

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals
(text not searchable)

ERRORS BILL §: SUPP-21

LAW AMENDED: 12 MRSA §6034, sub-§1, first ¶

Prepared by: MJR

Date: 5/16/03

File name: G:\COMMITTEES\JUD\ERRORS 2003\Supp-21.DOC (5/16/03 11:19 PM)

Has the error already been fixed in another bill? NO

Has section been amended/repealed in another bill? NO

General Subject: Commercial Fishing Safety Council

Type of correction (conflict, reference, other): changed minds

Category: (technical, substantive) S

Is a further amendment needed? NO
(If so, explain below)

EXPLANATION

LD 1440, enacted and signed as PL 2003, c. 90, created the Commercial Fishing Safety Council. After enactment by the Legislature, the Marine resources Committee and the Department of Marine resources decided that waiting until the 15 gubernatorial appointments are made and then confirmed by the Legislature would take too long to get the council started.

This section repeals the language that requires the appointments be confirmed by the Legislature.

Sec. Supp-21. 12 MRSA §6034, first ¶, as enacted by PL 2003, c. 90, §2, is amended to read:

§6034. Commercial Fishing Safety Council

1. Appointment; composition. The Commercial Fishing Safety Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-E, consists of 17 members, 15 of whom are appointed by the Governor ~~and subject to confirmation by the Legislature~~ as follows:

SUMMARY

This section removes the requirement that the 15 gubernatorial appointments to the newly established Commercial Fishing Safety Council be confirmed by the Legislature.

G:\COMMITTEES\JUD\ERRORS 2003\Supp 21 text.doc (5/16/03 11:22 PM)

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THREE

S.P. 478 - L.D. 1440

An Act To Establish the Commercial Fishing Safety
Council

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, commercial fishing off the coast of Maine is inherently dangerous and vital to the economic well-being of Maine; and

Whereas, over the last 8 years, 34 Maine fishermen were lost at sea while engaged in commercial fishing activities; and

Whereas, most accidents that result in the sinking of a vessel are preventable; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §12004-I, sub-§57-E is enacted to read:

<u>57-E.</u>	<u>Commercial</u>	<u>None</u>	<u>12 MRSA</u>
<u>Marine</u>	<u>Fishing</u>		<u>§6034</u>
<u>Resources</u>	<u>Safety</u>		
	<u>Council</u>		

Sec. 2. 12 MRSA §§6034 and 6035 are enacted to read:

§6034. Commercial Fishing Safety Council

1. Appointment; composition. The Commercial Fishing Safety Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-E, consists of 17 members, 15 of whom are appointed by the Governor and subject to confirmation by the Legislature as follows:

A. One member who is a license holder under this Part and a member of the Lobster Advisory Council, recommended by the chair of the Lobster Advisory Council;

B. One member who is a license holder under this Part and a member of the Marine Resources Advisory Council, recommended by the chair of the Marine Resources Advisory Council;

C. One member who is a license holder under this Part and a member of the Sea Urchin Zone Council, recommended by the chair of the Sea Urchin Zone Council;

D. Five members who are license holders under this Part and who each represent a different commercial marine harvesting activity than the other members of the council, recommended by commercial marine harvesting and aquaculture interests;

E. An educator experienced in community-based adult education and volunteer safety training;

F. An expert in fishing industry risk analysis and occupational health;

G. An expert in marine safety equipment;

H. A representative of the marine insurance industry;

I. A marine surveyor;

J. A spouse or domestic partner of a license holder under this Part; and

K. A member of the public.

The chair of the Marine Resources Advisory Council and the chair of the Marine Recreational Fishing Advisory Council are ex officio members of the council. The composition of the council must reflect a geographic distribution along the coast of the State. The council may invite to carry out the duties of the

council other participants on an ad hoc basis, including representatives of private or governmental organizations or individuals with expertise or interest in marine, education, labor or health matters.

2. Term. The term of an appointed member is 3 years, except a vacancy of a member before the expiration of the member's term must be filled in the same manner as the original member for the unexpired portion of the member's term. An appointed member may not serve more than 2 consecutive terms.

3. Officers. The officers of the council are the chair, vice-chair and secretary. The term of the officers is one year. The Governor shall appoint the first chair of the council. Except for the appointment of the original chair, the council shall elect a member of the council for each officer position at the first regular meeting of each year. The officers have the following duties:

A. The chair shall call and preside at council meetings;

B. The vice-chair shall call and preside at council meetings when the chair is absent; and

C. The secretary shall record all meetings of the council and preserve these records.

4. Meetings. The council shall hold regular quarterly meetings and may hold special meetings with the commissioner or the commissioner's designee. A member of the council may participate and is deemed present at a meeting of the council or of a subcommittee of the council by telephone, electronically or by any other means by which all members participating in the meeting are able to communicate with each other. The council shall ensure adequate facilities for full attendance at council meetings by the public.

5. Quorum. A quorum exists when a majority of the members of the council are present, either actually or pursuant to subsection 4.

6. Council actions. The council may act in the following ways:

A. If a quorum is present, in person or pursuant to subsection 4, by a majority vote of the members present or polled; or

B. If there is no meeting, by written poll of a quorum of members responding.

7. Duties. The council shall carry out duties specifically delegated to the council by law or by the commissioner and give the commissioner information and advice concerning fishing safety issues, including:

A. Minimum safety equipment, training and operational standards;

B. Community-based education programs that provide practical safety training and fisheries-specific safety training;

C. An outreach program to promote the culture of safety;

D. Opportunities to minimize the costs and seek alternative funding sources, fees, incentives, grants or partnerships to minimize the financial impact of safety requirements; and

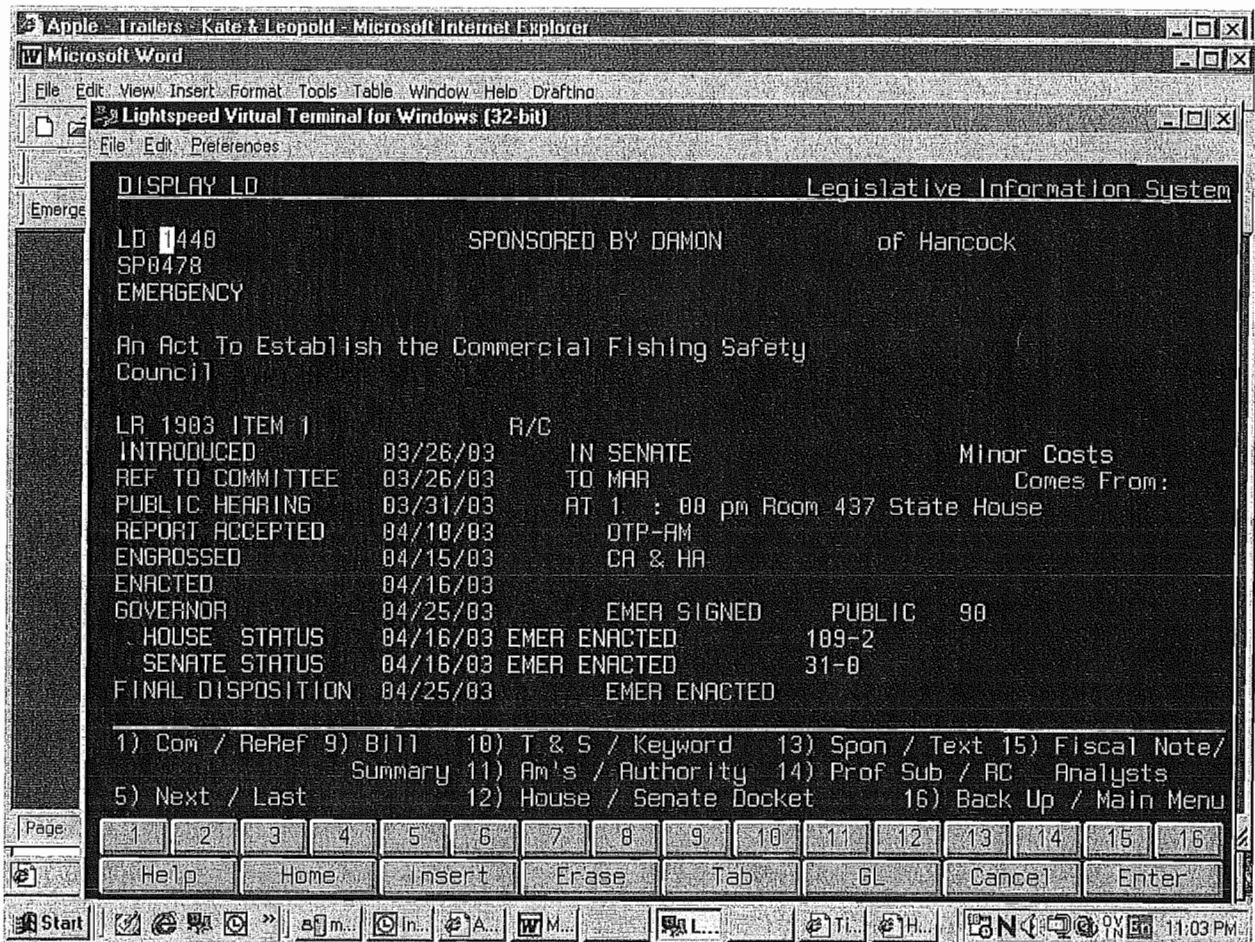
E. The commercial safety fishing plan that the commissioner submits to the council pursuant to section 6035 and report to the Legislature concerning that plan pursuant to subsection 8.

8. Report. No later than January 15th of each year, the council shall report to the joint standing committee of the Legislature having jurisdiction over marine resources matters with regard to measures required to implement the commercial safety fishing plan that the commissioner submits to the council pursuant to section 6035. The committee is authorized to report out any necessary legislation regarding the council's report.

§6035. Commercial safety fishing plan

No later than November 15th of each year, the commissioner shall submit a commercial safety fishing plan to the Commercial Fishing Safety Council that includes the department's fishing safety initiatives, the progress in implementing those fishing safety initiatives, any revisions to those initiatives or their implementation and any new initiatives for the Commercial Fishing Safety Council to consider.

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



DENNIS DAMON, DISTRICT 5, CHAIR
 PEGGY PENDLETON, DISTRICT 31
 RICHARD BENNETT, DISTRICT 25

CURTIS C. BENTLEY, LEGISLATIVE ANALYST
 CHRIS HARRIS, COMMITTEE CLERK



THOMAS D. BULL, FREEPORT, CHAIR
 NANCY B. SULLIVAN, BIDDEFORD
 WALTER E. ASH, JR., BELFAST
 EDWARD R. DUGAY, CHERRYFIELD
 LEILA J. PERCY, PHIPPSBURG
 KEVIN M. MUSE, FRYBURG
 DEBORAH K. MCNEIL, ROCKLAND
 JEFF KAEIN, WINTERPORT
 LEONARD EARL BIERMAN, SORRENTO
 STEPHEN BOWEN, ROCKPORT
 FREDERICK J. MOORE III,
 PASSAMAQUODDY TRIBE

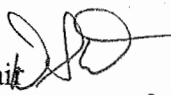

STATE OF MAINE

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

COMMITTEE ON MARINE RESOURCES

MEMORANDUM

TO: Peggy A. Pendleton, Senate Chair
 William S. Norbert, House Chair

FROM: Senator Dennis Damon, Senate Chair 
 Representative Thomas Bull, House Chair 
 Joint Standing Committee on Marine Resources

DATE: May 13, 2003

SUBJ: Request to include an amendment to LD 274

The Joint Standing Committee on Marine Resources respectfully requests that the attached language be included as an amendment to LD 274, An Act to Correct Errors And Inconsistencies in the Laws of Maine. The attached language amends newly enacted Title 12 MRSA § 6034 that establishes the Commercial Fishing Advisory Council ("Council") charged with enhancing boating safety within the commercial fishing industry. The amendatory language removes the requirement that the Governor's appointees to the Council be confirmed by the legislature.

As evidenced by our emergency amendment to LD 1440, the bill that created the Council, it was the intent of this committee to expedite the creation of this Council. During our work session on this bill, it became clear that commercial fishing fatalities are largely preventable and that a safety council could help reverse the recent upward trend of commercial fishing fatalities off the coast of Maine. Additionally, we view this Council as a nonpartisan matter and we see no practical purpose for the confirmation requirement other than to unnecessarily delay the start of the Council's work - something we do not support and did not intend to do when we unanimously voted LD 1440 out of committee. Therefore, we feel it is necessary to bring this amendment to your attention so that the Council can begin its important work as soon as possible.

Thank you for your consideration of this matter.

AMENDMENT TO LD 274

Proposed by the Joint Standing Committee of Marine Resources

Sec. 1. 12 MRSA § 6034, sub-§1, is amended to read:

§6034. Commercial Fishing Safety Council

1. Appointment; composition. The Commercial Fishing Safety Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-E, consists of 17 members, 15 of whom are appointed by the Governor ~~and subject to confirmation by the Legislature~~ as follows:

- A. One member who is a license holder under this Part and a member of the Lobster Advisory Council, recommended by the chair of the Lobster Advisory Council;
- B. One member who is a license holder under this Part and a member of the Marine Resources Advisory Council, recommended by the chair of the Marine Resources Advisory Council;
- C. One member who is a license holder under this Part and a member of the Sea Urchin Zone Council, recommended by the chair of the Sea Urchin Zone Council;
- D. Five members who are license holders under this Part and who each represent a different commercial marine harvesting activity than the other members of the council, recommended by commercial marine harvesting and aquaculture interests;
- E. An educator experienced in community-based adult education and volunteer safety training;
- F. An expert in fishing industry risk analysis and occupational health;
- G. An expert in marine safety equipment;
- H. A representative of the marine insurance industry;
- I. A marine surveyor;
- J. A spouse or domestic partner of a license holder under this Part; and
- K. A member of the public.

The chair of the Marine Resources Advisory Council and the chair of the Marine Recreational Fishing Advisory Council are ex officio members of the council. The composition of the council must reflect a geographic distribution along the coast of the State. The council may invite to carry out the duties of the council other participants on an ad hoc basis, including representatives of private or governmental organizations or individuals with expertise or interest in marine, education, labor or health matters.

SUMMARY

This amendment removes the requirement that the Governor's appointments to the Commercial Fishing Safety Council be confirmed by the Legislature.

ERRORS BILL §: SUPP-22 & 23

LAW AMENDED: P&SL 2001, c. 62, §2

Prepared by: MJR

Date: 5/16/03

File name: G:\COMMITTEES\JUD\ERRORS 2003\Supp-22&23.DOC (5/16/03 11:58 PM)

Has the error already been fixed in another bill? NO

Has section been amended/repealed in another bill? NO

General Subject: Boundary line between Falmouth and Portland

Type of correction (conflict, reference, other): incorrect bearings terms

Category: (technical, substantive) TP

Is a further amendment needed? NO
(If so, explain below)

EXPLANATION

LD 1586 in the 120th Legislature, enacted as Private and Special Law 2001, chapter 62 established a new boundary line between Falmouth and Portland through the annexation of a parcel of land by Portland. The description of the parcel was originally written in degrees (°), minutes (') and seconds ("). These bearings were mistakenly translated into minutes, feet and inches.

This section corrects the description with the appropriate terminology.

Make retroactive to effective date: April 2, 2002.

