

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION
October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION
October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

C. Policies that encourage economic use of fuel and the maximum efficient utilization of natural energy resources indigenous to the State;

D. Rates or other regulatory policies that encourage electric utility system reliability;

E. Electric utility financing or subsidization of capital improvements undertaken by ratepayers to conserve electricity used by the ratepayers in the future. The commission may approve and allow cost recovery for proposals that result in savings in fuel other than electricity. This paragraph applies to future programs for utility financing of energy conservation or load management and to ~~such~~ programs that the commission has already approved prior to September 29, 1987;

F. As defined by the commission by rule, cost-effective conversions of electric space heat systems to systems relying on other fuels and other techniques for enabling homeowners and tenants to replace on-peak, winter period electric usage with less expensive sources of heat; ~~and~~

G. Rates or bill payment assistance programs for residential customers who have been certified eligible for state or federal fuel assistance that take into account the difficulty these customers have paying in full for electric service or that target assistance to these customers in the most efficient manner, taking into account the necessity of maintaining electric service; and

H. Rates that allow incremental use or maintenance of existing use when those rates serve to minimize rate levels for all electric customers. In approving any proposal for rates that allow incremental use or maintenance of existing use, the commission shall seek to ensure that rates for all customer classes will be lower than they would have been had the commission not approved the proposal.

Sec. 3. Construction. Nothing in this Act is intended or may be construed to discourage energy conservation and demand management programs or to encourage continued or additional use of electric baseboard resistance heating systems. Nothing in this Act may be construed to encourage or discourage the development or implementation of any particular rate design.

As a result of giving equal consideration to the goals of minimizing costs and minimizing rates pursuant to this Act, the Public Utilities Commission may not adopt any rate design that results in increased rates for residential customers with usage of less than 750 kilowatt hours per month. Nothing in the preceding sentence may be construed to prohibit the Public Utilities Commission from increasing rates for residential customers with usage of less than 750 kilowatt hours per month to

the extent justified by other legitimate rational principles or legislative mandates.

See title page for effective date.

CHAPTER 403

S.P. 167 - L.D. 559

An Act to Impose Term Limits on Presiding Officers of the Legislature

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

Sec. 1. 3 MRSA §21-A is enacted to read:

§21-A. President of Senate; term limitation

A person may not serve as President of the Senate for more than 3 consecutive legislative bienniums. Service in that capacity before December 2, 1992 is not included in the calculation of years served.

Sec. 2. 3 MRSA §41-A is enacted to read:

§41-A. Speaker of House of Representatives; term limitation

A person may not serve as Speaker of the House of Representatives for more than 3 consecutive legislative bienniums. Service in that capacity before December 2, 1992 is not included in the calculation of years served.

Sec. 3. Retroactivity. This Act takes effect retroactively to December 2, 1992.

See title page for effective date.

CHAPTER 404

S.P. 490 - L.D. 1501

An Act to Modify Various Licensing Board Laws

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

PART A

Sec. A-1. 32 MRSA §1507 is enacted to read:

§1507. Inactive status

A licensee who is no longer actively practicing funeral service may surrender the licensee's active license to the State Board of Funeral Service and request inac-

tive license status. An applicant for inactive status may not practice funeral service either in the State or in any other state, province or territory. The board may place the licensee on inactive status only upon proper application and the submission of appropriate fees by the licensee. The holder of an inactive status license is required to renew the license annually but is not required to meet the continuing education requirement required by this chapter and the rules adopted under it.

A holder of an inactive license who wishes to reinstate that holder's active license must comply with the continuing education requirement and fees provided in this chapter and the rules adopted under it.

Sec. A-2. 32 MRSA §2311, sub-§10, as enacted by PL 1979, c. 569, §4, is repealed and the following enacted in its place:

10. Solid fuel. "Solid fuel" means coal, wood and other similar organic materials or any combination of them.

Sec. A-3. 32 MRSA §4853, sub-§1-A is enacted to read:

1-A. Animal health assistant. "Animal health assistant" means a person employed in a veterinary facility to assist a licensed veterinarian or a licensed veterinary technician, but who has neither had the formal training required for licensure nor passed the required examination for licensure as a veterinary technician.

Sec. A-4. 32 MRSA §4853, sub-§2, as enacted by PL 1975, c. 477, §4, is repealed.

Sec. A-5. 32 MRSA §4853, sub-§§4-A, 4-B, 8-A and 11 are enacted to read:

4-A. Direct supervision. "Direct supervision" means any time when a supervisor is on the premises and is quickly and easily available.

