TITLE 10

COMMERCE AND TRADE

PART 1

GENERAL PROVISIONS

CHAPTER 1

PROMOTION OF MAINE

§1. State level

(REPEALED)

SECTION HISTORY

PL 1969, c. 455, §4 (RP).

§2. County level

Any county may expend not exceeding the sum of $5,000 annually under the direction of the county commissioners, to be accounted for as other moneys of the county, for advertising or promoting the natural resources, advantages and attractions of such county.

CHAPTER 1-A

INTERNATIONAL TRADE AND THE ECONOMY

§11. Maine Jobs, Trade and Democracy Act

1. Short title. This section may be known and cited as "the Maine Jobs, Trade and Democracy Act."
[PL 2003, c. 699, §2 (NEW).]

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

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A. [PL 2003, c. 699, §2 (NEW).]

B. "Trade agreement" means any agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade among the parties to the agreement. "Trade agreement" includes, but is not limited to, the North American Free Trade Agreement, agreements with the World Trade Organization and the proposed Free Trade Area of the Americas. [PL 2003, c. 699, §2 (NEW).]

[PL 2003, c. 699, §2 (NEW).]

3. Purposes. The commission is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements.

[PL 2003, c. 699, §2 (NEW).]

4. Membership. The commission consists of the following members:

A. The following 17 voting members:

(1) Three Senators representing at least 2 political parties, appointed by the President of the Senate;

(2) Three members of the House of Representatives representing at least 2 political parties, appointed by the Speaker of the House;

(3) The Attorney General or the Attorney General's designee;

(4) Four members of the public, appointed by the Governor as follows:

(a) A small business person;

(b) A small farmer;

(c) A representative of a nonprofit organization that promotes fair trade policies; and

(d) A representative of a Maine-based corporation that is active in international trade;

(5) Three members of the public appointed by the President of the Senate as follows:

(a) A health care professional;

(b) A representative of a Maine-based manufacturing business with 25 or more employees; and

(c) A representative of an economic development organization; and

(6) Three members of the public appointed by the Speaker of the House as follows:

(a) A person who is active in the organized labor community;

(b) A member of a nonprofit human rights organization; and

(c) A member of a nonprofit environmental organization.

In making appointments of members of the public, the appointing authorities shall make every effort to appoint representatives of generally recognized and organized constituencies of the interest groups mentioned in subparagraphs (4), (5) and (6); and [PL 2003, c. 699, §2 (NEW).]

B. The following 4 commissioners or the commissioners' designees of the following 4 departments and the president or the president's designee of the Maine International Trade Center who serve as ex officio, nonvoting members:

(1) Department of Labor;

(3) Department of Environmental Protection;

(4) Department of Agriculture, Conservation and Forestry; and

(5) Department of Health and Human Services. [PL 2003, c. 689, Pt. B, §6 (REV); PL 2007, c. 266, §1 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

[PL 2003, c. 689, Pt. B, §6 (REV); PL 2007, c. 266, §1 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

5. Terms; vacancies; limits. Except for Legislators, commissioners and the Attorney General, who serve terms coincident with their elective or appointed terms, all members are appointed for 3-year terms. A vacancy must be filled by the same appointing authority that made the original appointment. Appointed members may not serve more than 2 terms. Members may continue to serve until their replacements are designated. A member may designate an alternate to serve on a temporary basis.

[PL 2003, c. 699, §2 (NEW).]

6. Chair; officers; rules. The first-named Senate member and the first-named House of Representatives member are cochairs of the commission. The commission shall appoint other officers as necessary and make rules for orderly procedure.
[PL 2003, c. 699, §2 (NEW).]

7. Compensation. Legislators who are members of the commission are entitled to receive the legislative per diem and expenses as defined in Title 3, section 2 for their attendance to their duties under this chapter. Other members are entitled to receive reimbursement of necessary expenses if they are not otherwise reimbursed by their employers or others whom they represent.
[PL 2003, c. 699, §2 (NEW).]

8. Staff. The Legislature, through the commission, shall contract for staff support for the commission, which, to the extent funding permits, must be year-round staff support. In the event funding does not permit adequate staff support, the commission may request staff support from the Legislative Council, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.
[PL 2013, c. 427, §1 (RPR).]

9. Powers and duties. The commission:

A. Shall meet at least twice annually; [PL 2003, c. 699, §2 (NEW).]

B. Shall hear public testimony and recommendations from the people of the State and qualified experts when appropriate at no fewer than 2 locations throughout the State each year on the actual and potential social, environmental, economic and legal impacts of international trade agreements and negotiations on the State; [PL 2003, c. 699, §2 (NEW).]

C. Shall every 2 years conduct an assessment of the impacts of international trade agreements on Maine's state laws, municipal laws, working conditions and business environment. The assessment must be submitted and made available to the public as provided for in the annual report in paragraph D; [PL 2007, c. 266, §2 (AMD).]

D. Shall maintain active communications with and submit an annual report to the Governor, the Legislature, the Attorney General, municipalities, Maine's congressional delegation, the Maine International Trade Center, the Maine Municipal Association, the United States Trade Representative's Office, the National Conference of State Legislatures and the National Association of Attorneys General or the successor organization of any of these groups. The commission shall make the report easily accessible to the public by way of a publicly accessible site on the Internet maintained by the State. The report must contain information acquired pursuant to activities under paragraph B and may contain information acquired pursuant to activities under paragraph C; [PL 2007, c. 266, §3 (AMD).]

E. Shall maintain active communications with any entity the commission determines appropriate regarding ongoing developments in international trade agreements and policy; [PL 2003, c. 699, §2 (NEW).]

F. May recommend or submit legislation to the Legislature; [PL 2003, c. 699, §2 (NEW).]

G. May recommend that the State support, or withhold its support from, future trade negotiations or agreements; and [PL 2003, c. 699, §2 (NEW).]

