otherwise terminated, the home service company's license shall automatically be reinstated, unless it is determined by the director that the causes of suspension have not been removed, or, after notice and hearing, it is found that the home service company is otherwise not in compliance with the requirements of this subchapter.

4. Authority of company. Upon reinstatement of the home service company's license or reinstatement of the certificate of authority of an insurer following suspension, the authority of the home service company sales

agents in this State to represent the home service company or insurer shall likewise be reinstated.

### §13233. Filing of forms

1. Restrictions on activity. No home service contract may be issued or used in this State unless it has been filed with and approved by the director.

2. Filing in advance. Except as provided in subsection 1, every home service contract shall be filed not less than 30 days in advance of its intended issuance or use. At the expiration of 30 days from the date of filing, a home service contract so filed is deemed approved unless, prior thereto, it has been affirmatively approved or disapproved by written order of the director.

3. Approval of contract. The director shall not approve any home service contract unless it:

A. Is written in nontechnical, readily understood language, using words with common meanings;

B. Clearly, conspicuously and plainly specifies:

(1) The services to be performed by the service company and the terms and conditions of the performance;

(2) The service fee or deductible amount applicable per claim, per occurrence, if any;

(3) Each of the items covered by the contract;

(4) All exclusions and limitations respecting the extent of coverage;

(5) The period during which the contract will remain in effect and the cancellation provision; and

(6) All limitations respecting the performance of services, including any restrictions as to the time periods when services may be requested or will be performed; and

C. Includes reasonable procedures for reporting a claim and provides for the performance of services without requiring the filing of claim forms or applications prior to the rendering of services.

### §13234. Filing of fees

All contract fees and related inspection fees shall be filed with the director not less than 30 days in advance of their intended use.

### §13235. Annual statement; examination

1. Time of filing; financial statement. Each home service company shall file with the director, annually, within 90 days of the close of its fiscal year, its annual statement in a form prescribed by or acceptable to the direc-

tor. The annual statement shall include a current financial statement, including a balance sheet and statement of operations prepared in accordance with generally accepted accounting principles and certified by an independent certified public accountant.

2. Contracts. Each annual statement shall include the number of home service contracts issued during the preceding fiscal year, the number cancelled or expired during the year, the number in effect at year end and the amount of all contract fees received for contract issuance during the year.

3. Reserve. Each annual statement shall include necessary information to demonstrate that the reserve requirement of section 4126 has been met.

4. Failure to file. Any home service company neglecting to file the annual statement in the form and within the time provided by this section shall forfeit \$100 for each day during which the neglect continues and, upon notice by the director to that effect, its authority to do business in this State shall cease while the default continues.

5. Additional reports. In addition to an annual statement, the director may require of licensees, under oath and in the form prescribed by him, such additional regular or special reports as he may deem necessary to the proper supervision of licensees under this subchapter.

6. Examination. The director may make an examination of the affairs of any licensed home service company as he deems necessary. Every home service company shall make its books and records relating to its home service contract operations available for the examination. All expenses relating to such an examination shall be borne by the home service company being examined.

### §13236. Service of process; appointment of director as process agent

1. Irrevocable appointment. Each home service company applying for authority to transact business in this State, whether domestic or foreign, shall appoint the director and his successors in office as its attorney to receive service of all legal process issued against it in any civil action or proceeding in this State and shall agree that process so served shall be valid and binding upon the home service company. The appointment shall be irrevocable, bind the home service company and any successor in interest as to the assets or liabilities of the home service company and remain in effect as long as there are outstanding in this State any obligations or liability of the home service company resulting from its home service contract transactions.

2. Designation by company. At the time of appointment of the director as its process agent, the home service company shall file with the director a designation of the name and address of the person to whom process

against it, served upon the director, is to be forwarded. The home service company may change the designation at any time by a new filing.

3. Method of service. Service shall be made by serving copies in triplicate of the process upon the director or upon his assistant, deputy or other person in charge of his office. Upon receiving the service, the director shall file one copy, return one copy with his admission of service and promptly forward one copy of the process by registered or certified mail to the person last designated by the home service company to receive the copy as provided in subsection 2.

§13237. Home service company sales agent registration required

1. Time of registration; fee. No home service company sales agent may solicit, negotiate, sell, advertise or effectuate home service contracts in this State on behalf of a home service company, unless registered with the director within 30 days of his appointment. The agent shall pay a biennial registration fee of \$30.

2. Written examination. If the sales agent so registered does not hold a current and valid real estate broker license, the director may require the same evidence of qualifications as is required of applicants under section 4106 and may require a written examination as to his competency with regard to home service contracts. Upon registration, the nonreal estate broker sales agent shall be held to the same standards of trustworthiness and competency required of a licensed real estate broker or salesman.

3. Compliance with insurance law. No home service company sales agent may directly or indirectly solicit or negotiate insurance contracts or hold itself out to be an insurance agent, unless so qualified and licensed under Title 24-A.

4. Penalties. If a person acts as a sales agent without being registered with the director or after his registration has been withdrawn or revoked, that person shall be fined up to \$100 a day for each day in which he has so acted, but any home service contract issued pursuant to these acts shall bind the home service company if otherwise valid. In these cases, the Administrative Court may also, for good cause shown, and after notice and hearing, suspend or revoke the license of the home service company for which the person was acting.

5. Trust funds. All funds belonging to home service companies or insurers under this subchapter and received by a sales agent in transactions shall be trust funds received in a fiduciary capacity. The sales agent shall account for and pay these funds to the home service company or insurer entitled thereto in the regular course of business. Any sales agent who diverts or appropriates these funds, or any portion of these funds, to his own or other use, upon conviction, shall be guilty of a Class D crime, punishable as provided by law.

6. Associates. All home service contract sales associates are subject to the same requirements and penalties as are applicable to home service contract sales agents, except that licensed real estate brokers and salesmen are exempt from registration requirements.

§13238. Penalty for violation

Any person who knowingly makes a false or otherwise fraudulent application for license under this subchapter or who knowingly violates any of its provisions, in addition to any applicable denial, suspension, revocation or refusal to renew or continue any license, is guilty of a Class D crime. Each instance of violation is a separate offense.