4-B. Indirect supervision. "Indirect supervision" means any time when a supervisor is not on the premises, but that supervisor has issued written or oral instructions pertaining to the treatment of animal patients.

8-A. Supervisor. "Supervisor" means a licensed veterinarian or, if the task being supervised warrants, a veterinary technician.

11. Veterinary technician. "Veterinary technician" means a person who has completed a minimum of 2 years in a college program that is certified according to the standards adopted by the American Veterinary Medical Association's Committee on Veterinary Technician Education and Activities or an equivalent program, as determined by the board, and who has passed an examination prescribed by the board.

Sec. A-6. 32 MRSA §4855, first ¶, as enacted by PL 1975, c. 477, §4, is amended to read:

The board shall organize annually by electing a president, a secretary who need not be a member of the board and ~~such any~~ other officers as may be ~~deemed~~ determined necessary. The secretary shall maintain the correspondence of the board, keep a record of all proceedings, including the disposition of all applications for license or registration as ~~animal~~ veterinary technicians, and keep a register of all persons currently licensed by the board or registered as ~~an animal~~ a veterinary technician. All board records ~~shall must~~ be open to public inspection during regular office hours.

Sec. A-7. 32 MRSA §4859, sub-§2, as amended by PL 1979, c. 291, §1, is further amended to read:

2. License; register; set standards. The power to grant and deny licenses, register and to set standards for practice for veterinarians practicing veterinary medicine in this State and for the performance of duties by ~~animal~~ veterinary technicians;

Sec. A-8. 32 MRSA §4859, sub-§6, as enacted by PL 1975, c. 477, §4, is amended to read:

6. Register veterinary technicians. Register ~~animal~~ veterinary technicians in accordance with procedures as the board may prescribe by ~~rules and regulations~~ rule;

Sec. A-9. 32 MRSA §4864, sub-§10, as enacted by PL 1975, c. 477, §4, is amended to read:

10. Permitting a veterinary technician to perform prohibited acts. Permitting any registered ~~animal~~ veterinary technician operating under ~~his~~ the licensee's supervision to perform any act or operation other than that permitted under section 4866;

Sec. A-10. 32 MRSA §4865, as enacted by PL 1975, c. 477, §4, is amended to read:

§4865. Veterinary technicians to be registered

~~Any A~~ Any qualified person, ~~as defined in section 4853, subsection 2,~~ desiring registration as ~~an animal~~ a veterinary technician, as defined in section 4853, subsection 11, shall make written application to the board, providing such information as the board ~~shall require~~ requires.

All ~~animal~~ veterinary technicians ~~shall must~~ reregister annually on or before December 31st ~~September 30th,~~ or any other date designated by the commissioner, and each registration ~~shall must~~ be accompanied by a reregistration fee.

Sec. A-11. 32 MRSA §4865-A, first ¶, as amended by PL 1977, c. 694, §642, is further amended to read:

The board, on ~~its~~ the board's own motion or upon complaint made to ~~it~~ the board, may hold a hearing held in accordance with rules adopted by the board to determine whether or not violations of this chapter relating to ~~animal~~ veterinary technicians have ~~been violated~~ occurred. Hearings conducted under this section ~~shall be~~ are considered "adjudicatory proceedings" and ~~shall be~~ are conducted in accordance with the provisions of Title 5, chapter 375, subchapter IV. The board ~~shall have authority to~~ may issue subpoenas subject to the provisions of Title 5, section 9060. If the board considers ~~an animal~~ that a veterinary technician has committed any of the acts set forth in this section, ~~it~~ the board shall either report ~~its~~ the board's findings to the Attorney General for prosecution in the Administrative Court for suspension or revocation of ~~his~~ the veterinary technician's registration in accordance with Title 4, chapter 25, ~~or~~; place the licensee on probation for a certain period of time during which the licensee shall file periodic affidavits of ~~his~~ the licensee's duties in accordance with the standards set by the board; or censure, by letter, the ~~animal~~ veterinary technician. The following acts are grounds for disciplinary action by the board or for revocation or suspension by the Administrative Court:

Sec. A-12. 32 MRSA §4865-A, sub-§10, ¶C, as amended by PL 1979, c. 291, §11, is further amended to read:

C. Fraud or dishonesty in the application or reporting of any test for disease in animals, or making a false report of any contagious or infectious disease or while performing any other duties of a ~~licensed animal~~ registered veterinary technician.

Sec. A-13. 32 MRSA §§4866 and 4869, as enacted by PL 1975, c. 477, §4, are amended to read:

§4866. Duties of animal health assistants and veterinary technicians

An animal health assistant may, under the direct supervision of a licensed veterinarian or a registered veterinary technician, perform duties of an animal health care nature. The duties do not include diagnosing, making prognoses, performing surgery, reading or interpreting laboratory tests or prescribing or initiating treatment.

