

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

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

§652. Applications for license; inspections

The owner, lessee, tenant or occupant of any building or place of assembly required to be licensed under section 651 shall make application to the Commissioner of Public Safety for that license. Upon receipt of the application, the commissioner shall inspect or cause to be inspected that building or place of assembly to be used for theatrical or motion picture purposes to ascertain its compliance with the ~~statutes laws and regulations rules~~. If as a result of the inspection the commissioner is convinced that the ~~regulations rules~~ are fully complied with, ~~he the commissioner~~ may issue a license to the person desiring to operate the theatrical or motion picture production in that building. ~~A~~ The fee for a license ~~shall be \$25~~ is \$37.50. All theatrical or motion picture licenses issued ~~shall~~ expire one year after date of issue unless sooner revoked. The fees ~~shall be~~ are credited to the Office of the State Fire Marshal's Office Marshal to defray the expenses of the office. Any balance of those fees ~~shall may~~ not lapse but ~~shall must~~ be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 5. 25 MRSA §2441, 6th ¶, as amended by PL 1989, c. 135, is further amended to read:

The following schedule of fees ~~shall apply~~ applies to all inspections and permits required by rule under this section:

Sec. 6. 25 MRSA §2441, sub-§§1 to 3, as amended by PL 1983, c. 174, §2, are repealed and the following enacted in their place:

1. Permit to use. A permit to use must provide authorization to purchase, possess, store, transport and use explosives. The permit to use is valid for 3 years from date of issue. The fee for this permit is \$30.

2. Inspection of explosive storage magazines and vehicles used to transport explosives. All explosive storage magazines and vehicles transporting explosives in intrastate commerce must be inspected prior to issuance of a permit to use. The cost of each inspection is \$30. Reinspection of storage magazines and vehicles transporting explosives are conducted upon renewal of the permit to use.

3. Inspection of aboveground flammable liquid storage facility. The cost of inspection of an aboveground flammable liquid storage facility and the permit is \$15.

Sec. 7. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1991-92 1992-93

PUBLIC SAFETY, DEPARTMENT OF

Office of the State Fire Marshal

All Other \$6,048 \$8,064

Provides funds for general operating expenses.

See title page for effective date.

CHAPTER 465

H.P. 1032 - L.D. 1505

An Act to Update Certain Laws Regarding Corporations, Lobbyists and Notaries

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

Sec. 1. 3 MRSA §313, as amended by PL 1977, c. 108, §1, is further amended to read:

§313. Registration of lobbyists and employers

Any person acting as a lobbyist and the person who employs that lobbyist shall jointly register at the office of the Secretary of State no later than 7 15 business days after the commencement of activities constituting lobbying and a fee, as determined by the Secretary of State, ~~shall must~~ be paid for such joint registration.

Sec. 2. 3 MRSA §319, sub-§1-A is enacted to read:

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the Secretary of State until such failure is corrected.

Sec. 3. 4 MRSA §951, as amended by PL 1989, c. 600, Pt. A, §1, is further amended to read:

§951. Seal; authority to administer oaths

A notary public may keep a seal of office, ~~whereon is engraved~~ engraved with the notary public's name exactly as it appears on the notary public's commission, and the words "Notary Public" and "Maine" or its abbreviation "Me.," with the arms of state or such other device as the notary public chooses. When a notary public who has obtained a seal of office resigns, or the notary public's commission is revoked or expires, the notary public or heirs shall destroy the official seal or send it to the Secretary of State for destruction. When authorized by the laws of this State or of any other state or country to do any official act, the notary public may administer any oath necessary to the completion or validity ~~thereof of the act.~~

Sec. 4. 4 MRSA §955-B, as enacted by PL 1987, c. 573, §3, is amended to read:

§955-B. Maintenance of records

The Secretary of State shall recommend that every Every notary public shall keep and maintain records of all notarial acts performed. The notary shall safeguard and retain exclusive custody of these records. The notary may not surrender the records to another notary or to an employer. The records may be inspected in the notary's presence by any individual whose identity is personally known to the notary or is proven on the basis of satisfactory evidence and who specifies the notarial act to be examined.

Sec. 5. 4 MRSA §959 is enacted to read:

§959. Grandfather clause; seal; records

The requirements to keep a seal under section 951 and records under section 955-B are not in force for notaries who are commissioned before November 1, 1991. If the commissions are renewed, the requirements of those sections take effect upon renewal.

Sec. 6. 5 MRSA §82, 3rd ¶, as repealed and replaced by PL 1981, c. 456, Pt. A, §15, is amended to read:

The Secretary of State shall adopt rules relating to the appointment and renewal of commissions of notaries public. The rules shall must include criteria and a procedure to be applied by the Secretary of State in appointment and renewal. The Secretary of State may not refuse to appoint or renew solely because the applicant lives or works in a specific geographic area or because of political party affiliation.

