

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

D. "Partnership policy" means a long-term care insurance policy with an effective date of July 1, 2009 or later that is offered with the intent to meet the requirements of the Long-term Care Partnership Program.

E. "Qualified policy" means a long-term care insurance policy that is offered with the intent to meet the requirements of 26 United States Code, Section 7702B(b).

2. Notice. The following provisions apply to an insurer that actively markets a partnership policy in this State on or after the effective date of this section. With respect to an employer group, an insurer shall provide any notice required under this section to the employer that is the policyholder of a qualified policy.

A. An insurer that actively markets partnership policies in this State as of the effective date of this section shall provide notice to an eligible policyholder that purchased a qualified policy during the notice period that the policyholder may be able to participate in the Long-term Care Partnership Program. The insurer shall initiate the exchange process in accordance with subsection 4 within 12 months of the effective date of this section.

B. An insurer that begins to actively market partnership policies in this State after the effective date of this section shall provide notice to an eligible policyholder that purchased a qualified policy during the notice period that the policyholder may be able to participate in the Long-term Care Partnership Program. The insurer shall initiate the exchange process in accordance with subsection 4 within 12 months of the date the insurer begins to market partnership policies in this State.

3. Request for review. In addition to the requirements of subsection 2, at the request of an eligible policyholder of a qualified policy issued prior to the notice period, an insurer that actively markets partnership policies in this State shall review the qualified policy to identify whether the qualified policy meets the requirements of the Long-term Care Partnership Program and take an action described in subsection 4, paragraph A or B. If a request for review under this subsection is made more than 12 months after the effective date of this section, the insurer has no obligation to review the policy.

4. Exchange process. An insurer that actively markets partnership policies in this State shall identify those qualified policies issued during the notice period that currently meet all the requirements of the Long-term Care Partnership Program as specified in Bureau of Insurance Bulletin 368 dated January 22, 2010 for use with the Long-term Care Partnership Program and those that do not meet all of the requirements and:

A. For those qualified policies that currently meet all of the requirements, issue to each policyholder

the Important Notice Regarding Your Policy's Long-term Care Insurance Partnership Status, as prescribed in the Appendix of Bureau of Insurance Bulletin 368 dated January 22, 2010, along with a policy amendment reflecting the effective date of the partnership status; and

B. For those qualified policies that do not meet all of the requirements, notify each policyholder that the policy may be eligible for an exchange to a partnership policy. The insurer shall also notify the policyholder that the exchange is subject to underwriting and that the premium for the new policy is based on the policyholder's attained age on the date of the exchange. The policyholder has 60 days from the date of the notice to consider this offer. If the policyholder accepts the offer after 60 days, the insurer is not obligated to process an exchange. If the policyholder requests additional coverage, the additional coverage is also subject to underwriting and the premium for the additional coverage must be based on the policyholder's attained age on the date the changes take effect.

5. Individual policyholder no longer receiving benefits. If an individual policyholder is not an eligible policyholder because the policyholder is receiving benefits or is in a waiting period to receive benefits, that individual policyholder has 12 months from the expiration of any waiting period after which the policyholder does not begin to receive benefits or from the expiration of any period when benefits have ended to request a review by an insurer as otherwise provided under subsection 3.

6. Applicability. If an insurer does not actively market both individual and group partnership policies in this State, this section applies to that insurer only with respect to the particular market in which the insurer actively markets partnership policies.

See title page for effective date.

CHAPTER 199

H.P. 802 - L.D. 1067

An Act To Improve Awareness of Smoking Policies in Maine Rental Housing

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

Sec. 1. 14 MRSA §6030-E is enacted to read:

§6030-E. Smoking policy

1. Definition. For the purposes of this section, unless the context otherwise indicates, "smoking" means carrying or having in one's possession a lighted

cigarette, cigar, pipe or other object giving off tobacco smoke.

2. Smoking policy disclosure. A landlord who or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential premises that are used by a tenant or will be used by a potential tenant as a primary residence shall provide to the tenant or potential tenant a smoking policy disclosure that notifies tenants or potential tenants of the landlord's policy regarding smoking on the premises in accordance with subsection 3.

3. Notification. A landlord who or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential premises shall provide written notice to a tenant or potential tenant regarding the allowance or prohibition of smoking on the premises.

A. The notice must state whether smoking is prohibited on the premises, allowed on the entire premises or allowed in limited areas of the premises. If the landlord allows smoking in limited areas on the premises, the notice must identify the areas on the premises where smoking is allowed.

B. A landlord or other person who acts on behalf of a landlord may notify a tenant or potential tenant of a smoking policy by:

- (1) Disclosing the smoking policy in a written lease agreement; or
- (2) Providing a separate written notice to a tenant or potential tenant entering into a tenancy at will agreement.

C. Before a tenant or potential tenant enters into a contract or pays a deposit to rent or lease a property, the landlord or other person who acts on behalf of a landlord shall obtain a written acknowledgment of the notification of the smoking policy from the tenant or potential tenant.

4. Construction. This subsection restricts private causes of action based on violations of this section or smoking policies provided to tenants or potential tenants pursuant to this section.

A. A tenant or potential tenant may not maintain a private cause of action against a landlord or other person who acts on behalf of a landlord on the sole basis that the landlord or other person who acts on behalf of a landlord failed to provide the smoking policy disclosure required by this section.

B. A tenant or potential tenant may not use a violation of a smoking policy by another tenant as the

basis for a private cause of action against a landlord or other person who acts on behalf of a landlord.

See title page for effective date.

CHAPTER 200

S.P. 463 - L.D. 1482

**An Act To Provide That
Private Transfer Fee
Obligations on Real Property
Are Void and Unenforceable**

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

Sec. 1. 33 MRSA §163 is enacted to read:

§163. Private transfer fee obligations void and unenforceable

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Private transfer fee" means a fee or charge payable upon the transfer of an interest in real property, or payable for the right to make or accept such a transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price or other consideration given for the transfer. "Private transfer fee" does not include:

(1) Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development or sale of the property, if such consideration is payable on a one-time basis only and the obligation to make such payment does not bind successors in title to the property;

(2) Any commission payable to a licensed real estate broker or real estate brokerage agency for the transfer of real property pursuant to an agreement between the broker or agency and the grantor or the grantee;

(3) Any interest, charges, fees or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property;

(4) Any rent, reimbursement, charge, fee or other amount payable by a lessee to a lessor