Sec. Supp 22. P&SL 2001, c. 62, §2 is amended to read:

Sec. 2. Territory. The territory affected by this Act, referred to in this Act as the "territory," is as follows:

A certain lot or parcel of land situated in the Town of Falmouth, County of Cumberland, and State of Maine bounded and described as follows:

Beginning at a granite monument on the southerly bank of the Presumpscot River which monument marks the Falmouth-Portland Town line;

Thence south 31 degrees, 28 ~~feet~~ minutes, 15 ~~inches~~ seconds west along said Falmouth-Portland Town line, 1,409.32 feet to a granite monument;

Thence north 58 degrees, 27 ~~feet~~ minutes, 10 ~~inches~~ seconds west along said Falmouth-Portland Town line, 1,047.77 feet to a granite monument;

Thence north 30 degrees, 42 ~~feet~~ minutes, 40 ~~inches~~ seconds east along said Falmouth-Portland Town line, 290.49 feet to a granite monument;

Thence north 59 degrees, 9 ~~feet~~ minutes, 11 ~~inches~~ seconds west along said Falmouth-Portland Town line, 482.24 feet to a granite monument and the Maine Turnpike spur;

Thence north 64 degrees, 31 ~~feet~~ minutes, 49 ~~inches~~ seconds east along said Turnpike Spur, 1,690.60 feet to the Presumpscot River;

Thence southeasterly along said Presumpscot River 700 feet more or less to the point of beginning.

The territory described above includes all of the land, buildings, intertidal land, submerged land, freshwater or saltwater ponds and river beds, generally referred to as the Adams/Wolfe property, containing 37.73 acres, more or less.

Sec. Supp 23. Retroactivity. That section of this Act that amends Private and Specail Law 2001, chapter 62, section 2 applies retroactively to April 2, 2002.

SUMMARY

This section corrects references in the legal description of land annexed to Portland from Falmouth. The bearings as adopted by the Legislature describing the directions of the new town lines are expressed in the form of degrees, feet and inches. This is incorrect as bearings are

measure in the form of degree, minutes and seconds. This section restates the bearings in the form of degrees, minutes and seconds.

This section applies retroactively on April 2, 2002, which is the effective date of the annexation legislation.

G:\COMMITTEES\JUD\ERRORS 2003\Supp-22 text.doc (5/16/03 11:40 PM)

CITY OF PORTLAND



DEPARTMENT OF PUBLIC WORKS
OPERATIONS / ENGINEERING SECTION
55 PORTLAND STREET
PORTLAND, MAINE 04101
(207) 874-8300 Telephone
(207) 874-8852 FAX Line

FAX TRANSMITTAL COVER PAGEDATE: 5/16/03SEND TO Peggy ReinschCOMPANY/ORGANIZATION: Office of Policy & Legal Analysis, State of MaineFAX NUMBER: (207) 207-1275

FROM:

Jon GilesTELEPHONE/EXTENSION: (207) 874-8846 8842NUMBER OF PAGES INCLUDING COVER SHEET 6

OPTIONAL MESSAGE

see attached letter for itemfor the upcoming Error & Omissions Act

Department of Public Works

Michael J. Bobinsky
Director**CITY OF PORTLAND**

May 16, 2003

Peggy Reinsch, Analyst
Office of Policy and Legal Analysis
Room 215, 2nd Floor, Cross Office Building
State House Station 13
Augusta, Maine 04333
Fax (207) 287-1275

Ms. Reinsch:

At the request of the City of Portland, Maine's Corporate Council Gary Wood, I am writing to you to inform you of an error in the description of the land annexed from Falmouth to Portland last year (Chapter 62 of Private and Special Laws, SP499 – L.D.1586, An Act to Separate Territory from the Town of Falmouth and Annex it to the City of Portland). It was Gary Wood's hope that this error could be corrected in the upcoming Error and Omissions Bill.

The error involves what appears to be a typo in the legal description of the land being annexed by Portland from Falmouth. The bearings as adopted by the Legislature describing the directions of the new town lines are expressed in the form of degrees, feet, and inches. This is incorrect as bearings are measured not in degrees, feet and inches, but in degrees, minutes, and seconds. I believe the confusion arose last year when someone inadvertently mistook the symbols associated with degrees, minutes, and seconds to refer instead to degrees, feet and inches. For example bearings are often written as:

South 73°35'56" West

or

South seventy-three degrees, thirty-five minutes, and fifty-six seconds West.

As you can see the symbols used for minutes (') and seconds (") are the same for feet (') and inches ("). Given the measurements are clearly meant to be directions expressed as bearings, I believe that the symbols were simply incorrectly translated to the wrong written word equivalents. This is further supported by the fact that following each bearing in the annexation description is a distance measurement as well.

● Page 2

May 16, 2003

Attached is a copy of the Private and Special Act as it was provided to me on which I have noted each apparent error. I will be in the Cross Office Building for a meeting of the Maine GeoLibrary Board on May 21. If you need me to stop by to clarify any points or concerns please let me know, otherwise you can feel free to contact by phone, fax, or email.

Sincerely,

Jon Giles, PLS
GIS Coordinator
City of Portland, ME
(207) 874-8842
(207) 874-8852
jag@ci.portland.me.us

pc: Gary Wood, Corporate Counsel, City of Portland
William G. Scott, PLS, Project Engineer, City of Portland
James Robbins, PLS, Archivist, City of Portland

~~XXXXXXXXXXXXXXXXXXXX~~
Keep copy for rec.

APPROVED

CHAPTER

APR 02 02

62

BY GOVERNOR

P & S LAW

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWO
—

S.P. 499 - L.D. 1586

An Act to Separate Territory from the Town of Falmouth and
Annex it to the City of Portland

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the City of Portland and the Town of Falmouth have jointly agreed to the annexation of the Falmouth property by the City of Portland; and

Whereas, a purchase agreement for a parcel of land along the Presumpscot River that is linked to the transfer of the Falmouth land to Portland requires that the purchase be finalized by March 23, 2002; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Separation and incorporation. The territory described in section 2, now within the Town of Falmouth, Cumberland County, being uninhabited, is separated and set off from the Town of Falmouth and incorporated into the City of Portland, Cumberland County.

Sec. 2. Territory. The territory affected by this Act, referred to in this Act as the "territory," is as follows:

1-1508(3)

A certain lot or parcel of land situated in the Town of Falmouth, County of Cumberland, and State of Maine bounded and described as follows:

Beginning at a granite monument on the southerly bank of the Presumpscot River which monument marks the Falmouth-Portland Town line;

Thence south 31 degrees, 28 feet, 15 inches west along said Falmouth-Portland Town line, 1,409.32 feet to a granite monument;

Thence north 58 degrees, 27 feet, 10 inches west along said Falmouth-Portland Town line, 1,047.77 feet to a granite monument;

Thence north 30 degrees, 42 feet, 40 inches east along said Falmouth-Portland Town line, 290.49 feet to a granite monument;

Thence north 59 degrees, 9 feet, 11 inches west along said Falmouth-Portland Town line, 482.24 feet to a granite monument and the Maine Turnpike spur;

Thence north 64 degrees, 31 feet, 49 inches east along said Turnpike Spur, 1,690.60 feet to the Presumpscot River;

Thence southeasterly along said Presumpscot River 700 feet more or less to the point of beginning.

The territory described above includes all of the land, buildings, intertidal land, submerged land, freshwater or saltwater ponds and river beds, generally referred to as the Adams/Wolfe property, containing 37.73 acres, more or less.

Sec. 3. Property taxes; municipal services. The territory remains a part of the Town of Falmouth for all purposes, including liabilities, obligations and the collection and disbursement of property taxes, up to the effective date of separation, and the Town of Falmouth shall maintain its customary level of municipal services to the territory until that date. After the effective date of separation, the City of Portland shall assess and collect property taxes and provide municipal services to the territory.

Sec. 4. Effective date of separation. The effective date of separation and annexation of the territory is the effective date of this Act.

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

3-1508(3)

5/20/03

ERRORS BILL §: SUPP-24

LAW AMENDED: 11 MRSA §9-1207, sub-§(4)

Prepared by: MJR

Date: 5/27/03

File name: G:\COMMITTEES\JUD\ERRORS 2003\Supp-24.DOC (5/27/03 10:43 AM)

Has the error already been fixed in another bill? NO

Has section been amended/repealed in another bill? NO

General Subject: Uniform Commercial Code, Secured transactions

Type of correction (conflict, reference, other): bad format

Category: (technical, substantive) T?

Is a further amendment needed?
(If so, explain below)

EXPLANATION

PL 1999, c. 699 enacted Revised Article 9 (Secured Transactions) of the Uniform Commercial Code. When the bill was printed, it inadvertently listed the second paragraph of subsection (4) as a separate subsection (5) rather than paragraph (b). The Uniform Comments are clear that the text should be part of subsection (4).

This section corrects the error by adding the correct text as paragraph (b) of subsection (4) and repealing subsection (5).

Sec. XXX. 11 MRSA §9-1207, sub-§4 is amended to read:

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor:

(a) Subsection (1) does not apply unless the secured party is entitled under an agreement:

(i) To charge back uncollected collateral; or

(ii) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) do not apply.

~~(5) Subsections (2) and (3) do not apply.~~

SUMMARY

This section corrects an error in the Uniform Commercial Code in which a paragraph was printed as a separate subsection.

Cross References

Security interests perfected upon attachment,
see 11 M.R.S.A. § 9-1309.

SUBPART 2

RIGHTS AND DUTIES

Section		Section	
9-1207.	Rights and duties of secured party having possession or control of collateral.	9-1209.	Duties of secured party if account debtor has been notified of assignment.
9-1208.	Additional duties of secured party having control of collateral.	9-1210.	Request for accounting; request regarding list of collateral or statement of account.

§ 9-1207. Rights and duties of secured party having possession or control of collateral

(1) Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4), if a secured party has possession of collateral:

- (a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use or operation of the collateral, are chargeable to the debtor and are secured by the collateral;
- (b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;
- (c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and
- (d) The secured party may use or operate the collateral:
 - (i) For the purpose of preserving the collateral or its value;
 - (ii) As permitted by an order of a court having competent jurisdiction; or
 - (iii) Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under section 9-1104, 9-1105, 9-1106 or 9-1107:

- (a) May hold as additional security any proceeds, except money or funds, received from the collateral;
- (b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and
- (c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor:

- (a) Subsection (1) does not apply unless the secured party is entitled under an agreement:
 - (i) To charge back uncollected collateral; or
 - (ii) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(5) Subsections (2) and (3) do not apply.

1999, c. 699, § A-2, eff. July 1, 2001.

Uniform Commercial Code Comment

1. Source. Former Section 9-207.

2. Duty of Care for Collateral in Secured Party's Possession. Like former section 9-207, subsection (a) [Maine cite subsection (1)] imposes a duty of care, similar to that imposed on a pledgee at common law, on a secured party in possession of collateral. See Restatement, Security §§ 17, 18. In many cases a secured party in possession of collateral may satisfy this duty by notifying the debtor of action that should be taken and allowing the debtor to take the action itself. If the secured party itself takes action, its reasonable expenses may be added to the secured obligation. The revised definitions of "collateral," "debtor," and "secured party" in Section 9-102 [Maine cite 9-1102] make this section applicable to collateral subject to an agricultural lien if the collateral is in the lienholder's possession. Under Section 1-102 the duty to exercise reasonable care may not be disclaimed by agreement, although under that section the parties remain free to determine by agreement standards that are not manifestly unreasonable as to what constitutes reasonable care. Unless otherwise agreed, for a secured party in possession of chattel paper or an instrument, reasonable care includes the preservation of rights against prior parties. The secured party's right to have instruments or documents indorsed or transferred to it or its order is dealt with in the relevant sections of Articles 3, 7, and 8. See Sections 3-201 [Maine cite section 3-1201], 7-506, 8-304(d) [Maine cite section 8-1304, subsection (4)].

3. Specific Rules When Secured Party in Possession or Control of Collateral. Subsections (b) and (c) [Maine cite subsections (2) and (3)] provide rules following common-law precedents which apply unless the parties otherwise agree. The rules in subsection (b) [Maine cite subsection (2)] apply to typical issues that may arise while a secured party is in possession of collateral, including expenses, insurance, and taxes, risk of loss or damage, identifiable and fungible collateral, and use or operation of collateral. Subsection (c) [Maine cite subsection (3)] contains rules that apply in certain circumstances that may arise when a secured party is in either possession or control of collateral. These circumstances include the secured party's receiving proceeds from the collateral and the secured party's creation of a security interest in the collateral.

4. Applicability Following Default. This section applies when the secured party has possession of collateral either before or after default. See Sections 9-601(b), 9-609 [Maine cite section 9-1601, subsection 2, section 9-1609]. Subsection (b)(4)(C) [Maine cite subsection (2) paragraph (d) subparagraph (iii)] limits agreements concerning the use or operation of collateral to collateral other than consumer goods. Under Section 9-602(1) [Maine cite section 9-1602, subsection (1)], a debtor cannot waive or vary that limitation.

5. "Repledges" and Right of Redemption. Subsection (c)(3) [Maine cite subsection (3), paragraph (c)] eliminates the qualification in former Section 9-207 to the effect that the terms of a "repledge" may not "impair" a debtor's "right to redeem" collateral. The change is primarily for clarification. There is no basis on which to draw from subsection (c)(3) [Maine cite subsection (3), paragraph (c)] any inference concerning the debtor's right to redeem the collateral. The debtor enjoys that right under Section 9-621 [Maine cite section 9-1621]; this section need not address it. For example, if the collateral is a negotiable note that the secured party (SP-1) repledges to SP-2, nothing in this section suggests that the debtor (D) does not retain the right to redeem the note upon payment to SP-1 of all obligations secured by the note. But, as explained below, the debtor's unimpaired right to redeem as against the debtor's original secured party nevertheless may not be enforceable as against the new secured party.

In resolving questions that arise from the creation of a security interest by SP-1, one must take care to distinguish D's rights against SP-1 from D's rights against SP-2. Once D discharges the secured obligation, D becomes entitled to the note; SP-1 has no legal basis upon which to withhold it. If, as a practical matter, SP-1 is unable to return the note because SP-2 holds it as collateral for SP-1's unpaid debt, then SP-1 is liable to D under the law of conversion.