H. May examine any aspects of international trade, international economic integration and trade agreements that the members of the commission consider appropriate. [PL 2003, c. 699, §2 (NEW).]

[PL 2007, c. 266, §§2, 3 (AMD).]

10. Accounting; outside funding. All funds appropriated, allocated or otherwise provided to the commission must be deposited in an account separate from all other funds of the Legislature and are nonlapsing. Funds in the account may be used only for the purposes of the commission. The commission may seek and accept outside funding to fulfill commission duties. Prompt notice of solicitation and acceptance of funds must be sent to the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council, along with an accounting that includes the amount received, the date that amount was received, from whom that amount was received, the purpose of the donation and any limitation on use of the funds. The executive director shall administer all funds received in accordance with this section. At the beginning of each fiscal year, and at any other time at the request of the cochairs of the commission, the executive director shall provide to the commission an accounting of all funds available to the commission, including funds available for staff support.
[PL 2013, c. 427, §2 (AMD).]

11. Evaluation. By December 31, 2009, the commission shall conduct an evaluation of its activities and recommend to the Legislature whether to continue, alter or cease the commission's activities.
[PL 2003, c. 699, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 689, Pt. B, §6 (REV). PL 2003, c. 699, §2 (NEW). PL 2007, c. 266, §§1-3 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 427, §§1, 2 (AMD).

§12. Quorum

For purposes of holding a meeting, a quorum is 9 members. A quorum must be present to start a meeting but not to continue or adjourn a meeting. For purposes of voting, a quorum is 7 voting members. [PL 2015, c. 400, §1 (AMD).]

SECTION HISTORY

PL 2007, c. 266, §4 (NEW). PL 2015, c. 400, §1 (AMD).

§13. Legislative approval of trade agreements

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

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A. [PL 2009, c. 385, §1 (NEW).]

B. "Trade agreement" means an agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade, procurement, services or investment among the parties to the agreement. "Trade agreement" includes, but is not limited to, any agreements under the auspices of the World Trade Organization, all regional free trade agreements, including the North American Free Trade Agreement and the Central America Free Trade Agreement and all bilateral agreements entered into by the United States, as well as requests for binding agreement received from the United States Trade Representative. [PL 2009, c. 385, §1 (NEW).]

[PL 2009, c. 385, §1 (NEW).]

2. State official prohibited from binding the State. If the United States Government provides the State with the opportunity to consent to or reject binding the State to a trade agreement, or a provision within a trade agreement, then an official of the State, including but not limited to the Governor, may not bind the State or give consent to the United States Government to bind the State in those circumstances, except as provided in this section.
[PL 2009, c. 385, §1 (NEW).]

3. Receipt of request for trade agreement. When a communication from the United States Trade Representative concerning a trade agreement provision is received by the State, the Governor shall submit a copy of the communication and the proposed trade agreement, or relevant provisions of the trade agreement, to the chairs of the commission, the President of the Senate, the Speaker of the House of Representatives, the Maine International Trade Center and the joint standing committees of the Legislature having jurisdiction over state and local government matters and business, research and economic development matters.
[PL 2009, c. 385, §1 (NEW).]

4. Review by commission. The commission, in consultation with the Maine International Trade Center, shall review and analyze the trade agreement and issue a report on the potential impact on the State of agreeing to be bound by the trade agreement, including any necessary implementing legislation, to the Legislature and the Governor.
[PL 2009, c. 385, §1 (NEW).]

5. Legislative approval of trade agreement required. Unless the Legislature by proper enactment of a law authorizes the Governor or another official of the State to enter into the specific proposed trade agreement, the State may not be bound by that trade agreement.
[PL 2009, c. 385, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 385, §1 (NEW).

CHAPTER 3

PEACEFUL USES OF ATOMIC ENERGY

SUBCHAPTER 1

GENERAL PROVISIONS

§51. Declaration of policy

(REPEALED)

SECTION HISTORY

PL 1983, c. 345, §§1,14 (RP).

§52. Definitions

(REALLOCATED TO TITLE 38, SECTION 1402)

SECTION HISTORY

PL 1981, c. 439, §§1-4 (AMD). PL 1983, c. 345, §§2,14 (RAL).

§53. Therapeutic or medicinal use not affected

(REPEALED)

SECTION HISTORY

PL 1983, c. 345, §§3,14 (RP).

§54. Construction

(REPEALED)

SECTION HISTORY

PL 1983, c. 345, §§3,14 (RP).

SUBCHAPTER 2

RESEARCH AND DEVELOPMENT

§101. Research for atomic industrial development

(REPEALED)

SECTION HISTORY

PL 1971, c. 593, §§22,23 (AMD). PL 1973, c. 513, §22 (AMD). PL 1973, c. 537, §6 (AMD). PL 1973, c. 585, §12 (AMD). PL 1977, c. 604, §2 (RP).

§102. Coordination of studies and development activities

(REPEALED)

SECTION HISTORY

PL 1973, c. 537, §7 (AMD). PL 1975, c. 771, §§113-114 (AMD). PL 1977, c. 604, §3 (RP).

§103. Duties of Human Services

(REPEALED)

SECTION HISTORY

PL 1971, c. 423, §1 (AMD). PL 1979, c. 684, §§1,2 (AMD). PL 1981, c. 109, §§1,2 (AMD). PL 1983, c. 345, §§4,14 (RP).

§104. Prevention of unnecessary radiation

(REPEALED)

SECTION HISTORY

PL 1983, c. 345, §§5,14 (RP).

§105. Registration fees

(REPEALED)

SECTION HISTORY

PL 1979, c. 684, §3 (NEW). PL 1983, c. 345, §§6,14 (RP).

