

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

14. Appeals. A candidate who has been denied certification as a Maine Clean Election Act candidate ~~or~~ the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the commission as follows.

A. A challenger may appeal to the full commission within ~~3~~ 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal.

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the commission decision was improper. The commission must rule on the appeal within 3 days after the completion of the hearing.

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court according to the procedure set forth in section 356, subsection 2, paragraphs D and E.

D. A candidate whose certification by the commission as a Maine Clean Election Act candidate is revoked on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court find that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any.

Sec. 33. **21-A MRSA §1127, sub-§1**, as amended by PL 2003, c. 81, §1, is further amended to read:

1. Civil fine. In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a ~~civil penalty~~ fine not to exceed \$10,000 per violation payable to the fund. The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds. This ~~penalty~~ fine is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or

transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

Sec. 34. Appropriations and allocations.

The following appropriations and allocations are made.

ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL

Governmental Ethics and Election Practices, Commission on 0414

Initiative: Deallocates to reflect savings realized through on-line data entry.

OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
All Other	(\$7,500)	(\$7,500)
<hr/>		
OTHER SPECIAL REVENUE		
FUNDS TOTAL	(\$7,500)	(\$7,500)

See title page for effective date.

CHAPTER 302

S.P. 424 - L.D. 1210

An Act To Amend the Laws Relating to Corporations, Limited Partnerships, Limited Liability Companies and Limited Liability Partnerships

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

Sec. 1. **13-B MRSA §102, sub-§§4-A, 5-C
and 11-A** are enacted to read:

4-A. Deliver; delivery. "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.

5-C. Electronic transmission. "Electronic transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient.

11-A. Sign; signature. "Sign" or "signature" includes any manual, facsimile, conformed or electronic signature.

Sec. 2. 13-B MRSA §104, sub-§1, ¶B, as amended by PL 1997, c. 376, §17, is further amended to read:

B. In the case of other documents:

- (1) By the clerk or secretary;
- (2) By the ~~president or a vice president and by the secretary or an assistant secretary, or such other officer as the bylaws may designate as a 2nd certifying officer chair of the board of directors of a foreign corporation or a domestic corporation, by its president or by another of its officers; or~~
- (3) ~~If there are no such officers, then by a majority of the directors or by such directors as may be designated by a majority of directors then in office; or~~
- (4) If there are no ~~such~~ directors, then by the a specific member or members or such of them as may be designated by the members at a lawful meeting;

Sec. 3. 13-C MRSA §1102, sub-§6, as amended by PL 2003, c. 344, Pt. B, §97, is further amended to read:

6. Amend plan prior to filing articles of merger. The plan of merger may also include a provision that the plan may be amended prior to filing the articles of merger with the Secretary of State under section 1106, subsection 2. ~~If the shareholders of a domestic corporation that is a party to the merger are required or permitted to vote on the plan, the plan must provide that subsequent to approval of the plan by the shareholders the plan may not~~ Subsequent to any approval of the plan by shareholders of a domestic corporation that is a party to the merger, the plan may not without further shareholder approval be amended to:

A. Change the amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares or other securities, cash or other property to be received under the plan by the shareholders or owners of eligible interests in any party to the merger;

B. Change the articles of incorporation or the organic documents of any eligible entity that will survive or be created as a result of the merger, except for changes permitted by section 1005 or by comparable provisions of the organic laws of any such foreign corporation or domestic or foreign eligible entity; or

C. Change any of the other terms or conditions of the plan if the change would adversely affect the shareholders in any material respect.

Sec. 4. 13-C MRSA §1303, sub-§2, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. The record date fixed to determine the shareholders entitled to receive notice of and to vote at the meeting of shareholders to act upon a corporate action requiring appraisal rights ~~pursuant to section 1302 to 1305~~; or

Sec. 5. 13-C MRSA §1303, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Exception. Notwithstanding subsection 1, appraisal rights are available pursuant to section 1302 ~~to 1305~~ for the holders of any class or series of shares:

A. Who are required by the terms of a corporate action requiring appraisal rights ~~pursuant to sections 1302 to 1305~~ to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subsection 1 at the time the corporate action becomes effective;

B. When any of the shares or assets of a corporation are being acquired or converted, whether by merger, share exchange or otherwise, pursuant to a corporate action ~~pursuant to sections 1302 to 1305~~ by a person, or by an affiliate of a person, who:

(1) Is, or at any time in the one-year period immediately preceding approval by the corporation's board of directors of the corporate action requiring appraisal rights was, the beneficial owner of 20% or more of the voting power of the corporation, excluding any shares acquired pursuant to an offer for all shares having voting power if such offer was made within one year prior to the corporate action requiring appraisal rights for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action; or

