LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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

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Augusta, Maine
1993

appear or reference is made to those words, they are amended to read and mean Board of Licensure of Podiatric Medicine, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-24. Transition provision.

1. The Board of Chiropractic Licensure, Board of Licensure in Medicine, Board of Osteopathic Licensure, Board of Licensure of Podiatric Medicine and the Maine Developmental Disabilities Council are the successors in every way to the powers, duties and functions of the former Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities, respectively.

2. All existing rules, regulations and procedures in effect, in operation or promulgated in or by the Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities or any of their administrative units or officers are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

3. All existing contracts, agreements and compacts currently in effect in the Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities continue in effect.

4. Any positions authorized and allocated subject to the personnel laws to the former Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities are transferred respectively to the Board of Chiropractic Licensure, Board of Licensure in Medicine, Board of Osteopathic Licensure, Board of Licensure of Podiatric Medicine and the Maine Developmental Disabilities Council and may continue to be authorized.

5. All records, property and equipment previously belonging to or allocated for the use of the former Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities must become, on the effective date of this Act, part of the property, respectively, of the Board of Chiropractic Licensure, Board of Licensure in Medicine, Board of Osteopathic Licensure, Board of Licensure of Podiatric Medicine and the Maine Developmental Disabilities Council.

6. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities may be used, respectively, by the Board of Chiropractic Licensure, Board of Licensure in Medicine, Board of Osteopathic Licensure, Board of Licensure of Podiatric Medicine and the Maine Developmental Disabilities Council until existing supplies of those items are exhausted.

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

Effective April 7, 1994, unless otherwise indicated.

CHAPTER 601

H.P. 681 - L.D. 923

An Act to Amend the Underground Oil Storage Tank Replacement Fund

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

Whereas, the Legislature needs to ensure that adequate loan and grant funds are available through the Finance Authority of Maine to those required to comply with various requirements of the environmental laws of the State during the upcoming 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:

Sec. 1. 10 MRSA §963-A, sub-§§1-A and 1-B are enacted to read:

1-A. Aboveground oil storage facility. "Aboveground oil storage facility," also referred to as

a "facility," means any aboveground oil storage tank or tanks, together with associated piping, and transfer and dispensing facilities located over land or water of the State at a single location for more than 4 months per year and used or intended to be used for the storage or supply of oil. Oil terminal facilities, as defined in Title 38, section 542, subsection 7, and propane facilities are not included in this definition.

1-B. Aboveground oil storage tank. "Aboveground oil storage tank," also referred to as "tank," means any aboveground container, less than 10% of the capacity of which is beneath the surface of the ground, that is used or intended to be used for the storage or supply of oil. Included in this definition are any tanks situated upon or above the surface of a floor in such a manner that they may be readily inspected.

Sec. 2. 10 MRSA §1023-D, sub-§3, as amended by PL 1991, c. 439, §5, is repealed and the following enacted in its place:

3. Application of fund. Money in the fund may be applied to carry out any power of the authority under this section or under or in connection with section 1026-F, including, but not limited to, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest and other amounts due on insured loans. Money in the fund may be used for direct loans or grants for all or part of underground oil storage facility replacement projects, underground oil storage tank replacement projects, aboveground oil storage tank or facility construction or replacement projects or gasoline service station vapor control or petroleum liquids transfer vapor recovery projects as described in paragraph A when the authority determines that:

A. One or more of the following circumstances exists:

(1) The underground oil storage facility or tank is leaking or has been identified by the Department of Environmental Protection as posing an environmental threat, or removal is required by applicable law;

(2) The applicant is required to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery; or

(3) The applicant is constructing, replacing or renovating a tank or facility used for the aboveground storage of oil;

B. The applicant, if the applicant is not a unit of local government, demonstrates financial need for the assistance; and

C. If the assistance includes a loan, there is a reasonable likelihood that the applicant will be able to repay the loan.

Applicants demonstrating the requirement to install equipment related to the improvement of air quality pursuant to section 1026-F and who own fewer than 15 service stations, and who are not able to repay a loan, are eligible to receive no more than $35,000 per service station in grants for the payment of expenses relating to the installation of this equipment.

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans and grants. In the case of loans, the authority may charge an interest rate that may be as low as 0% and may be greater, depending on the financial ability of the applicant to pay as determined by the authority, up to a maximum of the prime rate of interest charged by major Boston banks. The maximum the authority may loan or grant to any one borrower, including related entities as determined by the authority, is $600,000. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested as permitted by law.

