

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

do not compete with traditional financial institutions and credit unions; and

Whereas, Public Law 1997, chapter 398 did not address the prohibition on interlocking directors for limited purpose banks; and

Whereas, this legislation allows the Superintendent of Banking to waive the prohibition on interlocking directors in situations involving financial institutions and credit unions and limited purpose banks; 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. 9-B MRSA §461, as amended by PL 1999, c. 218, §24, is further amended to read:

§461. Applicability of chapter

The provisions of this chapter setting forth acts and practices that are prohibited apply to all financial institutions, ~~savings banks, trust companies, savings and loan associations,~~ universal banks, limited purpose banks, credit unions and financial institution holding companies subject to the laws of this State and are in addition to the prohibitions ~~set forth elsewhere~~ in this Title.

Sec. 2. 9-B MRSA §462, sub-§4 is enacted to read:

4. Waiver. The superintendent may grant a waiver of the prohibition contained in subsection 1 upon request by an affected party. A waiver may be granted only in situations involving a financial institution, credit union or financial institution holding company and a limited purpose bank and for good cause shown when there is no conflict resulting from competition between institutions. The superintendent may withdraw a waiver granted under this subsection upon reasonable written notice to the affected party.

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

Effective March 6, 2000.

CHAPTER 547

H.P. 1776 - L.D. 2487

An Act to Amend the Jurisdiction of the District Court

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

Whereas, the Administrative Court's jurisdiction will be absorbed by the District Court on March 15, 2001; and

Whereas, there is a vacancy in the Administrative Court that can be eliminated immediately while creating a new position in the District Court; 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:

PART A

Sec. A-1. 4 MRSA §152, sub-§5, ¶O, as enacted by PL 1989, c. 392, §1, is amended to read:

O. Actions in which the pleading demands a judgment:

(1) To exclude a person from a vested or contingent interest in or lien upon specific property within the State;

(2) That a vested or contingent interest in or lien upon specific property within the State be enforced; ~~or~~

(2-A) That real property be partitioned by sale; or

(3) Otherwise affecting title to any real property;

Sec. A-2. 4 MRSA §157, sub-§1, ¶A, as amended by PL 1999, c. 510, §1, is further amended to read:

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, shall appoint to the District Court ~~34~~ 32 judges. At least one judge must be appointed from each district who is a resident of a county in which the district lies, ex-

cept that in District 3 there must be 2 judges appointed who are residents of a county in which the district lies; in District 6 there must be 2 judges appointed who are residents of a county in which the district lies; and in District 9 there must be 2 judges appointed who are residents of a county in which the district lies. Each District Court Judge has a term of office of 7 years.

To be eligible for appointment as a District Judge, a person must be a member of the bar of the State. The term "District Judge" includes the Chief Judge and Deputy Chief Judge.

Sec. A-3. 4 MRSA §1151, as amended by PL 1997, c. 643, Pt. M, §11, is further amended to read:

§1151. Administrative Court

1. Establishment. The Administrative Court, as heretofore established, shall be part of the Judicial Department of the State and subject to the authority of the Chief Justice of the Supreme Judicial Court. The Administrative Court shall consist of the Administrative Court Judge and an Associate Administrative Court Judge. ~~In the event of the disability of the Administrative Court Judge, an Associate Administrative Court Judge shall perform any and all of his duties.~~ The Administrative Court shall be a court of record. The Administrative Court Judge shall establish a seal. Except as otherwise provided in this chapter, the Administrative Court Judge ~~shall be~~ is responsible for the efficient operation of the Administrative Court and for the proper conduct of business therein.

2. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 8, section 279-B; Title 10, section 8003, subsection 5; Title 20-A, sections 10712 and 10713; Title 29-A; Title 32, chapters 105 and 114; and Title 35-A, section 3132, the Administrative Court has exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The Administrative Court has original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, a licensing agency may not reinstate or otherwise affect a license suspended, revoked or modified by the Administrative Court pursuant to a complaint filed by the Attorney General, without the approval of the Attorney General.

2-A. Appellate jurisdiction. The Administrative Court ~~shall have~~ has exclusive jurisdiction to review disciplinary decisions of occupational licensing boards and commissions taken pursuant to Title 10, section 8003. The Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII, ~~shall govern~~ governs this procedure as far as applicable, substituting "Administrative Court" for "Superior Court."

3. Administrative structure. The Administrative Court ~~shall have~~ has the following structure.

A. The Administrative Court Judge ~~and Associate Judges shall be~~ is appointed by the Governor, subject to review of the Joint Standing Committee on Judiciary and to confirmation by the Legislature. ~~Each shall hold~~ The term of office for a term of is 7 years and until a successor has been appointed and confirmed.

B. The Administrative Court Judge ~~and the Associate Administrative Court Judges shall be~~ members must be a member of the bar in this State. ~~Each~~ The Administrative Court Judge shall devote full time to his judicial duties, ~~shall~~ may not practice law during his the term of office, nor ~~shall he during such term~~ be the partner or associate of any person in the practice of law during the term of office.

C. The Administrative Court Judge ~~shall receive~~ receives as annual compensation an amount which is the same as the Chief Judge of the District Court. ~~He shall be~~ The Administrative Court Judge is entitled to actual and necessary expenses in the performance of his judicial duties. ~~He~~ The Administrative Court Judge may employ necessary clerical assistance for the court. ~~An Associate Administrative Court Judge shall receive as annual compensation an amount which is the same as a District Court Judge and he shall be entitled to actual and necessary expenses in the performance of his duties.~~

D. On receipt of a written complaint from an agency or the Attorney General, ~~a Judge of the~~ Judge of the Administrative Court shall conduct a hearing on the applicable facts and law. The judge may subpoena and examine witnesses.

E. Whenever the Administrative Court Judge determines that ~~he~~ the judge has a personal interest or a financial interest, directly or indirectly, in a case which is before ~~him~~ the Administrative Court, ~~he shall disqualify himself~~ the judge is disqualified from hearing an that individual case and the judge shall give written notice of the disqualification to the parties to the action and shall file a copy of the notice in the docket of the case.

~~He shall assign the case to an Associate Administrative Court Judge.~~

~~Whenever an Associate Administrative Court Judge determines that he has a personal interest or a financial interest, directly or indirectly, in a case which is before him, he shall disqualify himself and give written notice to the Administrative Court Judge.~~

~~Whenever all judges of the Administrative Court have disqualified themselves in a case, the Administrative Court Judge shall give written notice of same to the parties to the action and shall file a copy of the notice in the docket of the case.~~

The moving party shall, within 10 days thereafter, commence an action by filing or refiling ~~his~~ the complaint in the District Court. Jurisdiction is granted to the District Court to hear and determine such matters and to enter such rulings and orders as the nature of the case may require. The case ~~shall~~ must be heard in the District Court in accordance with procedures governing the Administrative Court. The court reporter from the Administrative Court shall transcribe the testimony as in cases before a judge of the Administrative Court. An aggrieved party may appeal from the decision of the District Court Judge to the Superior Court in the same manner as from a decision of the Administrative Court.

F. Chapters 27 and 29, providing for compensation upon retirement of Justices of the Superior Court and to benefits for their spouses and surviving minor children or other beneficiaries, is made applicable to the Administrative Court Judge and Associate Administrative Court Judges. The years in which the Administrative Court Judge served in the capacity of Administrative Hearing Commissioner during 1963 to 1973 ~~shall be~~ are included as creditable service without additional contribution.

G. As head of the Judicial Department, the Chief Justice of the Supreme Judicial Court shall approve the Administrative Court Judge's determination of the Administrative Court's budget and procedures for scheduling cases.