SUBCHAPTER 3

FEDERAL CONTROL AND COOPERATION

§151. Federal license or permit required

(REPEALED)

SECTION HISTORY

PL 1983, c. 345, §§7,14 (RP).

§151-A. Coordination and liaison with federal agencies

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §5 (NEW). PL 1983, c. 88, §1 (AMD). PL 1983, c. 345, §§8,14 (RP). PL 1985, c. 506, §A8 (AMD).

§152. Contracts with federal agencies

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §6 (RPR). PL 1983, c. 345, §§9,14 (RP).

§153. Agreements and cooperative arrangements authorized

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §7 (AMD). PL 1983, c. 345, §§10,14 (RP).

SUBCHAPTER 3-A

HIGH-LEVEL WASTES

§161. Intent

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §8 (NEW). PL 1983, c. 381, §2 (RP).

§162. Limitation

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §8 (NEW). PL 1983, c. 381, §2 (RP).

§163. Area studies

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §8 (NEW). PL 1983, c. 381, §2 (RP).

§164. Location studies

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §8 (NEW). PL 1983, c. 381, §2 (RP).

§165. Site selection

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §8 (NEW). PL 1983, c. 381, §2 (RP).

§166. On-site storage of spent fuel assemblies; limitations

(REPEALED)

SECTION HISTORY

PL 1981, c. 643 (NEW). PL 1983, c. 381, §2 (RP).

SUBCHAPTER 3-B

LOW-LEVEL RADIOACTIVE WASTES

§171. Purpose

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §9 (NEW). PL 1983, c. 381, §4 (RP).

§172. Reporting

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §9 (NEW). PL 1983, c. 381, §4 (RP).

§173. Geological characterization

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §9 (NEW). PL 1983, c. 381, §4 (RP).

§174. Regional compacts

(REPEALED)

SECTION HISTORY

PL 1981, c. 439, §9 (NEW). PL 1983, c. 381, §4 (RP). PL 1983, c. 500, §1 (RAL). PL 1989, c. 502, §A26 (RP).

§175. Low-level Waste Siting Commission

(REALLOCATED TO TITLE 38, SECTION 1476)

SECTION HISTORY

PL 1981, c. 439, §9 (NEW). PL 1983, c. 88, §2 (AMD). PL 1983, c. 381, §5 (RAL).

§176. Low-level Waste Siting Fund

(REALLOCATED TO TITLE 38, SECTION 1477)

SECTION HISTORY

PL 1981, c. 439, §9 (NEW). PL 1983, c. 88, §§3,4 (AMD). PL 1983, c. 381, §6 (RAL).

SUBCHAPTER 4

VIOLATIONS AND PENALTIES

§201. Penalties; injunctions

(REPEALED)

SECTION HISTORY

PL 1983, c. 345, §§11,14 (RP).

§202. Injunctive relief

(REPEALED)

SECTION HISTORY

PL 1983, c. 345, §§11,14 (RP).

§203. Injunction proceedings

(REPEALED)

SECTION HISTORY

PL 1983, c. 345, §§11,14 (RP).

CHAPTER 4

REQUIREMENTS FOR CERTIFICATION OF NUCLEAR POWER PLANTS BY THE PUBLIC UTILITIES COMMISSION

§251. Definitions

(REALLOCATED TO TITLE 35, SECTION 3371)

SECTION HISTORY

PL 1977, c. 355 (NEW). PL 1983, c. 345, §§12,14 (RAL).

§252. Requirements prior to certification of nuclear power plants by the Public Utilities Commission

(REALLOCATED TO TITLE 35, SECTION 3372)

SECTION HISTORY

PL 1977, c. 355 (NEW). PL 1983, c. 345, §§12,14 (RAL).

§253. Power to certify

(REALLOCATED TO TITLE 35, SECTION 3373)

SECTION HISTORY

PL 1977, c. 355 (NEW). PL 1983, c. 345, §§12,14 (RAL).

§254. Certification of nuclear power plants

(REALLOCATED TO TITLE 35, SECTION 3374)

SECTION HISTORY

PL 1977, c. 355 (NEW). PL 1983, c. 345, §§12,14 (RAL).

§255. Commission action upon petition

(REALLOCATED TO TITLE 35, SECTION 3375)

SECTION HISTORY

PL 1977, c. 355 (NEW). PL 1983, c. 345, §§12,14 (RAL).

§256. Commission action if power to grant certificates not granted

(REALLOCATED TO TITLE 35, SECTION 3376)

SECTION HISTORY

PL 1977, c. 355 (NEW). PL 1983, c. 345, §§12,14 (RAL).

CHAPTER 5

NEW ENGLAND INTERSTATE PLANNING COMPACT

§301. Compact entered into by State

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§302. Findings -- Article I

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§303. Purpose -- Article II

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§304. Creation of commission -- Article III

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). PL 1983, c. 812, §60 (AMD). PL 1989, c. 503, §B50 (AMD). MRSA T. 10 §318 (RP).

§305. Membership -- Article IV

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§306. Functions -- Article V

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§307. Cooperation with the Federal Government and other Governmental Entities -- Article VI

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§308. Meetings and voting -- Article VII

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§309. Finances -- Article VIII

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). PL 1983, c. 812, §61 (AMD). MRSA T. 10 §318 (RP).

§310. Administration and management -- Article IX

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§311. Other compacts and activities -- Article X

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§312. Enactment -- Article XI

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§313. Withdrawal -- Article XII

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§314. Construction and severability -- Article XIII

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§315. Appointment of state member -- Article XIV

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§316. Retirement coverage -- Article XV

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§317. Renunciation -- XVI

(REPEALED)

SECTION HISTORY

PL 1967, c. 487 (NEW). MRSA T. 10 §318 (RP).