Sec. 3. 10 MRSA §1026-F, as enacted by PL 1987, c. 521, §8, is amended to read:

§1026-F. Mortgage insurance for underground and aboveground oil storage facility projects and projects related to the installation of equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery

1. Insurance. In addition to its other powers under this chapter, subject to the limitations of this subchapter, except sections 1026-B to 1026-D, the authority may insure up to 100% of mortgage payments with respect to mortgage loans for underground oil storage facility replacement projects, aboveground oil storage facility replacement projects and projects to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery when the authority determines that:

A. The facility is leaking or removal is required by applicable law or the applicant must install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liq-

uids transfer vapor recovery under applicable law;

B. The applicant demonstrates a reasonable likelihood that it will not be able to obtain a loan for the project on reasonable terms without insurance pursuant to this section;

C. The applicant demonstrates a reasonable likelihood that it will be able to repay the insured loan; and

D. The project will assist in creating or retaining jobs, providing a more healthy environment.

2. Limitation on mortgage insurance. The authority ~~shall~~ may not at any time have, in the aggregate amount of principal and interest outstanding, mortgage insurance obligations pursuant to this section exceeding $5,000,000 less the outstanding balance of any bonds issued under section 1024, subsection 2, with respect to obligations incurred under this section.

3. Mortgage eligibility. The authority, pursuant to Title 5, chapter 375, subchapter II, may adopt rules for determining eligibility, project feasibility, terms, conditions and security for insured mortgage loans under this section. Without limitation, the authority may establish a system for giving priority to applicants for facilities based on when removal or replacement is required by applicable law. The authority may accept less than adequate collateral when necessary to ensure the replacement of underground oil storage facilities required to be replaced under applicable law.

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

Effective April 7, 1994.

CHAPTER 602

H.P. 789 - L.D. 1062

An Act to Ensure Equitable Insurance Practices

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

Sec. 1. 24 MRSA §2342, sub-§1, as amended by PL 1989, c. 878, Pt. B, §21, is further amended to read:

1. Licensure. ~~Any~~ A person, partnership or corporation, other than an insurer~~,~~ or nonprofit service organization, health maintenance organization, preferred provider organization or an employee of those exempt organizations, that performs medical utilization review services on behalf of commercial insurers, nonprofit service organizations, 3rd-party administrators, health maintenance organizations, preferred provider organizations or employers, shall apply for licensure by the Bureau of Insurance and pay an application fee of not more than $400 and an annual license fee of not more than $100. ~~No~~ A person, partnership or corporation, other than an insurer~~,~~ or nonprofit service organization, health maintenance organization, preferred provider organization or the employees of exempt organizations, may not perform utilization review services or medical utilization review services unless the person, partnership or corporation has received a license to perform those activities.

Sec. 2. 24 MRSA §2343, sub-§5 is enacted to read:

5. Prohibited activities. A medical utilization review entity shall ensure that an employee does not perform medical utilization review services involving a health care provider or facility in which that employee has a financial interest.

Sec. 3. 24 MRSA §2344, first ¶, as enacted by PL 1989, c. 556, Pt. C, §1, is amended to read:

As used in this subchapter, unless the context indicates otherwise, "utilization review services" or "medical utilization review services" means ~~any~~ a program or process by which a person, partnership or corporation, on behalf of an insurer, nonprofit service organization, 3rd-party administrator, or health maintenance organization, preferred provider organization or employer ~~which~~ that is a payor for or ~~which~~ that arranges for payment of medical services, seeks to review the utilization, appropriateness or quality of medical services provided to a person whose medical services are paid for, partially or entirely, by that insurer, nonprofit service organization, 3rd-party administrator, health maintenance organization, preferred provider organization or employer. The terms include these programs or processes whether they apply prospectively or retrospectively to medical services. Utilization review services include, but are not limited to, the following:

Sec. 4. 24-A MRSA §2771, sub-§1, as amended by PL 1989, c. 878, Pt. B, §22, is further amended to read:

1. Licensure. ~~Any~~ A person, partnership or corporation, other than an insurer, nonprofit service organization, health maintenance organization, preferred provider organization or employee of those exempt organizations, that performs medical utilization review services on behalf of commercial insurers,