

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

initial licensure, ~~and or~~ the practice of nursing by graduates of board-approved programs ~~pending the results of the first licensing examination for which they are eligible following graduation who are participating in a structured orientation program specifically designed for graduates of board-approved nursing programs as defined by the board~~, if they practice under on-site delegation and supervision of a registered professional nurse and only in the practice setting. The board may, by rule or by policy, define what constitutes supervision and a practice setting;

Sec. 2. 32 MRSA §2103, sub-§7, as enacted by PL 2003, c. 204, Pt. H, §4, is amended to read:

7. Nursing services by successful candidates of the National Council of State Boards of Nursing, Inc.'s National Council Licensure Examination pending receipt of United States social security number. The practice of nursing for a period not to exceed 90 days by an applicant for licensure as a registered professional nurse or practical nurse who has passed the National Council of State Boards of Nursing, Inc.'s National ~~Council's Learning Extension licensure examination~~ Council Licensure Examination and has met all requirements for licensure except obtaining a United States social security number, as required by Title 36, section 175.

Sec. 3. 32 MRSA §2153-A, last paragraph, as repealed and replaced by PL 1995, c. 625, Pt. A, §38, is repealed.

Sec. 4. 32 MRSA §2153-B is enacted to read:

§2153-B. Liaison; limitations

The Commissioner of Professional and Financial Regulation shall act as a liaison between the board and the Governor. The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board. The commissioner may require the board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board is operating administratively within the requirements of this chapter.

Sec. 5. 32 MRSA §2203 is repealed.

Sec. 6. 32 MRSA §2207, sub-§2, as amended by PL 1993, c. 600, Pt. A, §130, is further amended to read:

2. Reexamination. For reexamination, a fee ~~to be determined by the board based on the number of areas to be covered and~~ not to exceed \$100; and

Sec. 7. 32 MRSA §2252, as amended by PL 1991, c. 153, §3 and affected by §5, is further amended to read:

§2252. License; examination

The applicant is required to pass a written examination in subjects ~~deemed~~ considered necessary by the board to determine the fitness of the applicant to practice practical nursing. ~~Each written examination may be supplemented by an oral or practical examination.~~ Upon the applicant's successfully passing the examination, the board shall issue to the applicant a license to practice as a licensed practical nurse, that license to be in force for a period of at least one year until the birth date of the licensee. The initial license is renewable as provided in section 2255.

See title page for effective date.

CHAPTER 164

H.P. 900 - L.D. 1303

An Act To Register Nonbank Loan Officers

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

Sec. 1. 9-A MRSA §1-301, sub-§22-A is enacted to read:

22-A. "Loan officer" means an individual who is employed or retained and supervised by a licensed supervised lender that is not a supervised financial organization, or by a registered credit services organization, whose primary job responsibilities include direct contact with mortgage applicants and who accepts applications for and originates, negotiates, solicits, arranges for or obtains mortgage loans. "Loan officer" does not include employees who conduct purely administrative or clerical tasks. "Loan officer" does not include a sole proprietor licensed as and acting solely as a supervised lender pursuant to section 2-302, subsection 1 or registered as and acting solely as a credit services organization pursuant to section 10-201.

Sec. 2. 9-A MRSA §2-302, sub-§1-A is enacted to read:

1-A. At the time of application for a license to make supervised loans and on an ongoing basis during the term of any such license, the applicant shall apply to the administrator for registration of all loan officers employed or retained by the applicant. Applications must be filed in a manner prescribed by the administrator, must include the names, addresses and work locations of the loan officers and such additional

information as is reasonably requested by the administrator and must be accompanied by an application fee of up to \$20 for each loan officer, up to a maximum of \$200 in total. An applicant's registration of a loan officer within 90 days of the date that registration would otherwise be required does not constitute a violation of this subsection.

Sec. 3. 9-A MRSA §2-302, sub-§2, as amended by PL 1999, c. 184, §2, is further amended to read:

2. ~~No~~ A license to make supervised loans or a registration certificate as a loan officer may not be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and of the members thereof, if the applicant is a copartnership or association, and of the officers and directors thereof, if the applicant is a corporation, and the character and fitness of the loan officers thereof, are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this Act. In determining the financial responsibility of an applicant proposing to engage in making insurance premium loans, the administrator shall consider the liabilities the lender may incur for erroneous cancellation of insurance.

