

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

representative of the department in accordance with the Maine Rules of Civil Procedure.

B. A responsible party to whom such an order is directed may apply to the board for a hearing on the order if the application is made within 10 working days after receipt of the order by a responsible party. Within 15 working days after receipt of the application, the board shall hold a hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order. That decision must be in writing and signed by the board chair using any means for signature authorized in the department's rules and published within 2 working days after the hearing and vote. The nature of the hearing is an appeal. At the hearing, all witnesses must be sworn and the commissioner shall first establish the basis for the order and for naming the person to whom the order was directed. The burden of going forward then shifts to the person appealing to demonstrate, based upon a preponderance of the evidence, that the order should be modified or rescinded. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

C. Upon completion of the clean-up activity, the commissioner shall issue a letter to the responsible party or parties indicating that the clean-up order has been complied with for one or more parcels.

Sec. 5. Operator training. By August 8, 2009, the Department of Environmental Protection shall develop a program to train owners and operators of federally regulated underground oil storage tanks on how to properly operate and maintain the tank systems. The program must meet the minimum requirements specified by the United States Environmental Protection Agency pursuant to 42 United States Code, Section 6991(i)(2007).

See title page for effective date.

CHAPTER 535

S.P. 788 - L.D. 1994

**An Act To Amend the Laws
Relating to Marks,
Corporations, Limited
Partnerships, Limited Liability
Companies and Registered
Agents**

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 Maine Revised Statutes, Title 5, chapter 6-A, which governs the appointment and maintenance of clerks and registered agents for business and nonprofit corporations, limited liability companies, limited partnerships and limited liability partnerships in this State, becomes effective July 1, 2008, and changes to that law and other entity laws administered by the Secretary of State must be in place by July 1, 2008 in order for the Secretary of State to properly administer these laws; 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:

PART A

Sec. A-1. 10 MRSA §1527, sub-§1, ¶B, as enacted by PL 1979, c. 572, §2, is amended to read:

B. Any registration ~~concerning which~~ on file when the Secretary of State shall receive receives a voluntary request for cancellation ~~thereof~~ from the registrant or the assignee of record. The cancellation must be in writing and recorded with the Secretary of State and accompanied by a filing fee of \$10, payable to the Treasurer of State. The Secretary of State may prescribe a form for this purpose. The Secretary of State, upon the recording of a cancellation under this paragraph, shall issue an attested copy to the remitter of the instrument;

Sec. A-2. 13-B MRSA §1301, sub-§5, as repealed and replaced by PL 1993, c. 680, Pt. A, §23, is amended to read:

5. Certificate of excuse. The Secretary of State, upon application by a corporation and satisfactory proof that it has ceased to carry on activities, shall file a certificate of that fact and shall give a duplicate certificate to the corporation. The corporation is then excused from filing annual reports with the Secretary of State as long as the corporation carries on no activities. The name of a corporation remains in the Secretary of State's record of corporate names and is protected for a period of 5 years following the filing of the certificate under this subsection.

Sec. A-3. 31 MRSA §7, as corrected by RR 2001, c. 2, Pt. B, §48 and affected by §58, is amended to read:

§7. Inapplicable to corporations, limited partnerships or limited liability companies

Sections 1 and 2 do not apply to corporations, limited partnerships or limited liability companies. A

corporation desiring to do business under an assumed name shall ~~proceed~~ file a statement as provided in Title 13-C, section 404. A limited partnership desiring to do business under an assumed name shall file a statement as provided in section 1308, subsection 2. A limited liability company desiring to do business under an assumed name shall file a statement as provided in section 605-A.

Sec. A-4. 31 MRSA §751, sub-§8, as amended by PL 2003, c. 673, Pt. WWW, §24 and affected by §37, is further amended to read:

8. Articles of organization or amendment; certificate of cancellation. For filing of articles of organization under section 622, a fee of \$175; articles of amendment under section 623, except as provided in subsection 6, a fee of \$50; a certificate of cancellation under section 625, a fee of \$75; and restated articles of organization under section 623, subsection 6, a fee of \$80; and a certificate of merger or consolidation under section 744, a fee of \$100;

Sec. A-5. 31 MRSA §751, sub-§24, as amended by PL 2003, c. 631, §62, is further amended to read:

24. Certificate of merger or consolidation. Certificate of merger or consolidation of a limited liability company with another type of business entity as provided by section ~~741-A~~ 744, a fee of \$150;

Sec. A-6. 31 MRSA §1460, sub-§9, as enacted by PL 2005, c. 543, Pt. C, §2, is amended to read:

9. Foreign limited partnerships. For filing of an application for authority to do business as a foreign limited partnership under section 1412, a fee of \$250; ~~and for~~ For a certificate of amendment under section 1412-A; to change the legal name of the foreign limited partnership, for a certificate of amendment under section 1412-A, subsection 2, paragraph A or B to admit a new general partner or to dissociate a general partner, respectively, or for a certificate of cancellation under section 1417, a fee of \$90. For filing a certificate of amendment under section 1412-A, subsection 2, paragraph C or D to change the address of a general partner or to change the address of the registered or principal office, a fee of \$35;

Sec. A-7. Effective date. This Part takes effect 90 days after adjournment of the Second Regular Session of the 123rd Legislature.