~~An animal A veterinary technician registered in the State may perform, under the supervision and direction of a licensed veterinarian, such duties as drug administration, nursing care, x-ray film exposure and processing, bandage changes, dental prophylaxis, restraint, blood and fecal collections, diagnostic laboratory procedures and other such duties as the supervising veterinarian or the board by rules and regulations may prescribe~~

by rule, consistent with this chapter, provided that except no one but a veterinarian shall may diagnose, prognose make prognoses, prescribe or initiate treatment or surgery or perform surgery.

§4869. Reinstatement

~~Any A~~ A veterinarian whose license is revoked or suspended or ~~animal~~ a veterinary technician whose registration is revoked or suspended may, at the discretion of the board, be relicensed, reregistered or reinstated at any time without an examination by majority vote of the board on written application made to the board showing cause justifying ~~such~~ the relicensing, ~~reregistering~~ reregistration or reinstatement.

Sec. A-14. 32 MRSA §4870, 2nd ¶, as amended by PL 1983, c. 48, §7, is further amended to read:

~~No A~~ A person; who ~~shall practice~~ practices veterinary medicine without a currently valid license, temporary permit or permit for the performance of relief veterinary service; may ~~not~~ receive any compensation for services ~~so~~ rendered. ~~Any animal A~~ A veterinary technician employed by a veterinarian ~~shall be~~ is subject to section 4866.

Sec. A-15. 32 MRSA §4911, first ¶, as amended by PL 1987, c. 395, Pt. A, §178, is further amended to read:

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

Sec. A-16. 32 MRSA §4912, last ¶, as amended by PL 1991, c. 509, §26, is further amended to read:

The initial and renewal fees for certification as a geologist or soil scientist are ~~\$45 per year~~ \$65 annually.

Sec. A-17. 32 MRSA §13962, sub-§8, as enacted by PL 1989, c. 806, §3, is amended to read:

8. Licensed real estate appraiser. "Licensed real estate appraiser" means a person who holds a current, valid real estate appraiser license issued under the provisions of this Act. For federally related transactions, a real estate appraiser may only appraise single-family residential properties consisting of one to 4 units and any other properties that the board may prescribe by rule. The board may by rule require that if the single-family

properties referred to in this section exceed a certain size or complexity their appraisal must be done by a state-certified appraiser.

Sec. A-18. 32 MRSA §13962, sub-§11-A is enacted to read:

11-A. Real estate appraiser trainee. “Real estate appraiser trainee” means a person who holds a current, valid registration to engage in real estate appraisal activity for a fee or other valuable consideration under the supervision of a licensed or certified real estate appraiser.

Sec. A-19. 32 MRSA §13964, first ¶, as enacted by PL 1989, c. 806, §3 and as affected by §7, is amended to read:

Except as provided in section 13963, it is unlawful for a person to prepare, for a fee or other valuable considerations, an appraisal or an appraisal report relating to real estate or real property in this State without first obtaining a real estate appraisal license or being registered as a real estate appraiser trainee as provided in this Act. This section does not apply to individuals who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Nothing in this Act prohibits any person who is licensed to practice in this State under any other law from engaging in the practice for which that person is licensed.

Sec. A-20. 32 MRSA §13967, sub-§2, as enacted by PL 1989, c. 806, §3, is repealed and the following enacted in its place:

2. Members. The board consists of 7 members appointed by the Governor. Each member must be a citizen of the United States and a resident of this State. The composition of the board consists of:

A. One representative of a mortgage lending organization;

B. One public member; and

C. Five members who hold valid appraiser licenses or certifications, including at least one residential and one commercial real estate appraiser.

Sec. A-21. 32 MRSA §13972, sub-§6-A is enacted to read:

6-A. Experience requirement. The applicant must demonstrate experience in the real estate appraisal field for 2 of the 5 years immediately preceding application.

Sec. A-22. 32 MRSA §13972-A is enacted to read:

§13972-A. Requirements for real estate appraiser trainee registration

A registered real estate appraiser trainee may appraise all types of real estate and real property in this State, including, but not limited to, commercial, industrial, residential and special purpose, but only under the supervision of a person who holds a valid appraiser license or certification.

1. Application. Each trainee must submit a properly completed application for registration on forms furnished by the board with the prescribed fee set by the board, which may not exceed \$50.