A. Every applicant shall also, at the time of filing such application, file with the administrator, if the administrator so requires, a bond satisfactory to the administrator in an amount not to exceed \$50,000. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond must run to the State for the use of the State and of any person or persons who may have a cause of action against the licensee under this Act. The bond must be conditional that the licensee will faithfully conform to and abide by the provisions of this Act and to all rules lawfully made by the administrator under this Act and will pay to the State and to any such person or persons any and all amounts of money that may become due or owing to the State or to such person or persons from the licensee under and by virtue of this Act during the period for which the bond is given.

B. As used in this section, the term "financial responsibility" means that the applicant has available for the operation of the licensed business net assets of at least \$25,000 and upon issuance of a license, each licensee shall maintain net assets of at least \$25,000 ~~which that~~ are either used or readily available for use in the conduct of the business of each office of the licensee in which supervised loans are made.

D. In determining the financial responsibility of a nonprofit organization engaged in the financing

of housing for low-income people under a program specifically designed for that purpose, the administrator may waive the requirement of a bond and availability of \$25,000 of net assets, if the applicant submits appropriate additional evidence of financial responsibility.

Sec. 4. 9-A MRSA §2-302, sub-§3, as enacted by PL 1973, c. 762, §1, is amended to read:

3. Upon written request, the applicant is entitled to a hearing on the question of ~~his~~ the applicant's qualifications for a license or registration if (a) the administrator has notified the applicant in writing that ~~his~~ the application has been denied, or (b) the administrator has not issued a license or registration within 60 days after the application for the license or registration was filed. A request for a hearing may not be made more than 15 days after the administrator has mailed a writing to the applicant notifying ~~him~~ the applicant that the application has been denied and stating in substance the administrator's findings supporting denial of the application.

Sec. 5. 9-A MRSA §2-302, sub-§5-A is enacted to read:

5-A. A licensee may conduct the business of making supervised loans only through a loan officer who possesses a current, valid registration certificate. A loan officer must be registered at the loan officer's principal licensed work location and may then work from any licensed location of the supervised lender. The registration of a loan officer is valid only when that person is employed or retained and supervised by a licensed supervised lender. When a loan officer ceases to be employed by a licensed supervised lender, the supervised lender shall promptly notify the administrator in writing.

Sec. 6. 9-A MRSA §2-303, as amended by PL 1985, c. 763, Pt. A, §26 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§2-303. Revocation or suspension of license or registration

1. The administrator may file a complaint with the District Court to suspend or revoke a license to make supervised loans or a registration as a loan officer if the administrator finds reason to believe, after investigation or hearing, or both, that:

A. The licensee or registrant has violated this Act or any rule or order made pursuant to this Act; or

B. Facts or conditions exist ~~which that~~ would clearly have justified the administrator in refusing to grant a license or registration had these facts or conditions been known to exist at the

time the application for the license or registration was made.

An affirmative finding by the District Court of either cause ~~shall be~~ is sufficient to suspend or revoke the license or registration.

1-A. The administrator may refuse to renew a license or registration, after notice and opportunity for a hearing has been provided to the licensee or registrant, for any of the reasons set forth in subsection 1.

2. No revocation or suspension of a license ~~shall impair~~ or registration impairs or ~~affect~~ affects the obligation of any preexisting lawful contract between the licensee or registrant and any debtor.

3. The administrator may reinstate a license, terminate a suspension or grant a new license or registration to a person whose license or registration has been revoked if no fact or condition then exists ~~which that~~ clearly would have justified the administrator in refusing to grant a license or registration.

4. No revocation, suspension, annulment or withdrawal of a license or registration is lawful unless, prior to the institution of proceedings by the administrator, ~~he~~ the administrator gave notice by mail to the licensee or registrant of facts or conduct ~~which that~~ warrant the intended action; and the licensee or registrant was given an opportunity to show compliance with all lawful requirements for the retention of the license or registration.

Sec. 7. 9-A MRSA §2-303-A, as enacted by PL 2001, c. 371, §4, is amended to read:

§2-303-A. Temporary suspension of license or registration

Notwithstanding Title 5, sections 10003 and 10004 and Title 10, section 8003, if the public interest or the protection of borrowers so requires, the administrator may, by order, suspend a license to make supervised loans or registration as a loan officer or postpone the effective date of such a license or registration. Upon entry of the order, the administrator shall promptly notify the applicant ~~or~~ licensee or registrant that an order has been entered, of the reasons for the order and that, within 15 days after the receipt of a written request by the applicant ~~or~~ licensee or registrant, the matter must be scheduled for hearing. Section 2-303 applies to all subsequent proceedings.