H. Any Administrative Court Judge who retires or terminates service on the court in accordance with chapter 27, except for a disability retirement, is eligible for appointment as an Active Retired Judge of the Administrative Court as provided. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, may appoint any eligible judge to be an Active Retired Judge of the

Administrative Court for a period of 7 years, unless sooner removed. That judge may be reappointed for a like term. Any judge appointed constitutes a part of the court from which that judge has retired and has the same jurisdiction and is subject to the same restrictions as before retirement, except the judge may act only in those cases and matters and hold court only at those sessions and times as directed and assigned by the Administrative Court Judge or by the Chief Justice of the Supreme Judicial Court. An Active Retired Judge of the Administrative Court, who performs judicial service at the direction and assignment of the Administrative Court Judge or the Chief Justice of the Supreme Judicial Court, is compensated for those services at the rate of \$200 a day or \$125 for 1/2 day, provided that the total per day compensation and retirement pension received by an Active Retired Judge of the Administrative Court in any calendar year does not exceed the annual salary of the Associate Judge of the Administrative Court.

Sec. A-4. 33 MRSA §153 is repealed and the following enacted in its place:

§153. Sale or mortgage of estates subject to contingent remainders

1. Sale or mortgage. When real estate is subject to a contingent remainder, executory devise or power of appointment, the Superior Court, the District Court or the Probate Court for the county or district in which the real estate is situated may, upon the petition of any person who has an estate in possession in the real estate and after notice and other proceedings as required, appoint one or more trustees and authorize the trustee or trustees:

A. To sell and convey the estate or any part of the estate in fee simple, if such a sale and conveyance appears to the court to be necessary or expedient; or

B. To mortgage the estate, either with or without power of sale, for such an amount, on such terms and for such purposes as may seem to the court judicious or expedient.

The conveyance or mortgage is valid and binding upon all parties.

2. Petition. The petition must set forth the nature of the petitioner's title to the real estate, the source from which the title was derived, the names and addresses of all persons known to be interested in the real estate and any other facts necessary for a full understanding of the matter.

PART B

Sec. B-1. 4 MRSA §2-A, as enacted by PL 1997, c. 683, Pt. E, §1, is amended to read:

§2-A. Justice of the Supreme Judicial Court to sit in District Court

The Chief Justice of the Supreme Judicial Court may assign a Justice or Active Retired Justice of the Supreme Judicial Court to sit in the District Court ~~or the Administrative Court~~, and when so directed the justice has authority and jurisdiction in the District Court ~~or the Administrative Court~~ as if the justice were a regular judge of that court. When assigned under this section, the justice may hear all matters and issue all orders, notices, decrees and judgments that any Judge of the District Court ~~or the Administrative Court~~ is authorized to hear and issue.

The order of the Chief Justice of the Supreme Judicial Court directing a Justice or an Active Retired Justice of the Supreme Judicial Court to sit in the District Court ~~or the Administrative Court~~ must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by that justice.

Sec. B-2. 4 MRSA §8, first ¶, as amended by PL 1983, c. 653, is further amended to read:

The Supreme Judicial Court ~~shall have~~ has the power to prescribe, by general rules, for the ~~Administrative~~, Probate, District and Superior Courts of Maine, the forms of process, writs, pleadings and motions, and the practice and procedure in civil actions at law. Said rules ~~shall may~~ neither abridge, enlarge nor modify the substantive rights of any litigant. They ~~shall~~ take effect on such date not less than 6 months after their promulgation as the Supreme Judicial Court may fix. After their promulgation the Supreme Judicial Court may repeal, amend, modify or add to them from time to time with or without a waiting period. After the effective date of said rules as promulgated or amended, all laws in conflict therewith ~~shall be~~ are of no further force or effect.

Sec. B-3. 4 MRSA §9-B, as amended by PL 1991, c. 885, Pt. E, §2 and affected by §47, is further amended to read:

§9-B. Committee on judicial responsibility and disability

The Supreme Judicial Court has the power and authority to prescribe, repeal, add to, amend or modify rules relating to a committee to receive complaints, make investigations and make recommendations to the Supreme Judicial Court in regard to discipline, disability, retirement or removal of justices of the Supreme Judicial Court and the Superior Court and

judges of the District Court; and the probate courts ~~and the Administrative Court~~.

Sec. B-4. 4 MRSA §121, as enacted by PL 1989, c. 891, Pt. A, §1, is amended to read:

§121. Justice or Active Retired Justice of Superior Court assigned to sit in District Court

A Justice or an Active Retired Justice of the Superior Court may be assigned by the Chief Justice of the Supreme Judicial Court to sit in the District Court ~~or the Administrative Court~~ and when so directed the justice has authority and jurisdiction in the District Court ~~or the Administrative Court~~ as if the justice were a regular judge of that court; and whenever the Chief Justice of the Supreme Judicial Court so directs, the justice may hear all matters and issue all orders, notices, decrees and judgments that any Judge of the District Court ~~or the Administrative Court~~ is authorized to hear and issue.

The order of the Chief Justice of the Supreme Judicial Court directing a Justice or an Active Retired Justice of the Superior Court to sit in the District Court ~~or the Administrative Court~~ must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by that justice.

Sec. B-5. 4 MRSA §152, sub-§8, as enacted by PL 1989, c. 573, §1, is amended to read:

8. Consent to minor's abortion. Original jurisdiction, concurrent with that of the Probate Court, to grant equitable relief in proceedings brought under Title 22, section 1597-A: ;

Sec. B-6. 4 MRSA §152, sub-§§9 and 10 are enacted to read:

9. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 8, section 279-B; Title 10, section 8003, subsection 5; Title 20-A, sections 10712 and 10713; Title 29-A; Title 32, chapters 105 and 114; and Title 35-A, section 3132, exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General to revoke or suspend licenses issued by the agency. The District Court has original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The District Court has original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, a licensing agency may not reinstate or otherwise affect

a license suspended, revoked or modified by the District Court pursuant to a complaint filed by the Attorney General without the approval of the Attorney General; and

10. Appellate jurisdiction. Exclusive jurisdiction to review disciplinary decisions of occupational licensing boards and commissions taken pursuant to Title 10, section 8003. Title 5, chapter 375, subchapter VII governs this procedure as far as applicable, substituting "District Court" for "Superior Court."

Sec. B-7. 4 MRSA §157, sub-§1, ¶A, as amended by PL 1999, c. 510, §1, is further amended to read:

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, shall appoint to the District Court ~~31~~ 33 judges. At least one judge must be appointed from each district who is a resident of a county in which the district lies, except that in District 3 there must be 2 judges appointed who are residents of a county in which the district lies; in District 6 there must be 2 judges appointed who are residents of a county in which the district lies; and in District 9 there must be 2 judges appointed who are residents of a county in which the district lies. Each District Court Judge has a term of office of 7 years.

To be eligible for appointment as a District Judge, a person must be a member of the bar of the State. The term "District Judge" includes the Chief Judge and Deputy Chief Judge.

Sec. B-8. 4 MRSA §157-C, as amended by PL 1983, c. 112, is further amended to read:

§157-C. Judge or Active Retired Judge of the District Court to sit in Superior Court

A Judge or an Active Retired Judge of the District Court ~~or Administrative Court~~ may be assigned by the Chief Justice of the Supreme Judicial Court to sit in the Superior Court in any county; and when so directed ~~he shall have~~ has authority and jurisdiction therein as if ~~he were~~ a regular Justice of the Superior Court; and whenever the Chief Justice of the Supreme Judicial Court so directs, ~~he that judge~~ may hear all matters and issue all orders, notices, decrees and judgments that any Justice of the Superior Court is authorized to hear and issue.

No Judge or Active Retired Judge of the District Court ~~or Administrative Court~~ so sitting in the Superior Court ~~shall~~ may act in any case in which ~~he that judge~~ has sat in the District Court ~~or Administrative Court~~ nor in which ~~he that judge~~ otherwise has an interest.

