

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

12. Intertidal mussel harvesting. With the advice of the municipality, the commissioner may issue a permit to an individual licensed pursuant to section 6746 that authorizes the permit holder to fish for and take mussels from an area designated by the municipality pursuant to subsection 3. The commissioner shall limit the number of permits issued for a designated area to that number the commissioner determines is necessary to achieve the goals of the municipality's shellfish conservation program. The permit may specify limits on the amount of mussels taken, when the mussels may be taken and gear usage and any other conditions necessary for consistency with the shellfish conservation program.

Sec. 3. 12 MRSA §6746, sub-§2, as amended by PL 2005, c. 434, §10, is further amended to read:

2. Licensed activity. A boat license under this section may be used for dragging for mussels. The holder of a mussel boat license may also possess or transport mussels within the state limits or sell mussels the holder has taken to a wholesale seafood license holder certified under section 6856. The license also authorizes the captain and crew members aboard the licensed boat when engaged in dragging for mussels to undertake these activities. A mussel boat license does not authorize the holder to fish for or take mussels in violation of a municipal ordinance adopted pursuant to section 6671.

See title page for effective date.

CHAPTER 495

S.P. 762 - L.D. 1968

An Act To Clarify the Election of Municipal Charter Commission Members

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

Whereas, the municipal charter is equivalent to a constitution for the City of Portland, and voters should be able to separate the choice between the need for a charter commission and an election of the members of that charter commission; and

Whereas, the City of Portland intends to hold an election in June 2008, which is less than 90 days after statutory adjournment; 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. 30-A MRSA §2103, sub-§1, ¶A, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

A. Voter members ~~shall~~ must be elected by one of the following methods:

(1) Six voter members ~~shall be~~ are elected in the same manner as the municipal officers, except that they must be elected at-large and without party designations; ~~or~~

(2) One voter ~~shall be~~ member is elected from each voting district or ward in the same manner as municipal officers, except that ~~they~~ the voter member must be elected without party designation; ~~or~~

(3) Voter members are elected both at-large and by district or ward, as long as the number of voter members is the same as the number of municipal officers on the board or council of that municipality and the voter members are elected in the same manner as the municipal officers, except that they must be elected without party designation.

Election of voter members may be held either at the same municipal election as the referendum for the charter commission, ~~but must be held within 90 days of the referendum election or at the next scheduled regular or special municipal or state election that is no more than 200 days after the referendum authorizing the charter commission.~~ The names of the candidates on the ballot ~~shall~~ must be arranged alphabetically by last name. If the elections are held at the same time, the names of the candidates ~~shall~~ must appear immediately below the question relating to the charter commission.

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

Effective March 14, 2008.

CHAPTER 496

H.P. 1374 - L.D. 1940

An Act To Assist Distressed Businesses Organized as Limited Liability Companies

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

Whereas, limited liability companies in distress are not afforded the same assistance under the law as domestic corporations; 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. 31 MRSA §751, sub-§26, as amended by PL 2007, c. 231, §31, is further amended to read:

26. Late filing penalty. For failing to deliver an annual report by its due date, in addition to the annual report filing fee, a fee of \$50; ~~and~~

Sec. 2. 31 MRSA §751, sub-§27, as enacted by PL 2007, c. 231, §32, is amended to read:

27. Certificate of revival after dissolution. Certificate of revival after dissolution for a domestic limited liability company, as provided in section 608-F, §150;

Sec. 3. 31 MRSA §751, sub-§28 is enacted to read:

28. Application for excuse. For filing an application for excuse under section 757, subsection 4, a fee of \$40; and

Sec. 4. 31 MRSA §751, sub-§29 is enacted to read:

29. Certificate of resumption. For filing a certificate of resumption under section 757, subsection 5, a fee of \$100.

Sec. 5. 31 MRSA §757, sub-§4 is enacted to read:

4. Certificate of excuse. The Secretary of State, upon application by a domestic limited liability company and satisfactory proof that it has ceased to transact business and that it is not indebted to this State for failure to file an annual report and to pay any fees or penalties accrued, shall file a certificate of the fact and shall give a duplicate certificate to the limited liability company, after which the limited liability company is excused from filing annual reports with the Secretary of State, as long as the limited liability company in fact transacts no business. The name of a limited liability company remains in the Secretary of State's records of entity names and is protected for a period of 5 years following excuse.

Sec. 6. 31 MRSA §757, sub-§5 is enacted to read:

5. Resume transaction of business. The managers or, if no managers, members of a domestic lim-

ited liability company that has been excused from filing annual reports pursuant to subsection 4 may vote to resume transacting business at a meeting duly called and held for that purpose. A certificate executed and filed as provided in section 627 setting forth that a meeting was held, the date and location of the meeting and that a majority of the managers or, if no managers, members voted to resume transacting business authorizes that domestic limited liability company to transact business. After that certificate is filed, the domestic limited liability company is required to file annual reports beginning with the next reporting deadline following resumption.

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

Effective March 14, 2008.

CHAPTER 497

H.P. 1382 - L.D. 1946

An Act To Address Uncertified Practice of Underground Oil Storage Tank Installation and Inspection

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

Sec. 1. 32 MRSA §10012, sub-§2, as amended by PL 2001, c. 231, §14, is further amended to read:

2. Disposal of fees and civil penalties. All fees received by the board under subsection 1 and civil penalties as authorized by section 10015 received by the board related to underground oil storage tank installers, underground gasoline storage tank removers or underground oil storage tank inspectors imposed under sections 10015 or 10016 must be paid to the Treasurer of State to be deposited into the Ground Water Oil Clean-up Fund and used for the purpose of carrying out all applicable provisions of this chapter. Any balance of fees and civil penalties as authorized by section 10015 does not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

Sec. 2. 32 MRSA §10016 is enacted to read:

§10016. Uncertified practice

1. Complaints. The board may receive or initiate complaints of uncertified practice as an underground oil storage tank installer or inspector.

2. Investigation. Complaints of uncertified practice under subsection 1 may be investigated by the board, the department or the Attorney General. If sufficient evidence of uncertified practice is uncovered,