

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

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

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

The license of every practical nurse licensed under this chapter shall be renewed annually, except as otherwise provided. At least 30 days before the anniversary of ~~his~~ that person's birth, the board shall mail an application for renewal of license to each practical nurse who holds a valid license, which application shall be mailed to the most recent address of the person as it appears on the records of the board. That person shall complete the renewal application and return it to the board with a renewal fee of ~~\$10~~ \$20 before the anniversary of ~~his~~ that person's birth. Upon receipt of the application and fee, the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal of license for the year expiring on the anniversary of the applicant's birth.

Sec. 7. 32 MRSA §2255, 2nd ¶, as repealed and replaced by PL 1983, c. 176, Pt. A, §14, is amended to read:

Any practical nurse who ~~allows his license to lapse by failing fails~~ to renew the license as provided; may be reinstated by the board on satisfactory explanation for failure to renew ~~his~~ the license and on payment of a reinstatement fee of ~~\$5~~ \$10, in addition to the renewal fee.

Sec. 8. 32 MRSA §2256, sub-§§1 and 2, as amended by PL 1975, c. 114, §6, are further amended to read:

1. Examination. ~~By For examination: Fee~~ a fee of \$30 \$50 payable on application;

2. Reexamination. ~~By For reexamination: Fee~~ a fee to be determined by the board and shall not exceed \$30 \$50; and

Sec. 9. 32 MRSA §2256, sub-§3, as amended by PL 1975, c. 114, §7, is further amended to read:

3. Endorsement. ~~By For endorsement: Fee~~ a fee of \$30 \$50 payable on application.

Sec. 10. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1989-90	1990-91
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
State Board of Nursing		
All Other	\$40,000	\$150,000

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

Effective February 14, 1990.

CHAPTER 610

H.P. 1154 - L.D. 1608

An Act to Clarify the Traffic Movement Standards under the Site Location of Development Laws

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

Whereas, the change to the traffic standard of the site location of development laws is needed in advance of the 1990 construction season; 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:

38 MRSA §484, sub-§2, as repealed and replaced by PL 1989, c. 502, Pt. B, §50, is amended to read:

2. Traffic movement. The developer has made adequate provision for traffic movement of all types into, out of or within the development area. The board shall consider traffic movement both on-site and off-site. Before issuing a permit, the board shall determine that any traffic increase attributable to the proposed development will not result in unreasonable congestion or unsafe conditions on a road in the vicinity of the proposed development. The Department of Transportation shall provide the board with an analysis of traffic movement of all types into, out of or within the development area. In making its determination under this subsection, the board shall consider the analysis provided by the Department of Transportation;

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

Effective February 14, 1990.

CHAPTER 611

S.P. 648 - L.D. 1743

An Act to Modernize the Merger Provisions Relating to Domestic Stock Insurers

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

Whereas, the Maine Insurance Code presently permits a domestic stock insurer to merge or consolidate with another corporation formed for the purpose of trans-

acting insurance, but it is unclear whether all of the participants in such a merger or consolidation must be authorized to transact, and actually transacting, insurance in this State; and

Whereas, these provisions contribute to uncertainty and potential delays in transactions that could significantly enhance the financial condition of stock insurers for the benefit of their policyholders; and

Whereas, the Maine Insurance Code contains insufficient limitations on the status of a surviving insurer in a merger or a new insurer in a consolidation; 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:

Sec. 1. 24-A MRSA §222, sub-§7, ¶A, as amended by PL 1989, c. 385, §7, is further amended by amending sub-¶(6) to read:

(6) ~~Any party to an agreement to merge with merger of a domestic insurer is not itself an insurer~~ does not comply with section 3474; or

Sec. 2. 24-A MRSA §3474, sub-§1, as enacted by PL 1969, c. 132, §1, is amended to read:

1. ~~A Subject to the provisions of this section, a domestic stock insurer, whether or not authorized to transact insurance in this State, may merge or consolidate with one or more domestic or foreign stock insurers corporations; by complying with the applicable provisions of the statutes laws of this State governing the merger or consolidation of stock corporations formed for profit, but subject to subsections 2 and 3. A domestic stock insurer shall not merge or consolidate with any corporation not formed for the purpose of transacting insurance as an insurer.~~

A. A corporation merging or consolidating with a domestic stock insurer must be incorporated as an insurer in the manner provided by its state of incorporation, but the corporation need not be authorized or licensed to transact insurance by any state prior to the merger or consolidation.

B. A foreign or alien insurer may merge or consolidate pursuant to this section with a domestic insurer only if, at the time of the merger or consolidation:

(1) The domestic insurer is authorized to transact insurance in this State; or

(2) The foreign or alien insurer meets all requirements applicable to a domestic in-

surer set forth in this Title for initial authorization to transact in this State the kinds of insurance, as defined in chapter 9, then transacted by that insurer in any jurisdiction.