Sec. 7. 5 MRSA §82, last ¶, as repealed and replaced by PL 1981, c. 456, Pt. A, §15, is repealed.

Sec. 8. 5 MRSA §82-A is enacted to read:

§82-A. Publications

1. Informational publications. The Secretary of State shall make available such informational publications as may be necessary to ensure that notaries public are knowledgeable in the performance of their duties. One copy of these publications must be made available with each appointment or renewal of a notary public commission. The printing and distribution costs of the first copy of publications sent to commissioned notaries public must be paid from the fees paid by the notaries public pursuant to section 87. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act the procedures for the sale of these publications and a fee schedule to cover the cost of printing and distribution for:

A. Additional copies of publications requested by commissioned notaries public; and

B. Copies of publications requested by noncommissioned individuals, corporations, agencies or other entities.

2. Fund; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for replacing and updating publications offered in accordance with this chapter and for funding new publications.

Sec. 9. 10 MRSA c. 301-A, first 2 lines, as amended, are repealed and the following enacted in their place:

CHAPTER 301-A**THE REGISTRATION AND PROTECTION OF MARKS**

Sec. 10. 10 MRSA §1521, sub-§5, as enacted by PL 1979, c. 572, §2, is amended to read:

5. Registrant. "Registrant" includes the person to whom the registration of a trademark mark under this chapter is issued, his the registrant's legal representatives, successors or assigns.

Sec. 11. 10 MRSA §1521, last ¶, as enacted by PL 1979, c. 572, §2, is repealed.

Sec. 12. 10 MRSA §§1521-A, 1525-A, 1527-A, 1527-B, 1527-C and 1527-D are enacted to read:

§1521-A. Use of marks

For the purpose of this chapter, a mark is determined to be used in this State on goods when it is placed in any manner on the goods or their containers or the displays associated with the goods or on the tags or labels affixed to the goods and the goods are sold or otherwise distributed in the State and on services when it is used or displayed in the sale or advertising of services and the services are rendered in this State.

§1525-A. Amendment

The registration of a mark may be amended by adding or removing one or more classes of goods and services under section 1527, subsection 2. The amendment must be in writing and recorded with the Secretary of State and accompanied by a filing fee of \$10 for each class affected, payable to the Treasurer of the State. The Secretary of State may prescribe a form for this purpose. The Secretary of State upon recording of an amendment shall issue a new certificate for the remainder of the term of the registration or of the last renewal.

§1527-A. Powers of the Secretary of State

The Secretary of State has the power and authority reasonably necessary to administer this chapter effi-

ciently and to perform the duties imposed upon the secretary. These powers include, without limitation:

1. Rulemaking. The power to make rules not inconsistent with this chapter;

2. Forms; required. The power to prescribe forms for all documents required or permitted to be filed with the Secretary of State and to refuse to file documents not utilizing the prescribed forms to the extent possible; and

3. Refuse filing of documents. The power to refuse to file any document that is not clearly legible or may not be clearly reproducible photographically.

§1527-B. Expedited service

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. All fees collected as provided by this section must be deposited into a fund for use by the Secretary of State in providing an improved filing service.

§1527-C. Access to Secretary of State's database

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may promulgate rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures.

§1527-D. Publications

1. Informational publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.

2. Fund; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this chapter and for funding new publications.

Sec. 13. 11 MRSA §§9-409 to 9-412 are enacted to read:

§9-409. Expedited service

The Secretary of State may provide an expedited service for the processing of documents in accordance

with this Part. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. All fees collected as provided by this section must be deposited into a fund for use by the Secretary of State in providing an improved filing service.

§9-410. Access to Secretary of State's database

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may promulgate rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures.

§9-411. Publications

1. Informational publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.

2. Funds; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this Part and for funding new publications.

§9-412. Federal tax liens

The Secretary of State may accept electronic filings of federal tax liens. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act the procedures and standards for electronic filings of federal tax liens.