The order of the Chief Justice of the Supreme Judicial Court directing a Judge or an Active Retired Judge of the District Court ~~or Administrative Court~~ to sit in the Superior Court ~~shall~~ must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by ~~him~~ that judge.

Sec. B-9. 4 MRSA §157-E, as enacted by PL 1989, c. 891, Pt. A, §6, is repealed.

Sec. B-10. 4 MRSA §184 is enacted to read:

§184. Licensing and appellate actions

1. Notice and hearing. In any action within the District Court's jurisdiction under section 152, subsection 9 or 10, all parties must be afforded an opportunity for hearing after reasonable notice.

2. Complaint filed. On commencement of any case, a written complaint must be filed with the District Court. A copy of the complaint and summons must be served on the defendant either by personal delivery in hand, by leaving it with a person of suitable age or discretion at the defendant's dwelling place or usual place of abode or by sending it by certified mail to the defendant's last known address. The summons must inform the defendant of the time limit for filing an answer to the complaint and the consequences of failing to do so. The complaint must contain a conclusion indicating the violation of a statute or rule, citing the statute or rule violated and stating the relief requested.

3. Witness sworn. At the hearing, before any testimony is received, the presiding judge shall swear in the witness.

4. Official record. The presiding judge shall prepare an official record, including testimony and exhibits, in each case but need not have a transcript of the testimony prepared unless required for rehearing or appeal. The record of the hearing may be taken by stenographic notes or by mechanical or electronic recording.

5. Disposition by agreement. On approval of the presiding judge, disposition of any case may be made by agreement or consent decree.

6. Emergency proceedings. The District Court has jurisdiction to revoke temporarily or suspend a license without notice or hearing upon the verified complaint of a licensing agency or the Attorney General. The complaint must be accompanied by affidavits demonstrating that summary action is necessary to prevent an immediate threat to the public health, safety or welfare. Upon issuance of an order revoking or suspending a license under this section, the District Court shall promptly schedule an expe-

dated hearing on the agency's complaint. Any order temporarily suspending or revoking a license expires within 30 days of issuance unless renewed by the court after such hearing as it may determine necessary.

This subsection may not be considered to abridge or affect the jurisdiction of the Superior Court to issue injunctive relief or to exercise such other powers as may be authorized by law or rule of the court.

7. Decisions. After hearing, on default or by agreement of the parties, the District Court may suspend, revoke or modify the license of any party properly served with process or, if the applicable law so provides, the court may order issuance of a license to an applicant according to the terms of the applicable law. The District Court may take any other action with relation to the party that could have been taken before the enactment of former section 1155 by the agency involved in the hearing.

Every final decision of the District Court must be in writing or stated in the record and must include findings of fact and conclusions of law sufficient to apprise the parties and any interested member of the public of the basis for the decision. A copy of the decision must be delivered or promptly mailed to each party to the proceeding or their representatives of record. Written notice of the party's rights to review of the decision and of the action required and the time within which that action must be taken in order to exercise the right of review must be given to each party together with the decision.

8. Fines. Notwithstanding any other provisions of this chapter, the District Court may impose a fine of a specific sum, which may not be less than \$50 nor more than \$1,500 for any one offense or as may be provided by the statutes relating to the licensing question. Such a fine may be imposed instead of or in addition to any suspension, revocation or modification of a license by the court. Section 1057 applies to any fine imposed by this subsection.

9. Rules of procedure. The Supreme Judicial Court may adopt, amend, repeal or modify rules governing the forms of complaints, pleadings and motions and the practice, procedure and evidence in and appeals from the District Court. The rules may not abridge or enlarge the substantive rights of any litigant. The rules must be filed with the Secretary of State in the manner required by Title 5, section 8056, subsection 1, paragraph B.

Sec. B-11. 4 MRSA §454, first ¶, as amended by PL 1997, c. 134, §6, is further amended to read:

There is established a Maine Criminal Justice Sentencing Institute under the administrative supervision of the State Court Administrator to provide a

continuing forum for the regular discussion of the most appropriate methods of sentencing convicted offenders and adjudicated juveniles by judges in the criminal justice system, prosecutors, law enforcement and correctional personnel, representatives of advisory and advocacy groups and such representatives of the defense bar as the Chief Justice of the Supreme Judicial Court may invite. All Supreme Judicial Court, Superior Court, ~~and District Court and Administrative Court~~ Judges, all District Attorneys and attorneys within the Criminal Division of the Office of the Attorney General are, and such other criminal justice personnel as the Chief Justice of the Supreme Judicial Court may authorize may be, members of the institute.

Sec. B-12. 4 MRSA c. 25, as amended, is repealed.

Sec. B-13. 4 MRSA §1701, sub-§1, as enacted by PL 1995, c. 451, §1, is amended to read:

1. Commission established. The Judicial Compensation Commission, referred to in this chapter as the "commission," established by Title 5, section 12004-G, subsection 23-A shall study and make recommendations concerning the salary, benefits and retirement to be paid for all justices and judges of the Supreme Judicial Court, the Superior Court, ~~and the District Court and the Administrative Court.~~

Sec. B-14. 5 MRSA §5304, as amended by PL 1987, c. 402, Pt. A, §54, is further amended to read:

§5304. Appeals

Any person who is aggrieved by the decision of any licensing agency in possible violation of this chapter may file a statement of complaint with the ~~Administrative District Court~~ District Court designated in chapter 375.

Sec. B-15. 5 MRSA §8001, as reallocated by PL 1977, c. 696, §48, is amended to read:

§8001. Short title

This chapter ~~and Title 4, chapter 25 shall be~~ is known and may be cited as the "Maine Administrative Procedure Act."

Sec. B-16. 5 MRSA §8002, sub-§7, ¶C, as enacted by PL 1977, c. 551, §3, is amended to read:

C. Any agency bringing a complaint to ~~Administrative District Court~~ District Court under section 10051.

Sec. B-17. 5 MRSA §10003, sub-§1, as amended by PL 1977, c. 694, §37, is further amended to read:

1. Opportunity for hearing. Subject to the provisions of section 10004, an agency ~~shall~~ may not amend or modify any license unless it has afforded the licensee an opportunity for hearing in conformity with subchapter IV, nor ~~shall~~ may it refuse to renew any license unless it has afforded the licensee either an opportunity for an agency hearing in conformity with subchapter IV or an opportunity for a hearing in the ~~Administrative District~~ Court. In any such proceeding ~~deemed~~ determined by the agency to involve a substantial public interest, an opportunity for public comment and participation ~~shall~~ must also be given by public notice in conformity with subchapter IV.

Sec. B-18. 5 MRSA c. 375, sub-c. VI is amended by repealing the subchapter headnote and enacting the following in its place:

SUBCHAPTER VI

DISTRICT COURT

Sec. B-19. 5 MRSA §10051, as amended by PL 1995, c. 140, §1, is further amended to read:

§10051. Jurisdiction of District Court; retained powers of agency

1. Jurisdiction. Except as provided in section 10004; Title 8, section 279-B; Title 10, section 8003; Title 20-A, sections 10712 and 10713; Title 29-A; Title 32, chapters 105 and 114; and Title 35-A, section 3132, the ~~Administrative District~~ Court has exclusive jurisdiction upon complaint of any agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General; to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of an agency to determine whether renewal or reissuance of a license of that agency may be refused.

2. Complaining agency. The complaining agency ~~shall retain~~ retains every other power granted to it by statute or necessarily implied therein, except the power of revoking or suspending licenses issued by it. Such retained powers ~~shall~~ include, but are not be limited to, the granting or renewing of licenses, the investigating and determining of grounds for the filing of a complaint under this section; and the prosecution of such complaints.

