

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 1**H.P. 3 - L.D. 4****An Act to Give the Legislative Council Express Authority to Set Fees for Legislative Publications**

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

Whereas, the authority of the Legislative Council to print, distribute and sell various legislative materials and publications is not explicitly defined in the law, but rather is implicit in the Legislative Council's administrative powers; and

Whereas, it is desirable to eliminate any doubt as to the Legislative Council's authority to order the production and distribution of legislative materials and publications and, when appropriate, to fix a sales price for them; and

Whereas, the production, distribution and sale of materials related to the 115th Legislature need to take place immediately; 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:

3 MRSA §162, sub-§8-A is enacted to read:

8-A. Sale of publications. If the Legislative Council determines it advisable for the effective dissemination of statutory information or other information of general interest to the public, to fix the price, sell and deliver publications and materials produced by legislative agencies;

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

Effective December 14, 1990.

CHAPTER 2**S.P. 18 - L.D. 7****An Act to Change the Effective Date and to Correct Errors and Inconsistencies in the Real Estate Appraisal Laws**

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

Whereas, billions of dollars in loans that are secured by real estate are advanced every year to Maine consumers; and

Whereas, Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73, requires that, after July 1, 1991, all real estate appraisals in connection with federally related transactions must be performed by appraisers certified or licensed by the State; and

Whereas, the State must establish a process for licensing real estate appraisers in order to assure that uniform, competent guidelines are established for the rendering of real estate appraisals and to fulfill the federal mandate; and

Whereas, the State is unable to implement the licensing system by the January 1, 1991 deadline in current state law; 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. 32 MRSA §13962, sub-§2, as enacted by PL 1989, c. 806, §3, is amended to read:

2. Appraisal foundation. "Appraisal foundation" means the appraisal foundation incorporated as an Illinois nonprofit corporation on November 30, 1987 and recognized under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as the organization that establishes the uniform standards of professional appraisal practice Uniform Standards of Professional Appraisal Practice.

Sec. 2. 32 MRSA §13962, sub-§15, as enacted by PL 1989, c. 806, §3, is amended to read:

15. Uniform Standards of Professional Appraisal Practice. "Uniform standards of professional appraisal practice Standards of Professional Appraisal Practice" means those standards promulgated by the appraisal foundation.

Sec. 3. 32 MRSA §13970, sub-§3, as enacted by PL 1989, c. 806, §3, is amended to read:

3. Evidence of study. Any licensee who is initially licensed under this section must, in addition to the continuing education requirement for a first renewal, submit evidence of satisfactory completion of a minimum of 50 classroom hours in courses of study approved by the board that relate to real estate appraisal. The required 50 classroom hours must include no fewer than 35 classroom hours of study relating to

the basic principles of real estate appraising and no fewer than 15 classroom hours of study specifically relating to the ~~uniform standards of professional appraisal practice~~ Uniform Standards of Professional Appraisal Practice.

Sec. 4. 32 MRSA §13972, as enacted by PL 1989, c. 806, §3, is amended to read:

§13972. Requirements for appraisal licensure

1. Application. Applicants shall submit a properly completed application on forms furnished by the board, together with the prescribed fee.

2. Age. The applicant must be at least 18 years of age at the time of application.

3. Residence. The applicant must provide evidence of the applicant's legal residence.

4. High school. The applicant must be a high school graduate or hold an equivalency certificate.

5. Reputation. The applicant must ~~have a reputation for~~ submit evidence of honesty, truthfulness, fair dealing and competency.

6. Educational requirement. The applicant must have satisfactorily completed a minimum of 50 classroom hours in courses of study approved by the board ~~which that~~ relate to real estate appraisal. The required 50 classroom hours must include no fewer than 35 classroom hours of study relating to the basic principles of real estate appraising and no fewer than 15 classroom hours of study specifically relating to the ~~uniform standards of professional appraisal practice~~ Uniform Standards of Professional Appraisal Practice.

A. The courses of study required to satisfy these minimum classroom hours must be approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group.

7. Examination. All applicants are required to pass a written examination in subjects the board considers necessary to determine the fitness of the applicant to practice. The board shall establish the passing score for all examinations. Examinations are held at such times as the board determines necessary. To qualify for examination an applicant must submit evidence of compliance with the educational requirement set forth in subsection 6.

8. Other. The applicant must comply with such other requirements as may be prescribed by the board from time to time.

Sec. 5. 32 MRSA §13976, as enacted by PL 1989, c. 806, §3, is amended to read:

§13976. Standards of professional appraisal practice

Each real estate appraiser licensed under this Act shall comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser. Generally accepted standards of professional appraisal practice are currently, at a minimum, those evidenced by ~~uniform standards of professional appraisal practice~~ Uniform Standards of Professional Appraisal Practice.