§13239. Transitional provisions

On the effective date of this chapter the commission shall change its records pertaining to licenses in effect at that time to reflect the changes in license status of licensees affected by these provisions and shall issue the appropriate licenses to implement the following.

1. Designated broker. Every person holding a real estate broker license recorded as an individual proprietorship shall become a designated broker and a real estate brokerage agency license shall be issued in the name of the proprietorship without charge. The license issued under this provision shall expire on the same date as the designated broker's license.

2. Real estate broker license. Every person holding an active real estate broker license recorded as an associate broker shall be issued a real estate broker license at the time their next license is issued.

3. Associate real estate broker license. Every person holding an inactive real estate broker license or an inactive real estate salesman license on the effective date of this chapter shall be issued an associate real estate broker license at the time of their next renewal or at the time their license is activated, if an application to activate the license is received prior to their next renewal.

4. Associate real estate broker. Every person holding an active real estate salesman license on the effective date of this chapter shall become an associate real estate broker and shall be issued an associate broker license at the time their next license is issued.

5. Applications processed. All license applications shall be processed according to the laws in effect on the date the application is received by the commission. License applications shall be processed according to former chapter 59 if the applicant has satisfactorily completed all requirements of that chapter by July 1, 1988.

CHAPTER 115THE MAINE ATHLETIC COMMISSION§13501. Commission

The Maine Athletic Commission, established by Title 5, section 12004, subsection 1, and in this chapter called "the commission," shall consist of 5 members appointed by the Commissioner of Professional and Financial Regulation, with the advice and consent of the Governor. No member may receive any compensation or remuneration for promoting, competing or otherwise engaging in boxing, wrestling or kick-boxing. Each member of the commission shall be compensated as provided in Title 5, chapter 379.

Appointments shall be for 3-year terms, except that no more than 2 members' terms may expire in any one calendar year. Appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 3 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of that expiration, regardless of the date of his appointment. Any vacancy shall be filled by appointment for the unexpired term. A member may be removed by the Governor for cause.

§13502. Declaration of policy

It is declared to be the policy of the State, that professional and amateur boxing, professional and exhibition wrestling and professional and amateur kick-boxing in this State shall be supervised by the commission in a manner designed to promote these sports in accordance with the public interest, insure the safety of all participants and spectators and achieve uniformity in the rules governing participation in these sports within the State.

§13503. Meetings; chairman; quorum

The commission shall meet at least once a year to conduct its business and to elect a chairman and a secretary. Additional meetings shall be held as necessary to conduct the business of the commission, and may be convened at the call of the chairman or a majority of the board members. Three members of the commission shall constitute a quorum for all purposes. The commission shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

§13504. Disposal of fees; expenses

All fees and taxes collected under this chapter shall be paid forthwith by the commission to the Treasurer of State with a detailed statement thereof and shall constitute a fund to be known as the Athletic Commission

Fund. This fund shall be kept as a separate account by the Treasurer of State and he shall pay therefrom all costs and expenditures of the commission, including, but not limited to, the compensation of the commission, reasonable expenses of the commissioners incurred in the performance of their duties, administrative expenses and other costs incurred in carrying out the duties of the commission. Any money remaining in the Athletic Commission Fund at the end of the fiscal year shall be carried forward to the credit of that fund for the succeeding year.

The Commissioner of Professional and Financial Regulation shall employ, subject to the Civil Service Law, the personnel that he deems necessary to discharge the duties of the commission, and, with the advice of the commission, shall outline their duties and fix their compensation, subject to the Civil Service Law.

§13505. Annual reports

Not later than August 1st of each year, the commission shall submit to the Commissioner of Professional and Financial Regulation, for the preceding fiscal year ending June 30th, an annual report of its operations and financial position, together with such comments and recommendations as the commission deems relevant.

§13506. Jurisdiction

1. Boxing. The commission shall have the sole direction, control and jurisdiction over all boxing contests and exhibitions, except that it shall have no jurisdiction over any amateur intercollegiate, interscholastic or intramural boxing contest or exhibition conducted under the direct auspices of a school, college or university, except as provided in section 13508.

No boxing contests or exhibitions, except as provided in this chapter, may be held or conducted within this State, unless the contest or exhibition is properly licensed by the commission and conducted in accordance with this chapter and the rules adopted pursuant to this chapter, nor shall any closed circuit television showing of a boxing contest or exhibition be conducted, except under a license issued by the commission.

No boxing contests or exhibition under the jurisdiction of the commission may take place unless a medical doctor, licensed under chapter 48 is in attendance.

2. Wrestling. The commission shall have the sole direction, control and jurisdiction over all professional wrestling matches, shows or exhibitions.

No professional wrestling match, show or exhibition may be held or conducted within this State unless the match, show or exhibition is licensed by the commission and conducted in accordance with this chapter and the rules adopted pursuant to this chapter, nor may any closed circuit television showing of a professional wrestling match, show or exhibition be conducted, except under a license issued by the commission.

No professional wrestling match, show or exhibition under the jurisdiction of the commission may take place unless an emergency medical technician, as licensed under chapter 2-B, is in attendance for the duration of the contest.

3. Kick-boxing. The commission shall have the sole direction, control and jurisdiction over all kick-boxing contests, exhibitions or performances. For purposes of this chapter, kick-boxing means the following.

A. “Kick-boxing” means any form of boxing in which blows are delivered with the hand and any part of the leg below the hip, including the foot, with the intent to disable or cause injury to an opponent in a contest, exhibition or performance.

B. This subsection shall not apply with respect to kick-boxing exhibitions, events, performances or contests in which school pupils or instructors are the only participants, except that this exemption shall apply only to a performance or exhibition conducted under the direct supervision and control of the board of directors of a school district, or the person in authority of a teachers' training school or other institution under the control of the Commissioner of Educational and Cultural Services and the State Board of Education or the board, bodies or persons in authority of duly constituted private or parochial schools, colleges or universities, or schools for kick-boxing.