PART B

Sec. B-1. 5 MRSA §107, sub-§1, as enacted by PL 2007, c. 323, Pt. A, §1 and affected by Pt. G, §4, is amended to read:

1. Contents of statement. A commercial clerk or commercial registered agent may terminate its listing as a commercial clerk or commercial registered

agent by filing with the Secretary of State a commercial clerk or commercial registered agent termination statement signed by or on behalf of the agent that states:

A. The name of the agent as currently listed under section 106; ~~and~~

B. That the agent is no longer in the business of serving as a commercial clerk or commercial registered agent in this State; ~~and~~

C. The name and address of the person to whom the commercial clerk or commercial registered agent sends the notice required by subsection 3.

Sec. B-2. 13-B MRSA §304-A is enacted to read:

§304-A. Registered agent of domestic nonprofit corporation

Each domestic nonprofit corporation must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A.

Sec. B-3. 13-B MRSA §1212-B is enacted to read:

§1212-B. Registered agent of foreign nonprofit corporation

Each foreign nonprofit corporation must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A.

Sec. B-4. 13-C MRSA §511, as enacted by PL 2007, c. 323, Pt. C, §11 and affected by Pt. G, §4, is amended by adding at the end a new paragraph to read:

The clerk required under this section is also governed by Title 5, chapter 6-A.

Sec. B-5. 13-C MRSA §1507-A is enacted to read:

§1507-A. Registered agent of foreign corporation

Each foreign corporation authorized to transact business in this State must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A.

Sec. B-6. 31 MRSA §607-A is enacted to read:

§607-A. Registered agent of domestic limited liability company

Each domestic limited liability company must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A.

Sec. B-7. 31 MRSA §714, sub-§2-B is enacted to read:

2-B. Registered agent. Each foreign limited liability company must have and shall continuously

maintain a registered agent in this State as defined in Title 5, chapter 6-A.

Sec. B-8. 31 MRSA §807-A is enacted to read:

§807-A. Registered agent of limited liability partnership

Each registered limited liability partnership must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A.

Sec. B-9. 31 MRSA §854, sub-§2-B is enacted to read:

2-B. Registered agent. Each foreign limited liability partnership must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A.

Sec. B-10. 31 MRSA §1314-A is enacted to read:

§1314-A. Registered agent of domestic or foreign limited partnership

Each limited partnership must have and shall continuously maintain a registered agent in this State as defined in Title 5, chapter 6-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect July 1, 2008 unless otherwise provided.

Effective July 1, 2008, unless otherwise indicated.

CHAPTER 536

H.P. 1391 - L.D. 1953

**An Act To Amend the Laws
Relating to the Department of
Corrections**

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

Sec. 1. 15 MRSA §891, as amended by PL 2007, c. 277, §1, is repealed and the following enacted in its place:

§891. Dismissal on satisfaction of private injury

1. General rule. When a person is charged with a Class D or Class E crime, or is the subject of a juvenile petition alleging a juvenile crime that would constitute a Class D or Class E crime if the juvenile involved were an adult, for which the party injured has a remedy by civil action, if the injured party appears before the court and in writing acknowledges satisfaction for the injury, the court, on payment of all costs, may dismiss the charge.

2. Exceptions. This section does not apply to the crime or juvenile crime of refusing to submit to arrest

or detention as defined by Title 17-A, section 751-A, to any crime or juvenile crime in which the alleged victim is a family or household member as defined in Title 19-A, chapter 101 or to any juvenile who has previously been adjudicated of a juvenile crime or who has previously obtained relief under this section with respect to a juvenile petition.

Sec. 2. 15 MRSA §892, as corrected by RR 2007, c. 1, §7, is repealed and the following enacted in its place:

§892. Bar to civil action

An order of dismissal entered pursuant to section 891 bars all further remedy by civil action for such an injury.

Sec. 3. 15 MRSA §3314, sub-§7, as enacted by PL 2007, c. 196, §5, is amended to read:

7. Enforcement of a dispositional order or order to appear. After notice and hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66, the court may exercise its inherent contempt power by way of a plenary contempt proceeding involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to enforce the disposition ordered following an adjudication for a juvenile crime or to enforce any order requiring the appearance of a juvenile before the court. Any confinement imposed as a punitive or remedial sanction upon a person who has not attained 18 years of age may not exceed 30 days and must be served in a facility approved or operated by the Department of Corrections exclusively for juveniles. Any confinement imposed as a punitive or remedial sanction upon a person who has attained 18 years of age, if to be served in a facility approved or operated by the Department of Corrections exclusively for juveniles, may not exceed 30 days. To enforce the disposition ordered following an adjudication for a juvenile crime defined in section 3103, subsection 1, paragraph B or C upon a person who has not attained 18 years of age, the court shall, at the time of the disposition, provide written notice to the juvenile of the court's authority to enforce the dispositional order through an exercise of its inherent contempt power and that a contempt order could include an order of confinement for up to 30 days as a punitive sanction and for up to 30 days as a remedial sanction. Nothing Except as explicitly set out in this subsection, nothing in this subsection affects the court's ability to exercise its contempt powers for persons who have attained 18 years of age.

Sec. 4. 34-A MRSA §3036-A, sub-§3, ¶A, as enacted by PL 1991, c. 845, §4, is amended to read:

A. The prisoner must be involved in a program of work or education that is approved by the commissioner together with any treatment program that the commissioner might require. The commissioner may waive the requirement of in-