

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

ning December 19, 2010 and ending on or before December 31, 2011 or until the date established in federal law permitting a state "on" indicator, whichever is later, if the Commissioner of Labor determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks the rate of insured unemployment not seasonally adjusted equaled or exceeded 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 3 calendar years and equaled or exceeded 5%.

There is a state "off" indicator for this State for a week if the Commissioner of Labor determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks the rate of insured unemployment not seasonally adjusted was less than 120% of the average of such rates for the corresponding 13-week period ending in each of the preceding 3 calendar years or was less than 5%.

Sec. 2. Alternative trigger. In addition to the conditions provided in the Maine Revised Statutes, Title 26, section 1195 and Public Law 2009, chapter 33, there is a state "on" indicator for a week in the period beginning December 19, 2010 and ending on or before December 31, 2011 or until the date established in federal law permitting this provision, whichever is later, if:

1. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of that week equals or exceeds 6.5%; and

2. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the 3-month period referred to in subsection 1 equals or exceeds 110% of the average rate for any or all of the corresponding 3-month periods ending in the 3 preceding calendar years.

There is a state "off" indicator for a week based on the rate of total unemployment only if the period consisting of the most recent 3 months for which data for all states are published before the close of such week does not result in a state "on" indicator.

Sec. 3. High unemployment period. In addition to the conditions provided in the Maine Revised Statutes, Title 26, section 1195 and Public Law 2009, chapter 33, there is a state "on" indicator for a week in the period beginning December 19, 2010 and ending on or before December 31, 2011 or until the date established in federal law permitting this provision, whichever is later, if:

1. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of that week equals or exceeds 8%; and

2. The average rate of seasonally adjusted total unemployment in this State, as determined by the United States Secretary of Labor, for the 3-month period referred to in subsection 1 equals or exceeds 110% of the average rate for any or all of the corresponding 3-month periods ending in the 3 preceding calendar years.

There is a state "off" indicator for a week based on the rate of total unemployment only if the period consisting of the most recent 3 months for which data for all states are published before the close of such week does not result in a state "on" indicator.

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

Effective February 18, 2011.

CHAPTER 3

H.P. 32 - L.D. 39

**An Act Related to Family Law
Magistrates**

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

Sec. 1. 4 MRSA §183, sub-§1, ¶G, as enacted by PL 2005, c. 384, §1, is amended to read:

G. The Chief Judge of the District Court may allow family law magistrates to wear robes of ~~any color other than black~~ when presiding over any proceeding.

See title page for effective date.

CHAPTER 4

S.P. 25 - L.D. 10

**An Act To Clarify the Method
of Creating or Severing Joint
Tenancy**

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

Sec. 1. 33 MRSA §159, as amended by PL 1973, c. 788, §164, is further amended to read:

§159. Conveyances to 2 or more persons

Conveyances not in mortgage and devises of land to 2 or more persons create estates in common, unless otherwise expressed. Deeds in which 2 or more grantees anywhere in the conveyances are named as joint tenants shall or named as having the right of survivorship or that otherwise indicate anywhere in the conveyances by appropriate language the intent to create a joint tenancy between such grantees must be construed as vesting an estate in fee simple in such grantees with right of survivorship. Deeds in which the grantor is named as a grantee or as a grantee with another or others must be construed as vesting an estate in fee simple in such grantee or grantees including the grantor, unless otherwise expressed.

A conveyance of real property by the owner ~~thereof of the real property to himself the owner~~ and another or others, or by the owners ~~thereof of the real property to themselves the owners~~ or to ~~themselves the owners~~ and another or others, as joint tenants or with the right of survivorship, or ~~which that~~ otherwise indicates anywhere in the conveyance by appropriate language the intent to create a joint tenancy between such owner or owners and such other or others or between ~~themselves the owners~~ by ~~such the~~ conveyance, ~~shall create~~ including language such as "as joint tenants," "in joint tenancy," "as joint tenants with rights of survivorship," "with rights of survivorship," "to them and to the survivor of them," "to them and their assigns and to the survivor and the heirs and assigns of the survivor forever" or "as tenants by the entirety," creates an estate in joint tenancy in the property so conveyed between all of the grantees, including the grantor. Estates in joint tenancy so created ~~shall~~ have and possess all of the attributes and incidents of estates in joint tenancy created or existing at common law and the rights and liabilities of the tenants in estates in joint tenancy so created ~~shall be~~ are the same as in estates in joint tenancy created or existing at common law.

A conveyance of real property by an owner or owners of the real property holding in joint tenancy to the owner or to the owner and another or others, or to the owners or to the owners and another or others, as tenants in common, or that otherwise indicates anywhere in the conveyance by appropriate language the intent to create a tenancy in common or the intent to sever the joint tenancy between the owner or owners and such other or others or between the owners by the conveyance, or without expression of the tenancy created or without other expression of joint tenancy or right of survivorship, creates an estate in common in the property so conveyed between all of the grantees, including the grantor, or between the sole grantee and the other owner or owners.

See title page for effective date.

CHAPTER 5

S.P. 40 - L.D. 85

An Act To Repeal the Sunset on the Law Relating to the Landing of Draggd Crabs

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

Sec. 1. 12 MRSA §6421, sub-§4, as repealed and replaced by PL 2009, c. 78, §1, is amended to read:

4. Exception. A license is not required for a person:

- A. To take or catch crabs with bare hands or hook and line; or
- B. Who is issued a commercial fishing license under section 6501 to take, possess and sell crabs that have been taken as bycatch while using an otter trawl within the exclusive economic zone as shown on the most recently published Federal Government nautical chart. Crabs taken by otter trawl within the territorial waters must be liberated alive immediately.

~~This subsection is repealed June 30, 2012.~~

See title page for effective date.

CHAPTER 6

H.P. 39 - L.D. 46

An Act To Allow Marriage and Family Therapists To Serve as Mental Health Professionals in the Civil Service System

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

Sec. 1. 5 MRSA §7061, sub-§2-A is enacted to read:

2-A. Mental health professionals. Job classifications adopted by the director under subsection 2 must allow a person licensed as a marriage and family therapist under Title 32, chapter 119 to qualify for mental health therapist positions within the civil service system.

See title page for effective date.