C. No kick-boxing contest, exhibition or performance, except as provided in this chapter, may be held or conducted within the State, unless the contest, exhibition or performance is properly licensed by the commission and conducted in accordance with this chapter and the rules adopted pursuant to this chapter, nor may any closed circuit television showing of such a contest or exhibition be conducted except under a license issued by the commission.

D. No kick-boxing contest, exhibition or performance under the jurisdiction of the commission may take place unless a medical doctor, licensed under chapter 48, is in attendance for the duration of the contest.

#### §13507. Powers and duties

The commission shall administer, coordinate and enforce this chapter consistent with the declaration of policy set forth in section 13502, and shall have the following powers and duties in addition to those otherwise set forth in this chapter.

1. Rules. The commission, in accordance with procedures established by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, may adopt rules commensurate with the authority vested in it by this chapter.

A. In the exercise of its jurisdiction over boxing as set forth in section 13506, subsection 1, the commis-

sion may adopt rules governing, among others, referees, judges, boxers, seconds, promoters, managers, physicians, timekeepers and knockdown timekeepers. These rules may include, but not be limited to: Licensing requirements; age limits and physical condition of participants; lengths of contests and rounds; specifications of the facilities and equipment used in boxing contests and uniforms of contestants and referees; scoring of decisions; standards of weight and weighing of contestants; and the manner of presentation of closed circuit events. Rules governing amateur boxing contests shall conform to tournament regulations of the Amateur Athletic Union or its successor in interest.

B. In the exercise of its jurisdiction over wrestling as set forth in section 13506, subsection 2, the commission may adopt rules governing, among others, wrestlers, managers, seconds, referees, matchmakers, physicians, timekeepers, trainers and promoters. These rules may include, but not be limited to: Licensing and qualifications of participants; conduct of contests; specifications of equipment and facilities used in wrestling contests or exhibitions; and scoring of decisions.

C. In the exercise of its jurisdiction over kick-boxing, as set forth in section 13506, subsection 3, the commission may adopt rules governing, among others, referees, judges, kick-boxers, seconds, promoters, managers, physicians, timekeepers and knockdown timekeepers. These rules may include, but not be limited to, licensing requirements, age limits and physical condition of participants, lengths of contests and rounds, specifications of the facilities and equipment used in contests and uniforms of contestants and referees, scoring of decisions, standards of weight and weighing of contestants, and the manner of presentation of closed circuit events. Rules governing amateur kick-boxing contests shall conform to tournament regulations of the Amateur Athletic Union or its successor in interest.

D. The commission may adopt rules requiring health and accident insurance providing coverage in the event of injury or death for persons competing in boxing events, wrestling events or kick-boxing events subject to this chapter, or for any combination of those events. This insurance, if required, shall comply with standards prescribed by the Superintendent of Insurance.

2. Officials. The officials at all boxing or kick-boxing contests or exhibitions shall be selected or approved by the commission. For purposes of this subsection, the term “officials” includes referees, judges, physicians, timekeepers and knockdown timekeepers.

3. Hearings. Hearings may be conducted by the commission to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the

fulfillment of its responsibilities under this chapter.

The commission shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The commission shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the commission within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The commission may subpoena witnesses, records and documents in any hearing it conducts.

4. Contracts. The commission may enter into contracts to carry out its responsibilities under this chapter.

§13508. Headgear required; safety equipment

1. Headgear. No amateur boxing contests, exhibitions or sparring may take place in this State, unless the boxers wear protective headgear approved by the commission.

2. Other safety equipment. No amateur or professional boxing contests, exhibitions or sparring may take place in this State, unless the following safety equipment is used:

A. Plastic safety mats;

B. Padded corner posts; and

C. Such other safety equipment as the commission may consider necessary for the protection of the health and safety of boxers.

3. Penalty. Any person, club, association, corporation or any member or officer of a club, association or corporation who promotes, competes or otherwise engages in a boxing contest, exhibition or in sparring without complying with subsections 1 and 2, commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. The imposition of such a forfeiture shall in no way limit the commission's right to impose disciplinary sanctions pursuant to section 13516 or the State's ability to impose penalties under section 13517.

§13509. Head injuries

1. Examination. Any boxer who is rendered unconscious or suffers serious head injury during any boxing contest or exhibition, as determined by the attending ring physician, shall:

A. Be examined immediately by the attending ring physician;

B. Undergo neurological and neuropsychological examinations by a neurologist or neurosurgeon, including, but not limited to, a computed tomography or medically equivalent procedure; and

C. Not participate in any boxing contest or exhibition until the commission is presented with a written certification of a licensed physician that the boxer is fit to take part in competitive boxing.

2. Results of examination. The results of any examination conducted under subsection 1 and any subsequent physician certification shall become part of the boxer's permanent medical record, as maintained by the commission and shall be used by the commission to determine whether the boxer should be permitted to participate in any future boxing contest or exhibition.

3. Responsibility for examination. The sole responsibility for any examination required by subsection 1, paragraph B, shall rest with the boxer. Neither the commission, any member of the commission, nor the ringside physician shall be responsible financially or otherwise for the examination.

§13510. Boxing and kick-boxing licenses

1. Persons to whom licenses may be issued. The commission may issue, in its discretion, a license for a term of one year from date of issuance to any person, club, association or corporation, who or which is properly qualified to promote and conduct boxing or kick-boxing contests and exhibitions in accordance with this chapter and the rules adopted pursuant to this chapter. All persons engaged in such contests and exhibitions as boxers, kick-boxers, seconds, managers, timekeepers, knockdown timekeepers, referees, judges and physicians shall be licensed by the commission in a like manner. A closed circuit license may be issued by the commission to any person who is properly qualified therefor, which will entitle him to engage in the showing of boxing or kick-boxing contests or exhibitions by closed circuit television.

2. Application for license. Each applicant for a promoter's license or a closed circuit boxing, kick-boxing or wrestling license shall specify the location for which the license is desired, and that promoter's license, when issued, shall be limited to that specified location. No license issued under this section, other than a promoter's license or a closed circuit event license, may be limited to a specified location.