3. Appellate jurisdiction. The ~~Administrative District~~ Court has exclusive jurisdiction to review disciplinary decisions of occupational licensing boards and commissions taken pursuant to Title 10, section 8003 and licensing decisions of the Bureau of Liquor Enforcement taken pursuant to Title 28-A, sections 453-A, 458 and 653. ~~The Maine Administrative Procedure Act, chapter Chapter~~ 375, subchapter VII, governs these proceedings as far as applicable,

substituting "~~Administrative District~~ Court" for "Superior Court."

4. Violations. The ~~Administrative District~~ Court ~~shall have~~ has exclusive jurisdiction to hear complaints of the Public Utilities Commission for violations of Title 35-A, section 704.

Sec. B-20. 7 MRSA §1456, as repealed and replaced by PL 1977, c. 694, §118, is amended to read:

§1456. Cancellation of permit

The permit to operate the sales rings may be canceled by the ~~Administrative District~~ Court pursuant to Title 4, chapter ~~25~~ 5.

Sec. B-21. 7 MRSA §2955, 4th ¶, as amended by PL 1977, c. 694, §141, is amended to read:

The ~~Administrative District~~ Court as designated by Title 4, chapter ~~25~~ 5 may, upon proper evidence, decline to grant a license or may suspend or revoke a license already granted upon due notice and after hearing. Violation of this chapter or of any order, rule or regulation made, or conviction of violating any other law or regulation of the State relating to the production, distribution and sale of milk, ~~shall be~~ is sufficient cause to suspend, revoke or withhold such license.

Sec. B-22. 7 MRSA §3152, sub-§4-A, as enacted by PL 1987, c. 447, §5, is amended to read:

4-A. Eligible marketing cooperative. "Eligible marketing cooperative" means an association of milk producers organized to negotiate producer prices higher than the minimum producer prices established pursuant to the New England Milk Marketing Order and which the commissioner has determined will not, through its operation, evade, impair or undermine the purposes of this chapter. Notwithstanding Title 4, section ~~445~~ 152, subsection ~~2~~ 9 and Title 5, section 10051, subsection 1, the commissioner may revoke the eligible status of a marketing cooperative upon a determination that it has through its operation evaded, impaired or undermined the purposes of this chapter.

Sec. B-23. 7 MRSA §3155-A, sub-§4, as enacted by PL 1987, c. 447, §12, is amended to read:

4. Administrative enforcement. When the commissioner, after such investigation as ~~he deems~~ the commissioner determines appropriate, believes that a violation of this section has occurred, ~~he~~ the commissioner may order the eligible marketing cooperative to cease that violation. In lieu of, or in addition to, such an order and notwithstanding Title 4, section ~~445~~ 152, subsection ~~2~~ 9 and Title 5, section 10051,

subsection 1, the commissioner may also revoke the eligible status of the cooperative for purposes of this chapter for a period not to exceed one year for a first violation, 2 years for a 2nd violation and permanently for a 3rd or subsequent violation. Before issuing such an order or revoking a cooperative's eligibility, the commissioner shall afford the cooperative an opportunity for a hearing. Any person aggrieved by a final order or decision issued under this subsection may obtain judicial review in Superior Court by filing a petition in accordance with Title 5, section 11001 and the Maine Rules of Civil Procedure, Rule 80C. In responding to such a petition, the commissioner may seek enforcement of ~~his~~ the order or decision, including civil penalties for any violation found, and the court, if it upholds the order or decision, may order its enforcement, including civil penalties.

Sec. B-24. 7 MRSA §3991, sub-§2, ¶D, as amended by PL 1993, c. 468, §25, is further amended to read:

D. If the commissioner concludes that suspension or revocation of the license is in order, shall file a complaint in the ~~Administrative District~~ Court in accordance with Title 4, chapter ~~25 5~~.

Sec. B-25. 8 MRSA §271, sub-§1, as amended by PL 1997, c. 528, §11, is further amended to read:

1. Licensing. If the commission is satisfied that all of this chapter and rules prescribed by the commission have been substantially complied with during the past year and will be fully complied with during the coming year by the person, association or corporation applying for a license; that the applicant, its members, directors, officers, shareholders, employees, creditors and associates are of good moral character; that the applicant is financially responsible; and that the award of racing dates to the applicant is appropriate under the criteria contained in subsection 2, it may issue a license for the holding of harness horse races or meets for public exhibition with pari-mutuel pools, which must expire on December 31st. The fee for a license is \$100 or \$10 per week, whichever is higher. The commission shall provide a booklet containing harness racing laws and rules and relevant portions of the Maine Administrative Procedure Act to every initial licensee and a fee not to exceed \$10 must be included in the license fee to cover the cost of this publication. The commission shall provide necessary revisions of this booklet to those persons renewing licenses at the time of renewal and shall include the cost of the revisions, not to exceed \$10, in the renewal fee. The license must set forth the name of the licensee, the place where the races or race meets are to be held and the specific race dates and time of day or night during which racing may be conducted by the licensee. The location stated in the license where the race or race

meet is to be held may be transferred to any other licensee on the dates set forth in the license during which the racing may be conducted, but, with respect to that transfer, the transfer may only be made to another licensee and the licensee is liable for compliance with all laws and regulations governing the conduct of harness racing. Any such license issued is not transferable or assignable. The ~~Administrative District~~ Court Judge, as designated in Title 4, chapter ~~25 5~~, may revoke any license issued at any time for violation of the commission's rules or licensing provisions upon notice and hearing. The license of any corporation is automatically revoked, subject to Title 5, chapter 375, upon the change in ownership, legal or equitable, of 50% or more of the voting stock of the corporation and the corporation may not hold a harness horse race or meet for public exhibition without a new license.

Sec. B-26. 8 MRSA §275-D, sub-§11, as enacted by PL 1997, c. 528, §24, is amended to read:

11. Revocation. The ~~Administrative District~~ Court Judge, as designated in Title 4, chapter ~~25 5~~, may revoke any license issued at any time for violation of the commission's rules or licensing provisions upon notice and hearing. The license of any corporation is automatically revoked, subject to Title 5, chapter 375, upon the change in ownership, legal or equitable, of 50% or more of the voting stock of the corporation, and the corporation may not conduct off-track betting without a new license.

Sec. B-27. 12 MRSA §685-C, sub-§8, as amended by PL 1987, c. 816, Pt. KK, §12, is further amended to read:

8. Enforcement, inspection and penalties for violations. Standards, rules and orders issued by the commission pursuant to this chapter ~~shall~~ have the force and effect of law. No development may be undertaken, except in conformance with this chapter, the standards, rules and orders enacted or issued pursuant to this chapter, and any real estate or personal property existing in violation of such ~~shall be~~ is a nuisance. For the purposes of inspection and to ~~assure~~ ensure compliance with standards, orders and permits issued or adopted by the commission, authorized commission staff, forest rangers and the state supervisor or consultant personnel may conduct ~~such~~ investigations, examinations, tests and site evaluations ~~deemed~~ necessary to verify information presented to it; and may obtain access to any lands and structures regulated pursuant to this chapter.

Any person who violates any provision of this chapter, or the terms or conditions of any standards, rules, permits or orders adopted or issued pursuant to this chapter, is subject to a civil penalty, payable to the

State, of not more than \$10,000 for each day of the violation.

In addition to the other penalties provided, the commission may, in the name of the State of Maine, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation hereof or of the orders or standards or rules promulgated hereunder. This action may include, but is not limited to, proceedings to revoke or suspend any commission permit or approval, taken either before the commission itself in accordance with Title 5, section 10004, before the Administrative District Court in accordance with Title 4, ~~sections 1152 to 1157, chapter 5~~ or, notwithstanding the provisions of Title 4, section ~~1154 152~~, subsection ~~2, 9~~ or Title 5, section 10051, before the Superior Court as part of an enforcement action brought by the commission.

