

MAINE STATE LEGISLATURE

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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

2. Rulemaking. The commission may adopt rules to establish procedures and audit requirements related to the requirements of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Effective May 24, 2005.

CHAPTER 210

S.P. 472 - L.D. 1374

An Act To Require a Surcharge on Probate Documents

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

Sec. 1. 18-A MRSA §1-607 is enacted to read:

§1-607. Surcharge for restoration, storage and preservation of records

(1) In addition to any other fees required by law, a register of probate shall collect a surcharge of \$10 per petition, application or complaint, except for name changes, filed in the Probate Court.

(2) The surcharge imposed in subsection (1) must be transferred to the county treasurer, who shall deposit it in a separate, nonlapsing account within 30 days of receipt. Money in the account is not available for use as general revenue of the county. Interest earned on the account must be credited to the account.

(3) The money in the account established in subsection (2) must be used for the restoration, storage and preservation of the records filed in the office of the register of probate and in Probate Court. No withdrawals from this account may be made without the express written request or approval of the register of probate.

(4) The judge of probate may waive the surcharge in subsection (1) if the judge believes that it will prove a hardship for the individual filing the petition, application or complaint.

See title page for effective date.

CHAPTER 211

H.P. 883 - L.D. 1286

An Act To Require Additional Disclosure Regarding Private Mortgage Insurance

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

Sec. 1. 33 MRSA §506 is enacted to read:

§506. Disclosure regarding private mortgage insurance

With respect to a mortgage loan on residential real property for which the processor or underwriter of that loan also engages in the business of private mortgage insurance, a supervised lender, as defined in Title 9-A, section 1-301, subsection 39, or a credit services organization, as defined in Title 9-A, section 10-102, shall disclose to the loan applicant at the time of application the fact that the processor or underwriter is also in the business of private mortgage insurance. Failure to provide the disclosure required by this section does not annul, alter or affect the validity or enforceability of the mortgage loan.

See title page for effective date.

CHAPTER 212

H.P. 1029 - L.D. 1466

An Act To Amend the Law Governing Spill Prevention Control and Countermeasure Regulation of Oil Storage Facilities

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

Sec. 1. 38 MRSA §570-K, sub-§5, as amended by PL 2003, c. 245, §19, is further amended to read:

5. Spill prevention and control. An above-ground oil storage facility used in the marketing and distribution of oil to others must be operated in compliance with the federal requirements for the preparation and implementation of spill prevention control and countermeasure plans under 40 Code of Federal Regulations, 112 in effect on April 17, 2003. Failure to comply with those federal requirements in accordance with the deadlines set by the United States Environmental Protection Agency constitutes a violation of this Title. If the department believes that a facility's plan does not satisfy those federal requirements, the department shall request an opinion from

the United States Environmental Protection Agency as to the legal adequacy of the plan and any amendment necessary to bring the facility into compliance with those federal requirements. The department shall prepare educational and technical materials for use by facilities affected by this subsection. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 15, 2006 and on that date every 2 years thereafter on activities undertaken by the department under this subsection. This subsection is repealed October 1, 2005.

Sec. 2. Report. The January 15, 2006 report required under the Maine Revised Statutes, Title 38, section 570-K, subsection 5 must include an evaluation of and recommendations regarding financial consequences for noncompliance with Title 38, section 570-K, subsection 5, including, but not limited to, higher deductible requirements.

See title page for effective date.

CHAPTER 213

H.P. 31 - L.D. 28

An Act To Require That Mental Health Workers with Family Therapist Licenses Be Recognized as Licensed Professionals for Purposes of Insurance Reimbursement

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

Sec. 1. 24-A MRSA §2744, as amended by PL 2003, c. 65, §1 and affected by §5, is further amended to read:

§2744. Mental health services

1. Notwithstanding any provision of a health insurance policy subject to this chapter, whenever the policy provides for payment or reimbursement for services that are within the lawful scope of practice of a psychologist licensed to practice in this State; ~~a certified social worker licensed for the independent practice of social work in this State who has at least a masters degree in social work from an accredited educational institution, has been employed in social work for at least 2 years, and who, after January 1, 1985, must be licensed as a clinical social worker in this State;~~ a licensed clinical professional counselor licensed for the independent practice of counseling ~~who has at least a masters degree in counseling from an accredited educational institution, has been employed in counseling for at least 2 years and, after January 1, 2002, must be licensed as a clinical professional counselor in this State, a marriage and~~

~~family therapist licensed as a marriage and family therapist in this State or a licensed nurse who is certified by the American Nurses' Association as a clinical specialist in adult psychiatric and mental health nursing or as a clinical specialist in child and adolescent psychiatric and mental health nursing, any person covered by the policy is entitled to reimbursement for these services if the services are performed by a physician;~~ a psychologist licensed to practice in this State; ~~a certified social worker licensed for the independent practice of social work who has at least a masters degree in social work from an accredited educational institution, who has been employed in social work for at least 2 years, and who, after January 1, 1985, must be licensed as a clinical social worker in this State;~~ a licensed clinical professional counselor licensed for the independent practice of counseling ~~who has at least a masters degree in counseling from an accredited educational institution, has been employed in counseling for at least 2 years and, after January 1, 2002, must be licensed as a clinical professional counselor in this State;~~ a marriage and family therapist licensed as a marriage and family therapist in this State or a licensed nurse certified by the American Nurses' Association as a clinical specialist in adult or child and adolescent psychiatric and mental health nursing. Payment or reimbursement for services rendered by clinical social workers licensed in this State, licensed clinical professional counselors licensed in this State, licensed marriage and family therapists licensed in this State or licensed nurses certified by the American Nurses' Association as clinical specialists in adult or child and adolescent psychiatric and mental health nursing may not be conditioned upon prior diagnosis or referral by a physician or other health care professional, except in cases where diagnosis of the condition for which the services are rendered is beyond the scope of their licensure.

2. Nothing in subsection 1 may be construed to require a health insurance policy subject to this chapter to provide for reimbursement of services that are within the lawful scope of practice of a psychologist licensed to practice in this State, a clinical social worker licensed in this State, a clinical professional counselor licensed to practice in this State, a licensed marriage and family therapist licensed in this State, a certified social worker licensed to practice in this State; or a certified nurse licensed to practice in this State.

3. Mental health services provided by counseling professionals. Except as provided in subsection 1 with regard to reimbursement of clinical professional counselors and marriage and family therapists licensed in this State, an insurer that issues individual health care contracts providing coverage for mental health services shall offer coverage for those services when performed by a counseling professional