3. Fee for license. The commission may, in its discretion, fix the fee for each promoter's license at a figure between \$25 and \$50 for a license to promote amateur events and a figure between \$50 and \$100 for a license to promote professional events, depending upon the probable income of the licensee to be derived from the conducting of the contests and exhibitions. The fee for a license for closed circuit events shall be \$50. The commission may, by rule, fix the fees for all other licenses issued under this section at a figure between \$5 and



§25. When application by a fraternal, charitable or patriotic organization for a license to promote and conduct amateur boxing or kick-boxing contests or exhibitions is made to the commission, it may grant the license without the requirement of the payment of a license fee.

4. Temporary license. Upon application being made for any license under this section, any member of the commission, in his discretion, may temporarily issue or temporarily refuse to issue the license. In the event that such a temporary license is issued, the temporary license shall be valid only until the next meeting of the commission at which a quorum is present. No license, except such a temporary license, may be issued under this section, except by a majority vote taken at a commission meeting at which a quorum is present. All license applications shall be considered in the first meeting of the commission following the receipt of the application, at which a quorum is present.

#### §13511. Wrestling licenses

The commission, in accordance with this chapter and the rules adopted pursuant to this chapter, may issue a license for a term of one year, to any person, club, association or corporation who or which is properly qualified, to conduct professional wrestling matches, shows or exhibitions. The commission, in its discretion, may fix the fee for the license at a figure between \$50 and \$100, depending upon the probable income of the licensee to be derived from the conducting of professional wrestling matches, shows or exhibitions. A closed circuit wrestling license may be issued by the commission for a term of one year to any person who is properly qualified therefor which will entitle him to engage in the showing of professional wrestling matches, shows or exhibitions by closed circuit television. The fee for a closed circuit wrestling license shall be \$50, and the license may be suspended or revoked by the Administrative Court for any violation of this chapter or the rules of the commission.

All persons engaging in professional wrestling matches, shows or exhibitions as wrestlers shall be licensed by the commission in a like manner. The commission may by rule establish a fee for the licenses in an amount not to exceed \$25 a year. Upon the application for a license as enumerated, the chairman of the commission shall in his discretion temporarily issue or refuse to issue the license. The commission shall consider the matter at its regular meeting and rule upon the issuance or denial of the license.

#### §13512. Permits for foreign copromoters

No foreign copromoter, meaning a promoter who has no place of business within the State, may directly or indirectly participate in the promotion of or receive any remuneration from or render any services in connection with any boxing contest or exhibition, or any professional wrestling match, show or exhibition held within the State, unless he first has been granted a permit by the

commission. No promoter may be associated with any foreign copromoter in promoting any boxing contest or exhibition, unless the foreign copromoter has first secured a permit. Permits for foreign copromoters shall be issued in the same manner as provided in section 13510, subsection 2, and section 13511, for licenses to promote amateur or professional boxing or wrestling, and the fees for these permits shall be the same as those established by the commission for these licenses.

A foreign copromoter, by accepting a permit, agrees to be subject to all the provisions of this chapter and the rules promulgated under this chapter.

Any foreign copromoter who violates any provision of this chapter or any rule promulgated under this chapter shall be guilty of a Class E crime.

#### §13513. Promoter's reports

The commission shall provide to each promoter a printed report form, which shall be completed and returned to the commission by registered letter mailed within 48 hours of the conclusion of any boxing or kick-boxing contest or exhibition or any wrestling match, show or exhibition held under this chapter. The completed form shall contain the following:

1. Names of contestants. A list of the names of the contestants;

2. Physician's statement. The signed statement of a physician that he examined each of the contestants within 10 hours of the contest and found them to be in good physical condition, and, in the case of any boxing or kick-boxing contest, further stating what he found each contestant's weight to be; and

3. Promoter's statement. The signed statement of the promoter setting forth the results of the contest, the name of the referee, the names of the judges in the case of a boxing or kick-boxing contest or exhibition and the amount of the gross receipts.

#### §13514. Taxes

The promoter or promoters of all boxing or kick-boxing contests or exhibitions and all professional wrestling matches, shows or exhibitions held under this chapter shall pay to the Treasurer of State, for credit to the Athletic Commission Fund, a tax of 5% of the gross receipts from the contest or exhibition up to a maximum tax of \$2,500. This section shall apply to all boxing, kick-boxing and wrestling contests or exhibitions which are shown over closed circuit television.

On the day on which the contest or exhibition is held, the promoter or promoters shall either tender the tax to the commissioner in attendance, or provide a surety bond acceptable to the commission in the amount of \$5,000 payable to the Treasurer of State and conditioned for payment of the tax and any penalties imposed under

this section. This tax shall have been paid to the Treasurer of State within 15 days of the date on which the contest or exhibition is held, in the event a bond is provided. Upon failure to pay the tax to the Treasurer of State, the promoter or promoters shall be liable to pay a penalty of 25% of the amount of the tax due, which penalty and the tax due shall be recovered by a civil action upon the bond brought in the name of the commission, and the penalty and the tax due shall be paid to the Treasurer of State to be credited to the Athletic Commission Fund.

#### §13515. Decisions

1. Boxing or kick-boxing. In all boxing or kick-boxing contests or exhibitions conducted under this chapter, there may be a decision as to the winner by 2 judges and the referee, or by 3 judges, licensed under this chapter.

2. Wrestling. In all professional wrestling matches, shows or exhibitions conducted under this chapter, there may be a decision as to the winner by the referee.

#### §13516. Disciplinary actions

The commission may suspend or revoke a license pursuant to Title 5, section 10004. The commission may refuse to renew or the Administrative Court may revoke, suspend or refuse to renew any license issued under this chapter if the holder of that license has violated any provision of this chapter or any rule or order of the commission.

#### §13517. Penalties; injunction

1. Penalties. Any person, club, association or corporation, or any member or officer of a club, association or corporation who promotes, competes or otherwise engages in a boxing or kick-boxing contest or exhibition or wrestling match, show or exhibition without first obtaining a license as required by this chapter, or after the license has expired or has been suspended, revoked or temporarily suspended or revoked, is guilty of a Class E crime.

