

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

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

Augusta, Maine
2013

Sec. 1. 9-A MRSA §13-103, sub-§1, as enacted by PL 2009, c. 362, Pt. B, §1, is amended to read:

1. Requirement. An individual, unless specifically exempted from this Article under subsection 2, may not engage in the business of a mortgage loan originator without obtaining and maintaining annually a license under this Article. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry.

As used in this subsection, "engaging in the business of a mortgage loan originator" means the individual, in a commercial context and habitually or repeatedly:

A. Takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan for compensation or gain; or

B. Represents to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that the individual can or will perform the activities described in paragraph A.

An individual is considered to be acting habitually or repeatedly under this subsection if the individual takes a residential mortgage application and offers or negotiates terms of a residential mortgage loan for compensation or gain more than 3 times in a 12-month period. An exemption from the licensure requirements under this Article does not apply if the individual, alone or with others, is found by the administrator to have acted so as to intentionally circumvent or evade the provisions of this subsection.

Sec. 2. 9-A MRSA §13-103, sub-§2, ¶¶H to J are enacted to read:

H. An individual who acts as a mortgage loan originator in providing financing for the sale of a property owned by that individual as long as that individual does not habitually or repeatedly engage in that activity.

I. An individual who acts as a mortgage loan originator as long as the source of prospective financing does not provide mortgage financing or perform other mortgage loan origination activities habitually or repeatedly.

J. An employee of a government entity who acts as a mortgage loan originator pursuant to that employee's official duties as an employee of that government entity.

See title page for effective date.

**CHAPTER 296
S.P. 456 - L.D. 1313**

An Act To Amend Licensing Requirements for Professional Engineers

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

Sec. 1. 32 MRSA §1251, as amended by PL 2005, c. 315, §2, is further amended to read:

§1251. Definitions

As used in this chapter, unless a different meaning clearly appears from the context, otherwise indicates, the following terms have the following meanings.

1. Board. "Board" means the State Board of Licensure for Professional Engineers.

1-A. Accreditation board. "Accreditation board" means the accreditation board for engineering and technology.

1-B. Engineering accreditation commission. "Engineering accreditation commission" means the engineering accreditation commission of the accreditation board.

2. Engineer-intern. ~~The term "engineer-intern" "Engineer-intern" means a person who has been certified as such an engineer-intern by the board and whose name has been entered in the register of engineer-interns.~~

2-A. National council. "National council" means the National Council of Examiners for Engineering and Surveying.

3. Practice of professional engineering. ~~The term "practice of professional engineering" shall be held to mean~~ "Practice of professional engineering" means any professional service, such as consultation, investigation, evaluation, planning, design or responsible supervision of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects, wherein the public welfare or the safeguarding of life, health or property is concerned or involved, when such professional service requires the application of engineering principles and data.

4. Professional engineer. ~~The term "professional engineer" means a person who, by reason of a knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as defined.~~

5. Technology accreditation commission. "Technology accreditation commission" means the technology accreditation commission of the accreditation board.

Sec. 2. 32 MRSA §1352-A, sub-§1, as amended by PL 2005, c. 315, §20, is further amended to read:

1. Professional engineer. Minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional engineer includes the following.

A. An applicant for licensure by endorsement or comity who provides proof that the applicant is a licensed professional engineer, in good standing, in another state, territory or possession of the United States, District of Columbia or any foreign country and whose qualifications meet the requirements of this chapter upon application may be licensed without further examination. To seek licensure under this paragraph, the applicant must be a graduate of an engineering curriculum approved by the engineering accreditation commission of the accreditation board for engineering and technology or of an equivalent engineering curriculum and have not less than 4 years of acceptable engineering experience after graduation and have been licensed by passing 16 hours of written examinations the national council principles and practice of engineering examination and the fundamentals of engineering examination.

B. A person holding a certificate of record verification issued by the National Council of Examiners for Engineering and Surveying national council whose qualifications meet the requirements of this chapter upon application may be licensed without further examination.

C. An applicant who provides proof of graduation from an engineering curriculum approved by the engineering accreditation commission of the accreditation board for engineering and technology or of an equivalent engineering curriculum of 4 years or more; has passed an 8-hour written the national council examination in the fundamentals of engineering; has a record of an additional 4 years or more of progressive engineering experience, after graduation, of a grade and character that indicates to the board that the applicant may be competent to practice and has experienced increased engineering responsibilities; and has passed an 8-hour written the national council examination in the principles and practice of engineering may be licensed as a professional engineer. An applicant for licensure may not sit for the principles and practice of engineering examination until the applicant has passed the fundamentals of engineering examination.

