

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

Having satisfied its liabilities in compliance with this subsection, a district is no longer a participating local district, and the retirement system must return to it any assets in the district's retirement system account exceeding the amount necessary to comply. Satisfaction of district liabilities pursuant to this subsection bars any future claim by any person against the retirement system for liability to or responsibility for any retiree, beneficiary or the district, and a retiree, beneficiary or the district is not thereafter subject to this Part.

**Sec. 11. 5 MRSA §18258, sub-§1, ¶B**, as amended by PL 1991, c. 479, §4, is further amended to read:

B. Any employee who enlists in or is inducted or drafted into the service of the Armed Forces of the United States ~~in a federally recognized period of conflict, as defined in Title 37-B, section 504, subsection 4, paragraph A 1, subparagraph (3), including:~~

~~(1) During World War I between April 6, 1917, and March 3, 1921; and~~

**Sec. 12. Legislative findings.** In establishing the Consumer Price Index for All Urban Consumers as the benchmark for the cost-of-living adjustment available under the laws governing the Maine State Retirement System in the Maine Revised Statutes, Title 5, section 17001, subsection 9, paragraph A, the Legislature finds that that index is the most reflective of the purchasing power of the dollar for the broadest population of consumers, including retired consumers.

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

Effective May 16, 2001.

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**CHAPTER 182**

**H.P. 465 - L.D. 593**

**An Act to Establish the Office of Securities within the Department of Professional and Financial Regulation**

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

**Sec. 1. 2 MRSA §6, sub-§4**, as amended by PL 1997, c. 643, Pt. H, §2, is further amended to read:

**4. Range 88.** The salaries of the following state officials and employees are within salary range 88:

Director, Bureau of Employee Relations;

Director, Bureau of Air Quality;

Director, Bureau of Land and Water Quality;

Director, Bureau of Remediation and Waste Management;

Deputy Commissioner, Environmental Protection;

Director, Office of Consumer Credit Regulation; ~~and~~

Director, Office of Licensing and Registration; ~~and~~

Administrator, Office of Securities.

**Sec. 2. 5 MRSA §934, sub-§1, ¶¶C and D**, as enacted by PL 1983, c. 729, §4, are amended to read:

C. Superintendent, Bureau of Insurance; ~~and~~

D. Assistant to the Commissioner; ~~and~~

**Sec. 3. 5 MRSA §934, sub-§1, ¶E** is enacted to read:

E. Administrator, Office of Securities.

**Sec. 4. 9-B MRSA §212-A**, as amended by PL 1995, c. 502, Pt. H, §5, is repealed.

**Sec. 5. 10 MRSA §8001, sub-§3-A** is enacted to read:

**3-A. Office of Securities.** Office of Securities; ~~and~~

**Sec. 6. 19-A MRSA §2201, sub-§12**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**12. Reporting.** On or before April 1, 1994, or as soon as economically feasible and at least annually, all boards subject to this section and the Department of Professional and Financial Regulation, Division of Administrative Services shall provide to the department specified information, on magnetic tape or other machine-readable form, according to standards established by the department, about applicants for licensure and all current licensees. The Department of Professional and Financial Regulation, Office of Securities ~~Division~~ shall provide the specified information for only those current licensees that are residents of this State. The information to be provided must include all of the following information about the licensee:

A. Name;

- B. Address of record;
- C. Federal employer identification number or social security number;
- D. Type of license;
- E. Effective date of license or renewal;
- F. Expiration date of license; and
- G. Active or inactive status.

**Sec. 7. 24-A MRSA §6207, sub-§1**, as enacted by PL 1987, c. 482, §1, is amended to read:

**1. Copy of declaration; filing.** A copy of the declaration prepared pursuant to the Maine Condominium Act, Title 33, chapter 31, along with a copy of any registration statement filed with the United States Securities and Exchange Commission or the ~~Bureau of Banking~~, Office of Securities Division, shall ~~must~~ be filed with the superintendent prior to the sale of any of the condominium units; and

**Sec. 8. 24-A MRSA §6208, 2nd ¶**, as enacted by PL 1987, c. 482, §1, is amended to read:

If a registration statement for the cooperative is filed with the ~~Bureau of Banking~~, Office of Securities Division, pursuant to the Revised Maine Securities Act, Title ~~43~~ 32, chapter 105, a copy shall ~~shall~~ must be simultaneously filed with the superintendent and a copy shall ~~must~~ must be given to every purchaser of a membership interest or share in the cooperative at least 10 days prior to the sale of the interest or share. Any information required to be filed with the superintendent pursuant to this chapter and contained in the referenced registration materials may be filed in that format with the superintendent and need not be submitted under separate cover. If a registration statement is not filed with the Office of Securities Division, a disclosure statement containing, to the extent applicable, all the information required to register a security by qualification, pursuant to Title 32, section 10404, shall ~~must~~ must be filed with the superintendent and given to every subscriber at least 10 days prior to the sale. In the alternative, a provider may elect to provide each subscriber a disclosure statement containing those provisions stated in section 6209 determined to be required by the superintendent.