2. Injunction. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

**Sec. 213. P&SL 1975, c. 84, §6, last ¶, first sentence is amended to read:**

If any person sustaining damages by any taking as aforesaid shall not agree with the trustees of said the district upon the sum to be paid therefor, either party, within 45 days of the filing of such the notice in the registry of deeds, upon petition to the ~~Land Damage Board~~ State Claims Commission, may have said the damages assessed by them.

#### **Sec. 214. Interdepartmental Task Force on Out-of-state Placements.**

**1. Interdepartmental task force created.** The Interdepartmental Task Force on Out-of-state Placements is established to jointly identify and implement a course of action to minimize placement of children in out-of-state substitute care facilities, including, but not limited to, a residential treatment center, residential child care facility, group home, emergency shelter, hospital — medical facility, institution for the mentally retarded, correctional institution, school, nursing home, institution for the mentally ill, institution for the physically handicapped, boarding care facility, drug treatment center, children's home or specialized children's home. The task force shall be composed of the Commissioner of Human Services, the Commissioner of Educational and Cultural Services, the Commissioner of Mental Health and Mental Retardation and the Commissioner of Corrections, or their designees.

**2. Duties.** The Task Force on Out-of-state Placements shall:

A. Develop an overall state policy to minimize the placement of children in out-of-state substitute care facilities;

B. Identify ways and means to provide a child in the substitute care system with treatment within the State appropriate to meet the child's individual needs in order to promote the health and well-being of the child, promote the wholesome development of the child and achieve permanence at the earliest possible time;

C. Develop procedures for the provision of these services by nonstate agencies within the State; and

D. Meet periodically with the Resident Treatment Centers Advisory Group as established by the Maine Revised Statutes, Title 5, section 12004, subsection 10, to discuss the instate placement policy and procedures.

**3. Extraordinary circumstances.** Out-of-state placements may be made only in extraordinary circumstances such as when the individual needs of the child cannot be met because appropriate services are not offered by in-state facilities or parental visitation would be facilitated by placement in an out-of-state facility which is geographically closer than a facility in this State.

**4. Reporting provision.** The task force shall report to the Joint Standing Committee on Audit and Program Review and the Joint Standing Committee on Human Resources by January 1, 1988.

#### **Sec. 215. Transition provisions.**

**1. Funds transferred.** Notwithstanding the Maine Revised Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances, appropriations or allocations, transfers, revenues and other available

funds in any account or subdivision of any account of the Board of Examiners for the Examination of Applicants for Admission to the Bar or any subunit of that office affected by this Act are transferred to the Supreme Judicial Court, as required by the assignment of responsibilities in this Act.

2. Personnel and employment benefits transferred. Members of the Board of Examiners for the Examination of Applicants for Admission to the Bar who have been appointed to terms extending beyond the effective date of this Act shall continue to serve on the board of bar examiners created by the Supreme Judicial Court until their successors are appointed. All employees of the Board of Examiners for the Examination of Applicants for Admission to the Bar or any subunit of that office are transferred to the Supreme Judicial Court, as required by the assignment of responsibilities in this Act.

All accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement of these personnel shall remain with them. No employee's pay or promotional rights and opportunities may be adversely affected due to this transfer.

3. Equipment and property transferred. All equipment, records and property of the State used by employees and officials of the Board of Examiners for the Examination of Applicants for Admission to the Bar are transferred to the Supreme Judicial Court, as required by the assignment of responsibilities in this Act.

4. Contracts and agreements. All contracts and agreements currently in effect with respect to the Board of Examiners for the Examination of Applicants for Admission to the Bar shall remain in effect until rescinded, terminated or modified as provided by state law.

5. Organization and operation. Notwithstanding any other provisions of law, any planning or preparatory work may occur prior to the effective date of this Act, but shall not become binding until the effective date of this Act.

**Sec. 216. Transition for boards and commissions.** Members of the Real Estate Commission and Maine Athletic Commission who have been appointed to terms extending beyond the effective date of this Act shall continue to serve in their appointed terms of office until their successors are appointed.

Members of the State Claims Board who have been appointed to terms extending beyond the effective date of this Act shall continue to serve on the State Claims Board for their appointed terms until their successors are appointed.

## PART B

**Sec. 1.** 20-A MRSA §15905, sub-§1, as amended by PL 1985, c. 780, §1, is further amended to read:

1. Approval authority. The state board must approve each school construction project, unless it is a small scale school construction project as defined in section 15901, subsection 4-A, or a nonstate funded project as defined in section 15905-A.

A. The state board may approve projects so long as no project approval will cause debt service costs, as defined in section 15603, subsection 8, paragraphs A and D, to exceed \$35,000,000 in a subsequent fiscal year. The state board may increase the limit by 10% to take into account increased requests for projects deemed necessary by the state board because of the unusually heavy local demand for high priority school construction. This paragraph shall take effect on July 1, 1986.

A-1. The limitation on debt service costs set out in this subsection shall be adjusted each year on January 1st for the awards made starting on July 1st, of the same year by the estimated percentage increase or decrease in the cost of construction materials, services and financing over the previous 3 years. The Commissioner of Finance and Administration shall determine the increase in construction costs using standard, area indexes applicable to Maine. In no case may the allowed increase exceed 5% and in no case may the debt service limit be reduced.

B. Nonstate funded projects, such as school construction projects or portions of projects financed by proceeds from insured losses, money from federal sources, other noneducational funds or local funds which are not eligible for inclusion in an administrative unit's state-local allocation, shall be outside the total cost limitations set by the Legislature.

**Sec. 2.** 22 MRSA §3174-D is enacted to read:

§3174-D. Medicaid coverage for services provided by the Governor Baxter School for the Deaf

The Department of Human Services may administer a program of Medicaid coverage for speech and hearing services, psychological services, occupational therapy and any other services provided by the Governor Baxter School for the Deaf which qualify for reimbursement under the United States Social Security Act, Title XIX. The Department of Educational and Cultural Services shall have fiscal responsibility for providing the State's match for federal revenues acquired under this section. An amount equal to the Medicaid reimbursement shall be deposited into the General Fund undedicated revenue from the Governor Baxter School for the Deaf General Fund appropriation.