C. A domestic insurer may not participate in a merger or consolidation that will result in the surviving or new corporation being domiciled in a jurisdiction other than this State unless the surviving or new insurer in the merger or consolidation obtains a Certificate of Authority in the jurisdiction in which it will be domiciled and in this State to transact the kinds of insurance for which any participating insurers were authorized at the time of the merger or consolidation and agrees to maintain that certificate of authority in this State until and unless the superintendent approves a plan of withdrawal filed pursuant to section 415-A.

D. The following provisions apply to the authority of the surviving or new corporation to transact insurance in this State following the merger or consolidation.

(1) If the surviving or new corporation is a domestic insurer and no participating corporation in the merger or consolidation was authorized or licensed to transact insurance in this State, the surviving or new domestic insurer shall meet all applicable requirements of this Title for initial authorization to transact all kinds of insurance, as defined in chapter 9, formerly transacted by any participating insurer or insurers in any jurisdiction.

(2) If the surviving or new corporation is a domestic insurer and seeks authority to transact kinds of insurance other than those for which the domestic insurer or insurers participating in the merger or consolidation were authorized at the time of the merger or consolidation, that corporation must meet the requirements set forth in this Title for initial authorization to transact those kinds of insurance.

(3) If the surviving or new corporation is a foreign or alien insurer that seeks to transact insurance in this State, that corporation shall meet all applicable requirements of this Title for initial authorization to transact all kinds of insurance, as defined in chapter 9, formerly transacted by any participating insurer or insurers as well as for any additional kinds of insurance for which authority is sought.

Sec. 3. 24-A MRSA §3474, sub-§2, as amended by PL 1973, c. 585, §12, is further amended to read:

2. No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the superintendent and approved in writing by ~~him~~ the superintendent after a

hearing thereon after notice to the stockholders of each insurer involved. The superintendent shall give such approval within a reasonable time after such filing unless ~~he~~ the superintendent finds that the plan or agreement:

- A. Is contrary to law; ~~or~~
- B. Is unfair or inequitable to the ~~stockholders~~ policyholders of any insurer involved; ~~or~~
- C. Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this State or elsewhere; ~~or~~
- D. Would materially tend to lessen competition in the insurance business in this State or elsewhere as to the kinds of insurance involved, or would materially tend to create a monopoly as to such business; ~~or~~
- E. Is subject to other material and reasonable objections.

In making any determination required by paragraph C, the superintendent may consider, among other factors, whether the surplus of the surviving or new corporation satisfies the requirements of section 410.

Sec. 4. Application. Notwithstanding the terms of the Maine Revised Statutes, Title 1, section 302, this Act shall apply with respect to any filing by a domestic stock insurer seeking approval of the Superintendent of Insurance of its plan and agreement of merger, including any filing which has been previously filed with and which is currently pending hearing or decision by the Superintendent of Insurance on the effective date of this Act.

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

Effective February 14, 1990.

CHAPTER 612

S.P. 697 - L.D. 1835

An Act Relating to the Administrative Staff of the Maine State Retirement System

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

2 MRSA §6, sub-§5, as repealed and replaced by PL 1989, c. 502, Pt. A, §3, is amended to read:

5. Range 86. The salaries of the following state officials and employees shall be within salary range 86:

- Director of Labor Standards;
- Deputy Chief of the State Police;
- Director of State Lotteries;
- State Archivist;
- Director of Maine Geological Survey;
- Executive Director, Maine Land Use Regulation Commission;
- Director of the Risk Management Division;
- Chairman, Maine Unemployment Insurance Commission;
- Director of the Bureau of State Employee Health;
- Child Welfare Services Ombudsman;
- Director of the Bureau of Intergovernmental Drug Enforcement;
- Deputy Director, Operations, Retirement System; ~~and~~
- Deputy Director, Investments, Retirement System;
- Deputy Director, Administrative and Legal Affairs, Retirement System; and
- Executive Director, Maine Science and Technology Commission.

See title page for effective date.

CHAPTER 613

H.P. 1335 - L.D. 1852

An Act to Amend the Professional Service Corporation Act

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

13 MRSA §705, as enacted by PL 1969, c. 411, is amended to read:

§705. Corporate organization

An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional service within this State may organize and become a shareholder or shareholders of a professional corporation under the corporation laws for the sole and specific purpose of rendering the same and specific professional service. Notwithstanding any other provisions of law, for the purposes of this chapter, osteopathic physicians licensed under Title 32, chapter 36, and physicians and