

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2010 to April 12, 2010**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 12, 2010**

**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**  
**2010**

**Sec. 8. 36 MRSA §2529, sub-§1, ¶B**, as repealed and replaced by PL 2005, c. 351, §10 and affected by §26, is amended to read:

B. ~~Fifty percent~~ For a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, 50% of the tax that would otherwise be due under this chapter upon premiums that are attributable to a qualified business activity as defined in Title 30-A, section 5250-I, subsection 16 for each of the 5 tax years following the time period in paragraph A.

**Sec. 9. 36 MRSA §2529, sub-§3**, as enacted by PL 2003, c. 451, Pt. NNN, §4 and affected by §8, is amended to read:

**3. Limitation.** The credit provided by this section may not be claimed for calendar years beginning on or after January 1, ~~2019~~ 2029.

**Sec. 10. 36 MRSA §5219-W, sub-§1, ¶B**, as repealed and replaced by PL 2005, c. 351, §13 and affected by §26, is amended to read:

B. ~~Fifty percent~~ For a business located in a tier 1 location, as defined in Title 30-A, section 5250-I, subsection 21-A, 50% of the tax that would otherwise be due under this Part for each of the 5 tax years following the time period in paragraph A.

**Sec. 11. 36 MRSA §5219-W, sub-§4**, as enacted by PL 2003, c. 451, Pt. NNN, §5 and affected by §8, is amended to read:

**4. Limitation.** The credit provided by this section may not be claimed for tax years beginning on or after January 1, ~~2019~~ 2029.

**Sec. 12. Retroactivity.** That section of this Act that enacts the Maine Revised Statutes, Title 35-A, section 3210-E applies retroactively to December 31, 2009. Those sections of this Act that amend Title 36, section 1760, subsection 87; section 2016, subsection 4, paragraph A; section 2529, subsection 1, paragraph B; and section 5219-W, subsection 1, paragraph B apply retroactively to September 12, 2009.

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

Effective April 9, 2010.

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## CHAPTER 628

### H.P. 1205 - L.D. 1704

#### An Act To Amend the Laws Regarding Authority over and Oversight of Certified Nursing Assistant Educational Programs

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

**Sec. 1. 26 MRSA §2164, sub-§3**, as amended by PL 1993, c. 306, §5 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**3. Certification.** Participants who complete training under this section with a 200-hour curriculum approved by the Department of ~~Education~~ Health and Human Services to include both theoretical and practical training receive a statewide certificate granted by the Department of ~~Education~~ Health and Human Services. This certificate or a certificate issued under subsection 4 is required for employment as an activities coordinator in this State after December 31, 1993, except that a person employed as an activities coordinator on the effective date of this chapter ~~October 9, 1991~~ who has completed a training program approved by the Department of Health and Human Services is not required to obtain a certificate under this section.

**Sec. 2. 26 MRSA §2164, sub-§4**, as amended by PL 1993, c. 306, §5 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**4. Reciprocity.** Certification may also be issued to candidates who can document completion of comparable training and experience in accordance with rules adopted by ~~the Commissioner of Education and~~ the Commissioner of Health and Human Services after consultation with the activities coordinator board of a state health care association.

**Sec. 3. 32 MRSA §2104, sub-§4**, as amended by PL 1993, c. 600, Pt. A, §114, is further amended to read:

**4. Approval and monitoring of nursing assistant training curriculum and faculty.** An educational institution or health care facility desiring to conduct an educational program for nursing assistants to prepare individuals for a certificate of training and subsequent listing on the Maine Registry of Certified Nursing Assistants must apply to the ~~Department of Education~~ Department of Health and Human Services and submit evidence:

- A. That it is prepared to carry out the curriculum for nursing assistants as prescribed by the board;
- B. That it is prepared to meet those standards established by the board;
- C. That it is prepared to meet those standards for educational programming and faculty as established by the ~~Department of Education~~ Department of Health and Human Services; and
- D. With respect to an application by a health care facility, that an educational institution cannot provide a nursing assistant training program within 30 days of the application date.

The ~~Department of Education~~ Department of Health and Human Services shall issue a notice of approval to an educational institution or health care facility that meets the requirements of this subsection.

~~The Department of Education shall consult with the board in approving and monitoring of nursing assistant training programs.~~

**Sec. 4. 32 MRSA §2202-B**, as amended by PL 1993, c. 435, §§11 to 13, is further amended to read:

**§2202-B. Certification fee; disposition of fee; nursing assistants**

**1. Fees authorized.** The Commissioner of ~~Edu-  
cation~~ Health and Human Services may assess fees for certification of nursing assistants, for the competency testing of nursing assistants and for validation of test results to determine eligibility for certification and charge fees for certificates issued and duplicated for out-of-state vocational reciprocity, renewal of certificates and replacement of certificates.