**Sec. 3.** 32 MRSA §1101, sub-§3-A is enacted to read:

3-A. Journeyman-in-training electrician. "Journeyman-in-training electrician" means a person doing work of installing electrical wires, conduits, apparatus, fixtures and other electrical equipment under the supervision of

a journeyman or a master electrician. The biennial renewal fee for a journeyman-in-training electrician license is \$20.

Sec. 4. 32 MRSA §1101, sub-§4-A, as enacted by PL 1983, c. 413, §32, is amended to read:

4-A. Supervision. Each master electrician, limited electrician or journeyman electrician may have one apprentice electrician or one helper electrician working with him and under his personal supervision. A master electrician, who teaches an electrical course at a Maine regional vocational-technical center, a Maine vocational region or a Maine vocational-technical institute, may have a maximum of 12 helper electricians under his direct supervision while making electrical installations which are a part of the instructional program of the school, provided that the total value of each installation does not exceed \$1,000. No electrical installation may be commenced pursuant to this subsection without the prior approval of the director of the school at which the master electrician is an instructor. These installations are limited to those done in buildings or facilities owned or controlled by:

- A. School administrative units;
- B. Nonprofit organizations; and
- C. Households as defined in Title 36, section 6103, where the household income as defined in that section is within the limits established for one or 2 member households by Title 36, section 6108, except that if there are more than 2 members in a household, an additional \$500 of household income shall be allowed for each additional member of the household in computing the income limitation and provided that the household is owner-occupied.

The Electricians' Examining Board and the municipal electrical inspector of the municipality in which the installation is to be made, if the municipality has an inspector, shall be notified of all installation projects entered into pursuant to this subsection prior to the commencement of the project. There shall be an inspection by a state electrical inspector or by the municipal electrical inspector of the municipality in which the installation has been made, if the municipality has an inspector, before any wiring on the project is concealed.

Sec. 5. 32 MRSA §1102, sub-§5, as repealed and replaced by PL 1973, c. 363, is repealed and the following enacted in its place:

5. Oil burner technicians. Any person duly licensed under chapter 33 subject to the restrictions of the license as issued;

Sec. 6. 32 MRSA §1152, first ¶, as amended by PL 1985, c. 785, Pt. B, §131, is further amended to read:

The Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~, with the advice

and consent of the board, shall be empowered to appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the Department of ~~Business, Occupational and Professional and Financial Regulation~~ and under the administrative and supervisory direction of the Commissioner of ~~Business, Occupational and Professional and Financial Regulation~~.

Sec. 7. 32 MRSA §1202, sub-§1, as amended by PL 1985, c. 695, §18 and as repealed and replaced by PL 1985, c. 734, is repealed and the following enacted in its place:

1. Application; qualifications. The board shall issue a license to any person who files a sworn application, who passes an examination conducted by the board as provided in section 1203 to determine his fitness to receive that license and who meets the following qualifications.

A. For a journeyman electrician's license, a person must:

(1) Complete at least 8,000 hours of service as an apprentice or helper electrician or at least 8,000 hours of experience in electrical installations, as defined in section 1101, and satisfactorily complete a program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours shall consist of 225 hours of required study, including an approved course of not less than 45 hours in the current National Electrical Code; and 351 hours of elective study, comprised of all trade-related electives or 225 hours of trade-related courses and 135 hours of degree-related courses;

(2) Be a graduate of an accredited regional vocational high school 2-year electrical program, have worked for 8,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board;

(3) Be a graduate of an accredited Maine vocational-technical institute electrical program, have worked for 4,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may write the journeyman's examination upon graduation if application is made within one year of graduation; or

(4) Be an electrical apprentice registered with the Maine State Apprenticeship and Training Council and have completed 576 hours of related instruction, as defined in this paragraph, prescribed in their apprenticeship program, the 8,000-hour approved program and a course of not less than 45 hours in the

current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may write the journeyman's examination after completion of the 576 hours of instruction, if application is made within one year of the completion of the instruction.

**B. For a master electrician's license, a person must:**

(1) Complete at least 4,000 hours of service as a journeyman electrician or at least 12,000 hours of experience in electrical installations, as defined in section 1101, and complete a program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours shall consist of 450 hours of required study, including a course of not less than 45 hours in an approved course in the current National Electrical Code and 126 hours of degree-related courses;

Any person who holds a journeyman electrician's or limited license under this section or under former section 1202, subsection 1, prior to July 1987, shall be eligible to take the examination for a master electrician's license, provided that the applicant has completed the number of hours of service or experience required by this subsection.

**C. For a limited electrician's license, a person must meet the following requirements.**

(1) A limited electrician in water pumps shall have 90 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice shall be restricted to electrical work between the branch circuits and power supplies.

(2) A limited electrician in outdoor signs, including sign lighting, shall have 90 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice do not include branch circuit wiring.

(3) A limited electrician in gasoline dispensing shall have 90 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice shall be restricted to electrical work between the branch circuit and the power supply.

(4) A limited electrician in traffic signals, including outdoor lighting of traffic signals, shall have 90 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience.

(5) A limited electrician in house wiring shall have 225 hours of electrical education as approved by the

Electricians' Examining Board or from an accredited institution and 4,000 hours of experience. Privileges of practice shall be restricted to one-family and 2-family dwellings, including modular and mobile homes. Any person having a limited license in mobile homes prior to the effective date of this section shall automatically be licensed as a limited electrician in house wiring.

(6) A limited electrician in refrigeration shall have 270 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 6,000 hours of experience. Privileges of practice shall be restricted to all associated wire from the loadside of distribution.

(7) A limited electrician in low energy, including fire alarms, shall have 270 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 4,000 hours of experience. Any person having a limited license in fire alarms or experience in the installation of low-energy electronics, as defined by the National Electrical Code, prior to the effective date of this section, shall automatically be licensed as a limited electrician in low energy.

**D. For a journeyman-in-training electricians' license, a person must be a graduate of an accredited Maine vocational-technical institute electrical program, receive a passing grade on the journeyman examination and complete 2,000 hours of experience. This provision shall be reviewed by the joint standing committee of the Legislature having jurisdiction over business legislation by March 1, 1991, and, unless continued by law, shall terminate at this time.**

The board may establish by rule standards in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to exercise its discretion to determine if a limited license holder applying for a master electrician's license has adequate experience in all phases of electrical installation to take the examination.