Sec. 14. 13 MRSA §903, as amended by PL 1977, c. 522, §§1 and 2, is further amended to read:

§903. Recording certificate

~~They~~ The incorporators shall prepare, sign and make oath to a certificate setting forth the name, location, officers and directors, trustees or managing board and purposes of the corporation. The certificate shall must clearly state that the corporation is not organized for profit and that no property or profit of the corporation shall inure inures to the benefit of any person, partnership or corporation except in furtherance of the benevolent or nonprofit-making nonprofit purposes of the corporation. After it the certificate has been examined by the Secretary of State and been by him certified to be properly drawn and signed and to be conformable to the Constitution and laws, it shall must be recorded in the registry of deeds in the county where said corporation is

located, in a book kept for that purpose. Within ~~60~~ 90 days after approval of said certificate, a copy ~~thereof~~ certified by ~~such~~ the register ~~shall~~ must be filed in the Office of Secretary of State, who shall enter the date of filing ~~thereon~~ on the copy and on the original certificate to be kept by the corporation and shall record said copy in a book kept for that purpose and the corporation may commence business. The Secretary of State ~~shall receive~~ receives for filing such certificate or amendment ~~thereto~~, a fee of \$5 in advance and registers of deeds ~~shall receive~~ receive for recording such certificate or amendment ~~thereto~~, the fee of \$8.

Sec. 15. 13 MRSA §§904 and 905 are enacted to read:

§904. Access to Secretary of State's database

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may promulgate rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures.

§905. Publications

1. Informational publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.

2. Funds; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this Title and for funding new publications.

Sec. 16. 13-A MRSA §106, sub-§1, ¶¶E and F, as enacted by PL 1971, c. 439, §1, are amended to read:

E. The Secretary of State shall promptly make a copy of the original, and shall ~~certify~~ attest the copy by making upon it the same endorsement which is required to appear upon the original, together with a further endorsement that the copy is a true copy of the original document.

F. The copy, so ~~certified~~ attested, ~~shall~~ must be returned to the person or persons delivering the documents to the Secretary of State and it ~~shall~~ must be retained as a part of the permanent records of the corporation.

Sec. 17. 13-A MRSA §703, sub-§1, ¶B, as enacted by PL 1971, c. 439, §1, is repealed.

Sec. 18. 13-A MRSA §1207, sub-§1, ¶B, as enacted by PL 1971, c. 439, §1, is amended to read:

B. Enlarge, limit or otherwise change the business or businesses which it seeks authority to engage in in this State; or

Sec. 19. 13-A MRSA §1207, sub-§1, ¶C is enacted to read:

C. Change the address of its registered office or principal office in its jurisdiction of incorporation.

Sec. 20. 13-A MRSA §1301, sub-§1, ¶D, as amended by PL 1989, c. 501, Pt. L, §22, is further amended to read:

D. The name and business or residence address of ~~each director and officer~~ the president, the treasurer, the clerk or registered agent and directors or, if no directors, shareholders of the corporation, including the street or rural route number, town or city, and state.

Sec. 21. 13-A MRSA §1301, sub-§3, as amended by PL 1989, c. 732, §5, is further amended to read:

3. The annual report must be executed as provided by section 104, except that signing by any one of the president, a vice-president, the secretary, the treasurer or an assistant secretary or any other duly authorized individual, without a 2nd signature, may be ~~deemed~~ considered valid under section 104, subsection 1, paragraph B, subparagraph (2). Subject to rules adopted under section 1303, subsection 4, the report must be delivered to the Secretary of State or designee for filing. The annual reports ~~must~~ may be delivered to the Secretary of State on a staggered basis as defined by the Secretary of State by rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. The report must apply to the 12-month period specified by the Secretary of State. Proof to the satisfaction of the Secretary of State that, prior to the date that penalties become effective for late delivery of annual reports as established by the Secretary of State by rule, the report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, is ~~deemed~~ a compliance with this requirement. One copy of the report, together with the filing fee required by this Act, must be delivered for filing to the Secretary of State who shall file the report, if the Secretary of State finds that it conforms to the requirements of this Act. If the Secretary of State finds that it does not so conform, the Secretary of State shall promptly mail or otherwise return the same to the corporation for any necessary corrections, in which event the penalties prescribed by this Act for failure to file such report within the time herein provided do not apply, if such report is corrected to conform to the requirements of this Act and returned to the Secretary of State within 30 days from the date on

which it was so mailed or otherwise returned to the corporation by the Secretary of State.

Sec. 22. 13-A MRSA §1301, sub-§5, as amended by PL 1989, c. 501, Pt. L, §25, is further amended to read:

5. The shareholders of a corporation which has been excused pursuant to subsection 4 may vote to resume transacting business at a meeting duly called and held for ~~such~~ that purpose. A certificate executed and filed as provided in sections 104 and 106 setting forth that a shareholders' meeting was held, the date and location of same, and that a majority of the shareholders voted to resume transacting business ~~shall authorize such~~ authorizes that corporation to transact business; and after ~~such~~ that certificate is filed, it ~~shall be the corporation~~ is required to file annual reports beginning with the next reporting deadline following resumption as established by subsection 3.