§318. Repeal

(REPEALED)

SECTION HISTORY

PL 1999, c. 668, §80 (NEW). MRSA T. 10 §318 (RP).

CHAPTER 7

PINE TREE PARTNERSHIP FUND

§351. Definitions

(REPEALED)

SECTION HISTORY

PL 1985, c. 468, §2 (NEW). PL 1989, c. 552, §1 (AMD). PL 1995, c. 699, §2 (RP).

§352. Fund established

(REPEALED)

SECTION HISTORY

PL 1985, c. 468, §2 (NEW). PL 1995, c. 699, §2 (RP).

§353. Board

(REPEALED)

SECTION HISTORY

PL 1985, c. 468, §2 (NEW). PL 1991, c. 622, §S21 (RP).

§354. Duties of board

(REPEALED)

SECTION HISTORY

PL 1985, c. 468, §2 (NEW). PL 1995, c. 699, §2 (RP).

§355. Grants

(REPEALED)

SECTION HISTORY

PL 1985, c. 468, §2 (NEW). PL 1989, c. 552, §2 (AMD). PL 1995, c. 699, §2 (RP).

§356. Purposes for which grants may be awarded

(REPEALED)

SECTION HISTORY

PL 1985, c. 468, §2 (NEW). PL 1995, c. 699, §2 (RP).

§357. Repeal

(REPEALED)

SECTION HISTORY

PL 1985, c. 468, §2 (NEW). PL 1989, c. 552, §3 (RP).

CHAPTER 9

ALLOCATION OF STATE CEILING ON TAX-EXEMPT BONDS

§361. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 594, §1 (NEW).]

1. Bond. "Bond" means a revenue obligation security, bond, note, debenture, certificate or other evidence of indebtedness of the State or any political subdivision of the State.
[PL 1985, c. 594, §1 (NEW).]

2. Carryforward. "Carryforward" means that portion of the state ceiling for any calendar year which is unallocated to specific bond issues during that calendar year and which is available to be carried forward to be used in later years under the United States Code, Title 26.
[PL 1987, c. 413, §1 (AMD).]

3. Federal formula. "Federal formula" means the formula or formulas for allocation of the state ceiling now or hereafter established under the United States Code, Title 26.
[PL 1985, c. 594, §1 (NEW).]

4. Solid waste energy project. "Solid waste energy project" means a project designed to convert solid waste to electricity or steam.
[PL 1985, c. 594, §1 (NEW).]

5. State ceiling. "State ceiling" means the annual dollar volume cap on the issuance of tax-exempt bonds now or hereafter imposed on the State and its agencies and governmental subdivisions by the United States Code, Title 26.
[PL 1985, c. 594, §1 (NEW).]

6. Tax-exempt bond. "Tax-exempt bond" means a bond the interest on which is not included in the gross income of the owners for federal income tax purposes pursuant to the United States Code, Title 26, Section 103.
[PL 1987, c. 413, §2 (AMD).]

SECTION HISTORY

PL 1985, c. 594, §1 (NEW). PL 1987, c. 413, §§1,2 (AMD).

§362. Legislative purpose

The Legislature finds and declares that the availability of financing through use of tax-exempt bonds is an effective and necessary tool for economic development, ensuring an adequate supply of affordable housing, providing for loans for higher education and promoting and improving the health, safety, welfare and quality of life of the people of the State. Because the availability of the financing is largely determined by the United States Internal Revenue Code and because there is a statewide need to assure that the limited amount of tax-exempt financing available is used in the most efficacious manner by issuers of bonds in the State to provide the greatest benefits to the State, the Legislature determines that the legislative purpose of promoting the best use of a limited resource can be best met by authorizing the Legislature and certain designated issuers of bonds to allocate available amounts of tax-exempt bond authority among issuers. This chapter is intended to apply to the federal formulas in effect on the effective date of this chapter, as well as to any unified volume limitation that may be enacted subsequently by the United States Congress. Any action by the designated issuers pursuant to

this chapter is expressly delegated to those issuers by the Legislature for purposes of determining whether such action is authorized by the United States Code, Title 26. [PL 1987, c. 413, §3 (AMD).]

SECTION HISTORY

PL 1985, c. 594, §1 (NEW). PL 1987, c. 413, §3 (AMD).

§363. Allocation of the state ceiling

(CONFLICT)

1. Formula and procedure.

[PL 1987, c. 413, §4 (RP).]

1-A. Procedure. For each calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure supersedes the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the federal formula. Allocations may be reviewed by the Legislature periodically and unused allocations may be reallocated to other issuers; however, notwithstanding the existence of legislation allocating or reallocating all or any portion of the state ceiling, at any time during the period from September 1st to and including December 31st of any calendar year, and at any other time that the Legislature is not in session, a group consisting of a representative of each of the issuers specifically identified in subsections 4, 5, 6, 7, 8 and 8-A; and a representative of the Governor designated each year by the Governor may, by written agreement executed by no fewer than 5 of the 6 voting representatives, allocate amounts not previously allocated and reallocate unused allocations from one of the specific issuers designated in this section to another specific issuer for further allocation or carryforward, with respect to the state ceiling for that calendar year only. In no event may any issuer have more than one vote. If an issuer is allocated a portion of the state ceiling in more than one category, the written agreement must be executed by no fewer than 4 of the 6 voting representatives. Except for records containing specific and identifiable personal information acquired from applicants for or recipients of financial assistance, the records of the group of representatives described in this subsection are public records and the meetings of the group of representatives described in this subsection are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.
[PL 2005, c. 425, §22 (AMD).]

2. Allocations by the Governor and the Legislature.

[PL 1987, c. 413, §4 (RP).]