**Sec. 8. 32 MRSA §1203, first ¶, as amended by PL 1983, c. 553, §29, is further amended to read:**

The following applicants for license shall present to the board a written application for examination and license, containing such information as the board may require, accompanied by the required fee of \$50 for a master electrician's license, \$20 for a journeyman's license, \$10 for a journeyman-in-training license and \$30 for a limited electrician's license. Examinations shall be in whole or in part in writing, shall be conducted by the board and shall be of a thorough and practical character commensurate with the responsibilities of the prospective license holder. They shall include such provisions of the National Electrical Code as the board may deem appropriate.

**Sec. 9. 32 MRSA §1204, first ¶, as repealed and**

replaced by PL 1983, c. 413, §39, is amended to read:

All licenses issued shall expire October 31st of each biennial period as to master electricians and April 30th of each biennial period as to other licensees and they may be renewed thereafter for 2-year periods without further examination, upon the payment of the proper renewal fee as set forth in section 1101 and documentation of 6 hours of a current electrical code course every 4 years. The expiration dates for licenses issued under this chapter may be established at such other times as the Commissioner of Business Regulation may designate. The board shall notify everyone registered under this chapter of the date of expiration of his license and the fee required for its renewal for a 2-year period. The notice shall be mailed to the person's last known address at least 30 days in advance of the expiration date of his license.

Sec. 10. 32 MRSA §7001-A, sub-§2, as enacted by PL 1985, c. 736, §2, is amended to read:

2. Board. "Board" is the State Board of Social Worker Registration Licensure.

Sec. 11. 32 MRSA c. 83, sub-c. II, first 2 lines, are repealed and the following enacted in their place:

#### SUBCHAPTER II

#### STATE BOARD OF SOCIAL WORKER LICENSURE

Sec. 12. 32 MRSA §7026, as amended by PL 1985, c. 736, §6, is further amended to read:

#### §7026. State Board of Social Worker Licensure

The State Board of Social Worker Registration Licensure, as established by Title 5, section 12004, subsection 1, and within the Department of Business, Occupational and Professional and Financial Regulation, shall administer this chapter. The board shall consist of 7 members appointed by the Governor. Three members of the board shall be licensed clinical social workers, licensed master social workers or certified social workers — independent practice, at least one of whom must be practicing social work in a nonclinical setting; 2 shall be licensed social workers and there shall be 2 public members. Each level of licensure shall be represented on the board. In addition, board members shall meet the qualifications required under section 7027.

Appointments shall be for 3-year terms, except that no more than 3 members' terms may expire in any one calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regard-

less of the date of his appointment. Any vacancy occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term.

Sec. 13. 32 MRSA §7029, last ¶, as amended by PL 1985, c. 736, §8, is further amended to read:

The board shall adopt a seal for its use. The seal and records shall be kept at the Department of Business, Occupational and Professional and Financial Regulation.

Sec. 14. 32 MRSA §7053, sub-§1, as amended by PL 1985, c. 736, §11, is repealed and the following enacted in its place:

1. Licensed clinical social worker. To be qualified as a licensed clinical social worker, an applicant shall have demonstrated to the satisfaction of the board adherence to the ethics of the social work profession; shall have successfully completed the examination prescribed by the board; and shall have received either:

A. A masters or doctoral degree in social work or social welfare from an accredited educational institution, in a clinical concentration:

(1) Shall have subsequently completed 2 years of social work experience with 96 hours of consultation in a clinical setting; or

(2) Shall have demonstrated 2 years of full-time clinical social work experience or its equivalent and have completed the graduate degree prior to January 1, 1987, and have completed 2 years of subsequent social work experience with 96 hours of consultation in a private setting; or

B. A masters or doctoral degree in social work in a nonclinical concentration from an accredited educational institution:

(1) Shall have subsequently completed 4 years of social work experience with 192 hours of consultation in a clinical setting; or

(2) Shall have demonstrated 2 years of full-time clinical social work experience or its equivalent and have completed the graduate degree prior to January 1, 1987, and have completed 4 years of subsequent social work experience with 192 hours of consultation in a private setting.

The board shall issue rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, defining the clinical experience required for this level of licensure.

Sec. 15. 32 MRSA §7053-A, sub-§1, as enacted by PL 1985, c. 736, §12, is amended to read:

1. Licensed master social worker. Any licensed master social worker may:

- A. Engage in administration, research, consultation, social planning and teaching related to the functions in this section;
- B. Perform all the functions of a licensed social worker; and
- C. Engage in a nonclinical private practice.

In addition, a licensed master social worker having met the requirements for licensure as a licensed clinical social worker prior to January 1, 1987, except for having completed the licensed clinical social worker examination, may engage in the clinical consultation of licensed master social worker, conditional for the purpose of preparing the licensed master social worker, conditional for eventual licensed clinical social workers' status or regular licensure. This includes responsibility for ongoing training and evaluation. The licensed master social worker has an obligation to assess the licensed master social worker, conditional's competence and ethics and share this assessment with the Board of Social Work Licensure at the time the licensed master social worker applies for the licensed clinical level.

In addition to paragraphs A, B and C, a person holding a "licensed master social worker, conditional" license may engage in psychosocial evaluation, including diagnosis and treatment of mental illness and emotional disorders, and provide clinical consultation to licensed social workers, social work students, other professionals practicing related professions and paraprofessionals engaging in related activities.

A "licensed master social worker, conditional" may not engage in private clinical practice, unless permitted under section 7053, subsection 1, and must receive individual consultation 4 hours a month while practicing social work in a clinical setting.

**Sec. 16.** 32 MRSA §7053-A, sub-§2, ¶E, as enacted by PL 1985, c. 736, §12, is amended to read:

E. Engage in the clinical consultation of licensed master social workers for the purpose of preparing the licensed master social worker for eventual licensed clinical social workers' status or regular licensure. This includes responsibility for ongoing training and evaluation. The licensed clinical social worker has an obligation to assess the licensed master social worker's competence and ethics and share this assessment with the Board of Social Work Registration Worker Licensure at the time the licensed master social worker applies for the licensed clinical level.