Sec. 6. 32 MRSA §13979, sub-§1, ¶¶B and C, as enacted by PL 1989, c. 806, §3, are amended to read:

B. Satisfactorily complete a minimum of 85 classroom hours in courses of study approved by the board. To meet the 85 classroom hour requirement, an applicant must successfully complete no fewer than 70 classroom hours in courses of study approved by the board that relate to real estate appraisal theory and practice, plus 15 classroom hours in courses of study approved by the board that relate specifically to the ~~uniform standards of professional appraisal practice~~ Uniform Standards of Professional Appraisal Practice.

(1) The courses of study required to satisfy these minimum classroom hours must be approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group;

C. Pass an examination administered by the board designed to test an individual's knowledge of basic principles of land economics, real estate appraising, the ~~uniform standards of professional appraisal practice~~ Uniform Standards of Professional Appraisal Practice and the ethical rules to be observed by a real estate appraiser. To qualify for examination, an applicant must submit evidence of compliance with the experience and educational requirements of this Act; and

Sec. 7. 32 MRSA §13979, sub-§2, ¶B, as enacted by PL 1989, c. 806, §3, is amended to read:

B. Satisfactorily complete no fewer than 165 classroom hours in courses of study approved by the board. To meet the 165 classroom hour requirement, an applicant must successfully complete no fewer than 150 classroom hours in courses of study approved by the board that relate to real estate appraisal theory and practice, plus 15 classroom hours in courses of study approved by the board that relate specifically to the ~~uniform standards of professional appraisal practice~~ Uniform Standards of Professional Appraisal Practice.

(1) The courses of study required to satisfy these minimum classroom hours must be approved by the board and be consistent with and equivalent to standards set by the appraisal foundation,

whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group;

Sec. 8. PL 1989, c. 806, §7 is amended to read:

Sec. 7. Effective date. The Maine Revised Statutes, Title 32, section 13964 takes effect ~~January 1, 1991~~ April 1, 1991.

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

Effective December 14, 1990, unless otherwise indicated.

CHAPTER 3

S.P. 17 - L.D. 6

An Act to Restrict Disclosure of HIV Test Results

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

Whereas, this legislation prohibits insurers from requesting insurance applicants to reveal the results of prior testing for the presence of antibodies to HIV; and

Whereas, these provisions were previously enacted in the Maine Revised Statutes, Title 5, but were inadvertently repealed on October 1, 1990; 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. 5 MRSA §19204-C is enacted to read:

§19204-C. Restrictions upon revealing HIV antibody test results

No insurer, nonprofit hospital or medical services organization or nonprofit health care plan may request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV or a test to measure the virus or to reveal the results of such tests taken prior to an application for insurance coverage.

Sec. 2. 24 MRSA §2332-B, as enacted by PL 1989, c. 176, §1, is repealed and the following enacted in its place:

§2332-B. Acquired Immune Deficiency Syndrome

1. Definitions. As used in this section, "HIV" and "antibody to HIV" have the same meanings as set out in Title 5, section 19201.

2. Prohibitions. No individual or group hospital, medical or health care service contract delivered or issued for delivery in this State, other than a contract that provides benefits for specific diseases or accidental injuries only, may provide more restrictive coverage for Acquired Immune Deficiency Syndrome, or AIDS, AIDS Related Complex, or ARC, HIV-related diseases or for related services, than for any other disease or sickness, or exclude coverage for AIDS, ARC or HIV-related diseases, except through an exclusion under which all diseases and sicknesses are treated equally.

3. Test results. No nonprofit hospital or medical services organization or nonprofit health care plan may request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV or a test to measure the virus or to reveal the results of such tests taken prior to an application for coverage.

Sec. 3. 24-A MRSA §2159, sub-§§5 and 6 are enacted to read:

5. Definitions. As used in this section, "HIV" and "antibody to HIV" have the same meanings as set out in Title 5, section 19201.

6. Test results. No insurer may request any person to reveal whether the person has obtained a test for the presence of antibodies to HIV or a test to measure the virus or to reveal the results of such tests taken prior to an application for insurance coverage.

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

Effective December 14, 1990.

CHAPTER 4

S.P. 16 - L.D. 5

An Act to Provide a Salary Payment Option for Legislators

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

Whereas, certain Legislators receive Social Security retirement benefits; and

Whereas, the current system of unequal annual payments of a Legislator's salary causes a reduction of Social Security retirement benefits in the first year of the biennium; and