Sec. 8. 9-A MRSA §10-102, sub-§3 is enacted to read:

3. "Loan officer" has the same meaning as in section 1-301, subsection 22-A.

Sec. 9. 9-A MRSA §10-201, as amended by PL 1993, c. 495, §2, is further amended to read:

§10-201. Registration and annual reregistration

A person desiring to engage or continue in business in this State as a credit services organization shall apply to the administrator for registration under this article on or before January 31st of each year. The application must be in a form prescribed by the administrator. The administrator may refuse the application if it contains erroneous or incomplete information. At the time of application and on an ongoing basis during the term of any such registration, the applicant shall apply to the administrator for registration of all loan officers employed or retained by the applicant. An application for registration as a loan officer must be filed in a manner prescribed by the administrator and include the name, address and work location of the loan officer and such additional information as is reasonably requested by the administrator. An applicant's registration of a loan officer within 90 days of the date that registration would otherwise be required does not constitute a violation of this section. A registration may not be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and where applicable, its partners, officers or directors and the character and fitness of its loan officers, warrant belief that the business will be operated honestly and fairly within the purposes of this Title.

The application ~~shall~~ must include an initial fee of \$200. Annual reregistration ~~shall~~ must include a fee of \$100. Applicants and registrants must pay an additional fee of up to \$20 for each loan officer, up to a maximum of \$200 in total.

A registered credit services organization may conduct business only through a loan officer who possesses a current, valid registration certificate. A loan officer must register at the loan officer's principal registered work location and may then work from any registered location of the credit services organization. The registration of a loan officer is valid only when that person is employed or retained and supervised by a registered credit services organization. When a loan officer ceases to be employed by a registered credit services organization, the credit services organization shall promptly notify the administrator in writing.

Sec. 10. 9-A MRSA §10-401, first ¶, as amended by PL 1993, c. 495, §5, is further amended to read:

Any credit services organization or loan officers of any credit services organization that ~~violates~~ violate any provision of this Title or any rule issued by the administrator, or that through any unfair, unconscion-

able or deceptive practice ~~causes~~ cause actual damage to a consumer, ~~is~~ are subject to the following:

Sec. 11. 9-A MRSA §10-401, sub-§4, as amended by PL 1993, c. 495, §5, is further amended to read:

4. A civil action by an aggrieved consumer in which that consumer has the right to recover actual damages from the credit services organization or its loan officers in an amount determined by the court, plus costs of the action together with reasonable attorney's fees; and

Sec. 12. Appropriations and allocations. The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION,
DEPARTMENT OF**

Office of Consumer Credit Regulation 0091

Initiative: Allocates funds for a 1/2-time Senior Consumer Credit Examiner position and associated costs to register and track loan officers.

OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
POSITIONS -		
LEGISLATIVE COUNT	0.500	0.500
Personal Services	\$31,666	\$34,107
All Other	\$11,834	\$4,910
OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$43,500	\$39,017

See title page for effective date.

CHAPTER 165

H.P. 369 - L.D. 494

**An Act To Establish a Program for
the Purchase of Prescription Drugs
from out of the Country for the
Elderly and Disabled**

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

Sec. 1. 22 MRSA §254-C is enacted to read:

**§254-C. Prescription drug program for out-of-
country prescription drugs**

The department shall establish a prescription drug program, when permitted by federal law or by the granting of a waiver by the United States Secretary of Health and Human Services, to provide access to prescription drugs from out of the country to residents of the State who are 62 years of age or older or have disabilities. The program must operate within the

limits of federal law and regulation and state law and rule.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Member" means a person who meets the eligibility requirements of subsection 2 and who is enrolled in the program.

B. "Program" means the prescription drug program under this section.

2. Eligibility. Residents of the State are eligible for the program if they are 62 years of age or older or have disabilities.

3. Access. Access to prescription drugs under the program is subject to the requirements of this subsection.

A. The member must show evidence of use of a pharmacist licensed in the State to coordinate all prescriptions and prevent harmful drug interactions.

B. The program may provide access to prescription drugs that a member has taken according to prescription for at least 15 days.

C. The program may provide access to prescription drugs from pharmacies located outside the country, provided that the department has specifically approved the use of any pharmacies located outside the country.

D. The program may provide access to prescription drugs that are brand-name drugs in their original sealed packaging.

E. The program may not provide access to antibiotics for acute illnesses or prescription drugs for alleviation of pain that are habit-forming.

4. Testing. The program must include a procedure for random testing of drugs to ensure purity and safety for the member.

5. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.