**Sec. 17.** 32 MRSA §7053-A, sub-§3, ¶C, as enacted by PL 1985, c. 736, §12, is amended to read:

C. Engage in clinical private practice of social work.

In addition, a certified social worker — independent practice having met the requirements for licensure as a licensed clinical social worker prior to January 1,

1987, except for having completed the licensed clinical social worker examination, may engage in the clinical consultation of licensed master social worker, conditional for the purpose of preparing the licensed master social worker, conditionals for eventual licensed clinical social workers' status or regular licensure. This includes responsibility for ongoing training and evaluation. The certified social worker — independent practice has an obligation to assess the licensed master social worker, conditional's competence and ethics and share this assessment with the Board of Social Work Licensure at the time the licensed master social worker applies for the licensed clinical level.

**Sec. 18.** 32 MRSA §7054-A, as enacted by PL 1985, c. 736, §14, is amended by adding at the end a new paragraph to read:

Any person having received a masters or doctoral degree in social work or social welfare from an accredited educational institution and having completed 5 years' experience prior to January 1, 1987, with 3 years or its equivalent having been gained within 5 years of the date of application for licensure, shall be automatically licensed as a "licensed master social worker."

**Sec. 19.** 32 MRSA §7060, first ¶, as amended by PL 1985, c. 736, §19, is further amended to read:

Licenses shall expire biennially on December 31st or at such other times as the Commissioner of ~~Business, Occupational and Professional~~ and Financial Regulation may designate. Biennial fees for renewal of license shall be set by the board in an amount not to exceed \$50 and shall be due and payable biennially on or before the first day of January. Every 2nd renewal shall be contingent upon evidence of participation in a continuing professional education course or program as approved by the board. A license may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the renewal date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

**Sec. 20.** 32 MRSA §7062, as enacted by PL 1977, c. 673, §3, is amended to read:

**§7062. Reports.**

No later than August 1st of each year, the board shall submit to the Commissioner of ~~Business~~ Professional and Financial Regulation, for the preceding fiscal year ending June 30th, an annual report of its operations and financial position, together with those comments and recommendations which the board deems essential.

PART C

**Sec. 1. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1987-88

EDUCATIONAL AND CULTURAL SERVICES,  
DEPARTMENT OF

Division of Alcohol and Drug Education Services

All Other \$35,000

This money will fund a one-year grant for reimbursing local school districts for educational services provided to students in long-term drug treatment centers. This cost will be offset by savings derived from the first year of the Governor Baxter School for the Deaf participation in the federal Medicaid program.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved, except for Part A, section 212, the Maine Revised Statutes, Title 32, chapter 113, which shall take effect on January 1, 1988; sections 10 to 14, which will take effect on January 1, 1988; sections 36, 50, 53 to 65, 67, 71 to 77, 80, 87, 122 to 142, 144 to 167, 172 and 192 to 211, which shall take effect on September 1, 1987. The following sections of Part B shall take effect on September 1, 1987: Sections 1, 3, 4, 7 to 9 and 14 to 18.

Effective June 24, 1987, unless otherwise indicated.

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CHAPTER 396

S.P. 517 — L.D. 1560

**AN ACT to Recodify the First-lien Real Estate Secured Lending Provisions Relating to Nonbanks in the Maine Consumer Credit Code.**

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

**Sec. 1.** 9-A MRSA §1-202, sub-§1, as repealed and replaced by PL 1987, c. 129, §8, is amended to read:

1. Extensions of credit primarily for business, commercial, or agricultural purposes or to from governments or governmental agencies, instrumentalities or organizations;

**Sec. 2.** 9-A MRSA §1-202, sub-§8, as repealed and replaced by PL 1987, c. 129, §11, is amended to read:

8. A loan or credit sale made by a supervised lender creditor to finance or refinance the acquisition of real estate or the initial construction of a dwelling, or a loan made by a supervised lender creditor secured by a first mortgage on real estate, if the security interest in real estate is not made for the purpose of circumventing or

evading this Act, provided that:

A. With respect to advances of additional funds on the loan or credit sale made more than 30 days after the initial advance, this exclusion shall apply only to advances made:

- (1) Pursuant to the terms of a construction loan financing agreement;
- (2) To protect the security or to perform the covenants of the consumer;
- (3) As negative amortization of principal under the terms of the loan financing agreement; or
- (4) From funds withheld at consummation pending the resolution of matters which otherwise would tend to delay or prevent closing, including, without limitation, remedy of title defects or repairs to meet appraisal standards;

B. The exemption provided by this subsection does not apply to the requirements on servicing of assigned supervised loans, section 2-310; and

C. With respect to a supervised lender creditor other than a supervised financial organization, the exemption provided by this subsection shall apply to the following provisions and no others: ~~Maximum finance charge limitations, sections 2-308 and 2-401; limitations on security interest, section 2-307; delinquency charges, sections 2-502 and 2-402; limitations on attorneys fees, section 2-507; right to prepay, section 2-509; rebate upon prepayment, section 2-510; notice to consumer, section 2-202; and notice of right to cure default, sections 5-110 and 5-111~~ articles II, III, IV and V only.

**Sec. 3.** 9-A MRSA §1-202, last ¶, as amended by PL 1981, c. 243, §§2 and 26, is further amended to read:

The exclusions set forth in subsection 1 relating to extensions of credit to consumers by governments or governmental agencies, instrumentalities or organizations, and in subsections 2, 4, 5, 7 and 8, shall not apply to the Maine Consumer Credit Code, Truth-in-lending, Article VIII.

**Sec. 4.** 9-A MRSA §1-301, sub-§11, ¶A, as amended by PL 1981, c. 243, §6, is further amended to read:

A. Except as provided in paragraph B, a "consumer credit sale" is a sale of goods, services or an interest in land in which:

- (i) credit is granted either pursuant to a credit card other than a lender credit card or by a seller who regularly engages as a seller in credit transactions of the same kind;
- (ii) the buyer is a person other than an organization;