D. An applicant who provides proof of graduation from an engineering technology curriculum approved by the technology accreditation commission of the accreditation board for engineering and technology or of an equivalent engineering

technology curriculum of 4 years or more; has passed an 8-hour written the national council examination in the fundamentals of engineering; has a record of an additional 4 years or more of progressive engineering experience, after graduation, of a grade and character that indicates to the board that the applicant may be competent to practice and has experienced increased engineering responsibilities; and has passed an 8-hour written the national council examination in the principles and practice of engineering may be licensed as a professional engineer. An applicant for licensure may not sit for the principles and practice of engineering examination until the applicant has passed the fundamentals of engineering examination.

E. An applicant who has a baccalaureate from an engineering or engineering technology curriculum that has not been approved by the accreditation board for engineering and technology or from an allied science curriculum of 4 years or more; has passed an 8-hour written the national council written examination in the fundamentals of engineering; has a record of an additional 8 years or more of progressive engineering experience, after graduation, of a grade and character that indicates to the board that the applicant may be competent to practice and has experienced increased engineering responsibilities; and has passed an 8-hour written the national council examination in the principles and practice of engineering may be licensed as a professional engineer. An applicant for licensure may not sit for the principles and practice of engineering examination until the applicant has passed the fundamentals of engineering examination.

G. ~~An applicant with a record of at least 15 years of experience in engineering work, of which at least 10 years has been in responsible jobs of engineering work and of a grade and character that indicates to the board that the applicant may be competent to practice engineering, who has a license to engage in the practice of engineering on the basis of experience or a non-National Council of Examiners for Engineering and Surveying examination issued by a proper authority of a state, territory or possession of the United States, the District of Columbia or any foreign country and who in the opinion of the board meets the requirements of this chapter based on verified evidence may be licensed upon application by passing an oral examination conducted by the board or by a board committee.~~

H. ~~An applicant with a record of less than 15 years of experience in engineering work, who has a license to engage in the practice of engineering on the basis of experience or a non-National Council of Examiners for Engineering and Surveying examination issued by a proper authority of a~~

~~state, territory or possession of the United States, the District of Columbia or any foreign country, may be licensed upon application by passing an 8-hour examination in the principles and practice of engineering.~~

Engineering teaching experience of 4 years or more in a college or university offering an engineering or engineering technology curriculum approved by the accreditation board ~~for engineering and technology~~ may be considered as engineering experience.

Sec. 3. 32 MRSA §1352-A, sub-§2, as amended by PL 2005, c. 315, §20, is further amended to read:

2. Engineer-intern. Minimum evidence satisfactory to the board that the applicant is qualified for certification as an engineer-intern includes the following.

A. An applicant for certification as an engineer-intern is eligible to sit for the fundamentals of engineering examination during the applicant's senior year of college before graduation from a program approved by the accreditation board ~~for engineering and technology~~. Certification as an engineer-intern may not take place until verification of graduation is received.

B. An applicant who provides proof of graduation from an engineering curriculum approved by the engineering accreditation commission ~~of the accreditation board for engineering and technology~~ or of an equivalent engineering curriculum of 4 years or more and has passed ~~an 8-hour written~~ the national council examination in the fundamentals of engineering may be certified as an engineer-intern.

C. An applicant who provides proof of graduation from an engineering technology curriculum approved by the technology accreditation commission ~~of the accreditation board for engineering and technology~~ of 4 years or more and has passed ~~an 8-hour written~~ the national council examination in the fundamentals of engineering may be certified as an engineer-intern.

D. An applicant who is a graduate of an engineering curriculum not approved by the accreditation board ~~for engineering and technology~~ or an allied science curriculum of 4 years or more and who has submitted a transcript showing the completion of the minimum number or engineering science and design credits as required in a curriculum approved by the accreditation board ~~for engineering and technology~~ and who has passed ~~an 8-hour written~~ the national council examination in the fundamentals of engineering may be certified as an engineer-intern.

Certification as an engineer-intern is valid for an indefinite period.

Sec. 4. 32 MRSA §1353, first ¶, as amended by PL 2005, c. 315, §21, is further amended to read:

Application for licensure as a professional engineer or certification as an engineer-intern is must be made on a form prescribed and furnished by the board; ~~contains, contain~~ statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical experience; and ~~contains con-~~ tain references as set forth in section 1352-A, none of which may be from members of the board. An application fee ~~and an examination fee~~ may be established by rule by the board in amounts an amount that ~~are~~ is reasonable and necessary for ~~their respective purposes~~ its purpose.