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

B. The applicant must provide evidence of the applicant's legal residence in this State.

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

D. The applicant must submit evidence of honesty, truthfulness, fair dealing and competency.

2. Registration. Upon receiving an application pursuant to subsection 1 that is satisfactory to the board, the board shall furnish to the applicant a registration for real estate appraiser trainee, which expires 12 months from the date of issuance. The registration is renewable upon payment of the registration fee.

A person may not be registered as a real estate appraiser trainee for more than 5 years.

3. Filing with board. Before employing a real estate appraiser trainee, a licensed or certified appraiser shall register the name and starting date of employment of that trainee with the board.

Upon request by the board or an agent of the board, the licensed or certified appraiser shall furnish a statement of a trainee's activities.

Sec. A-23. 32 MRSA §13973, sub-§3, as enacted by PL 1989, c. 806, §3, is amended to read:

3. Suspension or revocation of license. Who has had any professional or occupational license suspended or revoked for disciplinary reasons or any application rejected for reasons relating to untrustworthiness within 3 years prior to the date of application; or

Sec. A-24. 32 MRSA §13984 is enacted to read:

§13984. Current licensees

1. Minimum classroom hours for licensed real estate appraisers. Licensed real estate appraisers on the effective date of this section who have not completed the minimum 75 classroom hours required of new applicants

by section 13972, subsection 6 must complete 75 classroom hours pursuant to the requirements of that subsection and submit satisfactory proof of completion to the board no later than December 31, 1994.

2. Minimum experience for licensed real estate appraisers. Licensed real estate appraisers on the effective date of this section who have not demonstrated the 2 years' experience in the real estate appraisal field required of new applicants by section 13972, subsection 6-A must demonstrate such experience to the board not later than December 31, 1995. The 2 years' experience must have taken place within the 5 years immediately preceding the submission of such experience to the board.

3. Minimum classroom hours for state-certified residential real estate appraisers. State-certified residential real estate appraisers on the effective date of this section who have not completed the minimum 105 classroom hours required of new applicants by section 13979, subsection 1-B, must complete 105 classroom hours pursuant to the requirements of that paragraph and submit satisfactory proof of completion to the board no later than December 31, 1994.

4. Notice. The board shall provide timely notice of the requirements of this section to all licensed real estate appraisers on the effective date of this section and state-certified residential real estate appraisers who may be affected by this section at their last known address.

5. Consequence of noncompliance. Noncompliance results in the following.

A. When the date by which a licensed real estate appraiser or state-certified residential real estate appraiser must document classroom hours or experience pursuant to this section is coterminous with the expiration date of the license or certification and the appraiser fails to meet the applicable deadline, the license or certification may not be renewed until the appraiser complies with the applicable provisions of this section.

B. When the date by which a licensed real estate appraiser or state-certified residential real estate appraiser must document classroom hours or experience pursuant to this section is not coterminous with the expiration date of the license or certification and the appraiser fails to meet the applicable deadline, the license or certification becomes void on the January 1st immediately following the applicable deadline without need of further administrative action other than the notice required by this paragraph. The automatic termination of a real estate appraiser license or certification as a residential real estate appraiser pursuant to this paragraph is deemed final agency action for purposes of Title 5, chapter 375, subchapter VII and takes effect upon notice by the board to the ap-

praiser at the appraiser's last known address that the license or certification has become void due to noncompliance with this section.

PART B

Sec. B-1. 30-A MRSA §4221, sub-§4 is enacted to read:

4. Inspections and permits not required. Plumbing inspections and permits are not required for:

A. Minor plumbing work or minor installations that are performed in compliance with state laws and rules if that plumbing work or those installations are done inside the structure of a private residence by the owner of that residence; and

B. Installation of domestic heating appliances by master oil burner technicians licensed pursuant to Title 32, chapter 33.

PART C

Sec. C-1. 30-A MRSA §4211, sub-§2, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

2. State rules. No municipal ordinance may be less restrictive than the rules of the department relating to plumbing or subsurface waste water disposal systems as adopted under Title 22, section 42. ~~The department shall establish minimum permit fees by rule.~~ The rules of the department relating to all plumbing or subsurface waste water disposal systems have full force and effect, provided that, to the extent that a municipality has enacted more restrictive ordinances, the provisions of those ordinances prevail.

Sec. C-2. 30-A MRSA §4211, sub-§5 is enacted to read:

5. Permit fees. The following permit fees may be charged.

A. A fixture fee of \$4 per fixture may be charged.

B. A maximum plumbing permit fee of \$4 may be charged for all other plumbing work.

C. A minimum plumbing permit fee may not be charged.

See title page for effective date.

CHAPTER 405

S.P. 398 - L.D. 1229

An Act to Increase Fees Charged by Municipal Clerks for Services