Whether SP-2 would be liable to D depends on the relative priority of SP-2's security interest and D's interest. By permitting SP-1 to create a security interest in the collateral (repledge), subsection (c)(3) [Maine cite subsection (3), paragraph (c)] provides a statutory power for SP-1 to give SP-2 a security interest (subject, of course, to any agreement by SP-1 not to give a security interest). In the vast majority of cases where repledge rights are significant, the security interest of the second secured party, SP-2 in the example, will be senior to the debtor's interest. By virtue of the debtor's consent or applicable legal rules, SP-2 typically would cut off D's rights in investment property or be immune from D's claims. See Sections 9-331 [Maine cite section 9-1331], 3-306 [Maine cite section 3-1306] (holder in due course), 8-303 [Maine cite section 8-1303] (protected purchaser), 8-502 [Maine cite section 8-1502] (acquisition of a security entitlement), 8-503(e) [Maine cite section 8-1503 subsection (5)] (action by entitlement holder). Moreover, the expectations and business practices in some markets, such as the securities markets, are such that D's consent to SP-2's taking free of D's rights inheres in D's creation of SP-1's security interest which gives rise to SP-1's power under this section. In these situations, D would have no right to recover the collateral or recover damages from SP-2. Nevertheless, D would have a damage claim against SP-1 if SP-1 had given a security interest to SP-2 in breach of its agreement with D. Moreover, if SP-2's security interest secures an amount that is less than the amount secured by

TRANSACTIONS

Art. 9-A

11 § 9-1208

AL CODE Title 11

Redemption.
n (3), para-
1 in former
terms of a
s "right to
rimarily for
ich to draw
section (3),
ig the debt-
The debtor
[Maine cite
address it.
otiable note
es to SP-2,
e debtor (D)
e note upon
ured by the
tor's unim-
he debtor's
ay not be
party.
m the cre-
e must take
SP-1 from
charges the
to the note;
withhold it.
e to return
lateral for
to D under

depends on
interest and
o create a
edge), sub-
paragraph
'-1 to give
rse, to any
y interest).
edge rights
the second
l be senior
e debtor's
2 typically
roperty or
ions 9-331
e cite sec-
03 [Maine
er), 8-502
f a securi-
ion 8-1503
t holder).
s practices
s markets,
ng free of
1's securi-
wer under
d have no
damages
a damage
a security
nt with D.
ecures an
ecured by

SP-1's security interest (granted by D), then D's exercise of its right to redeem would provide value sufficient to discharge SP-1's obligations to SP-2.

For the most part this section does not change the law under former Section 9-207, although eliminating the reference to the debtor's right of redemption may alter the secured party's right to repledge in one respect. Former Section 9-207 could have been read to limit the secured party's statutory right to repledge collateral to repledge transactions in which the collateral did not secure a greater obligation than that of the original debtor. Inasmuch as this is a matter normally dealt with by agreement between the debtor and secured party, any change would appear to have little practical effect.

6. "Repledges" of Investment Property. The following example will aid the discussion of "repledges" of investment property.

Example. Debtor grants Alpha Bank a security interest in a security entitlement that includes 1000 shares of XYZ Co. stock that Debtor holds through an account with Able & Co. Alpha does not have an account with Able. Alpha uses Beta Bank as its securities custodian. Debtor instructs Able to transfer the shares to Beta, for the account of Alpha, and Able does so. Beta then credits Alpha's account. Alpha has control of the security entitlement for the 1000 shares under Section 8-106(d) [Maine cite section 8-1106, subsection (4)]. (These are the facts of Example 2, Section 8-106 [Maine cite section 8-1106], Comment 4.) Although, as between Debtor and Alpha, Debtor may have become the beneficial owner of the new securities entitlement with Beta, Beta has agreed to act on Alpha's entitlement orders because, as between Beta and Alpha, Alpha has become the entitlement holder.

Next, Alpha grants Gamma Bank a security interest in the security entitlement with Beta that includes the 1000 shares of XYZ Co. stock. In order to afford Gamma control of the entitlement, Alpha instructs Beta to transfer the stock to Gamma's custodian, Delta Bank, which credits Gamma's account for 1000 shares. At this point Gamma holds its securities entitlement for its benefit as well as that of its debtor, Alpha. Alpha's derivative rights also are for the benefit of Debtor.

In many, probably most, situations and at any particular point in time, it will be impossible for Debtor or Alpha to "trace" Alpha's "repledge" to

any particular securities entitlement or financial asset of Gamma or anyone else. Debtor would retain, of course, a right to redeem the collateral from Alpha upon satisfaction of the secured obligation. However, in the absence of a traceable interest, Debtor would retain only a personal claim against Alpha in the event Alpha failed to restore the security entitlement to Debtor. Moreover, even in the unlikely event that Debtor could trace a property interest, in the context of the financial markets, normally the operation of this section, Debtor's explicit agreement to permit Alpha to create a senior security interest, or legal rules permitting Gamma to cut off Debtor's rights or become immune from Debtor's claims would effectively subordinate Debtor's interest to the holder of a security interest created by Alpha. And, under the shelter principle, all subsequent transferees would obtain interests to which Debtor's interest also would be subordinate.

7. Buyers of Chattel Paper and Other Receivables; Consignors. This section has been revised to reflect the fact that a seller of accounts, chattel paper, payment intangibles, or promissory notes retains no interest in the collateral and so is not disadvantaged by the secured party's noncompliance with the requirements of this section. Accordingly, subsection (d) [Maine cite subsection (4)] provides that subsection (a) [Maine cite subsection (1)] applies only to security interests that secure an obligation and to sales of receivables in which the buyer has recourse against the debtor. (Of course, a buyer of accounts or payment intangibles could not have "possession" of original collateral, but might have possession of proceeds, such as promissory notes or checks.) The meaning of "recourse" in this respect is limited to recourse arising out of the account debtor's failure to pay or other default.

Subsection (d) [Maine cite subsection (4)] makes subsections (b) and (c) [Maine cite subsections (2) and (3)] inapplicable to buyers of accounts, chattel paper, payment intangibles, or promissory notes and consignors. Of course, there is no reason to believe that a buyer of receivables or a consignor could not, for example, create a security interest or otherwise transfer an interest in the collateral, regardless of who has possession of the collateral. However, this section leaves the rights of those owners to law other than Article 9 [Maine cite Article 9-A].

Historical and Statutory Notes

Derivation:

R.S.1954, c. 190.
Laws 1963, c. 362, § 1.

Laws 1965, c. 306, § 24.
Former 11 M.R.S.A. § 9-207.

§ 9-1208. Additional duties of secured party having control of collateral

(1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations or otherwise give value.

(2) Within 20 days after receiving an authenticated demand by the debtor:

V. ~~Somes Pond in the Town of Mount Desert;~~

W. ~~Long Pond in the Town of Mount Desert and the Town of Southwest Harbor; or~~

X. ~~Little Long Pond in the Town of Mount Desert.~~

Sec. 4. 12 MRSA §7801, sub-§36 is enacted to read:

36. Operating rented or leased personal watercraft without identification decal. A person is guilty of operating a rented or leased personal watercraft without an identification decal if that person operates a rented or leased personal watercraft on Brandy Pond in the Town of Naples or on Long Lake in the Town of Naples, the Town of Bridgton and the Town of Harrison that does not have a clearly visible decal affixed to the personal watercraft that identifies the rental agent.

Sec. 5. Preparation of identification decals. The Naples Conservation Commission shall, in cooperation with businesses that rent or lease personal watercraft for use on Brandy Pond in the Town of Naples or on Long Lake in the Town of Naples, the Town of Bridgton and the Town of Harrison, design and provide to those businesses the identification decals required by the Maine Revised Statutes, Title 12, section 7801, subsection 36.

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

Effective April 13, 2000.

CHAPTER 698

I.B. 6 - L.D. 2602

An Act to Repeal the Sales Tax on Snack Food Except Candy and Confections

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

Sec. 1. 36 MRSA §1752, sub-§3-B, as amended by PL 1991, c. 846, §17, is further amended to read:

3-B. Grocery staples. "Grocery staples" means food products ordinarily consumed for human nourishment and includes, but is not limited to, cereals and grain products, including bread, rolls and unflavored matzo; milk and milk products; oleomargarine; meat and meat products; fish and seafood products; poultry; eggs and egg products; vegetables

~~and vegetable products, including pickles; fruit and fruit products, including fruit juices and fruit sauces; naturally flavored powdered or liquid drink mixes or drinks; spices, condiments, including jams, jellies and peanut butter, salt and sugar; coffee and tea; and unroasted nuts.~~

"Grocery staples" does not include spirituous, malt or vinous liquors; soft drinks, iced tea, sodas or beverages such as are ordinarily dispensed at bars or soda fountains or in connection with bars or soda fountains; medicines, tonics, vitamins and preparations in liquid, powdered, granular, tablet, capsule, lozenge or pill form, sold as dietary supplements or adjuncts, except when sold on the prescription of a physician; water, including mineral bottled and carbonated waters and ice; dietary substitutes; ~~snack food~~ candy and confections; and prepared food.

Sec. 2. 36 MRSA §1752, sub-§14-C, as enacted by PL 1991, c. 591, Pt. WW, §2 and affected by §4, is repealed.

See title page for effective date.

CHAPTER 699

H.P. 1601 - L.D. 2245

An Act to Adopt the Model Revised Article 9 Secured Transactions

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

PART A

Sec. A-1. 11 MRSA art. 9, as amended, is repealed.

Sec. A-2. 11 MRSA art. 9-A is enacted to read:

Article 9-A

TRANSACTIONS

PART 1

GENERAL PROVISIONS

SUBPART 1

SHORT TITLE, DEFINITIONS AND GENERAL CONCEPTS

§9-1101. Short title

This Article may be cited as "Uniform Commercial Code-Secured Transactions."

SUBPART 2**RIGHTS AND DUTIES****§9-1207. Rights and duties of secured party having possession or control of collateral**

(1) Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4), if a secured party has possession of collateral:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use or operation of the collateral, are chargeable to the debtor and are secured by the collateral;

(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) The secured party may use or operate the collateral:

(i) For the purpose of preserving the collateral or its value;

(ii) As permitted by an order of a court having competent jurisdiction; or

(iii) Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under section 9-1104, 9-1105, 9-1106 or 9-1107:

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor:

(a) Subsection (1) does not apply unless the secured party is entitled under an agreement:

(i) To charge back uncollected collateral; or

(ii) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(5) Subsections (2) and (3) do not apply. ←

§9-1208. Additional duties of secured party having control of collateral

(1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations or otherwise give value.

(2) Within 20 days after receiving an authenticated demand by the debtor:

(a) A secured party having control of a deposit account under section 9-1104, subsection (1), paragraph (b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) A secured party having control of a deposit account under section 9-1104, subsection (1), paragraph (c) shall:

(i) Pay the debtor the balance on deposit in the deposit account; or

(ii) Transfer the balance on deposit into a deposit account in the debtor's name;

(c) A secured party, other than a buyer, having control of electronic chattel paper under section 9-1105 shall:

(i) Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

(ii) If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply

SECTION 9-207. RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL.

(a) **[Duty of care when secured party in possession.]** Except as otherwise provided in subsection (d), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) **[Expenses, risks, duties, and rights when secured party in possession.]** Except as otherwise provided in subsection (d), if a secured party has possession of collateral:

(1) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) the secured party may use or operate the collateral:

(A) for the purpose of preserving the collateral or its value;

(B) as permitted by an order of a court having competent jurisdiction; or

(C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) **[Duties and rights when secured party in possession or control.]** Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under Section 9-104, 9-105, 9-106, or 9-107:

(1) may hold as additional security any proceeds, except money or funds, received from the collateral;

(2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) may create a security interest in the collateral.

(d) **[Buyer of certain rights to payment.]** If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignee:

(1) subsection (a) does not apply unless the secured party is entitled under an agreement:

(A) to charge back uncollected collateral; or

(B) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) subsections (b) and (c) do not apply.

Official Comment

1. **Source.** Former Section 9-207.

2. **Duty of Care for Collateral in Secured Party's Possession.** Like former section 9-207, subsection (a) imposes a duty of care, similar to that imposed on a pledgee at common law, on a secured party in possession of collateral. See Restatement, Security §§ 17, 18. In many cases a secured party in possession of collateral may satisfy this duty by notifying the debtor of action that should be taken and allowing the debtor to take the action itself. If the secured party itself takes action, its reasonable expenses may be added to the secured obligation. The revised definitions of "collateral," "debtor," and "secured party" in Section 9-102 make this section applicable to collateral subject to an agricultural lien if the collateral is in the lienholder's possession. Under Section 1-102 the duty to exercise reasonable care may not be disclaimed by agreement, although under that section the parties remain free to determine by agreement standards that are not manifestly unreasonable as to what constitutes reasonable care. Unless otherwise agreed, for a secured party in possession of chattel paper or an instrument, reasonable care includes the preservation of rights against prior parties. The secured party's right to have instruments or documents indorsed or transferred to it or its order is dealt with in the relevant sections of Articles 3, 7, and 8. See Sections 3-201, 7-506, 8-304(d).

3. **Specific Rules When Secured Party in Possession or Control of Collateral.** Subsection (b) and (c) provide rules following common-law precedents which apply unless the parties otherwise agree. The rules in subsection (b) apply to typical issues that may arise while a secured party is in possession of collateral, including expenses, insurance, and taxes, risk of loss or damage, identifiable and fungible collateral, and use or operation of collateral. Subsection (c) contains rules that apply in certain circumstances that may arise when a secured party is in either possession or control of collateral. These circumstances include the secured party's receiving proceeds from the collateral and the secured party's creation of a security interest in the collateral.

4. **Applicability Following Default.** This section applies when the secured party has possession of collateral either before or after default. See Sections 9-601(b), 9-609. Subsection (b)(4)(C) limits agreements concerning the use or operation of collateral to collateral other than consumer goods. Under Section 9-602(1), a debtor cannot waive or vary that limitation.

5. **"Repledges" and Right of Redemption.** Subsection (c)(3) eliminates the qualification in former Section 9-207 to the effect that the terms of a "repledge" may not "impair" a debtor's "right to redeem" collateral. The change is primarily for clarification. There is no basis on which to draw from subsection (c)(3) any inference concerning the debtor's right to redeem the collateral. The debtor enjoys that right under Section 9-621; this section need not address it. For example, if the collateral is a negotiable note that the secured party (SP-1) repledges to SP-2, nothing in this section suggests that the debtor (D) does not retain the right to redeem the note upon payment to SP-1 of all obligations secured by the note. But, as explained below, the debtor's unimpaired right to redeem as against the debtor's original secured party nevertheless may not be enforceable as against the new secured party.

In resolving questions that arise from the creation of a security interest by SP-1, one must take care to distinguish D's rights against SP-1 from D's rights against SP-2. Once D discharges the secured obligation, D becomes entitled to the note; SP-1 has no legal basis upon

ERRORS BILL §: Supp-26

LAW AMENDED: 22 MRSA §3028, sub-§7

Prepared by: MJR

Date: 6/2/03

File name G:\COMMITTEES\JUD\ERRORS 2003\Supp-26.DOC (6/2/03 3:19 PM)

Has the error already been fixed in another bill? NO

Has section been amended/repealed in another bill? NO

General Subject: Medical examiner laws - written reports

Type of correction (conflict, reference, other): conflict

Category: (technical, substantive) T

Is a further amendment needed? NO
(If so, explain below)

EXPLANATION

PL 2001, c. 291 amended the Medical Examiner Act to allow expressly authorized persons to conduct investigations for the Chief Medical Examiner. PL 2001, c. 345 amended the mandated reporting laws, resulting in a cross-reference change in the medical examiner laws. This resulted in a conflict in section 3028, subsection 7.

This section repeals 22 MRSA §3028, sub-§7 and reenacts it with language incorporating the language included in both chapters.

G:\COMMITTEES\JUD\ERRORS 2003\Supp-26.DOC (6/2/03 3:31 PM)

Sec. Supp-26. 22 MRSA §3028, sub-§7, as amended by PL 2001, c. 291, §7 and c. 345, §2, is repealed and the following enacted in its place:

7. Written report. Upon completing an investigation, the medical examiner or the person expressly authorized by the Chief Medical Examiner shall submit a written report of the investigator's findings to the Chief Medical Examiner on forms provided for that purpose. The investigator shall retain one copy of the report.

If an investigator reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the investigator, fulfills the medical examiner's mandatory reporting requirement under section 3477 or 4011-A.