In addition to any such penalties or remedies provided in this subsection, the court may order restoration of any area affected by any action or inaction found to be in violation of any of the provisions of this chapter or of any order, standard, rule or permit of the commission, or any decree of the court, to the condition of such area prior to the violation. When such restoration is not practicable, the court may order other actions to be taken by the person charged with the violation which are in mitigation of the damage caused by the violation.

A person who willfully or knowingly falsifies any statement contained in a permit application or other information required to be submitted to the commission ~~shall be~~ is in violation of this chapter and subject to the penalties of this chapter.

Sec. B-28. 12 MRSA §1884, last ¶, as enacted by PL 1997, c. 678, §13, is amended to read:

In addition, the bureau may in the name of the State institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation of this subchapter or of the rules or permits issued under it. This action may include, but is not limited to, proceedings to revoke or suspend any bureau permit or approval taken before the ~~Administrative District Court~~ in accordance with Title 4, section ~~1154 152~~, subsection ~~2 9~~ and Title 4, ~~sections 1152 to 1157~~ chapter 5 or, notwithstanding the provisions of Title 5, section 10051, before the Superior Court, as part of an enforcement action brought by the bureau.

Sec. B-29. 12 MRSA §6371, sub-§3, as enacted by PL 1977, c. 661, §5, is amended to read:

3. Suspension for violations. Violation of any section of marine resources' laws ~~shall be~~ is grounds for suspension of any and all licenses or certificates issued under this Part. In order to suspend a license or

certificate for a violation, the commissioner shall follow the procedures for license suspension or revocation in the Administrative District Court, as provided under Title 4, chapter ~~25 5~~.

Sec. B-30. 12 MRSA §6373, first ¶, as enacted by PL 1977, c. 661, §5, is amended to read:

In order to suspend a license or certificate for refusal to allow a shellfish inspection or for violation of shellfish sanitation regulations, the commissioner shall follow the procedures for license suspension or revocation in the Administrative District Court, as provided under Title 4, chapter ~~25 5~~. The suspension for these reasons ~~shall~~ must be a summary action necessary to prevent an immediate threat to the public health, safety and welfare and ~~shall~~ must be an emergency proceeding under Title 4, section ~~1153 184~~, subsection 6.

Sec. B-31. 12 MRSA §8833, sub-§2, as enacted by PL 1979, c. 545, §3, is amended to read:

2. Revocation. The director may revoke, suspend or refuse to renew any registration of any mill for violation of sections 8830 and 8831 under the authority granted in Title 5, section 10004. The Administrative District Court, acting pursuant to Title 4, chapter ~~25 5~~, may revoke the registration granted to any mill for violation of sections 8830 and 8831 for a period not to exceed 2 years, after which time the mill may make application for reinstatement as a registered mill.

Sec. B-32. 12 MRSA §9321, sub-§2, as repealed and replaced by PL 1983, c. 504, §2, is amended to read:

2. Revocation. The director or ~~his~~ the director's delegate may revoke any permit during a period of high forest fire danger or any permit which results in creation of a nuisance condition without compliance with the provisions of Title 4, chapter ~~25 5~~ or Title 5, chapter 375.

Sec. B-33. 12 MRSA §9322, sub-§3, as repealed and replaced by PL 1993, c. 555, §2, is amended to read:

3. Resident guides. Upon application, the Director of the Bureau of Forestry may issue a statewide yearly permit for out-of-door fires to resident guides licensed by the Department of Inland Fisheries and Wildlife. The director may restrict the scope of a permit to correspond with the classification of the guide license. Use of the permit is conditional upon the permittee:

A. Possessing a valid guide license;

- B. Complying with any landowner campfire restrictions;
- C. Complying with applicable out-of-door burning laws; and
- D. Complying with out-of-door fire restrictions established by the director for the area in which and the time during which fires are made.

The director shall revoke the permit of any person who violates any condition or restriction established by this subsection. The director is not required to comply with the provisions of Title 4, chapter ~~25~~ 5 or Title 5, chapter 375 in revoking a permit under this subsection.

Sec. B-34. 13-A MRSA §1210, sub-§1, as amended by PL 1989, c. 501, Pt. L, §19, is further amended to read:

1. Notwithstanding Title 4, chapter ~~25~~ 5, and Title 5, chapter 375, the authority of a foreign corporation to do business in this State may be revoked by the Secretary of State, as provided by subsections 2 and 3, when:

- A. The corporation has failed to file its annual report within the time specified by this Act or has failed to pay any fees, franchise taxes or penalties prescribed by this Act when they have become due and payable; ~~or~~
- B. The corporation has failed to appoint and maintain a registered agent in this State as required by section 1212; ~~or~~
- C. The corporation has failed, after change of its registered office or registered agent, to file in the office of the Secretary of State a statement of such change as required by section 1212; ~~or~~
- D. The corporation has failed to file in the office of the Secretary of State within the required time any articles of merger as required by section 1206 or amended application for authority as required by section 1207; or
- E. A misrepresentation has been made of a material fact in any application, report, affidavit or other document required by this Act.

Sec. B-35. 13-A MRSA §1302, sub-§1, as amended by PL 1995, c. 458, §5, is further amended to read:

1. A corporation required to deliver an annual report for filing as provided by section 1301 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, providing the report is received by the Secretary of State prior to revocation or suspension. Upon a corporation's failure to file

the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter ~~25~~ 5 and Title 5, chapter 375, shall revoke a foreign corporation's authority to do business in this State and suspend a domestic corporation from doing business. The Secretary of State shall use the procedures set forth in section 1210, relative to revoking the right of foreign corporations to do business in this State, for suspending domestic corporations. A foreign corporation whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 1202. A domestic corporation that has been suspended under this subsection may be reinstated by filing the current annual report, together with the current annual filing fee, and by paying the reinstatement fee of \$125 for each year the corporation failed to file an annual report. The maximum reinstatement fee may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

Sec. B-36. 13-B MRSA §1210, sub-§1, as amended by PL 1993, c. 316, §42, is further amended to read:

1. **Secretary of State may revoke authority.** Notwithstanding Title 4, chapter ~~25~~ 5, and Title 5, chapter 375, the authority of a foreign corporation to carry on activities in this State may be revoked by the Secretary of State, as provided by subsections 2 and 3, when:

- A. The corporation has failed to file its annual report within the time specified by this Act, or has failed to pay any fees or penalties prescribed by this Act, when they have become due and payable;
- B. The corporation has failed to appoint and maintain a registered agent in this State as required by section 1212;
- C. The corporation has failed, after change of its registered office or registered agent, to file in the office of the Secretary of State a statement of such change as required by section 1212;
- D. The corporation has failed to file in the office of the Secretary of State within the required time any articles of merger as required by section 1206 or amended application for authority as required by section 1207; or
- E. A misrepresentation has been made of a material fact in any application, report, affidavit or other document required by this Act.

Sec. B-37. 13-B MRSA §1302, sub-§1, as repealed and replaced by PL 1993, c. 349, §36, is amended to read:

1. Failure to file annual report. Any corporation that is required to deliver an annual report for filing, as provided by section 1301, and fails to deliver its properly completed annual report to the Secretary of State, shall pay the sum of \$10 for each failure to file on time. Upon a corporation's failure to file the annual report and to pay the annual report fee and the penalty, the Secretary of State, notwithstanding Title 4, chapter ~~25~~ 5 and Title 5, chapter 375, shall revoke a foreign corporation's authority to carry on activities in this State and suspend a domestic corporation from carrying on activities. The Secretary of State shall use the procedures set forth in section 1210, relative to revoking the right of foreign corporations to carry on activities in this State, for suspending domestic corporations. A foreign corporation whose authority to carry on activities in this State has been revoked under this subsection that wishes to carry on activities again in this State must be authorized as provided in section 1202. A domestic corporation that has been suspended under this subsection may be reinstated by filing the current annual report and by paying the penalty accrued.