2-A. (CONFLICT: Text as amended by PL 2019, c. 343, Pt. D, §11) Recommendation of Governor and issuers. At any time action of the Legislature under subsection 1-A is necessary or desirable, the Governor shall recommend to the appropriate committee of the Legislature a proposed allocation or reallocation of all or part of the state ceiling. To assist the Governor in making a recommendation of proposed allocations of the state ceiling on private activity bonds, the group of 7 representatives described in subsection 1-A shall make a recommendation regarding allocation or reallocation of the state ceiling. In order to assist the group in making its recommendation and to assist the Governor and the Legislature, the Department of Administrative and Financial Services, in consultation with the Governor's Office of Policy Innovation and the Future, shall prepare an annual analysis of the State's economic outlook, prevailing interest rate forecasts related to tax-exempt financing by the issuers specifically identified in subsections 4 to 8, the availability to those issuers of alternative financing from sources that do not require an allocation of the state ceiling and the relationship of these factors and various public policy considerations to the allocation or reallocation of the state ceiling. In recommending any allocation or reallocation of the state ceiling to the Legislature, the Governor shall consider the requests and recommendations of those issuers of bonds

within the State designated in this section, the recommendations of the group of representatives described in subsection 1-A and the annual analysis of the Department of Administrative and Financial Services.
[PL 2019, c. 343, Pt. D, §11 (AMD).]

2-A. (CONFLICT: Text as amended by PL 2019, c. 343, Pt. IIII, §5) Recommendation of Governor and issuers. At any time action of the Legislature under subsection 1-A is necessary or desirable, the Governor shall recommend to the appropriate committee of the Legislature a proposed allocation or reallocation of all or part of the state ceiling. To assist the Governor in making a recommendation of proposed allocations of the state ceiling on private activity bonds, the group of 7 representatives described in subsection 1-A shall make a recommendation regarding allocation or reallocation of the state ceiling. In order to assist the group in making its recommendation and to assist the Governor and the Legislature, the Department of Administrative and Financial Services shall prepare an annual analysis of the State's economic outlook, prevailing interest rate forecasts related to tax-exempt financing by the issuers specifically identified in subsections 4 to 8, the availability to those issuers of alternative financing from sources that do not require an allocation of the state ceiling and the relationship of these factors and various public policy considerations to the allocation or reallocation of the state ceiling. In recommending any allocation or reallocation of the state ceiling to the Legislature, the Governor shall consider the requests and recommendations of those issuers of bonds within the State designated in this section, the recommendations of the group of representatives described in subsection 1-A and the annual analysis of the Department of Administrative and Financial Services.
[PL 2019, c. 343, Pt. IIII, §5 (AMD).]

3. Emergency allocation.

[PL 1987, c. 769, Pt. A, §41 (RP).]

4. Allocation to Maine State Housing Authority. That portion of the state ceiling allocated under this section to the category of bonds for housing or housing-related purposes must be allocated to the Maine State Housing Authority, which may further allocate that portion of the state ceiling to bonds for housing-related projects that require an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine State Housing Authority to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.
[PL 1999, c. 728, §3 (AMD).]

5. Allocation to the Treasurer of State. That portion of the state ceiling allocated under this section to the category of general obligation bonds of the State must be allocated to the Treasurer of State, who may further allocate that portion of the state ceiling to bonds of the State requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Treasurer of State to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.
[PL 1999, c. 728, §3 (AMD).]

6. Allocation to the Finance Authority of Maine. That portion of the state ceiling allocated to the category of bonds that are limited obligations of the issuer payable solely from the revenues of the projects financed with the proceeds of the bonds, other than for housing-related projects or issues included in an issue of the Maine Municipal Bond Bank, as well as that portion of the state ceiling allocated to bonds authorized to be issued by the Finance Authority of Maine pursuant to Title 20-A, chapter 417-B, must be allocated to the Finance Authority of Maine, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Finance Authority of

Maine to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.
[PL 1999, c. 728, §4 (AMD).]

7. Allocation to the Maine Municipal Bond Bank. That portion of the state ceiling allocated to the category of bonds that are general obligations of issuers within the State, other than the State; that are included in bond issues of the Maine Municipal Bond Bank; that are included in bond issues of the Maine Public Utility Financing Bank; or that are qualified redevelopment bonds as defined in the United States Code, Title 26, must be allocated to the Maine Municipal Bond Bank, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds. Any further allocation or reallocation of any portion of the state ceiling from the Maine Municipal Bond Bank to another specific issuer designated in this section must be done in accordance with the requirements in subsection 1-A.
[PL 1999, c. 728, §5 (AMD).]

8. Additional allocation to the Finance Authority of Maine pursuant to Title 20-A, chapter 417-A. That portion of the state ceiling allocated to the issuance of bonds by the Finance Authority of Maine pursuant to Title 20-A, chapter 417-A must be allocated to the Finance Authority of Maine.

A. Prior to issuing loans funded through an allocation of the state ceiling for the issuance of education loans under this section, an issuer or lender must provide to the appropriate agency within the Department of Professional and Financial Regulation examples of the disclosures to be made to loan recipients or obligors. The information must be provided to the Bureau of Financial Institutions if the issuer or lender is a financial institution or credit union established pursuant to state or federal law or to the Bureau of Consumer Credit Protection for all other issuers or lenders. This information must be provided to the appropriate agency within the Department of Professional and Financial Regulation upon request, or in the course of an examination of the issuer or lender by the agency, and must include a description of any interest rate or other discounts offered that clearly identifies all of the terms and conditions of obtaining any discount, a projection of the approximate number or percentage of loan obligors who are likely to benefit from the discounts and any other disclosures pursuant to guidelines established by the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection for the issuance of education loans that would benefit from an allocation of the state ceiling. The Bureau of Financial Institutions and the Bureau of Consumer Credit Protection shall jointly adopt, to the extent allowed by law, rules to carry out the provisions of this paragraph by establishing uniform disclosure requirements and sanctions for noncompliance. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. All information provided to the appropriate agencies within the Department of Professional and Financial Regulation must include the source of the information and the basis for any projections. [PL 2015, c. 170, §5 (AMD); PL 2015, c. 170, §30 (AFF).]