SUMMARY

This section corrects a conflict in the medical examiner law when two bills amended the same subsection without reference to each other. PL 2001, c. 291 amended the law to allow expressly authorized persons to conduct investigations for the Chief Medical Examiner. PL 2001, c. 345 amended the laws concerning the mandated reporting to protect children and incapacitated or dependent adults. Chapter 345 updated a cross-reference in the medical examiner laws.

This section repeals and replaces Title 22, section 3028, subsection 7 and reenacts it with language incorporating both chapters.

CHAPTER 291

S.P. 559 - L.D. 1721

**An Act to Allow Expressly
Authorized Persons to Conduct
Investigations for the Chief Medical
Examiner**

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

Sec. 1. 22 MRSA §3028, sub-§1, as amended by PL 1985, c. 611, §7, is further amended to read:

1. Authority to conduct investigation. The medical examiner ~~shall have or the person expressly authorized by the Chief Medical Examiner has authority to conduct an investigation and inquiry into the cause, manner and circumstances of death in a medical examiner case. He~~ The medical examiner or authorized person shall, if deemed it is determined necessary, immediately proceed to the scene and, subject to the authority of the Attorney General, assume custody of the body for the purposes of the investigation, and shall retain custody until the investigation has been completed or until the Chief Medical Examiner has assumed charge of the case.

Sec. 2. 22 MRSA §3028, sub-§2, as repealed and replaced by PL 1991, c. 97, §1, is amended to read:

2. Investigation by law enforcement officer. When death is not suspected to be the result of ~~criminal violence physical injury attributable to criminal conduct,~~ the medical examiner may elect not to proceed to the scene, or the Chief Medical Examiner may elect not to dispatch a medical examiner ~~or the person expressly authorized by the Chief Medical Examiner under subsection 1~~ to the scene. If the medical examiner elects not to proceed to the scene, or the Chief Medical Examiner elects not to dispatch a medical examiner ~~or authorized person~~ to the scene, the law enforcement officer in charge of the scene shall:

A. ~~Investigate and photograph the scene, take photographs and take possession of useful objects as directed by the medical examiner, authorized person or the Office of the Chief Medical Examiner pursuant to subsection 4;~~

B. ~~Take possession of all objects that in the opinion of the medical examiner or Office of Chief Medical Examiner may be useful in establishing the cause, manner and circumstances of death;~~

C. Remove the body in accordance with the instructions of the medical examiner, authorized person or the Office of the Chief Medical Examiner; and

D. Make a report of the investigation available to the medical examiner, authorized person or the Office of the Chief Medical Examiner.

Sec. 3. 22 MRSA §3028, sub-§3, as amended by PL 1985, c. 611, §7, is further amended to read:

3. Assistance of law enforcement agency. The medical examiner, the person expressly authorized by the Chief Medical Examiner or the pathologist as described in subsection 8, may request the assistance and use of the facilities of the law enforcement agency having jurisdiction over the case for the purposes of photographing, fingerprinting or otherwise identifying the body. That agency shall provide the medical examiner, authorized person or pathologist with a written report of the steps taken in providing the assistance.

Sec. 4. 22 MRSA §3028, sub-§4, as amended by PL 1995, c. 272, §1, is further amended to read:

4. Possession of useful objects. Except as otherwise directed by the Attorney General, the Attorney General's deputies or assistants, the medical examiner, the person expressly authorized by the Chief Medical Examiner or the Office of the Chief Medical Examiner may direct that a law enforcement officer at the scene make measurements, take photographs and take possession of all objects that in the opinion of the medical examiner, authorized person or the Office of the Chief Medical Examiner may be useful in establishing the cause, manner and circumstances of death. For these same purposes, the medical examiner, authorized person or the Office of the Chief Medical Examiner may direct that a law enforcement officer take possession of any objects or specimens that have been removed from the victim at the scene or elsewhere while under medical care.

Sec. 5. 22 MRSA §3028, sub-§5, as amended by PL 1995, c. 272, §2, is further amended to read:

5. Requests for objects. Any person having possession of any object or objects, as described in subsection 4, shall at the request of the medical examiner or the person expressly authorized by the Chief Medical Examiner give that object or objects to a law enforcement officer, to the medical examiner, to the authorized person or to the Office of the Chief Medical Examiner. Medical personnel and institutions turning over any objects or specimens that have been removed from the victim while under medical care are

immune from civil or criminal liability when complying with this subsection. Original written or recorded material that might express suicidal intent must be sent to the Office of the Chief Medical Examiner. The Chief Medical Examiner may elect to accept copies in place of originals.

Sec. 6. 22 MRSA §3028, sub-§6, as enacted by PL 1979, c. 538, §8, is amended to read:

6. Examination of body. In all cases except those requiring a report on a body already disposed of and not to be exhumed for examination, the medical examiner or the person expressly authorized by the Chief Medical Examiner shall conduct a thorough examination of the body.

Sec. 7. 22 MRSA §3028, sub-§7, as amended by PL 1995, c. 272, §3, is further amended to read:

7. Written report. Upon completing an investigation, the medical examiner or the person expressly authorized by the Chief Medical Examiner shall submit a written report of the investigator's findings to the Chief Medical Examiner on forms provided for that purpose. The medical examiner investigator shall retain one copy of the report.

If a medical examiner an investigator reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the medical examiner investigator, fulfills the medical examiner's mandatory reporting requirement under section 3477 or 4011.

See title page for effective date.

CHAPTER 292

H.P. 1248 - L.D. 1696

An Act to Allow the Chief Medical Examiner to Assume the Responsibility for the Disposition of Human Remains

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

Sec. 1. 22 MRSA §3028-D is enacted to read:

§3028-D. Disposal of identified human remains without connection to State and unidentified human remains

1. Assumption of responsibility. The Chief Medical Examiner may assume responsibility for proper disposition of the identified human remains of

a deceased nonresident of this State or unidentified human remains that are the subject of a medical examiner case if the Chief Medical Examiner has made reasonable inquiry and is unable to locate:

A. Next of kin or a person or governmental unit legally responsible for the human remains; or

B. A person or governmental unit otherwise willing to assume responsibility for the human remains.

2. Necessary expenses. The expenses incurred by the Chief Medical Examiner must be paid as follows.

A. The department shall pay any necessary expenses incurred by the Chief Medical Examiner as to:

(1) Unidentified human remains that, after reasonable inquiry, the Chief Medical Examiner has determined not to be the human remains of an illegal alien; and

(2) A deceased nonresident other than an illegal alien.

B. The Department of the Attorney General shall pay any necessary expenses incurred by the Chief Medical Examiner as to:

(1) A deceased nonresident who is an illegal alien; and

(2) Unidentified human remains that, after reasonable inquiry, the Chief Medical Examiner has determined to be the human remains of an illegal alien.

See title page for effective date.

CHAPTER 293

H.P. 1334 - L.D. 1790

An Act to Create the Healthy Maine Prescription Program

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the low-income citizens of the State are facing a lack of needed prescription drug services due to the high cost of such services; and

Whereas, the lack of such services poses a health threat to these citizens; and

Sec. 10. 20-A MRSA §15603, sub-§26, ¶D, as enacted by PL 1993, c. 410, Pt. F, §15, is amended to read:

D. Nonsubsidizable costs are not considered in the calculation of the total allocation. "Nonsubsidizable costs" includes the following:

- (1) Community service costs;
- (2) Major capital costs;
- (3) Expenditures from all federal revenue sources, except for amounts received under the United States Code, Public Law 81-874;
- (4) ~~One half of salary and benefit costs for superintendents, assistant superintendents and associate superintendents;~~
- (5) Transportation costs not associated with transporting students from home to school and back home each day; and
- (6) Costs payable to the Maine State Retirement System under Title 5, section 17154, subsections 10 and 11.

See title-page for effective date.

CHAPTER 345

H.P. 811 - L.D. 1066

An Act to Protect Children and Incapacitated or Dependent Adults

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

Sec. 1. 10 MRSA §8003-B, sub-§2-A, ¶D, as enacted by PL 1993, c. 552, §1, is amended to read:

D. The disclosure is necessary under Title 22, section ~~4011~~ 4011-A concerning reports of suspected child abuse or neglect; or

Sec. 2. 22 MRSA §3028, sub-§7, as amended by PL 1995, c. 272, §3, is further amended to read:

7. Written report. Upon completing an investigation, the medical examiner shall submit a written report of findings to the Chief Medical Examiner on forms provided for that purpose. The medical examiner shall retain one copy of the report.

If a medical examiner reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the medical examiner,

fulfills the medical examiner's mandatory reporting requirement under section 3477 or ~~4011~~ 4011-A.

Sec. 3. 22 MRSA §3477, sub-§1, as amended by PL 1997, c. 453, §4, is repealed and the following enacted in its place:

1. Report required. The following persons immediately shall report or cause a report to be made to the department when the person suspects that an adult has been abused, neglected or exploited and has reasonable cause to suspect that the adult is incapacitated or dependent:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical intern;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;
- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;
- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official;
- (18) A coroner;
- (19) Emergency room personnel;
- (20) An ambulance attendant;
- (21) An emergency medical technician; or
- (22) Unlicensed assistive personnel; or

B. Any other person who has assumed full, intermittent or occasional responsibility for the care or custody of the adult, whether or not the person receives compensation.

ERRORS BILL §: Supp-27 & 28

LAW AMENDED: 32 MRSA §1085

Prepared by: MJR

Date: 6/4/03

File name G:\COMMITTEES\JUD\ERRORS 2003\Supp-27.DOC (6/4/03 10:30 AM)

Has the error already been fixed in another bill? NO

Has section been amended/repealed in another bill? YES

LD 1469

PL? c. 285

General Subject: licensure of dentists

Type of correction (conflict, reference, other): change

Category: (technical, substantive) S

Is a further amendment needed?

(If so, explain below)

EXPLANATION

The Board of Dental Examiners has the authority to license dentists licensed by other states. It also has authority to licensure denturists licensed by other states or Canadian provinces. This section gives the Board the authority to license dentists on the basis of their licensure by a Canadian province.

LD 1469, PL 2003, c. 285 amended this section to increase the licensing fee cap from \$300 to \$400. Supp 28 makes the effective date the same.

Proposed Amendment to LD 274 (Board of Dental Examiners– 32 MRSA § 1085)

Sec. Supp-27. 32 MRSA § 1085, as amended by PL 2003, c. 285, §2, is further amended to read:

§1085. Endorsement; fees

The board is authorized, at its discretion, without the examination as provided, to issue a license to an applicant who furnishes proof, satisfactory to the board, that the applicant has been licensed in another state or Canadian province to practice dentistry ~~in another state~~ after full compliance with the requirements of its dental laws. If an applicant is licensed to practice dentistry in another state or Canadian province, that applicant's professional education may not be less than is required in this State and the applicant must have been at least 3 years in actual practice in the state or Canadian province in which the license was granted. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or members of the board, prior to being issued a license. Every license of this type issued by the board must state upon its face the grounds upon which it is issued and the applicant may be required to furnish proof upon affidavit. The fee for the license is determined by the board, but may not be more than \$400.

Sec. Supp-28. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 32, section 1085 takes effect 90 days after adjournment of the First Regular Session of the 121st Maine Legislature.

SUMMARY

Section Supp-27 gives the Board of Dental Examiners the authority to license a dentist in Maine by giving reciprocity to licensure by Canadian provinces as well as other states.

Section Supp-28 makes the effective date of Section Supp-27 coincide with the effective date of the previous amendment to the same section.

SENATE

LYNN BROMLEY, DISTRICT 30, CHAIR
CHRISTOPHER HALL, DISTRICT 16
KEVIN L. SHOREY, DISTRICT 4

JAMES ADOLF, LEGISLATIVE ANALYST
PATRICK NORTON, LEGISLATIVE ANALYST
JOHN MURPHY, COMMITTEE CLERK



STATE OF MAINE

HOUSE

NANCY B. SULLIVAN, BIDDEFORD, CHAIR
LILLIAN LAFONTAINE O'BRIEN, LEWISTON
GUY J. DUPREY, JR., MEDWAY
EDWARD PELLON, MACHIAS
NANCY E. SMITH, MONMOUTH
SUSAN M. AUSTIN, GRAY
ROBERT A. BERUBE, LISBON
LAWRENCE E. JACOBSEN, WATERBORO
CHRISTOPHER RECTOR, THOMASTON
WILLIAM T. ROGERS, JR., BREWER

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

To: Senator Peggy A. Pendleton, Chair
Representative William S. Norbert, Chair
Joint Standing Committee on Judiciary

From: Senator Lynn Bromley, Chair
Representative Nancy B. Sullivan, Chair
Joint Standing Committee on Business, Research and Economic
Development

Re: Approval of Recommendation for Errors Bill

Date: June 3, 2003

The Commissioner of the Department of Professional and Financial Regulation, Robert E. Murray, Jr., has recommended to our committee that a provision be added to the errors and omissions bill allowing licensure of dentists from Canadian provinces. Our committee has considered Commissioner Murray's recommendation, and approves of its inclusion in the bill. Our understanding is that the Department will provide you with suggested language for this purpose at the appropriate time.

Thank you for your consideration.

- c. Robert E. Murray, Jr., Department of Professional and Financial Regulation
Margaret J. Reinsch, Senior Legislative Analyst

APPROVED

CHAPTER

MAY 23 '03

285

BY GOVERNOR

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THREE

H.P. 1074 - L.D. 1469

An Act To Raise the Fee Cap for Dentists

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

Sec. 1. 32 MRSA §1084, as amended by PL 1993, c. 600, Pt. A, §66, is further amended to read:

§1084. Licenses; fees

The board shall issue under its seal to any person who successfully meets all licensure requirements a license to practice dentistry in this State, signed by the members of the board. A dentist shall publicly exhibit the dentist's license. The license is prima facie evidence of authority to practice dentistry in this State, except that it is unlawful for a person to practice dentistry in this State after the expiration date that appears on the license unless the practitioner pays to the board on or before January 1st of even-numbered years a fee of not more than ~~\$200~~ \$400 to be determined by the board, and meets other conditions that the board may require. Upon receipt of the required fee, the board shall issue a renewal of the practitioner's license, which the practitioner shall place beside or attach to the practitioner's initial license. Practitioners who have not paid as provided and who otherwise qualify for renewal may be reinstated upon payment of a fee to be determined by the board of not more than ~~\$100~~ \$200 if paid before February 1st. A license to practice is automatically suspended on February 1st for nonpayment of the license renewal fee and may be reinstated, if approved by the board, on payment of a fee to be

determined by the board of not more than \$200 \$400. A new applicant having paid the application fee shall pay either the biennial licensure fee, if the applicant applies on an even-numbered year, or half the biennial licensure fee if the applicant applies in an odd-numbered year.

Sec. 2. 32 MRSA §1085, as amended by PL 2001, c. 260, Pt. B, §3, is further amended to read:

§1085. Endorsement; fees

The board is authorized, at its discretion, without the examination as provided, to issue a license to an applicant who furnishes proof, satisfactory to the board, that the applicant has been licensed to practice dentistry in another state after full compliance with the requirements of its dental laws. If an applicant is licensed to practice dentistry in another state, that applicant's professional education may not be less than is required in this State and the applicant must have been at least 3 years in actual practice in the state in which the license was granted. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or members of the board, prior to being issued a license. Every license of this type issued by the board must state upon its face the grounds upon which it is issued and the applicant may be required to furnish proof upon affidavit. The fee for the license is determined by the board, but may not be more than \$300 \$400.