**2. Amounts.** Amounts of fees are as follows:

- A. For competency testing, ~~\$20~~ \$45, which must be included in the training course fee;
- B. For initial certificate, \$5;
- C. For replacement certificate, \$5;
- D. ~~For certificate of comparable training, \$10~~ For letter of verification of completion of a certified nursing assistant program, \$20;
- E. For converted certificate, \$5;
- F. For renewal certificate, \$5; and
- G. For validation of test results, \$5.

**3. Accounting.** The Commissioner of ~~Education~~ Health and Human Services shall:

- A. Collect and account for testing and certification fees; and
- B. Report and pay fees to the Treasurer of State to be credited to the General Fund.

**4. Staff.** The Commissioner of ~~Education~~ Health and Human Services shall employ staff necessary to carry out the requirements of this section.

**Sec. 5. Appropriations and allocations.** The following appropriations and allocations are made.

**EDUCATION, DEPARTMENT OF  
PK-20 Curriculum, Instruction and Assessment  
Z081**

Initiative: Eliminates one vacant Office Assistant II position from the PK-20 Curriculum, Instruction and Assessment program due to the responsibilities related to the certification of activities coordinators and certi-

fied nursing assistants being transferred from the Department of Education to the Department of Health and Human Services.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2009-10</b>	<b>2010-11</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$52,015)
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FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$52,015)

<b>EDUCATION, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2009-10</b>	<b>2010-11</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>(\$52,015)</b>
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<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$52,015)</b>

**HEALTH AND HUMAN SERVICES,  
DEPARTMENT OF (FORMERLY DHS)  
Division of Licensing and Regulatory Services Z036**

Initiative: Appropriates funds for the costs of one Social Services Program Specialist II position to be established in the Division of Licensing and Regulatory Services to align the functions of the certified nursing assistant educational programs within one department.

<b>GENERAL FUND</b>	<b>2009-10</b>	<b>2010-11</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$61,051
All Other	\$0	\$5,417
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GENERAL FUND TOTAL	\$0	\$66,468

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2009-10</b>	<b>2010-11</b>
Personal Services	\$0	\$20,656
All Other	\$0	\$1,833
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$22,489

**HEALTH AND HUMAN  
SERVICES,  
DEPARTMENT OF  
(FORMERLY DHS)**

DEPARTMENT TOTALS	2009-10	2010-11
GENERAL FUND	\$0	\$66,468
OTHER SPECIAL REVENUE FUNDS	\$0	\$22,489
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DEPARTMENT TOTAL - ALL FUNDS	\$0	\$88,957
SECTION TOTALS	2009-10	2010-11
GENERAL FUND	\$0	\$66,468
FEDERAL EXPENDITURES FUND	\$0	(\$52,015)
OTHER SPECIAL REVENUE FUNDS	\$0	\$22,489
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SECTION TOTAL - ALL FUNDS	\$0	\$36,942

See title page for effective date.

**CHAPTER 629**

**H.P. 1118 - L.D. 1580**

**An Act To Replace the Maine Limited Liability Company Act**

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

**PART A**

**Sec. A-1.** 31 MRSA c. 13, as amended, is repealed.

**Sec. A-2.** 31 MRSA c. 21 is enacted to read:

**CHAPTER 21**

**LIMITED LIABILITY COMPANIES**

**SUBCHAPTER 1**

**GENERAL PROVISIONS**

**§1501. Short title**

This chapter may be known and cited as "the Maine Limited Liability Company Act."

**§1502. Definitions**

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

**1. Articles of organization.** "Articles of organization" means the articles described in former chapter 13, section 622.

**2. Certificate of formation.** "Certificate of formation" means the certificate described in section 1541, and the certificate as amended or restated.

**3. Constituent limited liability company.** "Constituent limited liability company" means a constituent organization that is a limited liability company.

**4. Constituent organization.** "Constituent organization" means an organization that is party to a merger.

**5. Converted organization.** "Converted organization" means the organization into which a converting organization converts pursuant to sections 1645 to 1648.

**6. Converting limited liability company.** "Converting limited liability company" means a converting organization that is a limited liability company.

**7. Converting organization.** "Converting organization" means an organization that converts into a converted organization pursuant to section 1645.

**8. Debtor in bankruptcy.** "Debtor in bankruptcy" means a person that is the subject of:

A. An order for relief under Title 11 of the United States Code or a successor statute of general application; or

B. A comparable order under federal, state or foreign law governing insolvency.

**9. Distribution.** "Distribution," except as otherwise provided in section 1555, subsection 4, means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.

**10. 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. Foreign limited liability company.** "Foreign limited liability company" means an organization that is:

A. An unincorporated association or entity;

B. Organized under laws of a state other than the laws of this State, or under the laws of any foreign country;

C. Organized under a statute pursuant to which an association or an entity may be formed that affords to each of its members limited liability with respect to the liabilities of the association or entity; and

D. Not required to be registered or organized under any statute of this State other than this chapter.