(2) Directly or indirectly has, or at any time in the one-year period immediately preceding approval by the corporation's board of directors of the corporate action requiring appraisal rights had, the power, contractually or otherwise, to cause the appointment or election of 25% or more of the directors to the corporation's board of directors; or

C. When any of the shares or assets of a corporation are being acquired or converted, whether by merger, share exchange or otherwise, pursuant to a corporate action by a person, or by an affiliate of a person, who is, or at any time in the one-year period immediately preceding approval by the corporation's board of directors of the corporate action requiring appraisal rights pursuant to section 1302 was, a senior executive or director of the corporation or a senior executive of any affiliate of the corporation, and that senior executive or director, as a result of the corporate action, receives a financial benefit not generally available to other shareholders as such, other than:

(1) Employment, consulting, retirement or similar benefits established separately and not as part of or in contemplation of the corporate action;

(2) Employment, consulting, retirement or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in section 873; or

(3) In the case of a director of the corporation who will, in the corporate action, become a director of the acquiring entity in the corporate action or one of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.

For the purposes of this subsection, the term "beneficial owner" means any person who, directly or indirectly, through any contract, arrangement or understanding, other than a revocable proxy, has or shares the power to vote or to direct the voting of shares, except that a member of a national securities exchange may not be considered to be a beneficial owner of securities held directly or indirectly by the member on behalf of another person solely because that member is the record holder of such securities if the member is precluded by the rules of such exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When 2 or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed by that agreement is considered to have acquired beneficial ownership, as of the date of such agreement, of all voting shares of

the corporation beneficially owned by any member of the group.

Sec. 6. 13-C MRSA §1306, sub-§2, ¶A, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

A. Submits to the corporation the record shareholder's written consent to the assertion of the rights no later than the date referred to in section ~~1322~~ 1323, subsection 2, paragraph B, subparagraph (2); and

Sec. 7. 13-C MRSA §1434, sub-§3, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

3. Protection of interests. Pursuant to this section, the court may grant relief other than dissolution as an alternative to a decree of dissolution or whenever the circumstances of the case are such that the other relief, but not dissolution, would be appropriate, and the other relief should be granted when ~~such that~~ relief would furnish greater protection of the interests of creditors and shareholders than would dissolution.

Sec. 8. 31 MRSA §402, sub-§§2-A, 3-A and 16 are enacted to read:

2-A. Deliver; delivery. "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.

3-A. Electronic transmission. "Electronic transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient.

16. Sign; signature. "Sign" or "signature" includes any manual, facsimile, conformed or electronic signature.

Sec. 9. 31 MRSA §602, sub-§§3-A, 3-B and 14-A are enacted to read:

3-A. Deliver; delivery. "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.

3-B. Electronic transmission. "Electronic transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient.

14-A. Sign; signature. "Sign" or "signature" includes any manual, facsimile, conformed or electronic signature.

Sec. 10. 31 MRSA §611, sub-§1, as repealed and replaced by PL 1995, c. 633, Pt. C, §16, is amended to read:

1. Not applicable. ~~Sections 701, 702, 704 to 706 and 713 to 715 Title 13, sections 721, 722, 733, 736, 762 and 763, section 771, subsection 2, paragraph A and section 772 do not apply.~~

Sec. 11. 31 MRSA §611, sub-§2, ¶D, as enacted by PL 1995, c. 633, Pt. C, §16, is amended to read:

D. Officers and directors are deemed to be references to managers.

Sec. 12. 31 MRSA §712, sub-§3, ¶H, as amended by PL 2003, c. 344, Pt. C, §27, is further amended to read:

H. A certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability company records in the state or country under whose law the foreign limited liability company is organized. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing; ~~and~~

Sec. 13. 31 MRSA §712, sub-§3, ¶I, as amended by PL 1997, c. 376, §54, is further amended to read:

I. The address of the registered or principal office of the limited liability company in the jurisdiction of its organization or the principal office wherever located; ~~and~~

Sec. 14. 31 MRSA §712, sub-§3, ¶J is enacted to read:

J. In the case of a professional limited liability company, the professional service or services to be rendered in the State and a statement that all its members and managers, if any, are licensed in one or more states to render a professional service disclosed in its application.

Sec. 15. 31 MRSA §802, as enacted by PL 1995, c. 633, Pt. B, §1, is repealed.

Sec. 16. 31 MRSA §802-A is enacted to read:

§802-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Deliver; delivery. "Deliver" or "delivery" means any method of delivery used in conventional

commercial practice, including delivery by hand, mail, commercial delivery and electronic transmission.

2. Electronic transmission. "Electronic transmission" means any process of communication that does not directly involve the physical transfer of paper and that is suitable for the retention, retrieval and reproduction of information by the recipient.