Sec. B-38. 15 MRSA §1003, sub-§2, as enacted by PL 1987, c. 758, §20, is amended to read:

2. Court. "Court" means any Justice of the Supreme Judicial Court or Superior Court or any active retired justice and any District Court Judge or active retired judge, ~~or any Administrative Court Judge or active retired judge~~ when assigned under Title 4, section 157-C ~~or 1158~~.

Sec. B-39. 22 MRSA §1471-D, sub-§7, ¶D, as enacted by PL 1977, c. 694, §339, is amended to read:

D. This subsection ~~shall~~ is not ~~be~~ governed by the provisions of Title 4, chapter ~~25~~ 5 or Title 5, chapter 375.

Sec. B-40. 22 MRSA §2144, sub-§4, ¶C, as enacted by PL 1983, c. 570, is amended to read:

C. Any license issued under this chapter may be suspended or revoked for violation of applicable laws and rules committing, permitting, aiding or abetting any illegal practices in the operation of the provider of conduct or practices detrimental to the welfare of persons to whom home health care services are provided. When the department believes that a license ~~shall~~ must be suspended or revoked, it shall file a complaint with the ~~Administrative~~ District Court in accordance with Title 4, section ~~4153~~ 184 or the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. B-41. 22 MRSA §2500, 2nd ¶, as enacted by PL 1981, c. 203, §2, is amended to read:

Whenever, upon inspection, conditions are found which violate this chapter or regulations adopted thereunder, or which may endanger the life, health or safety of persons living in or attending any licensed establishment under this chapter, the department may request an emergency suspension of license of the ~~Administrative~~ District Court pursuant to Title 4, section ~~4153~~ 184, subsection 6, and the court may grant suspension subject to reinstatement following a hearing before the court if cause is not shown.

Sec. B-42. 22 MRSA §7802, sub-§3, ¶C, as enacted by PL 1983, c. 386, §2, is amended to read:

C. Whenever, upon investigation, conditions are found which, in the opinion of the department, immediately endanger the health or safety of persons living in or attending a facility, the department may request the ~~Administrative~~ District Court for an emergency suspension pursuant to Title 4, section ~~4153~~ 184, subsection 6.

Sec. B-43. 24 MRSA §2314, as amended by PL 1997, c. 592, §4, is further amended to read:

§2314. Suspension or revocation of certificate of authority

Notwithstanding Title 4, ~~section 1151~~ chapter 5 and Title 5, section 10051, the superintendent may suspend or revoke a certificate of authority granted under this chapter for cause at any time pursuant to a hearing held in accordance with Title 5, chapter 375, subchapter IV.

Sec. B-44. 24-A MRSA §416, sub-§1, as amended by PL 1983, c. 419, §1, is further amended to read:

1. Notwithstanding Title 4, ~~section 1151~~ chapter 5, and Title 5, section 10051, the superintendent shall refuse to continue or shall suspend or revoke an insurer's certificate of authority:

A. If such action is required by any provision of this Title;

B. If a foreign insurer and it no longer meets the requirements for a certificate of authority, on account of deficiency of capital or surplus or otherwise;

C. If a domestic insurer and it has failed to cure an impairment of capital or surplus within the time allowed therefor by the superintendent under this Title or is otherwise no longer qualified for the certificate of authority;

D. If the insurer's certificate of authority to transact insurance therein is suspended or re-

voked by its state of domicile, or state of entry into the United States, if an alien insurer; or

E. For failure of the insurer to pay taxes on its premiums as required by law.

Sec. B-45. 24-A MRSA §417, sub-§§1 and 3, as amended by PL 1983, c. 419, §2, are further amended to read:

1. Notwithstanding Title 4, ~~section 1151, chapter 5~~ and Title 5, section 10051, the superintendent may refuse to continue or may suspend or revoke an insurer's certificate of authority, if ~~he~~ the superintendent finds, after a hearing thereon or upon waiver of hearing by the insurer, that the insurer has violated or failed to comply with any lawful order of the superintendent, or has willfully violated or willfully failed to comply with any lawful rule of the superintendent, or has violated any provision of this Title other than those for violation of which suspension or revocation is mandatory.

3. Notwithstanding Title 4, ~~sections 1151 and 1153, chapter 5~~ and Title 5, section 10051, the superintendent may, without notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced against the insurer in any state by the public official charged with supervising the insurance industry in that state. Upon suspending a certificate of authority under this subsection, the superintendent shall promptly schedule a hearing on the matter, to be held within 30 days of the suspension. The superintendent shall make a determination within 30 days after the conclusion of that hearing.

Sec. B-46. 24-A MRSA §4216, sub-§1, as amended by PL 1997, c. 683, Pt. B, §14, is further amended by amending the first paragraph to read:

1. Notwithstanding Title 4, ~~section 1151, chapter 5~~ and Title 5, section 10051, the superintendent may suspend or revoke a certificate of authority issued to a health maintenance organization under this chapter if the superintendent finds that any of the following conditions exist after a hearing held in accordance with Title 5, chapter 375, subchapter IV:

Sec. B-47. 29-A MRSA §853, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§853. Suspension and revocation

Notwithstanding Title 4, section ~~1151~~ 152, subsection ~~2~~ 9 and Title 5, sections 10003 and 10051, the Secretary of State may suspend, revoke or deny any

license, registration or renewal issued pursuant to this chapter.

Sec. B-48. 29-A MRSA §1612, 3rd ¶, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

Notwithstanding Title 4, section ~~1151~~ 152, subsection ~~2~~ 9 and Title 5, sections 10003 and 10051, the Secretary of State has the authority to suspend a motor vehicle dealer license upon the dealer's failure to maintain insurance as required by this section.

Sec. B-49. 29-A MRSA §2552, first ¶, as amended by PL 1995, c. 65, Pt. A, §124 and affected by §153 and Pt. C, §15, is further amended to read:

Notwithstanding Title 4, section ~~1151~~ 152, subsection ~~2~~ 9 and Title 5, sections 10003 and 10051, the Secretary of State shall immediately revoke, without preliminary hearing, the license to operate a motor vehicle of an habitual offender.

Sec. B-50. 30-A MRSA §4451, sub-§6, ¶A, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

A. The ~~Administrative~~ District Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter ~~25~~ 5, when it finds that:

- (1) The code enforcement officer has practiced fraud or deception;
- (2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or
- (3) The code enforcement officer is incompetent or unable to perform properly the duties of the office.

Sec. B-51. 31 MRSA §498, sub-§2, ¶A, as amended by PL 1991, c. 780, Pt. U, §28, is further amended to read:

A. Notwithstanding Title 4, chapter ~~25~~ 5 and Title 5, chapter 375, the authority of a foreign limited partnership to do business in this State may be revoked by the Secretary of State as provided in paragraphs C and D when:

- (1) The foreign limited partnership fails to deliver its annual report for filing within the time specified by this chapter or fails to pay any fees or penalties as prescribed by this chapter when they become due and payable;

(2) The foreign limited partnership fails to appoint and maintain a registered agent in this State as required by section 494;

(3) The foreign limited partnership fails, after change of its registered office or registered agent, to file with the Secretary of State a statement of the change required by section 494;

(4) The foreign limited partnership has failed to file with the Secretary of State an amended application for authority required by section 495; or

(5) A misrepresentation of a material fact is made in any application, report, affidavit or other document required by this chapter.