Sec. 23. 13-A MRSA §1403-A, as enacted by PL 1989, c. 501, Pt. L, §31, is amended to read:

§1403-A. Expedited service

The Secretary of State may provide an expedited service for the processing of documents in accordance with this Act. A fee schedule ~~shall~~ must be established and rules ~~promulgated~~ adopted to set forth the procedures governing this expedited service. All fees collected as provided by this section must be deposited into a fund for use by the Secretary of State in providing an improved filing service.

Sec. 24. 13-A MRSA §1404, as amended by PL 1989, c. 501, Pt. L, §32, is further amended to read:

§1404. Remittance to Treasurer of State

All fees collected as provided by this chapter ~~shall~~ must be remitted to the Treasurer of State for the use of the State with the exception of those fees collected under section 1403-A ~~which shall be deposited into a fund for use by the Secretary of State in providing an improved filing service~~ and section 1406.

Sec. 25. 13-A MRSA §§1405 and 1406 are enacted to read:

§1405. Access to Secretary of State's database

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may promulgate rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures.

§1406. Publications

1. Informational publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.

2. Funds; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this Title and for funding new publications.

Sec. 26. 13-B MRSA §102, sub-§5-A is enacted to read:

5-A. Domestic condominium corporation. "Domestic condominium corporation" means a nonprofit condominium corporation formed in this State under Title 33, section 1603-101.

Sec. 27. 13-B MRSA §106, sub-§1, ¶¶E and F, as enacted by PL 1977, c. 525, §13, are amended to read:

E. The Secretary of State shall promptly make a copy of the original and shall ~~certify~~ attest the copy by making upon it the same endorsement which is required to appear upon the original, together with a further endorsement that the copy is a true copy of the original document; and

F. The copy, so ~~certified~~ attested, ~~shall~~ must be returned to the person or persons delivering the documents to the Secretary of State and it ~~shall~~ must be retained as a part of the permanent records of the corporation.

Sec. 28. 13-B MRSA §1207, sub-§1, ¶¶A and B, as enacted by PL 1977, c. 525, §13, are amended to read:

A. Change its corporate name, provided that such change has been effected under the laws of its jurisdiction of incorporation; ~~or~~

B. Enlarge, limit or otherwise change the kinds of activities which it seeks authority to engage in in this State; or

Sec. 29. 13-B MRSA §1207, sub-§1, ¶C is enacted to read:

C. Change the address of its registered office or principal office in its jurisdiction of incorporation.

Sec. 30. 13-B MRSA §1301, sub-§1, ¶C, as repealed and replaced by PL 1977, c. 696, §161, is amended to read:

C. The names and business or residence addresses of the ~~officers~~ president, the treasurer, the registered agent and the secretary or clerk of the corporation, including the street or rural route number, town, or city, and state.

Sec. 31. 13-B MRSA §1301-A, sub-§6, as enacted by PL 1989, c. 875, Pt. E, §12, is amended to read:

6. Vote to carry on activities. The members entitled to vote or, if none, the directors of a corporation that has been excused pursuant to subsection 5, may vote to resume carrying on activities at a meeting called and held for that purpose. A certificate, executed and filed as provided in sections 104 and 106, setting forth that a members' or directors' meeting was held, the date and location of the meeting and that a majority of the members or directors voted to resume carrying on activities, authorizes that corporation to carry on activities; and after that certificate is filed, the corporation is required to file ~~annual~~ biennial reports beginning with the next reporting deadline following resumption as established by subsection 4.

Sec. 32. 13-B MRSA §1402-A is enacted to read:

§1402-A. Expedited service

The Secretary of State may provide an expedited service for the processing of documents in accordance with this Title. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. All fees collected as provided by this section must be deposited in a fund for use by the Secretary of State in providing an improved filing service.

Sec. 33. 13-B MRSA §1403, as enacted by PL 1977, c. 525, §13, is amended to read:

§1403. Remittance to Treasurer of State

All fees collected as provided by this chapter ~~shall~~ must be remitted to the Treasurer of State for the use of the State with the exception of those fees collected under sections 1402-A and 1405.

Sec. 34. 13-B MRSA §§1404 and 1405 are enacted to read:

§1404. Access to Secretary of State's database

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State

may promulgate rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures.

§1405. Publications

1. Informational publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.

2. Fund; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this Title and for funding new publications.

Sec. 35. 31 MRSA §§182 to 184 are enacted to read:

§182. Expedited service

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. All fees collected as provided by this section must be deposited into a fund for use by the Secretary of State in providing an improved filing service.

§183. Access to Secretary of State's database

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may promulgate rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures.

§184. Publications

1. Informational publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.

2. Funds; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this chapter and for funding new publications.

See title page for effective date.