Sec. 5. 32 MRSA §1354, as amended by PL 1999, c. 186, §8, is further amended to read:

§1354. Examinations

~~Examinations must be held at such times and places as the board determines.~~ Examinations required on fundamental engineering subjects may be taken as provided in section 1352-A. The principles and practices of engineering examinations may not be taken until the applicant has completed a period of engineering experience as set forth in section 1352-A.

The passing grade on any examination is established by the board. If an applicant receives a failing grade on the principles and practices of engineering examination, that applicant may be readmitted to 2 subsequent examinations ~~upon payment of an examination fee~~. An applicant who fails to complete the application process within 5 years, or who fails the principles and practices of engineering examination a 3rd time must reapply to the board, meet qualification requirements that are in effect at the time of the new application and present 3 new references and new documentation for each subsequent request for reexamination satisfactory to the board that the applicant has acquired additional education and experience and is prepared to retake the examination. Upon approval by the board ~~and payment of the examination fee~~, that applicant may be permitted to retake the examination.

Sec. 6. 32 MRSA §1357, as amended by PL 2005, c. 315, §24, is further amended to read:

§1357. Expiration and renewals

Licenses expire on the last day of December of odd-numbered years following their issuance or renewal and become invalid on that date unless renewed. The board shall notify every person licensed under this chapter of the date of the expiration of that person's license and the amount of the fee that is required for its renewal for a 2-year period, except when the applicant has become licensed during the first year of the 2-year period, then the renewal fee is for the remaining one year of that 2-year period. The notice must be ~~mailed~~ provided at least one month in advance of the

date of the expiration of the license. Renewal may be effected at any time after completion of continuing education requirements and after receipt of notice by the payment of a fee established by rule by the board, which may not exceed \$50 annually. Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 3 years from the date of the expiration.

Sec. 7. 32 MRSA §1361, 2nd ¶, as amended by PL 2005, c. 315, §26, is further amended to read:

A retired licensee may retain but not use the seal and may not practice engineering. ~~The board shall reissue a license to a retired licensee who pays all application fees, meets all current requirements for licensure renewal and demonstrates to the board's satisfaction that, for 2 years preceding the application for licensure, the A retired licensee met the requirements for maintaining professional competence established under the may apply for reinstatement to active status in accordance with section 1357 and after completing continuing education requirements according to board rules.~~

See title page for effective date.

CHAPTER 297

H.P. 941 - L.D. 1316

An Act Regarding Computers Used To Commit a Crime or Facilitate the Commission of a Crime

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

Sec. 1. 17-A MRSA §431, sub-§2, as enacted by PL 1989, c. 620, is amended to read:

2. "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions; and includes any data storage facility or device or communications facility directly related to or operating in conjunction with such the device.

Sec. 2. 17-A MRSA §431, sub-§10-A is enacted to read:

10-A. "Data storage device" means any computer or accessory device, designed for or capable of storing digital media or data, including, but not limited

to, installed or transportable hard drives, memory cards and servers.

Sec. 3. 17-A MRSA §§436 and 437 are enacted to read:

§436. Permanent destruction of computer data on a computer used in the commission of a crime

1. If a person is convicted upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or found not criminally responsible of a violation of this Title, the State, after all appeal periods have run and those proceedings have concluded, may permanently destroy the computer data on any computer that was used to commit or facilitate the commission of that violation or cause the computer data to be permanently destroyed through the removal and destruction of any part of the computer in the possession of the State on which the computer data are stored.

2. Notwithstanding subsection 1, a criminal justice agency, prior to the destruction of computer data, may extract and provide computer data to a person if:

A. Prior to the conclusion of criminal prosecution in the matter involving the computer data, the person provides written notification to the criminal justice agency having custody of the computer on which the computer data are stored that the person is interested in obtaining that computer data;

B. The person either has an ownership interest in the computer data or wants the computer data only for the sentimental value of the data. When computer data are requested only for the sentimental value of the data, the person must state such in a written affidavit;

C. The computer data that are the subject of the person's request may be lawfully disseminated;

D. The computer data that are the subject of the person's request are not confidential by law;

E. The computer data that are the subject of the request are specifically identified by the person making the request. For the purposes of this paragraph, "specifically identified" means identified with reasonable precision and not merely categorically;

F. The criminal justice agency, in the judgment of the chief officer of the agency, determines the agency has the technological expertise, resources and personnel available to accommodate the request or to cause the request to be accommodated. The chief officer of the agency may consider whether there is a 3rd-party vendor that can accommodate the request if the chief officer determines the agency cannot accommodate the request for reasons provided in this paragraph. The chief