

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

engineering and operating the utility's proposed facility or water treatment system, or modification or alteration of any existing system, including identification of the costs of all modifications to existing waterworks, justification of the water utility's proposal and such further information as may be requested by the commission;

B. For the purposes of comparison with the proposal submitted pursuant to paragraph A, provide the commission with documentation of the preliminary engineering estimates of the costs of siting, engineering and operating the next best alternative facility or water treatment system, or modification or alteration of any existing system, including identification of the costs of all modifications to existing waterworks and such other information as may be requested by the commission;

C. Make available for public review upon request at a location and in a manner convenient to the water utility's ratepayers all information provided to the commission pursuant to paragraphs A and B;

D. Publish in a newspaper of general circulation in the service territory of the consumer-owned water utility a notice to customers that the information required in paragraphs A and B is available for public review at the location established pursuant to paragraph C and provide to each of the water utility's customers a direct written notice of the availability of that information; and

E. Provide to the Department of Human Services the information provided to the commission pursuant to paragraphs A and B.

Sec. 2. 35-A MRSA §6104, sub-§7, as amended by PL 1987, c. 490, Pt. B, §12, is further amended to read:

7. Authority to investigate rate changes. If, within 30 days of the public hearing, 15% of the customers of the consumer-owned water utility or 1,000 customers, whichever is less, file with the treasurer of the utility and with the commission petitions demanding a review of the rate changes by the commission, the rate change may be suspended, investigated, reviewed and changed in accordance with section 310, except that no if a rate increase is more than 50% of the utility's annual operating revenues, the required number of petitions is 15% of the customers of the consumer-owned water utility or 500 customers, whichever is less. No suspension order issued by the commission pursuant to section 310 may be is effective for a period greater than 9 months from the date the rate changes were filed.

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

Effective April 29, 1991.

CHAPTER 53

S.P. 64 - L.D. 116

An Act to Amend the Real Estate Brokerage Laws

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

Sec. 1. 32 MRSA §13002, as amended by PL 1989, c. 471, §1, is further amended to read:

§13002. Exceptions to brokerage

Real estate brokerage ~~shall~~ does 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:

A. The real estate transaction services rendered by the employee are performed as an incident to the usual duties performed for the employer; or

B. The real estate transaction services are subject to the provisions of the Maine Condominium Act, Title 33, chapter 31.

2. Transactions by attorneys-at-law. Transactions conducted by an 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. Auctioneers hired to call bids. 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.

Sec. 2. 32 MRSA §13062, sub-§2, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

2. Qualifications. Each industry member of the commission ~~shall~~ must 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~~ members, the members' spouses, parents and children must have had no professional or financial connection with the real estate business.

Sec. 3. 32 MRSA §13067, sub-§1, ¶II, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

I. Violation of this chapter by a licensed or unlicensed ~~employee or independent contractor shall be~~ person acting on the agency's behalf is 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~~ that person was 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;

Sec. 4. 32 MRSA §13067, sub-§1, ¶¶K and L, as enacted by PL 1987, c. 395, Pt. A, §212, are amended to read:

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~~ the licensee's control concerning any transaction under investigation; ~~;~~ and

Sec. 5. 32 MRSA §13067, sub-§1, ¶M is enacted to read:

M. Failing to comply with a commission order or the terms of an executed and approved consent agreement.

Sec. 6. 32 MRSA §13192, sub-§§3 and 4, as enacted by PL 1987, c. 395, Pt. A, §212, are amended to read:

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 that~~ bears directly on the practice of real estate brokerage; ~~;~~ or

Sec. 7. 32 MRSA §13192, sub-§5 is enacted to read:

5. Meeting requirements of subchapter. Who fails to meet the professional qualifications for licensure as provided in this subchapter.

Sec. 8. 32 MRSA §13196, first ¶, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

Any ~~resident~~ licensee, who does not desire to perform any of the activities described in section 13001, and who wants to preserve ~~his~~ the license while not engaged in any brokerage activity, may surrender ~~his~~ that license

to the commission for placement on inactive status. The commission may ~~only~~ place the license on inactive status only upon proper application by the licensee. During inactive status, the licensee ~~shall be~~ is required to renew ~~his~~ the license biennially, but ~~shall~~ is not ~~be~~ required to maintain a place of business or meet the educational provisions of section 13197.

Sec. 9. 32 MRSA §13239, as affected by PL 1989, c. 600, Pt. A, §§15 and 16, is repealed.

Sec. 10. Effective date. Section 2 of this Act takes effect for each public member upon completion of the term of the person who is the current public member.

See title page for effective date, unless otherwise indicated.

CHAPTER 54

H.P. 132 - L.D. 192

An Act Dealing with the Public Utilities Commission's Involvement in Contract Settlements

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

Whereas, certain contracts will have to be negotiated prior to the expiration of the 90-day period; and

Whereas, this legislation is necessary to clarify the authority of the Public Utilities Commission prior to those contract negotiations; 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. 35-A MRSA §7304, as enacted by PL 1989, c. 444, is repealed and the following enacted in its place:

§7304. Prohibition against ordering competitive bidding

The commission may not issue any order or adopt any rule that requires a local exchange carrier to consider competitive bids on, or requires notice to potential bidders of, the construction of any interexchange facility. Nothing in this section limits the ability of the commission to establish reasonable rates for customers.

Sec. 2. Effect of Maine Revised Statutes, Title 35-A, section 7304 on existing commission rules. Any rule or portion of a rule, such as section 6(C) of