Sec. 3. 32 MRSA §1087, as amended by PL 1993, c. 600, Pt. A, §70, is further amended to read:

§1087. Fee for duplicate license

An applicant for a duplicate license granted upon proof of loss of the original shall pay a fee of \$15 no more than \$50.

Prev: Chapter 16 §1100-D
Next: Chapter 16 §1100-E1

Download Chapter 16
PDF, Word (RTF)

Download Section 1100-E
PDF, Word (RTF)

[Statute Search](#)
[List of Titles](#)
[Maine Law](#)

[Disclaimer](#)

[Revisor's Office](#)

[Maine Legislature](#)

Title 32: PROFESSIONS AND OCCUPATIONS

Chapter 16: DENTISTS AND DENTAL HYGIENISTS

Subchapter 6: DENTURISTS

§1100-E. Licenses; endorsement


1. Authority. The board has the authority to issue licenses to qualified persons to practice denturism pursuant to this subchapter. [1995, c. 590, §7 (amd).]

2. License issued. The board shall issue a license for the practice in this State to each person who has passed an examination under section 1100-D. This license authorizes the licensee to practice as a denturist in the State until the expiration date that appears on the license. [1995, c. 590, §7 (amd).]

3. Renewal; renewal fee. After a license has been issued under subsection 2, and on or before January 1st of odd-numbered years, a denturist must pay to the board a license renewal fee of not more than \$100 to be determined by the board in order to renew the license and to continue to be authorized to practice as a denturist in the State or 1/2 the biennial licensure fee if application is made in an even-numbered year.

After the requirements for a license renewal, including any necessary continuing education, have been met, a renewal card of the denturist's license must be issued, which the denturist shall place beside or attach to the denturist's initial license. Denturists who have not paid as provided by January 1st must be reinstated upon payment of a fee, to be determined by the board, of not more than \$50 if paid by February 1st. A license to practice is automatically suspended on February 1st and may be reinstated, if approved by the board, on payment of a fee to be determined by the board of not more than \$100.

[1995, c. 590, §7 (amd).]



4. Endorsement. The board, at its discretion, without examination, may issue a license to an applicant to practice as a denturist who furnishes proof satisfactory to the board that the denturist has been licensed to practice and has actively practiced for a period of 3 years in another state or Canadian province after full compliance with the requirements of its dental laws, if the licensure requirements are, in all essentials, at least equivalent to those of this State. The board may require letters of reference about the denturist. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board, or members of the board, prior to being issued a license. Every license so given must state upon its face that it was granted on the basis of endorsement. The fee for the license may not exceed \$100. [2001, c. 260, Pt. B, §4 (amd).]

4-A. Duplicate license. A licensee must be issued a duplicate license by the board for a fee of \$15 upon attestation of loss of the original. [1995, c. 590, §7 (amd).]

5. Additional prohibitions. A denturist may not:
5. Additional prohibitions.

A. Falsely claim to be a licensed dentist or allow another to falsely represent the denturist as a licensed dentist; [1993, c. 600, Pt. A, §90 (amd).]

B. [1995, c. 590, §7 (rp).]

B-1. [2001, c. 337, §4 (rp).]

C. Perform a task beyond the denturist's competence; or [1993, c. 600, Pt. A, §90 (amd).]

7

D. Administer, dispense or prescribe a medication or controlled substance. [1993, c. 600, Pt. A, §90 (amd).]
[2001, c. 337, §4 (amd).]

6. Mental or physical examination. For the purposes of this subsection, by the application for and acceptance of the license, a licensed denturist is deemed to have given consent to a mental or physical examination when directed by the board. The board may direct the examination whenever it determines a denturist may be suffering from a mental illness that may be interfering with the competent practice of denturism or from the use of intoxicants or drugs to an extent that they are preventing the denturist from practicing denturism competently and with safety to the patients. A denturist examined pursuant to an order of the board does not have the privilege to prevent the testimony of the examining individual or to prevent the acceptance into evidence of the report of an examining individual. Failure to comply with an order of the board to submit to a mental or physical exam requires the District Court to immediately order the license of the denturist suspended until the denturist submits to the examination. [1995, c. 590, §7 (amd); 1999, c. 547, Pt. B, §78 (amd); §80 (aff).]

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes
7 State House Station
State House Room 108
Augusta, Maine 04333-0007

This page created on: 2003-03-16

ERRORS BILL §: Supp 29 & 30 & 31

LAW AMENDED: 32 MRSA §3401

Prepared by: MJR

Date: 6/4/03

File name G:\COMMITTEES\JUD\ERRORS 2003\Supp-29&30&31.DOC (6/4/03 11:46 AM)

Has the error already been fixed in another bill? NO

Has section been amended/repealed in another bill? YES

LD 710

PL? (not yet chaptered)

General Subject: Plumbers Examining Board - members

Type of correction (conflict, reference, other): consistency

Category: (technical, substantive) S

Is a further amendment needed?

(If so, explain below)

EXPLANATION

LD 710 proposed to increase the membership of the Plumbers' Examining Board to add a 6th member who is a master plumber and also a member of a bona fide labor organization. The Majority Committee Amendment, which was adopted, kept the total number of members at 5, 2 of whom must be master plumbers (the bill proposed 3) but keeps as proposed in the bill the requirement that one of the master plumbers also be a member of a bona fide labor organization. The Senate Amendment made LD 710 as amended consistent with other changes made to the section in LD 682, PL 2003, c. 107, but it added an appropriation section reflecting the increase in board membership by one member, even though the bill as amended did not increase the membership.

These sections increase the total number of board members to 6 and increase the number of master plumber members to 3. The sections take effect when LD 710 takes effect (no an emergency).

PROPOSED SUPPLEMENTAL SECTION FOR ERRORS BILL CONCERNING L.D.
710, "AN ACT TO AMEND THE MEMBERSHIP OF THE PLUMBERS'
EXAMINING BOARD"

Sec. Supp-29. 32 MRSA § 3401, first ¶, as amended by PL 2003, c. __, is amended to read:

The Plumbers Examining Board, as established by Title 5, section 12004-A, subsection 32, consists of ~~5~~ 6 members, who are appointed by the Governor as follows.

Sec. Supp-30. 32 MRSA § 3401, sub-§ 2, as amended by PL 2003, c. __, is amended to read:

2. Master plumbers. ~~Two~~ Three of the members of the board must be master plumbers as defined in section 3301, and one of those ~~2~~ 3 members must be a member of a bona fide labor organization.

Sec. Supp-31. Effective date. Those sections of this Part that amend the Maine Revised Statutes, Title 32, section 3401 take effect 90 days after adjournment of the First Regular Session of the 121st Legislature.

SUMMARY

This amendment increases the membership of the Plumbers' Examining Board from 5 to 6 members, to be consistent with PL 2003, c. __'s allocation of funds to cover costs associated with the addition of a member to the board.

G:\COMMITTEES\JUD\ERRORS 2003\Supp-29&30&31 text.doc (6/4/03 11:23 AM)

SENATE

LYNN BROMLEY, DISTRICT 30, CHAIR
CHRISTOPHER HALL, DISTRICT 16
KEVIN L. SHOREY, DISTRICT 4

JAMES ADOLF, LEGISLATIVE ANALYST
PATRICK NORTON, LEGISLATIVE ANALYST
JOHN MURPHY, COMMITTEE CLERK



STATE OF MAINE

HOUSE

NANCY B. SULLIVAN, BIDDEFORD, CHAIR
LILLIAN LAFONTAINE O'BRIEN, LEWISTON
GUY J. DUPREY, JR., MEDWAY
EDWARD PELLON, MACHIAS
NANCY E. SMITH, MONMOUTH
SUSAN M. AUSTIN, GRAY
ROBERT A. BERUBE, LISBON
LAWRENCE E. JACOBSEN, WATERBORO
CHRISTOPHER RECTOR, THOMASTON
WILLIAM T. ROGERS, JR., BREWER

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

COMMITTEE ON BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

To: Senator Peggy A. Pendleton, Chair
Representative William S. Norbert, Chair
Joint Standing Committee on Judiciary

From: Senator Lynn Bromley, Chair *B*
Representative Nancy B. Sullivan, Chair *NBS*
Joint Standing Committee on Business, Research and Economic
Development

Re: Correction to L.D. 710 in Errors Bill

Date: June 4, 2003

As enacted, L.D. 710, An Act To Amend the Membership of the Plumbers' Examining Board, contains an internal consistency: section 3 allocates funds to cover costs associated with increasing the membership of the board by one member, but section 1 fails to increase the membership by one member as contemplated by the allocation. In order to correct this inconsistency, our committee proposes the inclusion of language in the errors and omissions bill to add a member to the board, as was intended. A copy of that suggested language is attached.

Thank you for your consideration.

- c. David Bragdon, Department of Professional and Financial Regulation
Margaret J. Reinsch, Senior Legislative Analyst

enacted H 5/28
S 5/29

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THREE

S.P. 248 - L.D. 710

An Act To Amend the Membership of the Plumbers'
Examining Board

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

Sec. 1. 32 MRSA §3401, as amended by PL 2003, c. 107, §1, is repealed and the following enacted in its place:

§3401. Membership; vacancies; removal; compensation

The Plumbers' Examining Board, as established by Title 5, section 12004-A, subsection 32, consists of 5 members, who are appointed by the Governor as follows.

1. Representative of public. One of the members of the board must be a representative of the public.

2. Master plumbers. Two of the members of the board must be master plumbers as defined in section 3301, and one of those 2 members must be a member of a bona fide labor organization.

3. Journeyman plumbers. Two of the members of the board must be journeyman plumbers as defined in section 3301, and both of those members must have been engaged in the business of plumbing for at least 2 years. This subsection is repealed June 19, 2005.

3-A. Journeyman plumber. One of the members of the board must be a journeyman plumber, as defined in section 3301, who has

been engaged in the business of plumbing for at least 2 years.
This subsection takes effect June 19, 2005.

4. Local plumbing inspector. One of the members of the board must be a local plumbing inspector who has been engaged in plumbing inspections for at least 4 years and is employed by a municipality. This subsection takes effect June 19, 2005.

Members are appointed for terms of 4 years. Appointments of members must comply with section 60.

Any member of the board may be removed from office for cause by the Governor.

Sec. 2. PL 2003, c. 107, §2 is repealed.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF**

Licensing and Enforcement 0352

Initiative: Allocates funds for the per diem, travel and meeting costs associated with increasing the membership of the Plumbers' Examining Board by one member effective September 21, 2004.

Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$0	\$245
All Other	0	350
 Other Special Revenue Funds Total	 \$0	 \$595

Sec. 4. Effective date. This Act takes effect September 21, 2004.

In House of Representatives, 2003

Read twice and passed to be enacted.

..... Speaker

In Senate, 2003

Read twice and passed to be enacted.

..... President

Approved 2003

..... Governor

FILE
COPY
Doughnut Remove



121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 710

S.P. 248

In Senate, February 14, 2003

An Act To Amend the Membership of the Plumbers' Examining Board

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRYANT of Oxford.
Cosponsored by Representative PATRICK of Rumford and
Senators: EDMONDS of Cumberland, HATCH of Somerset, Representatives: DUDLEY of
Portland, DUPLESSIE of Westbrook, HATCH of Skowhegan, PINEAU of Jay, WHEELER of
Kittery.

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

Sec. 1. 32 MRSA §3401, as amended by PL 1995, c. 397, §54, is repealed and the following enacted in its place:

§3401. Membership; vacancies; removal; compensation

The Plumbers' Examining Board, as established by Title 5, section 12004-A, subsection 32, consists of 6 members, who are appointed by the Governor as follows...

1. Representative of public. One of the members of the board must be a representative of the public.

2. Master plumbers. Three of the members of the board must be master plumbers as defined in section 3301, and one of those 3 members must be a member of a bona fide labor organization.

3. Journeyman plumbers. Two of the members of the board must be journeyman plumbers as defined in section 3301, and both of those members must have been engaged in the business of plumbing for at least 2 years.

Members are appointed for terms of 4 years. Appointments of members must comply with section 60.

Any member of the board may be removed from office for cause by the Governor.

SUMMARY

This bill amends the membership of the Plumbers' Examining Board to add a 6th member who is a master plumber and also a member of a bona fide labor organization.

m
R. of S.

L.D. 710

DATE: 5-14-03

(Filing No. S-157)

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

Reported by: *Majority*

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "*A*" to S.P. 248, L.D. 710, Bill, "An Act To Amend the Membership of the Plumbers' Examining Board"

Amend the bill in section 1 in that part designated "§3401." in the first paragraph in the 2nd line (page 1, line 9 in L.D.) by striking out the following: "6" and inserting in its place the following: '5'

Further amend the bill in section 1 in that part designated "§3401." in subsection 2 in the first line (page 1, line 15 in L.D.) by striking out the following: "Three" and inserting in its place the following: 'Two'

Further amend the bill in section 1 in that part designated "§3401." in subsection 2 in the 2nd line (page 1, line 16 in L.D.) by striking out the following: "3" and inserting in its place the following: '2'

SUMMARY

This amendment is the majority report of the Joint Standing Committee on Business, Research and Economic Development. The bill adds a 6th member to the Plumbers' Examining Board and requires that member to be a master plumber who is a member of a bona fide labor organization. This amendment maintains the current number of board members at 5, 2 of whom are master plumbers, but retains the requirement that one of the 2 master plumbers on the board also be a member of a bona fide labor organization.

DATE: 5-21-03

(Filing No. S-222)

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to S.P. 248, L.D. 710, Bill, "An Act To Amend the Membership of the Plumbers' Examining Board"

Amend the bill in section 1 by striking out all of the first 2 lines (page 1, lines 3 and 4 in L.D.) and inserting in their place the following:

'Sec. 1. 32 MRSA §3401, as amended by PL 2003, c. 107, §1, is repealed and the following enacted in its place:'

Further amend the bill in section 1 in that part designated "§3401." in subsection 3 in the last line (page 1, line 22 in L.D.) by inserting after the following: "years." the following: 'This subsection is repealed June 19, 2005.'

Further amend the bill in section 1 in that part designated "§3401." by inserting after subsection 3 the following:

'3-A. Journeyman plumber. One of the members of the board must be a journeyman plumber, as defined in section 3301, who has been engaged in the business of plumbing for at least 2 years. This subsection takes effect June 19, 2005.

4. Local plumbing inspector. One of the members of the board must be a local plumbing inspector who has been engaged in plumbing inspections for at least 4 years and is employed by a municipality. This subsection takes effect June 19, 2005.'

Further amend the bill by inserting after section 1 the following:

'Sec. 2. PL 2003, c. 107, §2 is repealed.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF**

Licensing and Enforcement 0352

Initiative: Allocates funds for the per diem, travel and meeting costs associated with increasing the membership of the Plumbers' Examining Board by one member effective September 21, 2004.

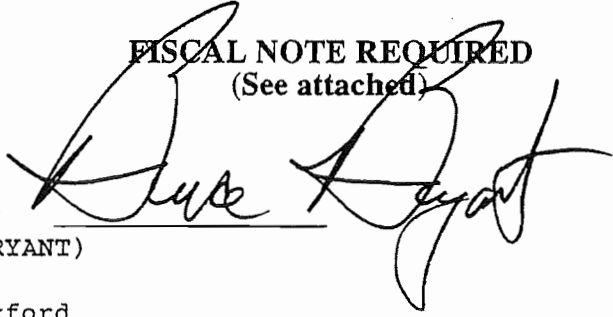
Other Special Revenue Funds	2003-04	2004-05
Personal Services	\$0	\$245
All Other	0	350
Other Special Revenue Funds Total	\$0	\$595

Sec. 4. Effective date. This Act takes effect September 21, 2004.