**Sec. 9. 32 MRSA c. 105, sub-c. I** is amended by repealing the subchapter headnote and enacting the following in its place:

## SUBCHAPTER I

### OFFICE OF SECURITIES AND SECURITIES ADMINISTRATOR

**Sec. 10. 32 MRSA §§10102 and 10103** are enacted to read:

#### **§10102. Office of Securities**

There is created within the Department of Professional and Financial Regulation the Office of Securities, referred to in this subchapter as the "office," which is responsible for the administration and enforcement of the Revised Maine Securities Act; the Maine Commodity Code; and the law regulating the sale of business opportunities.

#### **§10103. Administrator and other personnel**

**1. Appointment; term; qualifications.** The activities of the office are directed by the Securities Administrator, who is appointed by the Commissioner of Professional and Financial Regulation. The administrator is appointed for a term that is coterminous with the term of the Governor, or until a successor is appointed and qualified. Any vacancy occurring must be filled by appointment for the unexpired portion of the term. The administrator may be removed from office for cause by the commissioner, and Title 5, section 931, subsection 2 does not apply. A person appointed as administrator must have knowledge of, or experience in, the theory and practice of securities.

**2. Organization.** With the approval of the commissioner, the administrator shall organize the office in such a manner as the administrator considers necessary to carry out the administrator's responsibilities.

**3. Employees.** The administrator may employ personnel as the business of the office may require, subject to the commissioner's approval and in accordance with the Civil Service Law. The qualifications of the personnel must reflect the needs and responsibilities of the office's regulatory functions. The administrator may authorize senior personnel of the office to carry out the administrator's duties and authority.

The administrator may employ or engage such expert, professional or other assistance as may be necessary to assist the office in carrying out its functions.

In addition to salaries or wages, all employees of the office must receive their actual expenses incurred in the performance of their official duties.

**4. Training of office personnel.** At the expense of the office, the administrator may train the office's

employees, or have them trained, in a manner the administrator determines desirable, to carry out the purposes of the office.

**Sec. 11. 32 MRSA §10702, sub-§3**, as enacted by PL 1999, c. 184, §23, is amended to read:

**3. Contracts with other agencies.** The administrator may employ and engage experts, professionals and other personnel of other state and federal regulatory agencies as necessary to assist the Office of Securities Division in carrying out its regulatory functions. The administrator may contract office staff to other state and federal agencies to assist those agencies in carrying out their regulatory functions. Contracts for services under this subsection are designated sole source contracts and are not subject to the procurement requirements of Title 5, chapter 155.

**Sec. 12. 32 MRSA §10708, sub-§8**, as enacted by PL 1989, c. 542, §65, is repealed.

**Sec. 13. 32 MRSA §11210** is enacted to read:

**§11210. Short title**

This chapter is known and may be cited as the "Maine Commodity Code."

**Sec. 14. 33 MRSA §1604-106**, as enacted by PL 1981, c. 699, is amended to read:

**§1604-106. Public offering statement; condominium securities**

If an interest in a condominium is currently registered with the Securities and Exchange Commission of the United States or the Office of Securities Division of the Bureau of Banking of this State, a declarant satisfies all requirements relating to the preparation of a public offering statement of this Act if ~~he~~ the declarant delivers to the purchaser a copy of the public offering statement filed with the Securities and Exchange Commission or the Office of Securities Division. When a condominium is located in a state other than Maine, under the laws of which a public offering statement is required in detail similar to the requirements of this Act, a declarant satisfies all requirements relating to the preparation of a public offering statement if ~~he~~ the declarant delivers to the purchaser a copy of ~~such~~ that public offering statement.

**Sec. 15. Transition.** The following provisions apply to the reassignment of the duties and responsibilities of the Department of Professional and Financial Regulation, Bureau of Banking, Securities Division to the Office of Securities.

1. The Office of Securities is the successor in every way to the powers, duties and functions

transferred under this Act and formerly held by the Securities Division.

2. All rules, regulations and procedures of the Securities Division in effect upon the effective date of this Act remain in effect until rescinded, revised or amended.

3. All contracts, agreements and compacts of the Securities Division in effect upon the effective date of this Act remain in effect until they expire or are altered by the parties involved in the contracts, agreements or compacts.

4. Any positions authorized and allocated, subject to the personnel laws, to the Securities Division are transferred to the Office of Securities and may continue to be authorized.

5. All records, property and equipment previously belonging to or allocated for the use of the Securities Division become, on the effective date of this Act, the property of the Office of Securities.

**Sec. 16. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Securities Division" appear or reference is made to those words or that division, they are amended to read and mean "Office of Securities" or that office, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

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**CHAPTER 183**

**S.P. 518 - L.D. 1637**

**An Act to Amend the Revised Maine Securities Act**

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

**PART A**

**Sec. A-1. 32 MRSA §10303**, as amended by PL 1997, c. 168, §§6 and 7, is further amended to read:

**§10303. Investment adviser and investment adviser representative licensing requirement**

**1. Investment advisers and investment adviser representatives.** A person may not act in this State as an investment adviser or an investment adviser representative unless licensed or exempt from licensing under this Act.