

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

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

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**Augusta, Maine**  
**2009**

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement.

F. The office, board or commission may issue a letter of guidance or concern to a licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21.

G. The office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

The jurisdiction to ~~suspend and revoke~~ impose discipline against occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection other than denial or nonrenewal of a license may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4; and, ~~except for revocation actions,~~ is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

The office, board or commission shall hold a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 at the written request of any person who is denied an initial or renewal license without a hearing for any reason other than failure to pay a fee, provided that the request for hearing is received by the office, board or commission within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing.

The office, board or commission may subpoena witnesses, records and documents in any adjudicatory hearing it conducts.

~~Any nonconsensual revocation of a professional or occupational license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court.~~ Rules adopted to govern judicial appeals from agency action apply to cases brought under this subsection.

See title page for effective date.

**CHAPTER 113**

**H.P. 498 - L.D. 715**

**An Act To Enable the Use of Credit Cards for Governmental Transactions**

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

**Sec. 1. 9-A MRSA §8-303, sub-§2-A** is enacted to read:

**2-A.** Notwithstanding subsection 2, a governmental entity may impose a surcharge for payments made with a credit card or debit card for taxes, fines, charges, utility fees, regulatory fees, license or permit fees or the provision of a specific service provided by that governmental entity if the surcharge:

A. Is disclosed clearly to the consumer prior to payment; and

B. Does not exceed the costs associated with providing the credit card or debit card service that are directly incurred by the governmental entity or assessed by an authorized 3rd-party payment service

provider for a credit card or debit card transaction. If there is not a cost assessed by an authorized 3rd-party payment service provider for a debit card transaction, the governmental entity may not impose a surcharge associated with a debit card transaction.

A governmental entity shall disclose to the consumer that the surcharge may be avoided if the consumer makes payments by cash, check or other means not a credit card or debit card. A governmental entity is not subject to any liability to the issuer of a credit card or an authorized 3rd-party payment service provider for nonpayment of credit card charges by the consumer. As used in this subsection, "governmental entity" means a county established or governed by Title 30-A, Part 1, a municipality as defined in Title 30-A, section 2001, subsection 8, a quasi-municipal corporation as defined in Title 30-A, section 2604, subsection 3 or the Judicial Department as described in Title 4.

See title page for effective date.

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**CHAPTER 114**  
**S.P. 94 - L.D. 277**

**An Act To Clarify the Income-producing Requirement for Land in the Farm and Open Space Tax Program**

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

**Sec. 1. 36 MRSA §1102, sub-§4**, as amended by PL 1999, c. 731, Pt. Y, §1, is further amended to read:

**4. Farmland.** "Farmland" means any tract or tracts of land, including woodland and wasteland, of at least 5 contiguous acres on which farming or agricultural activities have contributed to a gross annual farming income of at least \$2,000 per year from the sales value of agricultural products as defined in Title 7, section 152, subsection 2 in one of the 2, or 3 of the 5, calendar years preceding the date of application for classification. The farming or agricultural activity and income derived from that activity may be achieved by either the owner or a lessee of the land.

Gross income as used in this ~~section~~ subsection includes the value of commodities produced for consumption by the farm household. Any applicant for assessment under this subchapter bears the burden of proof as to the applicant's qualification.

See title page for effective date.

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**CHAPTER 115**  
**S.P. 298 - L.D. 771**

**An Act Regarding Raffles Conducted by Nonprofit Organizations**

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

**Sec. 1. 17 MRSA §331, sub-§8-B** is enacted to read:

**8-B. Raffle tickets sold by volunteers.** Notwithstanding section 332, subsection 2, tickets for raffles licensed in accordance with subsection 7 or 8-A may be sold by persons other than members of the licensed organization as long as the persons selling the tickets are uncompensated volunteers for the organization and the names of the volunteers who sell the tickets are provided to the Chief of the State Police within 10 days of issuance of the raffle license.

See title page for effective date.

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**CHAPTER 116**  
**S.P. 231 - L.D. 616**

**An Act To Strengthen the Board of the Maine Insurance Guaranty Association**

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

**Sec. 1. 24-A MRSA §4437, first ¶**, as amended by PL 1985, c. 279, §3, is further amended to read:

The board of directors of the association ~~shall~~ must consist of not less than 7 persons serving terms as established in the plan of operation, and not less than 3 of the persons must represent members of the association that are domiciled in the State. The members of the board ~~shall~~ must be selected by member insurers subject to the approval of the superintendent. A member insurer serving on the board must resign if the member insurer ceases writing new insurance business in the State. Vacancies on the board ~~shall~~ must be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the superintendent.

See title page for effective date.

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