B. [PL 1999, c. 443, §2 (NEW); MRSA T. 10 §363, sub-§8, ¶ B (RP).]

B-1. All education loans made under the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 that are purchased or originated with proceeds of tax-exempt bonds using a portion of the state ceiling on private activity bonds must be guaranteed by the state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1, except that this requirement does not apply to serial loans of a borrower that are guaranteed by a different guarantee agency and acquired or financed with tax-exempt bond proceeds prior to the effective date of this paragraph. The state agency designated as administrator of federal guaranteed student loan programs pursuant to Title 20-A, chapter 417, subchapter 1 shall use its best efforts to provide competitive rates for the guarantee function. [PL 2015, c. 170, §5 (AMD); PL 2015, c. 170, §30 (AFF).]

[PL 2015, c. 170, §5 (AMD); PL 2015, c. 170, §30 (AFF).]

8-A. Allocations to issuer of bonds for purchase of education loans. That portion of the state ceiling allocated to the categories of bonds providing funds for the purposes of an entity designated pursuant to Title 20-A, section 11407, must be allocated to the entity designated pursuant to Title 20-A, section 11407.

A. Prior to issuing loans funded through an allocation of the state ceiling for the issuance of education loans, an issuer or lender must provide to the appropriate agency within the Department of Professional and Financial Regulation examples of the disclosures to be made to loan recipients or obligors. The information must be provided to the Bureau of Financial Institutions, Department of Professional and Financial Regulation if the issuer or lender is a financial institution or credit union established pursuant to state or federal law or to the Bureau of Consumer Credit Protection, Department of Professional and Financial Regulation for all other issuers or lenders. This information must be provided to the appropriate agency within the Department of Professional and Financial Regulation upon request, or in the course of an examination of the issuer or lender by the agency, and must include a description of any interest rate or other discounts offered that clearly identifies all of the terms and conditions of obtaining any discount, a projection of the approximate number or percentage of loan obligors who are likely to benefit from the discounts and any other disclosures pursuant to guidelines established by the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection for the issuance of education loans that would benefit from an allocation of the state ceiling. The Bureau of Financial Institutions and the Bureau of Consumer Credit Protection shall jointly adopt, to the extent allowed by law, rules to carry out the provisions of this paragraph by establishing uniform disclosure requirements and sanctions for noncompliance. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. All information provided to the appropriate agencies within the Department of Professional and Financial Regulation must include the source of the information and the basis for any projections. [PL 2003, c. 112, §3 (NEW); PL 2007, c. 273, Pt. B, §5 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

B. [PL 2007, c. 520, §1 (RP).]

[PL 2007, c. 520, §1 (AMD); PL 2007, c. 695, Pt. A, §47 (AFF).]

9. Use of carryforward. In the event that any issuer has made a carryforward election under the United States Code, Title 26, Section 146(f), as amended, the issuer shall use, to the extent possible and consistent with the purpose for which the carryforward was elected, the carryforward for issues subject to the state ceiling prior to allocating any portion of the state ceiling for the applicable calendar year to the issue. To the extent permitted by federal law, a group consisting of a representative of each of the issuers specifically identified in subsections 4 to 7; a representative of a corporation created pursuant to former Title 20, section 2237 and Title 20-A, section 11407; and a representative of the Governor designated each year by the Governor may reallocate, by written agreement executed by no fewer than 4 of the 5 voting representatives, carryforward amounts from one of the specific issuers designated in this section to another specific issuer.

[PL 1999, c. 728, §7 (AMD).]

10. Allocation for benefit of State. All of the allocation of the state ceiling must be used for a purpose that benefits individuals, communities or businesses in this State. For purposes of this subsection, a bond issuance is presumed to benefit individuals, communities or businesses in this State if it benefits business operations located in this State, residents of this State, students attending institutions of higher education in this State, residents of this State attending institutions of higher education outside this State, municipalities in this State or programs predominantly for the provision of benefits for residents of this State. A student eligible to receive the benefit of a portion of the state ceiling remains eligible for student loans notwithstanding any changes in residency or institution attended.

[PL 2007, c. 520, §2 (AMD).]

11. Annual review.
[PL 2017, c. 234, §2 (RP).]

SECTION HISTORY

PL 1985, c. 594, §1 (NEW). PL 1987, c. 3, §§1,2 (AMD). PL 1987, c. 413, §4 (RPR). PL 1987, c. 668, §1 (AMD). PL 1987, c. 769, §§A41,A42 (AMD). PL 1987, c. 807, §2 (AMD). PL 1989, c. 224, §§1,2 (AMD). PL 1989, c. 502, §A27 (AMD). PL 1989, c. 812, §1 (AMD). PL 1991, c. 603, §2 (AMD). PL 1993, c. 671, §1 (AMD). PL 1999, c. 443, §§1-4 (AMD). PL 1999, c. 728, §§1-8 (AMD). PL 1999, c. 728, §20 (AFF). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2003, c. 112, §§1-3 (AMD). PL 2003, c. 385, §1 (AMD). PL 2005, c. 425, §22 (AMD). PL 2007, c. 273, Pt. B, §5 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 520, §§1, 2 (AMD). PL 2007, c. 695, Pt. A, §47 (AFF). PL 2011, c. 655, Pt. DD, §8 (AMD). PL 2011, c. 655, Pt. DD, §24 (AFF). PL 2015, c. 170, §5 (AMD). PL 2015, c. 170, §30 (AFF). PL 2017, c. 234, §2 (AMD). PL 2019, c. 343, Pt. D, §11 (AMD). PL 2019, c. 343, Pt. IIII, §5 (AMD).