SUMMARY

This amendment adds an effective date of September 21, 2004 and makes changes to be consistent with changes made to the Maine Revised Statutes, Title 32, section 3401 by Public Law 2003, chapter 107 to take effect June 19, 2005.

FISCAL NOTE REQUIRED
(See attached)

SPONSORED BY: 
(Senator BRYANT)

COUNTY: Oxford

121st Maine Legislature
Office of Fiscal and Program Review

LD 710

An Act to Amend the Membership of the Plumbers' Examining Board



LR 1510(04)

Fiscal Note for Senate Amendment "A" *S-222*

Sponsor: Sen. Bryant

Fiscal Note Required: Yes

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Appropriations/Allocations				
Other Special Revenue Funds	(\$595)	\$0	\$0	\$0

Fiscal Detail and Notes

This amendment reduces the Other Special Revenue funds cost of the bill by \$595 in fiscal year 2003-04 due to this legislation not becoming effective until September 21, 2004. As amended, this bill includes an Other Special Revenue funds allocation of \$595 beginning in fiscal year 2004-05 for the Plumbers' Examining Board within the Office of Licensing and Regulation, Department of Professional and Financial Regulation for the per diem, travel and meeting costs for one additional board member.

APPROVED

CHAPTER

MAY 06 '03

107

BY GOVERNOR

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THREE

H.P. 499 - L.D. 682

**An Act To Change the Membership of the Plumbers' Examining
Board To Include a Local Plumbing Inspector**

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

Sec. 1. 32 MRSA §3401, first ¶, as amended by PL 1989, c. 503, Pt. B, §140, is further amended to read:

-A- The Plumbers' Examining Board, as established by Title 5, section 12004-A, subsection 32, shall-consist consists of 5 members,--who--shall--be appointed by the Governor. One of the members shall must be a representative of the public, 2 shall must be master plumbers as defined in section 3301, and-2--shall one must be a journeyman plumbers plumber as defined in section 3301,--both-of-whom-have who has been engaged in the business of plumbing for at least 2 years and one must be a local plumbing inspector who has been engaged in plumbing inspections for at least 4 years and is employed by a municipality.

Sec. 2. Effective date. This Act takes effect June 19, 2005.

Prev: [Chapter 49 §3353](#)

Next: [Chapter 49 §3402](#)

[Download Chapter 49](#)
[PDF, Word \(RTF\)](#)

[Download Section 3401](#)
[PDF, Word \(RTF\)](#)

[Statute Search](#)
[List of Titles](#)
[Maine Law](#)

[Disclaimer](#)

[Revisor's Office](#)

[Maine Legislature](#)

Title 32: PROFESSIONS AND OCCUPATIONS

Chapter 49: PLUMBERS

Subchapter 3: EXAMINING BOARD

§3401. Membership; vacancies; removal; compensation

A Plumbers' Examining Board, as established by Title 5, section 12004-A, subsection 32, shall consist of 5 members, who shall be appointed by the Governor. One of the members shall be a representative of the public, 2 shall be master plumbers as defined in section 3301, and 2 shall be journeyman plumbers as defined in section 3301, both of whom have been engaged in the business of plumbing for at least 2 years. [1989, c. 503, Pt. B, §140 (amd).]

The appointive members are appointed for terms of 4 years. Appointments of members must comply with section 60. [1993, c. 600, Pt. A, §228 (amd).]

Any member of the board may be removed from office for cause by the Governor. [1995, c. 397, §54 (amd).]

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes
7 State House Station
State House Room 108
Augusta, Maine 04333-0007

This page created on: 2003-03-16

M. of S.

L.D. 274

COPY

DATE:

(Filing No. H-)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE HOUSE OF REPRESENTATIVES 121ST LEGISLATURE FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 217, L.D. 274, Bill, "An Act to Correct Errors and Inconsistencies in the Laws of Maine"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'PART A'

Further amend the bill by striking out all of sections 2 to 10.

Further amend the bill by striking out all of section 15.

Further amend the bill by striking out all of sections 23, 26, 30, 32, 37, 39, 47, 48, 50 and 51.

Further amend the bill by striking out all of sections 56 and 63 to 67.

Further amend the bill by inserting after section 68 the following:

'PART B'

Sec. B-1. 4 MRSA §153, sub-§9, as amended by PL 1969, c. 501, §1, is further amended to read:

COMMITTEE AMENDMENT

9. **Northern Cumberland.** Northern Cumberland consists of all municipalities in the County of Cumberland not included within the divisions of Eastern--and Southern Cumberland and Bath-Brunswick, and consists of the municipalities of Brownfield, Denmark, Hiram, Fryeburg, Lovell, Sweden, Stow and Porter in the County of Oxford. The District Court for Northern Cumberland shall must be held at Bridgton.

Sec. B-2. 5 MRSA §191, as amended by PL 1989, c. 410, §13, is repealed and the following enacted in its place:

§191. Duties; salary; fees; full time

1. Attorney General; office; salary. The Attorney General is the executive head of the Department of the Attorney General. The Attorney General shall keep an office at the seat of government and is entitled to receive an annual salary in full for all services. The Attorney General is entitled to receive actual expenses incurred in the performance of official duties.

2. Full time; prohibited activities. The Attorney General shall devote full time to the duties of the office and may not engage in the private practice of law during the Attorney General's term of office, nor may the Attorney General during that term be a partner or associate of any person in the practice of law. During the term of service, the Attorney General may not be an officer or director of any corporation engaged in business for profit within the State.

3. Representation by Attorney General, deputies, assistants and staff attorneys. The Attorney General or a deputy, assistant or staff attorney shall appear for the State, the head of any state department, the head of any state institution and agencies of the State in all civil actions and proceedings in which the State is a party or interested, or in which the official acts and doings of the officers are called into question, in all the courts of the State and in those actions and proceedings before any other tribunal when requested by the Governor or by the Legislature or either House of the Legislature. All such actions and proceedings must be prosecuted or defended by the Attorney General or under the Attorney General's direction.

A. Writs, summonses or other processes served upon those officers must be transmitted by them to the Attorney General.

B. All legal services required by those officers, boards and commissions in matters relating to their official duties must be rendered by the Attorney General or under the Attorney General's direction. The officers or agencies of the State may not act at the expense of the State as

1 counsel, nor employ private counsel except upon prior
2 written approval of the Attorney General. In all instances
3 where the Legislature has authorized an office or an agency
4 of the State to employ private counsel, the Attorney
5 General's written approval is required as a condition
6 precedent to the employment.

7 **4. Fees.** The Attorney General is entitled to receive the
8 following fees:

9 A. For approval of certificate of organization of
10 corporations under Title 9-B, section 313, subsection 3, \$10
11 in advance; and

12 B. For certificate that any corporation has ceased to
13 transact business and is excused from filing annual returns,
14 as authorized in Title 13-C, section 1621, subsection 4, \$5.

15 The Attorney General shall collect the legal and usual fees
16 payable to the Attorney General by virtue of the Attorney
17 General's office and shall pay them over to the Treasurer of
18 State.

19 **Sec. B-3. Effective date.** That section of this Part that
20 repeals and replaces the Maine Revised Statutes, Title 5, section
21 191 takes effect July 1, 2003.

22 **Sec. B-4. 12 MRSA §6404-B,** as amended by PL 2001, c. 327, §2,
23 is further amended to read:

24 **§6404-B. Suspension based on conviction of fishing on closed days**
25 **for sea urchin fishing**

26 The commissioner shall suspend the sea urchin fishing
27 license of any license holder convicted in court of violating
28 section 6749-W 6749 or any rule adopted under section 6749. The
29 suspension must be for one year from the date of conviction.

30 **Sec. B-5. 20-A MRSA §4706, sub-§2,** as amended by PL 2001, c.
31 403, §1 and c. 454, §20, is repealed and the following enacted in
32 its place:

33 **2. Maine studies.** Maine history, including the Constitution
34 of Maine, Maine geography and environment and the natural,
35 industrial and economic resources of Maine and Maine's cultural
36 and ethnic heritage, must be taught. A required component of
37 Maine studies is Maine Native American studies, which must be
38 included in the review of content standards and performance
39 indicators of the learning results conducted in accordance with

section 6209, subsection 4. The Maine Native American studies must address the following topics:

A. Maine tribal governments and political systems and their relationship with local, state, national and international governments;

B. Maine Native American cultural systems and the experience of Maine tribal people throughout history;

C. Maine Native American territories; and

D. Maine Native American economic systems.

Sec. B-6. 22 MRSA §330, sub-§5, as enacted by PL 2001, c. 664, §2, is repealed.

Sec. B-7. 22 MRSA §3028, sub-§7, as amended by PL 2001, c. 291, §7 and c. 345, §2, is repealed and the following enacted in its place:

7. Written report. Upon completing an investigation, the medical examiner or the person expressly authorized by the Chief Medical Examiner shall submit a written report of the investigator's findings to the Chief Medical Examiner on forms provided for that purpose. The investigator shall retain one copy of the report.

If an investigator reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the investigator, fulfills the medical examiner's mandatory reporting requirement under section 3477 or 4011-A.

Sec. B-8. 22 MRSA §5118, sub-§4, ¶C, as enacted by PL 1981, c. 470, Pt. A, §117, is amended to read:

C. In the administration of the plan, there is a failure to comply substantially with any such provision of subsection 1, paragraphs A to I, the director shall notify the area agency that no further payments from its allotments under sections section 5115 and Section 306 and--5115 of the federal Older Americans Act of 1965, 42 United States Code, Section 3026 will be made to the agency or, in his the director's discretion, that further payments to the agency will be limited to projects under or portions of the area plan not affected by the failure, until he the director is satisfied that there will no longer be any failure to comply. Until he the director is so satisfied, no further payments may not be made to the agency from its allotments

under section 5115, or payments may be limited to projects under or portions of the area plan not affected by the failure. The director shall, in accordance with regulations ~~he shall prescribe~~ rules adopted by the director, disburse funds so withheld directly to any public or nonprofit private organization or agency of the area, submitting an approved plan in accordance with section 5116. Any payment or payments ~~shall~~ must be matched in the proportions specified in section 5116.

Sec. B-9. 25 MRSA §1550, as enacted by PL 1975, c. 763, §10, is amended to read:

§1550. Violations

Any person who fails to comply with the provisions of section ~~1542~~, ~~subsections~~ 1542-A, subsection 1 or 3, or with the provisions of section ~~1542~~ 1542-A, subsection 4, imposing a duty to transmit criminal fingerprint records to the State Bureau of Identification, or with the provisions of sections 1544, 1547 or 1549 commits a civil violation for which a ~~forfeiture~~ fine of not more than \$100 may be adjudged.

Sec. B-10. 32 MRSA §2102, sub-§2-A, as amended by PL 2003, c. 204, Pt. H, §1, is further amended to read:

2-A. Advanced practice registered nursing. "Advanced practice registered nursing" means the delivery of expanded professional health care by an advanced practice registered nurse that is:

B. Within the advanced practice registered nurse's scope of practice as specified by the board by rulemaking, taking into consideration any national standards that exist; and

C. In accordance with the standards of practice for advanced practice registered nurses as specified by the board by rulemaking, taking into consideration any national standards that may exist. Advanced practice registered nursing includes consultation with or referral to medical and other health care providers when required by client health care needs.

A certified nurse practitioner or a certified nurse midwife who qualifies as an advanced practice registered nurse may prescribe and dispense drugs or devices, or both, in accordance with rules adopted by the board. ~~In adopting such rules, the board shall invite and consider comment from the Joint Practice Council on Advanced Practice Registered Nursing.~~

A certified nurse practitioner who qualifies as an advanced practice registered nurse must practice, for at least 24 months, under the supervision of a licensed physician or must be employed by a clinic or hospital that has a medical director who is a licensed physician. The certified nurse practitioner must submit written evidence to the board upon completion of the required clinical experience.

The board shall adopt rules necessary to effectuate the purposes of this chapter relating to advanced practice registered nursing.

PART C

Sec. C-1. 11 MRSA §9-1207, sub-§(4), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor:

(a) Subsection (1) does not apply unless the secured party is entitled under an agreement:

(i) To charge back uncollected collateral; or

(ii) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) do not apply.

Sec. C-2. 11 MRSA §9-1207, sub-§(5), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is repealed.

Sec. C-3. 12 MRSA §6034, sub-§1, as enacted by PL 2003, c. 90, §2, is amended to read:

1. Appointment; composition. The Commercial Fishing Safety Council, referred to in this section as "the council" and established by Title 5, section 12004-I, subsection 57-E, consists of 17 members, 15 of whom are appointed by the Governor and-subject-to-confirmation-by-the-Legislature as follows:

A. One member who is a license holder under this Part and a member of the Lobster Advisory Council, recommended by the chair of the Lobster Advisory Council;

B. One member who is a license holder under this Part and a member of the Marine Resources Advisory Council, recommended by the chair of the Marine Resources Advisory Council;

- 2 C. One member who is a license holder under this Part and a
4 member of the Sea Urchin Zone Council, recommended by the
chair of the Sea Urchin Zone Council;
- 6 D. Five members who are license holders under this Part and
8 who each represent a different commercial marine harvesting
activity than the other members of the council, recommended
10 by commercial marine harvesting and aquaculture interests;
- 12 E. An educator experienced in community-based adult
education and volunteer safety training;
- 14 F. An expert in fishing industry risk analysis and
16 occupational health;
- 18 G. An expert in marine safety equipment;
- 20 H. A representative of the marine insurance industry;
- 22 I. A marine surveyor;
- 24 J. A spouse or domestic partner of a license holder under
this Part; and
- 26 K. A member of the public.

28 The chair of the Marine Resources Advisory Council and the chair
of the Marine Recreational Fishing Advisory Council are ex
30 officio members of the council. The composition of the council
must reflect a geographic distribution along the coast of the
32 State. The council may invite to carry out the duties of the
council other participants on an ad hoc basis, including
34 representatives of private or governmental organizations or
individuals with expertise or interest in marine, education,
36 labor or health matters.

38 **Sec. C-4. 17-A MRSA §360, sub-§1,** as amended by PL 2001, c.
667, Pt. D, §11 and affected by §36, is further amended to read:

40 1. A person is guilty of theft if:

42 A. Knowing that the person does not have the consent of the
44 owner, the person takes, operates or exercises control over
a vehicle, or, knowing that a vehicle has been so wrongfully
46 obtained, the person rides in the vehicle. Violation of
this paragraph is a Class D crime;

48 A-1. The person violates paragraph A and the person has 2
50 prior Maine convictions for any combination of the

following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime;

B. Having custody of a vehicle pursuant to an agreement between the person and the owner of the vehicle whereby the person or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of the vehicle, the person intentionally uses or operates the vehicle, without the consent of the owner, for the person's own purposes in a manner constituting a gross deviation from the agreed purpose. Violation of this paragraph is a Class D crime; or

B-1. The person violates paragraph B and the person has 2 prior Maine convictions for any combination of the following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime;

C. Having custody of property pursuant to a rental or lease agreement with the owner of the property or a borrower's agreement with a library or museum whereby the property is to be returned to the owner at a specified time and place, the person knowingly fails to comply with the agreed terms concerning return of such property without the consent of the owner, for so lengthy a period beyond the specified time for return as to render the retention or possession or other failure to return a gross deviation from the agreement. For purposes of this paragraph, proof that the person fails to return the property within 5 days of receiving a written demand from the owner, mailed by certified or registered mail or delivered by hand after the expiration of the rental period to the most current address known to the owner, gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 of a gross deviation from the agreement. Violation of this paragraph is a Class D crime; or

D. The person violates paragraph C and the person has 2 prior Maine convictions for any combination of the

following: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts thereat. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime.