Sec. B-52. 31 MRSA §530, sub-§1, as amended by PL 1995, c. 458, §18, is further amended to read:

1. Failure to file annual report. A limited partnership required to deliver an annual report for filing as provided by section 529 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, providing the report is received by the Secretary of State prior to revocation or suspension of the limited partnership. Upon a limited partnership's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter ~~25~~ 5 and Title 5, chapter 375, shall revoke a foreign limited partnership's authority to do business in this State and suspend a domestic limited partnership from doing business. The Secretary of State shall use the procedures set forth in section 498, subsection 2, relative to revoking the right of foreign limited partnerships to do business in this State, for suspending domestic limited partnerships. A foreign limited partnership whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 492. A domestic limited partnership that has been suspended under this subsection may be reinstated by filing the current annual report together with the current annual filing fee and by paying the reinstatement fee of \$125 for each year the limited partnership failed to file an annual report. The maximum reinstatement fee may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

Sec. B-53. 31 MRSA §719, sub-§2, ¶A, as enacted by PL 1993, c. 718, Pt. A, §1, is amended to read:

A. Notwithstanding Title 4, chapter ~~25~~ 5 and Title 5, chapter 375, the authority of a foreign

limited liability company to do business in this State may be revoked by the Secretary of State as provided in paragraphs C and D when:

(1) The foreign limited liability company fails to deliver its annual report for filing within the time specified by this chapter or fails to pay any fees or penalties as prescribed by this chapter when they become due and payable;

(2) The foreign limited liability company fails to appoint and maintain a registered agent in this State as required by section 714;

(3) The foreign limited liability company fails, after change of its registered office or registered agent, to file with the Secretary of State a statement of the change required by section 714;

(4) The foreign limited liability company has failed to file with the Secretary of State an amended application for authority required by section 715; or

(5) A misrepresentation of a material fact is made in any application, report, affidavit or other document required by this chapter.

Sec. B-54. 31 MRSA §758, sub-§1, as amended by PL 1995, c. 458, §24, is further amended to read:

1. Failure to file annual report. A limited liability company required to deliver an annual report for filing as provided by section 757 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, if the report is received by the Secretary of State prior to revocation or suspension of the limited liability company. Upon a limited liability company's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter ~~25~~ 5 and Title 5, chapter 375, shall revoke a foreign limited liability company's authority to do business in this State and suspend a domestic limited liability company from doing business. The Secretary of State shall use the procedures set forth in section 719, subsection 2, relative to revoking the right of foreign limited liability companies to do business in this State, for suspending domestic limited liability companies. A foreign limited liability company whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 712. A domestic limited liability company that has been suspended under this subsection may be reinstated by filing the current annual report together with the

current annual filing fee and by paying the reinstatement fee of \$125 for each year the limited liability company failed to file an annual report. The maximum reinstatement fee may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

Sec. B-55. 31 MRSA §859, sub-§1, ¶A, as enacted by PL 1995, c. 633, Pt. B, §1, is amended to read:

A. Notwithstanding Title 4, chapter ~~25~~ 5 and Title 5, chapter 375, the status of a foreign partnership as a limited liability partnership with respect to doing business in this State may be revoked by the Secretary of State as provided in paragraphs C and D when:

- (1) The foreign limited liability partnership fails to deliver its annual report for filing within the time specified by this chapter or fails to pay any fees or penalties as prescribed by this chapter when they become due and payable;
- (2) The foreign limited liability partnership fails to appoint and maintain a registered agent in this State as required by section 807;
- (3) The foreign limited liability partnership fails, after change of its registered office or registered agent, to file with the Secretary of State a statement of the change required by section 807;
- (4) The foreign limited liability partnership fails to file with the Secretary of State an amended application for authority required by section 855; or
- (5) A misrepresentation of a material fact is made in any application, report, affidavit or other document required by this chapter.

Sec. B-56. 31 MRSA §874, sub-§1, as enacted by PL 1995, c. 633, Pt. B, §1, is amended to read:

1. Failure to file annual report; revocation of status. A limited liability partnership required to deliver an annual report for filing, as provided by section 873, that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, provided that the report is received by the Secretary of State prior to revocation of its status as a limited liability partnership. Upon a partnership's failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, chapter ~~25~~ 5 and Title 5,

chapter 375, shall revoke the status of that partnership as a foreign limited liability partnership or a registered limited liability partnership. The Secretary of State shall use the procedures set forth in section 859, subsection 1 relative to revoking the status of a partnership as a foreign limited liability partnership for revoking the status of a partnership as a registered limited liability partnership. A foreign limited liability partnership whose limited liability partnership status has been revoked under this subsection that wishes to do business again as a limited liability partnership in this State must follow the procedures set forth in section 808, subsection 3 relative to reinstatement of registered limited liability partnerships. A partnership whose status as a registered limited liability partnership has been revoked under this subsection may be reinstated by filing the current annual report together with the current annual filing fee and by paying the reinstatement fee of \$125 for each year the limited liability partnership failed to file an annual report. The maximum reinstatement fee may not exceed \$500, regardless of the number of delinquent reports or the period of delinquency.

Sec. B-57. 32 MRSA §64-A, sub-§1, ¶D, as enacted by PL 1983, c. 378, §2, is amended to read:

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative District Court in accordance with Title 4, chapter ~~25~~ 5.

Sec. B-58. 32 MRSA §90-A, sub-§4, ¶D, as amended by PL 1993, c. 575, §2, is further amended to read:

D. Except in the specific circumstances where ~~the Maine Administrative Procedure Act~~, Title 5, section 10004 may be invoked, if the board or its staff concludes that suspension or revocation of the license is in order, the board or its staff shall hold a hearing or request the Attorney General to file a complaint in the Administrative District Court in accordance with Title 4, chapter ~~25~~ 5 to commence either full or emergency proceedings.

Sec. B-59. 32 MRSA §503-A, sub-§1, ¶D, as enacted by PL 1983, c. 378, §4, is amended to read:

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative District Court in accordance with Title 4, chapter ~~25~~ 5.

Sec. B-60. 32 MRSA §1077, sub-§1, ¶D, as enacted by PL 1983, c. 378, §7, is amended to read:

D. If the board concludes that suspension or revocation of the license is in order, the board

shall file a complaint in the Administrative District Court in accordance with Title 4, chapter ~~25~~ 5.

Sec. B-61. 32 MRSA §1356, first ¶, as amended by PL 1995, c. 355, §14, is further amended to read:

The board may suspend or revoke the registration of an engineer or the certificate of an engineer-intern pursuant to Title 5, section 10004. The board may refuse to issue or renew or the Administrative District Court, pursuant to Title 4, chapter ~~25~~ 5, may revoke, suspend or refuse to renew the registration of a registered professional engineer or the certificate of an engineer-intern who is found guilty of:

Sec. B-62. 32 MRSA §2105-A, sub-§1-A, ¶E, as enacted by PL 1985, c. 724, §12, is amended to read:

E. If the board concludes that suspension or revocation of the license is in order, file a complaint in the Administrative District Court in accordance with Title 4, chapter ~~25~~ 5.

Sec. B-63. 32 MRSA §2431-A, sub-§1, ¶D, as enacted by PL 1983, c. 378, §30, is amended to read:

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative District Court in accordance with Title 4, chapter ~~25~~ 5.

Sec. B-64. 32 MRSA §2591-A, sub-§1, ¶D, as enacted by PL 1983, c. 378, §38, is amended to read:

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative District Court in accordance with Title 4, chapter ~~25~~ 5.

Sec. B-65. 32 MRSA §2594-D, sub-§2, as amended by PL 1993, c. 600, Pt. A, §187, is further amended to read:

2. Consent to physical or mental examination; objections to admissibility of physician's testimony waived. For the purposes of this section, every physician assistant licensed under these rules who accepts the responsibility of rendering medical services in this State by the filing of an application and of annual licensure:

A. Is deemed to have given consent to a mental or physical examination when directed in writing by the board; and

B. Is deemed to have waived all objections to the admissibility of the examining physician's testimony or reports on the ground that these constitute a privileged communication.