CHAPTER 11

KIM WALLACE ADAPTIVE EQUIPMENT LOAN PROGRAM

§371. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 817, §2 (NEW).]

1. Board. "Board" means the Kim Wallace Adaptive Equipment Loan Program Fund Board.
[PL 1999, c. 731, Pt. FF, §3 (AMD).]

2. Fund. "Fund" means the Kim Wallace Adaptive Equipment Loan Program Fund.
[PL 1999, c. 731, Pt. FF, §3 (AMD).]

3. Qualifying borrower. "Qualifying borrower" means any individual, for-profit or nonprofit corporation or partnership which demonstrates that the loan will assist one or more persons with disabilities to improve their independence or become more productive members of the community. The individual, corporation or partnership must demonstrate credit worthiness and repayment abilities to the satisfaction of the board.
[PL 1989, c. 191, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 817, §2 (NEW). PL 1989, c. 191, §1 (AMD). PL 1999, c. 731, §FF3 (AMD).

§372. Fund established

1. Creation of fund. There is established the Kim Wallace Adaptive Equipment Loan Program Fund, which must be used to provide funding for loans to qualified borrowers within the State in order to acquire adaptive equipment designed to assist the borrower in becoming independent and for other purposes as allowed under section 376. The fund must be deposited with and maintained by the Treasurer of State or other state agency and contain appropriations provided for that purpose, interest accrued on the fund balance, funds received by the board to be applied to the fund and funds received in repayment of loans. The Treasurer of State may make disbursements only upon written direction from the board. This fund is a nonlapsing revolving fund. All money in the fund must be continuously applied to carry out the purposes of this chapter.
[PL 2019, c. 166, §1 (AMD).]

2. Administrative expenses. Costs and expenses of maintaining, servicing and administering the Kim Wallace Adaptive Equipment Loan Program Fund established by this chapter may be paid out of amounts in the fund.
[PL 1999, c. 731, Pt. FF, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 817, §2 (NEW). PL 1999, c. 731, §FF4 (AMD). PL 2003, c. 99, §1 (AMD). PL 2005, c. 191, §1 (AMD). PL 2015, c. 412, §1 (AMD). PL 2019, c. 166, §1 (AMD).

§373. Board

1. Establishment; membership. There is established the Kim Wallace Adaptive Equipment Loan Program Fund Board that consists of 9 members as follows: the Director of the Bureau of Rehabilitation Services or the director's designee; the Treasurer of State or the Treasurer of State's designee; an experienced consumer lender; a certified public accountant; and 5 persons with a range of disabilities, all nondesignated members to be appointed by the Governor. The board shall annually elect a chair from among its members.
[PL 1999, c. 731, Pt. FF, §5 (AMD).]

2. Terms. The members appointed by the Governor serve for terms of 4 years. All other members serve during their tenure in the position that they represent on the board. Any vacancy is filled in the same manner as the original appointment for the unexpired term of that position. Members appointed by the Governor upon completion of the terms of the initial members are appointed as follows:

A. One member for one year; [PL 1991, c. 871, §1 (NEW).]

B. Two members for 2 years; [PL 1991, c. 871, §1 (NEW).]

C. Two members for 3 years; and [PL 1991, c. 871, §1 (NEW).]

D. Two members for 4 years. [PL 1991, c. 871, §1 (NEW).]

Thereafter, the terms of office of members appointed by the Governor are for 4 years.
[PL 1991, c. 871, §1 (AMD).]

3. Compensation. Members shall be compensated according to Title 5, chapter 379.
[PL 1987, c. 817, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 817, §2 (NEW). PL 1989, c. 276 (AMD). PL 1991, c. 871, §1 (AMD). PL 1995, c. 322, §3 (AMD). PL 1995, c. 519, §3 (AMD). PL 1997, c. 489, §1 (AMD). PL 1999, c. 731, §FF5 (AMD).

§374. Duties of board

The board has the following powers and duties. [PL 2015, c. 412, §2 (AMD).]

1. Receipt of money and property. The board may accept and receive gifts, grants, bequests or devises from any source, including funds from the Federal Government or any of its political subdivisions.
[PL 1987, c. 817, §2 (NEW).]

2. Contracts. The board may, with the approval of the Governor, enter into any necessary contracts and agreements with appropriate entities.
[PL 2015, c. 412, §2 (AMD).]

3. Administer loan program. The board shall administer the Kim Wallace Adaptive Equipment Loan Program Fund established by this chapter and may contract with appropriate entities for such assistance in administering the program as the board may require. The board may employ persons, including private legal counsel and financial experts, on either a temporary or permanent basis, in order

to carry out any of its powers and duties. Employees of the board are not subject to Title 5, chapter 71 and Title 5, chapter 372, subchapter 2.
[PL 2015, c. 412, §2 (AMD).]

4. Rules. The board may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. The rules must ensure that:

A. Individuals and business entities are eligible for loans; and [PL 2015, c. 412, §2 (AMD).]

B. A preference is given for loans to qualifying individual borrowers seeking loans to acquire adaptive equipment for personal, family or household purposes. [PL 2015, c. 412, §2 (AMD).]

C. [PL 2005, c. 191, §3 (RP).]

D. [PL 2015, c. 412, §2 (RP).]
[PL 2015, c. 412, §2 (AMD).]

5. Loan awards. Loan applications may be approved or denied by the board or by an entity with which the board has contracted to provide financial services pursuant to subsection 2, referred to in this subsection as "the financial services provider," and appeals from denials may be made to the board in accordance with this subsection.