Sec. C-5. 17-A MRSA §360, sub-§4, as enacted by PL 2001, c. 383, §49 and affected by §156, is repealed.

Sec. C-6. 22 MRSA §4301, sub-§7, as amended by PL 2001, c. 571, §1, is further amended to read:

7. Income. "Income" means any form of income in cash or in kind received by the household, including net remuneration for services performed, cash received on either secured or unsecured credit, any payments received as an annuity, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources, unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds and household income from any other source, including relatives or unrelated household members.

The following items are not available within the meaning of this subsection and subsection 10:

A. Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;

B. Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or

C. Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation is the 30-day period commencing on the date of the application. This prospective calculation does not disqualify an applicant who has exhausted income to purchase basic necessities if that income does not exceed the income standards established by the municipality. Notwithstanding this prospective calculation, if any applicant or recipient receives a lump sum

payment prior or subsequent to applying for assistance, that payment must be prorated over future months. The period of proration is determined by disregarding any portion of the lump sum payment that the applicant or recipient has spent to purchase basic necessities, including but not limited to: all basic necessities provided by general assistance; reasonable payment of funeral or burial expenses for a family member; reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities; repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid. All income received by the household between the receipt of the lump sum payment and the application for assistance is added to the remainder of the lump sum. The period of proration is then determined by dividing the remainder of the lump sum payment by the greater of the verified actual monthly amounts for all of the household's basic necessities or by 150% of the applicable federal poverty guidelines. That dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

Sec. C-7. 25 MRSA §2809, first ¶, as enacted by PL 1989, c. 521, §§14 and 17, is amended to read:

Beginning January 1, 1991, the board shall report annually to the joint standing committee of the Legislature having jurisdiction over ~~legal--affairs~~ criminal justice and public safety matters on the implementation and effectiveness of this chapter. The purpose of the report is to provide the Legislature annual information on the law governing law enforcement training in order to ensure that appropriate and timely training is accomplished. The report must include the following:

Sec. C-8. 29-A MRSA §2054, sub-§2, ¶D, as amended by PL 2003, c. 78, §1, is repealed and the following enacted in its place:

D. Except as provided in this paragraph, a vehicle may not be equipped with or display a blue light.

(1) Emergency lights used on the following vehicles must emit a blue light or a combination of blue and white light: a police vehicle; a Department of Corrections vehicle as described in subsection 1,

paragraph B, subparagraph (6); a vehicle operated by a chief of police, a sheriff or a deputy sheriff; and a vehicle operated by a qualified deputy sheriff or other qualified individual performing court security-related functions and services.

(2) Emergency lights used on an ambulance, an emergency medical service vehicle, a fire department vehicle, a fire vehicle or a hazardous material response vehicle may include one blue light mounted at the rear of the vehicle so that the light is visible to approaching traffic.

(3) The taillight of a vehicle, or replica of a vehicle, manufactured prior to 1952 and registered under section 457, may contain a blue or purple insert of not more than one inch in diameter.

Sec. C-9. 29-A MRSA §2054, sub-§2, ¶F, as amended by PL 2003, c. 78, §2, is further amended to read:

F. Only vehicles listed in this paragraph, rural mail vehicles as provided in paragraph C, subparagraph (5) and school buses may be equipped with, display or use a red auxiliary or emergency light.

(1) Emergency lights used on an ambulance, an emergency medical service vehicle, a fire department vehicle, a fire vehicle or a hazardous material response vehicle must emit a red light or a combination of red and white light ~~and may be equipped with one blue light mounted at the rear of the vehicle so that the light is visible to approaching traffic.~~

(2) The municipal officers or a municipal official designated by the municipal officers, with the approval of the fire chief, may authorize an active member of a municipal or volunteer fire department to use a flashing red signal light not more than 5 inches in diameter on a vehicle. The light may be displayed but may be used only while the member is en route to or at the scene of a fire or other emergency. The light must be mounted as near as practicable above the registration plate on the front of the vehicle or on the dashboard. A light mounted on the dashboard must be shielded so that the emitted light does not interfere with the operator's vision.

(3) Members of an emergency medical service licensed by Maine Emergency Medical Services may display and use

on a vehicle a flashing red signal light of the same proportion, in the same location and under the same conditions as those permitted municipal and volunteer firefighters, when authorized by the chief official of the emergency medical service.

Sec. C-10. Effective date. Those sections of this Part that repeal and replace the Maine Revised Statutes, Title 29-A, section 2054, subsection 2, paragraph D and amend Title 29-A, section 2054, subsection 2, paragraph F take effect 90 days after adjournment of the First Regular Session of the 121st Legislature.

Sec. C-11. 30-A MRSA §371-B, sub-§4, as repealed and replaced by PL 1997, c. 562, Pt. D, §6 and affected by §11, is amended to read:

4. Exception. Any person who is serving ~~or--who--has~~ previously ~~served~~ in the office of sheriff on the ~~effective date of this section~~ June 26, 1997 or who served prior to that date is deemed to meet the minimum qualifications of subsection 3.

Sec. C-12. 36 MRSA §1811, last ¶, as amended by PL 1999, c. 401, Pt. X, §3 and affected by §5 and amended by c. 414, §23, is repealed and the following enacted in its place:

Rental or lease of an automobile for one year or more must be taxed at the time of the lease or rental transaction at 5% of the following: the total monthly lease payment multiplied by the number of payments in the lease or rental, the amount of equity involved in any trade-in and the value of any cash down payment. Collection and remittance of the tax is the responsibility of the person that negotiates the lease transaction with the lessee.

Sec. C-13. Retroactivity. That section of this Part that repeals and replaces the Maine Revised Statutes, Title 36, section 1811, last paragraph applies retroactively to July 1, 2000.

Sec. C-14. 37-B MRSA §781, as amended by PL 2001, c. 614, §13 and c. 662, §82, is repealed and the following enacted in its place:

§781. Municipal, county and regional agencies

1. Municipal or interjurisdictional agencies. Each municipality of the State must be served by a municipal or interjurisdictional agency responsible for emergency management.

2. County or regional agencies. Each county shall maintain a county emergency management agency or create regional

emergency management agencies that serve the member counties. Each county or regional agency is responsible for coordination of the activities of municipal and interjurisdictional emergency management agencies within the region or county and for emergency management in the unorganized territories within its jurisdiction. A county or regional emergency management agency must receive support from the municipalities within its jurisdiction.

3. Structure of county and regional agencies. The director shall advise upon the organizational structure of county and regional emergency management agencies, including the manner in which the directors of those agencies are appointed by governing bodies of the jurisdictions involved.

4. List of agencies. The agency shall publish and maintain a current list of municipal, interjurisdictional, county and regional emergency management agencies established pursuant to this section.

Sec. C-15. 37-B MRSA §822, as amended by PL 2001, c. 614, §20 and c. 662, §88, is repealed and the following enacted in its place:

§822. Immunity

Neither the State nor any of its agencies or political subdivisions nor a person called out pursuant to section 784-A, including a voluntary and uncompensated grantor of a permit for the use of the grantor's premises as an emergency management shelter, may, while engaged in any emergency management activities and while complying with or attempting to comply with this chapter or any rule adopted pursuant to this chapter, be liable for the death of or injury to any person, or damage to property, as a result of those activities. This section does not affect the right of any person to receive benefits to which that person would otherwise be entitled under this chapter, under the Maine Workers' Compensation Act of 1992, under any pension law or under any act of Congress.

Sec. C-16. P&SL 2001, c. 62, §2 is amended to read:

Sec. 2. Territory. The territory affected by this Act, referred to in this Act as the "territory," is as follows:

A certain lot or parcel of land situated in the Town of Falmouth, County of Cumberland, and State of Maine bounded and described as follows:

Beginning at a granite monument on the southerly bank of the

Presumpscot River which monument marks the Falmouth-Portland Town line;

Thence south 31 degrees, 28 feet minutes, 15 inches seconds west along said Falmouth-Portland Town line, 1,409.32 feet to a granite monument;

Thence north 58 degrees, 27 feet minutes, 10 inches seconds west along said Falmouth-Portland Town line, 1,047.77 feet to a granite monument;

Thence north 30 degrees, 42 feet minutes, 40 inches seconds east along said Falmouth-Portland Town line, 290.49 feet to a granite monument;

Thence north 59 degrees, 9 feet minutes, 11 inches seconds west along said Falmouth-Portland Town line, 482.24 feet to a granite monument and the Maine Turnpike spur;

Thence north 64 degrees, 31 feet minutes, 49 inches seconds east along said Turnpike Spur, 1,690.60 feet to the Presumpscot River;

Thence southeasterly along said Presumpscot River 700 feet more or less to the point of beginning.

The territory described above includes all of the land, buildings, intertidal land, submerged land, freshwater or saltwater ponds and river beds, generally referred to as the Adams/Wolfe property, containing 37.73 acres, more or less.

Sec. C-17. Retroactivity. That section of this Part that amends Private and Special Law 2001, chapter 62, section 2 applies retroactively to April 2, 2002.

PART D

Sec. D-1. 5 MRSA §17851-A, sub-§2, as amended by PL 2001, c. 559, Pt. RR, §6 and affected by §17 and amended by c. 646, §§3 and 4, is repealed and the following enacted in its place:

2. Qualification for benefits. A member employed in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after June 30, 2002 for employees identified in subsection 1, paragraph M; and any employee identified in

subsection 1, paragraph L, qualifies for a service retirement benefit if that member either:

A. Is at least 55 years of age and has completed at least 10 years of creditable service under the 1998 Special Plan in any one or a combination of the capacities; or

B. Has completed at least 25 years of creditable service in any one or a combination of the capacities specified in subsection 1, whether or not the creditable service included in determining that the 25-year requirement has been met was earned under the 1998 Special Plan or prior to its establishment.

Sec. D-2. 5 MRSA §17851-A, sub-§3, ¶A, as amended by PL 2001, c. 559, Pt. RR, §7 and affected by §17 and amended by c. 646, §§5 and 6, is repealed and the following enacted in its place:

A. For the purpose of meeting the qualification requirement of subsection 2, paragraph A:

(1) Service credit purchased by repayment of an earlier refund of accumulated contributions following termination of service is included only to the extent that time to which the refund relates was served after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; and after June 30, 2002 for employees identified in subsection 1, paragraph M, in any one or a combination of the capacities specified in subsection 1. Service credit may be purchased for service by an employee identified in subsection 1, paragraph L regardless of when performed; and

(2) Service credit purchased other than as provided under subparagraph (1), including but not limited to service credit for military service, is not included.

Sec. D-3. 5 MRSA §17851-A, sub-§4, ¶A, as amended by PL 2001, c. 559, Pt. RR, §8 and affected by §17 and amended by c. 646, §§7 and 8, is repealed and the following enacted in its place:

A. If all of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998 and before September 1, 2002

for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M; if service credit was purchased by repayment of an earlier refund of accumulated contributions for service in any one or a combination of the capacities specified in subsection 1 after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M; or if service credit was purchased by other than the repayment of an earlier refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M, the benefit must be computed as provided in section 17852, subsection 1, paragraph A.

(1) If the member had 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced as provided in section 17852, subsection 3, paragraphs A and B.

(2) If the member had fewer than 10 years of creditable service on July 1, 1993, the benefit under subsection 2, paragraph B must be reduced by 6% for each year that the member's age precedes 55 years of age.

Sec. D-4. 5 MRSA §17851-A, sub-§4, ¶B, as amended by PL 2001, c. 559, Pt. RR, §8 and affected by §17 and amended by c. 646, §§9 and 10, is repealed and the following enacted in its place:

B. Except as provided in paragraphs D and E, if some part of the member's creditable service in any one or a

combination of the capacities specified in subsection 1 was earned before July 1, 1998 for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M and some part of the member's creditable service in any one or a combination of the capacities specified in subsection 1 was earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M, then the member's service retirement benefit must be computed in segments and the amount of the member's service retirement benefit is the sum of the segments. The segments must be computed as follows:

(1) The segment or, if the member served in more than one of the capacities specified in subsection 1 and the benefits related to the capacities are not interchangeable under section 17856, segments that reflect creditable service earned before July 1, 1998 for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M or purchased by repayment of an earlier refund of accumulated contributions for service before July 1, 1998, for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before July 1, 2002 for employees identified in subsection 1, paragraph M in a capacity or capacities specified in subsection 1 or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved before July 1, 1998 for employees identified in subsection 1, paragraphs A to H; before January 1, 2000 for employees identified in subsection 1, paragraphs I to K; before January 1, 2002 for employees identified in subsection 1, paragraph L; and before

July 1, 2002 for employees identified in subsection 1, paragraph M, must be computed under section 17852, subsection 1, paragraph A. If the member is qualified under subsection 2, paragraph B and:

(a) Had 10 years of creditable service on July 1, 1993, the amount of the segment or segments must be reduced as provided in section 17852, subsection 3, paragraphs A and B; or

(b) Had fewer than 10 years of creditable service on July 1, 1993, the amount of the segment or segments must be reduced as provided in section 17852, subsection 3-A; and

(2) The segment that reflects creditable service earned after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M or purchased by repayment of an earlier refund of accumulated contributions for service after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M in any one or a combination of the capacities specified in subsection 1, or purchased by other than the repayment of a refund and eligibility to make the purchase of the service credit, including, but not limited to, service credit for military service, was achieved after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M must be computed under section 17852, subsection 1, paragraph A. If the member is qualified under subsection 2, paragraph B and:

(a) Had 10 years of creditable service on July 1, 1993, the segment amount must be reduced in the manner provided in section 17852, subsection 3, paragraphs A and B for each year that the member's age precedes 55 years of age; or

(b) Had fewer than 10 years of creditable service on July 1, 1993, the segment amount must be reduced by 6% for each year that the member's age precedes 55 years of age.

Sec. D-5. 5 MRSA §17851-A, sub-§5, as amended by PL 2001, c. 559, Pt. RR, §9 and affected by §17 and amended by c. 646, §§11 and 12, is repealed and the following enacted in its place:

5. Contributions. Notwithstanding any other provision of subchapter 3, after June 30, 1998 and before September 1, 2002 for employees identified in subsection 1, paragraphs A and B; after June 30, 1998 for employees identified in subsection 1, paragraphs C to H; after December 31, 1999 for employees identified in subsection 1, paragraphs I to K; after December 31, 2001 for employees identified in subsection 1, paragraph L; and after June 30, 2002 for employees identified in subsection 1, paragraph M, a member in the capacities specified in subsection 1 must contribute to the retirement system or have pick-up contributions made at the rate of 8.65% of earnable compensation until the member has completed 25 years of creditable service as provided in this section and at the rate of 7.65% thereafter.