Pursuant to Title 4, section ~~1153~~ 184, subsection 6, the Administrative District Court shall immediately suspend the license of a physician assistant who can be shown, through the results of the medical or physical examination conducted under this section or through other competent evidence, to be unable to render medical services with reasonable skill and safety to patients by reason of mental illness, alcohol intemperance, excessive use of drugs or narcotics or as a result of a mental or physical condition interfering with the competent rendering of medical services.

Sec. B-66. 32 MRSA §3270-C, sub-§2, as amended by PL 1993, c. 600, Pt. A, §207, is further amended to read:

2. Consent to physical or mental examination; objections to admissibility of physician's testimony waived. For the purposes of this section, every physician assistant registered under these rules who accepts the privilege of rendering medical services in this State by the filing of an application and of biannual registration renewal:

A. Is deemed to have consented to a mental or physical examination when directed in writing by the board; and

B. Is deemed to have waived all objections to the admissibility of the examining physician's testimony or reports on the ground that these constitute a privileged communication.

Pursuant to Title 4, section ~~1153~~ 184, subsection 6, the Administrative District Court shall immediately suspend the certificate of a physician assistant who can be shown, through the results of the medical or physical examination conducted under this section or through other competent evidence, to be unable to render medical services with reasonable skill and safety to patients by reason of mental illness, alcohol intemperance, excessive use of drugs or narcotics or as a result of a mental or physical condition interfering with the competent rendering of medical services.

Sec. B-67. 32 MRSA §3282-A, sub-§1, ¶D, as repealed and replaced by PL 1991, c. 824, Pt. A, §68, is amended to read:

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative District Court in accordance with Title 4, chapter ~~25~~ 5.

Sec. B-68. 32 MRSA §3655-A, sub-§1, ¶D, as amended by PL 1993, c. 600, Pt. A, §248, is further amended to read:

D. If the board concludes that suspension or revocation of the license is in order, the board may file a complaint in the Administrative District Court in accordance with Title 4, chapter ~~25~~ 5.

Sec. B-69. 32 MRSA §4175, 3rd ¶, as amended by PL 1989, c. 890, Pt. A, §5 and affected by §40, is further amended to read:

The Administrative District Court may revoke the certificate of an operator, in accordance with Title 4, chapter ~~25~~ 5, when it is found that the operator has practiced fraud or deception; that reasonable care, judgment or the application of the operator's knowledge or ability was not used in the performance of the operator's duties; or that the operator is incompetent or unable properly to perform the operator's duties.

Sec. B-70. 32 MRSA §4864, first ¶, as amended by PL 1997, c. 246, §21, is further amended to read:

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

Sec. B-71. 32 MRSA §4865-A, first ¶, as amended by PL 1993, c. 404, Pt. A, §11, is further amended to read:

The board, on the board's own motion or upon complaint made to 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 veterinary technicians have occurred. Hearings conducted under this section are considered "adjudicatory proceedings" and are conducted in

accordance with the provisions of Title 5, chapter 375, subchapter IV. The board may issue subpoenas subject to the provisions of Title 5, section 9060. If the board considers that a veterinary technician has committed any of the acts set forth in this section, the board shall either report the board's findings to the Attorney General for prosecution in the Administrative District Court for suspension or revocation of the veterinary technician's registration in accordance with Title 4, chapter ~~25~~ 5; place the licensee on probation for a certain period of time during which the licensee shall file periodic affidavits of the licensee's duties in accordance with the standards set by the board; or censure, by letter, the veterinary technician. The following acts are grounds for disciplinary action by the board or for revocation or suspension by the Administrative District Court:

Sec. B-72. 32 MRSA §4913, sub-§1, as amended by PL 1983, c. 413, §184, is further amended to read:

1. Powers of board and District Court Judge concerning complaints. The board shall investigate or cause to be investigated all complaints against certified geologists or soil scientists and persons granted temporary authorizations pursuant to this chapter and all cases of violations of this chapter. The board may, pursuant to Title 5, section 10004, suspend or revoke a license issued by it. In addition, the board may refuse to issue or renew the license; or the Administrative District Court may, pursuant to Title 4, chapter ~~25~~ 5, suspend, revoke or refuse to renew the license of any registrant who is found guilty of:

- A. The practice of any fraud or deceit in obtaining a certificate or registration;
- B. Any gross negligence, incompetence or misconduct in the practice of geology or soil science;
- C. Any felony or any crime adversely affecting the ethical standards of the professions regulated by this chapter, subject to the limitations of Title 5, chapter 341; or
- D. Any violation of this chapter or any rule of the board.

Sec. B-73. 32 MRSA §5018, first ¶, as amended by PL 1987, c. 395, Pt. A, §190, is further amended to read:

The board may, pursuant to Title 5, section 10004, revoke or suspend the license of a professional forester. In addition, the board may refuse to issue or renew the license; or the Administrative District Court may, pursuant to Title 4, chapter ~~25~~ 5, revoke, suspend or refuse to renew the license; of a professional forester who has been found guilty of any deceit,

misconduct, misrepresentation, fraud, incompetence or gross negligence in ~~his~~ professional practice, or has been guilty of any fraud or deceit in obtaining ~~his~~ a license, or aids or abets any person ~~alleged~~ alleged to have been defrauded in the violation of any provisions of this chapter or fails in any material respect to comply with the provisions of this chapter.

Sec. B-74. 32 MRSA §12274, sub-§1, ¶A, as enacted by PL 1987, c. 489, §2, is amended to read:

A. Report its findings to the Attorney General for prosecution in the ~~Administrative District~~ Court for suspension in accordance with Title 4, chapter ~~25~~ 5; or

Sec. B-75. 32 MRSA §13068, sub-§1, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

1. Licensing. After hearing, the commission may affirm, modify or reverse the director's decision to deny an examination, license or renewal license; or, in its discretion, file a complaint in the ~~Administrative District~~ Court pursuant to Title 4, chapter ~~25~~ 5 and Title 5, section 10051, to determine whether a license may be denied.

Sec. B-76. 35-A MRSA §704, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Violation of rules. If the commission finds that a public utility has willfully or recklessly violated any substantive rule promulgated by the commission pursuant to the authority granted in this section, the commission may bring a complaint against the public utility before the ~~Administrative District~~ Court as provided in Title 5, section 10051, subsection 4, except that the jurisdiction in the ~~Administrative District~~ Court ~~shall~~ does not include the issuance, renewal, denial or revocation of a license of a public utility. The ~~Administrative District~~ Court may impose fines in accordance with Title 4, section ~~156~~ 184, subsection 8.

Sec. B-77. Transition provisions.

1. The District Court is the successor in every way to the powers, duties and functions of the former Administrative Court.

2. Any positions authorized and allocated, subject to the personnel laws, to the Administrative Court are transferred to the District Court and may continue to be authorized.

3. All records, property and equipment previously belonging to or allocated for the use of the former Administrative Court become, on the effective

date of this Act, part of the property of the District Court.

Sec. B-78. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Administrative Court" appear or reference is made to those words, they are amended to read and mean "District Court," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-79. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

JUDICIAL DEPARTMENT

Courts - Supreme, Superior, District and Administrative

Personal Services (\$1,000)

Deappropriates funds from savings from stipends that will no longer be paid due to the elimination of one Administrative Court Chief Judge position and one Administrative Court Associate Judge position and the establishment of 2 District Court Judge positions.

Sec. B-80. Effective date. This Part takes effect March 15, 2001.

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

Effective March 9, 2000, unless otherwise indicated.

CHAPTER 548

S.P. 867 - L.D. 2277

An Act to Conform the Maine Tax Laws for 1999 with the United States Internal Revenue Code

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