3. Foreign limited liability partnership. "Foreign limited liability partnership" means a limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction and registered under the laws of that jurisdiction.

4. Registered limited liability partnership. "Registered limited liability partnership" means a partnership formed pursuant to an agreement governed by the Uniform Partnership Act and registered under this Act.

5. Sign; signature. "Sign" or "signature" includes any manual, facsimile, conformed or electronic signature.

Sec. 17. 31 MRSA §811, sub-§1, as enacted by PL 1995, c. 633, Pt. B, §1, is amended to read:

1. Not applicable. ~~Sections 701, 702, 704 to 706 and 713 to 715 Title 13, sections 721, 722, 733, 736, 751, 762 and 763, section 771, subsection 2, paragraph A and section 772 do not apply.~~

Sec. 18. 31 MRSA §852, sub-§3, ¶H, as amended by PL 2003, c. 344, Pt. C, §42, is further amended to read:

H. A certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of limited liability partnership records in the state or country under whose law the foreign limited liability partnership is organized. In lieu of a certificate of existence, a copy of the foreign limited liability partnership's registration certified or stamped by the secretary of state or other proper officer in its domestic jurisdiction is a sufficient equivalent if such an officer does not produce any other type of certificate of existence. The certificate of existence must have been made not more than 90 days prior to the delivery of the application for filing; ~~and~~

Sec. 19. 31 MRSA §852, sub-§3, ¶I, as amended by PL 1997, c. 376, §67, is further amended to read:

I. The address of the registered or principal office of the limited liability partnership in the jurisdiction of its organization or the principal office wherever located; and

Sec. 20. 31 MRSA §852, sub-§3, ¶J is enacted to read:

J. In the case of a professional limited liability partnership, the professional service or services to be rendered in the State and a statement that all its partners are licensed in one or more states to render a professional service disclosed in its application.

See title page for effective date.

CHAPTER 303

H.P. 959 - L.D. 1373

An Act To Implement Emergency Medical Dispatch Services for E-9-1-1 Calls

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

Sec. 1. 25 MRSA §2927, sub-§3, as amended by PL 2003, c. 194, §1, is further amended to read:

3. Expenditure of funds. The bureau may use the revenues in the E-9-1-1 fund to fund staff and to defray costs associated with the implementation, operation and management of E-9-1-1 and transfer funds to the Other Special Revenue Funds, Emergency Medical Services account within the Department of Public Safety to defray the costs, including necessary staffing costs, of the Emergency Medical Services' Board in implementing the requirements of Title 32, section 85-A. The bureau, to the extent it determines sufficient funds are available in the E-9-1-1 fund, shall use revenues in the E-9-1-1 fund to reimburse local exchange carriers and cellular and wireless telecommunications service providers for eligible expenses incurred by the carriers and service providers. For purposes of this subsection, the term "eligible expenses" means expenses:

A. Incurred in preparing, correcting, verifying or updating subscriber information for use in databases necessary to implement the E-9-1-1 system;

B. Determined by the Public Utilities Commission to meet the requirements of paragraph A and to be reasonable expenses for the services provided; and

C. When incurred by a cellular or wireless telecommunications service provider:

(1) That are approved by the bureau to be properly incurred for the implementation of E-9-1-1 technologies and procedures;

(2) That are not separately billed to customers; and

(3) For which the provider is not reimbursed from any other source.

The Public Utilities Commission, in consultation with the bureau, shall establish procedures for reviewing and approving expenses pursuant to paragraph B.

Sec. 2. 25 MRSA §2927, sub-§3-A is enacted to read:

3-A. Payment of emergency medical dispatch training costs. To assist public safety answering points in meeting the requirements of Title 32, section 85-A, the bureau shall provide free training courses for emergency medical dispatchers, as defined in Title 32, section 85-A, subsection 1, paragraph D, or reimburse public safety answering points for reasonable costs, as determined by the bureau, incurred for training courses approved by the bureau and attended by employees of the public safety answering point upon submission by the public safety answering point of adequate documentation of completion of the courses by the employees. The bureau shall provide each public safety answering point a sufficient number of approved Emergency Medical Dispatch Priority Reference System documents in printed or electronic format, as determined by the bureau pursuant to Title 32, section 85-A. All costs incurred by the bureau under this subsection must be paid from the E-9-1-1 fund.

Sec. 3. 32 MRSA §85-A is enacted to read:

§85-A. Emergency medical dispatch personnel

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

A. "Bureau" means the Emergency Services Communication Bureau within the Public Utilities Commission.

B. "Emergency Medical Dispatch Priority Reference System" means a system approved by the bureau and the board that includes:

(1) A protocol for emergency medical dispatcher response to calls;

(2) A continuous quality improvement program that measures compliance with the protocol through ongoing random case review of each emergency medical dispatcher; and