Sec. D-6. PL 2001, c. 646, §§4, 6, 8, 10 and 12 are repealed.

Sec. D-7. Retroactivity. That section of this Part that repeals Public Law 2001, chapter 646, sections 4, 6, 8, 10 and 12 applies retroactively to March 25, 2002.

Sec. D-8. Existing contingency continues to apply. Nothing in this Part affects the requirement that the full actuarial cost of the total liability for the increased value of all of the service rendered between August 31, 1984 and September 1, 2002 for all employees to whom Public Law 2001, chapter 559, Part RR applies must be paid before that retirement service credit is due to or may be given to any employee, as provided in Public Law 2001, chapter 559, Part RR.

PART E

Sec. E-1. 20-A MRSA §12302, sub-§1, as enacted by PL 1999, c. 401, Pt. NN, §2 and affected by §4 and enacted by c. 496, §2, is repealed and the following enacted in its place:

1. Establishment. The Maine Dental Education Loan Program, referred to in this chapter as "the program," is established. The authority shall administer the program. Under this program, beginning in fiscal year 2000-01, the chief executive officer shall award up to 3 loans or loan repayment agreements annually up to an aggregate of 12. As provided in subsection 3:

A. Loans are available to Maine residents enrolled in a dental school; or

B. A loan repayment agreement is available to a person who is eligible for licensure as a doctor of dental medicine in Maine and who has outstanding dental education loans.

Sec. E-2. 22 MRSA §3477, sub-§1, ¶A, as amended by PL 2003, c. 145, §1 and c. 210, §1, is repealed and the following enacted in its place:

A. While acting in a professional capacity:

(1) An allopathic or osteopathic physician;

(2) A medical intern;

(3) A medical examiner;

(4) A physician's assistant;

(5) A dentist;

(6) A chiropractor;

(7) A podiatrist;

(8) A registered or licensed practical nurse;

(9) A certified nursing assistant;

(10) A social worker;

(11) A psychologist;

(12) A pharmacist;

(13) A physical therapist;

(14) A speech therapist;

(15) An occupational therapist;

(16) A mental health professional;

(17) A law enforcement official;

(18) A coroner;

(19) Emergency room personnel;

(20) An ambulance attendant;

(21) An emergency medical technician;

(22) Unlicensed assistive personnel;

(23) A human agent employed by the Department of
Agriculture, Food and Rural Resources; and

(24) A clergy member acquiring the information as a
result of clerical professional work except for
information received during confidential communications;

**Sec. E-3. 22 MRSA §4011-A, sub-§1, ¶A, as amended by PL 2003,
c. 145, §2 and c. 210, §3, is repealed and the following enacted
in its place:**

A. When acting in a professional capacity:

(1) An allopathic or osteopathic physician, resident or
intern;

(2) An emergency medical services person;

(3) A medical examiner;

(4) A physician's assistant;

(5) A dentist;

(6) A dental hygienist;

(7) A dental assistant;

(8) A chiropractor;

(9) A podiatrist;

- (10) A registered or licensed practical nurse;
- (11) A teacher;
- (12) A guidance counselor;
- (13) A school official;
- (14) A children's summer camp administrator or counselor;
- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters; and
- (29) A human agent employed by the Department of Agriculture, Food and Rural Resources;

Sec. E-4. Effective date. Those sections of this Part that repeal and replace the Maine Revised Statutes, Title 22, section 3477, subsection 1, paragraph A and section 4011-A, subsection 1, paragraph A take effect 90 days after adjournment of the First Regular Session of the 121st Legislature.

2
46
8

10

12

14

16

18

22

26

28

30

32

36

38

40

42
44
46
48

bold print, Times New Roman font, the words "NOT PAID FOR OR
AUTHORIZED BY ANY CANDIDATE."

Sec. F-2. Effective date. That section of this Part that amends the Maine Revised Statutes, Title 21-A, section 1014, subsection 2 takes effect 90 days after adjournment of the First Regular Session of the 121st Legislature.

Sec. F-3. Resolve 2003, c. 70, §3 is repealed.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

Part A, Part B and Part E make technical changes. Parts C and Part F consists of changes that are or could be interpreted as substantive changes. Part D consists of technical corrections of conflicts in the retirement benefit laws.

PART A

This amendment labels the bill Part A.

Sections 2, 3, 5, 6, 32, 37, 48, 56 and 57 are deleted from the bill because the errors are addressed in other bills.

Sections 7, 8, 50, 51, 63 and 64 are deleted from the bill because these sections are not necessary.

Sections 4, 9, 10, 15, 23, 26, 30, 39 and 47 are deleted from the bill and are added in Part B with technical amendments. Sections 65, 66 and 67 are deleted from the bill and added in Part D with related corrections in the retirement benefits laws.

PART B

Section 1 corrects the description of the Northern Cumberland District Court division. That division consists of all of Cumberland County except the municipalities contained in 2 other divisions, Southern Cumberland and Bath-Brunswick. It is correct to delete reference to the Eastern Cumberland division, but the municipalities from that division were moved into the Bath-Brunswick division and they are therefore not to be included in the Southern Cumberland division.

Section 2 replaces Part A, section 9 of the bill. The original section corrected a cross-reference and deleted

reference to a fee for services that are not provided by the Attorney General. The original section repealed and replaced the Maine Revised Statutes, Title 5, section 191, but did so in a way that will make future amendment of the section difficult. This section corrects the cross-reference and removes reference to the fee for services that are not provided, but it also restructures the section in a more comprehensive way, without changing the content. Section 3 adds an effective date of July 1, 2003.

Section 4 corrects a cross-reference.

Section 5 further corrects Part A, section 23 of the bill by providing the correct name for Maine Native American studies.

Section 6 strikes reference to assisted living programs and services since those terms are now included in the definition of "assisted housing."

Section 7 corrects a conflict in the medical examiner law when 2 bills amended the same subsection without reference to each other. Public Law 2001, chapter 291 amended the law to allow expressly authorized persons to conduct investigations for the Chief Medical Examiner. Public Law 2001, chapter 345 amended the laws concerning the mandated reporting to protect children and incapacitated or dependent adults. Chapter 345 updated a cross-reference in the medical examiner laws. This section repeals and replaces Title 22, section 3028, subsection 7 and reenacts it with language incorporating both chapters.

Section 8 clarifies that the cross-reference to allotments is to a section of federal law.

Section 9, in addition to the cross-reference corrections made in the bill, also changes a reference to reflect a recommendation made by the MCJUSTICE Policy Board.

Section 10 makes changes to reflect changes made by Public Law 2003, chapter 204, Part H, section 1.

PART C

Sections 1 and 2 correct an error in the Uniform Commercial Code in which a paragraph was printed as a separate subsection.

Section 3 removes the requirement that the 15 gubernatorial appointments to the newly established Commercial Fishing Safety Council be confirmed by the Legislature.

Sections 4 and 5 correct the law regarding the crime of theft by unauthorized use. Committing any crime of theft when

the person has 2 or more prior convictions raises the class of the crime to Class C. This higher classification because of prior convictions was inadvertently omitted from Public Law 2001, chapter 383.

Section 6 removes an extraneous word to clarify the intent of the section of law.

Section 7 updates the statutes concerning the legislative jurisdiction over the Maine Criminal Justice Academy. It directs the Board of Trustees of the Maine Criminal Justice Academy to report annually on law enforcement training to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters, instead of the committee having jurisdiction over legal affairs. This change is consistent with the amendment of the committee oversight jurisdiction pursuant to the Joint Rules of the 117th Legislature and every Legislature since then.

Sections 8, 9 and 10 clarify that only an ambulance, an emergency medical services vehicle, a fire department vehicle, a fire vehicle and a hazardous material response vehicle may be equipped with and display a blue light. These sections take effect at the same time that the underlying Act, Public Law 2003, chapter 78, takes effect.

Section 11 supplies the appropriate calendar date for a reference to the effective date of a provision of law. Public Law 1997, chapter 37, section 1 and chapter 87, section 1 enacted the same section of law with different provisions. The effective date of Public Law 1997, chapter 37, dealing with qualifications for sheriffs, had an effective date of June 26, 1997. The conflicting sections were repealed and replaced by Public Law 1997, chapter 562, which combined both versions into a new Title 30-A, section 371-B. The effective date for Public Law 1997, chapter 562 was September 19, 1997. This section specifies that, for minimum qualification purposes, the effective date of that subsection is June 26, 1997, the original effective date.

Section 12 resolves a conflict created by Public Law 1999, chapters 401 and 414, which both amended the same provision of law. Public Law 1999, chapter 401 provided a 5% tax rate for the rental or lease of an automobile and had an effective date of July 1, 2000. Public law 1999, chapter 414 provided a 5 1/2% tax rate for the rental or lease of an automobile. This section resolves the conflict by repealing the provision of law and replacing it with the Public Law 1999, chapter 401 version. Section 13 makes that provision retroactive to July 1, 2000.

Section 14 corrects a conflict that was created by Public

Law 2001, chapter 614, section 13 and chapter 662, section 82, which both amended the same provision of law. Chapter 614, section 13 changed the term "civil emergency preparedness" to "emergency management." Chapter 662, section 82 made substantive changes in addition to the term change. This section corrects the conflict by repealing the provision of law and replacing it with the chapter 662, section 82 version.

Section 15 corrects a conflict created by Public Law 2001, chapter 614, section 20 and chapter 662, section 88, which both amended the same provision of law, by repealing and replacing it with the Public Law 2001, chapter 614, section 20 version.

Section 16 corrects references in the legal description of land annexed to Portland from Falmouth. The bearings adopted by the Legislature describing the directions of the new town lines are expressed in the form of degrees, feet and inches. This is incorrect as bearings are measured in the form of degrees, minutes and seconds. This section restates the bearings in the form of degrees, minutes and seconds. Section 17 applies those changes retroactively to April 2, 2002, which is the effective date of the annexation legislation.

PART D

Section 1 to 5 correct conflicts created by Public Law 2001, chapter 559, Part RR and Public Law 2001, chapter 646.

Section 6 repeals Public Law 2001, chapter 646, sections 4, 6, 8, 10 and 12. Section 7 makes the repeal retroactive to March 25, 2002.

Public Law 2001, chapter 559, Part RR increased retirement benefits for Inland Fisheries and Wildlife wardens and Department of Marine Resources marine patrol officers serving between August 31, 1984 and September 1, 2002, but those increases were contingent on the accumulation of funding in the Warden Benefit Reserve Account to cover the additional costs. Section 8 ensures that the funding contingency remains in effect when the sections of statutes that provide those benefits are repealed and replaced in this amendment for the purpose of correcting statutory conflicts.

PART E

Section 1 corrects a conflict in the Maine Dental Education Loan Program created when 2 Public Law 1999 chapters enacted the same subsection with almost identical language. This section

repeals the subsection as enacted by both laws and reenacts the subsection incorporating the language from both.

Sections 2 and 3 correct conflicts created when 2 laws enacted this year amended the mandated reporting requirements under the adult protective and child protective laws. Section 4 makes the sections take effect 90 days after adjournment of the First Regular Session of the 121st Legislature.

Section 5 corrects a conflict between L.D. 1614, Public Law 2003, chapter 451 and L.D. 1567, Public Law 2003, c. 452. Chapter 451 eliminated a reference to liquor enforcement officers in the first paragraph, and chapter 452 added paragraph C. This section repeals Title 28-A, section 161, subsection 7 and reenacts it incorporating the changes made by both chapters.

PART F

Section 1 amends the new law concerning the required disclaimer on political communications not authorized by a candidate. This section provides that the disclaimer must be in point no smaller in size than 10-point bold, Times New Roman font, rather than requiring that the disclaimer be in 10-point bold print, Times New Roman font. Section 2 makes that change effective at the same time that the underlying law takes effect.

Section 3 repeals a General Fund appropriation section that was erroneously retained in a committee amendment when the intent of a floor amendment was to strike that section.

**121st Maine Legislature
Office of Fiscal and Program Review**

LD 274

An Act to Correct Errors and Inconsistencies in the Laws of Maine



LR 0001(01)

Fiscal Note for Original Bill

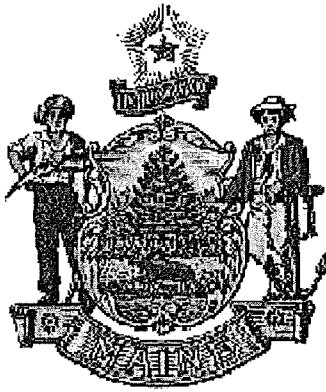
Sponsor: Rep. Norbert

Committee: Judiciary

Fiscal Note Required: No

Fiscal Note

No fiscal impact.



**121st Maine Legislature
Office of Fiscal and Program Review**

LD 274

An Act to Correct Errors and Inconsistencies in the Laws of Maine

LR 0001(05)

Fiscal Note for Bill as Engrossed with:

C "A" (H-593)

H "A" (H-596) to C "A" (H-593)

Committee: Judiciary

Fiscal Note

	2003-04	2004-05	Projections 2005-06	Projections 2006-07
Net Cost (Savings)				
General Fund	(\$48,418)	(\$38,461)	\$0	\$0
Appropriations/Allocations				
General Fund	(\$48,418)	(\$38,461)	\$0	\$0

Fiscal Detail and Notes

This bill deappropriates from the Department of Human Services to correct a technical error for an appropriation that was inadvertently left in LD 767, Chapter 70, Resolves of 2003. Other corrections in the bill have no fiscal impact.

COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 274 ERRORS AND INCONSISTENCIES

Committee: JUDICIARY

Date: 28 MAY 2003

Motion: OTP-A

Motion by: Rep. Bull

Seconded by: Rep. Duprey

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Senators

Sen. Pendleton	✓						
Sen. Cathcart						✓	
Sen. Woodcock	✓						

Representatives

Rep. Norbert	✓						
Rep. Bull	✓						
Rep. Simpson	✓ DLS						
Rep. RICHARDSON						✓	
Rep. Bennett	✓						
Rep. Mills	✓						
Rep. Sherman	✓						
Rep. Carr						✓	
Rep. Duprey	✓						
Rep. Bryant-Deschenes						✓	
TOTALS	9					2	

Rep. LORING

COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 274 ERRORS AND INCONSISTENCIES

Committee: JUDICIARY

Date: 28 MAY 2003

Motion: OTP-A

Motion by: Rep. Bull

Seconded by: Rep. Duprey

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Senators

Sen. Pendleton	✓						
Sen. Catheart						✓	
Sen. Woodcock	✓						

Representatives

Rep. Norbert	✓						
Rep. Bull	✓						
Rep. Simpson	✓ DLS						
Rep. RICHARDSON						✓	
Rep. Bennett	✓						
Rep. Mills	✓						
Rep. Sherman	✓						
Rep. Carr						✓	
Rep. Duprey	✓						
Rep. Bryant-Deschenes						✓	
TOTALS	9					4	

Rep. LORING

HOUSE REPORT

THE COMMITTEE ON JUDICIARY

to which was referred the following:

An Act to Correct Errors and Inconsistencies in the Laws of Maine
(EMERGENCY)

H.P. 217

L.D. 274

has had the same under consideration, and asks leave to report that the same

Ought to Pass as Amended by Committee Amendment " "

William S. Norbert
(Signature) Rep. Norbert

of Portland
For the Committee

(Type)
Rep. of (Town) and/or Sen. of (County)

(Signatures)

HOUSE REPORT