A. The board or the financial services provider shall approve all loan applications that meet the following criteria:

(1) The application is consistent with the underwriting guidelines proposed by the financial services provider and approved at least annually by the board; and

(2) The loan will be used for a purpose established in section 376. [PL 2015, c. 412, §2 (NEW).]

B. The financial services provider shall submit a report to the board at least monthly identifying the number of loan applications received and the number of applications approved and denied during the period covered by the report as well as the number of applications for which no decision has yet been rendered. [PL 2015, c. 412, §2 (NEW).]

C. A loan applicant may appeal a denial by the financial services provider to the board by submitting a written notice to the financial services provider within 30 days of the date of the denial. The financial services provider shall notify the board of the appeal and provide the board with copies of the application at the next regularly scheduled board meeting. The board shall grant the appeal if it finds that the financial services provider inappropriately applied the criteria in paragraph A. [PL 2015, c. 412, §2 (NEW).]
[PL 2015, c. 412, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 817, §2 (NEW). PL 1997, c. 489, §2 (AMD). PL 1999, c. 731, §FF6 (AMD). PL 2005, c. 191, §§2-4 (AMD). PL 2015, c. 412, §2 (AMD).

§375. Loans

1. Demonstration of purpose of loan. The board may enter into loan agreements with any qualifying borrower and exercise all powers of a lender or creditor. Loan security may include the acquisition, use, management, improvement or disposition of any interest in, or type of, real or personal property, including grant, purchase, sale, borrow, loan, lease, foreclosure, mortgage, assignment or other lawful means, with or without public bidding and also including the assessment of fees, the forgiveness of indebtedness, the receipt of reimbursements for expenses incurred in carrying out its purposes and the expenditure or investment of its funds. The borrower must demonstrate that:

A. The loan will assist one or more persons with disabilities to improve their independence or become more productive members of the community; and [PL 1987, c. 817, §2 (NEW).]

B. The applicant has the ability to repay the loan. [PL 1987, c. 817, §2 (NEW).]
[PL 2005, c. 191, §5 (AMD).]

2. Loan limit. Any necessary loan limitation shall be determined by the board.
[PL 1987, c. 817, §2 (NEW).]

3. Terms. All loans must be repaid within such terms and at such interest rates as the board may determine to be appropriate in accordance with guidelines established by rulemaking pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.
[PL 1987, c. 817, §2 (NEW).]

4. Distribution.

[PL 1997, c. 489, §3 (RP).]

SECTION HISTORY

PL 1987, c. 817, §2 (NEW). PL 1989, c. 191, §2 (AMD). PL 1997, c. 489, §3 (AMD). PL 2005, c. 191, §5 (AMD).

§376. Purposes for which loans may be awarded

The board or an entity with which the board has contracted to provide financial services pursuant to section 374, subsection 2 may award loans to qualifying borrowers for the following purposes: [PL 2015, c. 412, §3 (AMD).]

1. Individual independence. To assist one or more persons with disabilities to improve their independence through the purchase of adaptive equipment;
[PL 2003, c. 99, §2 (AMD).]

2. Productive members of community. To assist one or more persons with disabilities to become more independent members of the community and improve quality of life within the community through the purchase of adaptive equipment; and
[PL 2003, c. 99, §2 (AMD).]

3. Transportation assistance. For the purpose set forth in section 377.
[PL 2005, c. 191, §6 (AMD).]

SECTION HISTORY

PL 1987, c. 817, §2 (NEW). PL 2003, c. 99, §2 (AMD). PL 2005, c. 191, §6 (AMD). PL 2015, c. 412, §3 (AMD).

§377. Loans for transportation assistance program

The board or an entity with which the board has contracted to provide financial services pursuant to section 374, subsection 2 may award loans for the purpose of assisting persons with disabilities to purchase used vehicles necessary to obtain or retain employment or employment training, subject to the following limitations. [PL 2015, c. 412, §4 (AMD).]

1. Qualifications of borrower. A loan may be made under this section only to a qualifying borrower who meets the other requirements of this chapter and who demonstrates a need for a vehicle as part of an individualized plan toward employment developed with a state or community-based organization that provides employment services to persons with disabilities and that is approved by the board.
[PL 2003, c. 99, §3 (NEW).]

2. Limitation on loan amount.

[PL 2005, c. 191, §7 (RP).]

3. Aggregate amount of loans. The maximum aggregate amount of loans issued under this section may not exceed 7% of the value of program gross notes receivable.
[PL 2005, c. 191, §7 (AMD).]

4. Repeal.

[PL 2005, c. 191, §7 (RP).]

SECTION HISTORY

PL 2003, c. 99, §3 (NEW). PL 2005, c. 191, §7 (AMD). PL 2015, c. 412, §4 (AMD).

CHAPTER 13

SMALL ENTERPRISE GROWTH PROGRAM

§381. Small Enterprise Growth Program established

There is established the Small Enterprise Growth Program. [PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW).

§382. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1995, c. 699, §3 (NEW).]

1. Board. "Board" means the Small Enterprise Growth Board.
[PL 1995, c. 699, §3 (NEW).]

2. Fund. "Fund" means the Small Enterprise Growth Fund.
[PL 1995, c. 699, §3 (NEW).]

3. Program. "Program" means the Small Enterprise Growth Program, which encompasses the Small Enterprise Growth Fund and any side fund created by the board.
[PL 2009, c. 475, §1 (AMD).]

3-A. Program funds. "Program funds" means the Small Enterprise Growth Fund and any side funds created by the board.
[PL 2009, c. 475, §2 (NEW).]

4. Qualifying small business. "Qualifying small business" means, for the purpose of an initial disbursement by the board under section 388, a business employing 50 or fewer employees or having gross sales not exceeding $5,000,000 within the most recent 12 months for which financial statements are available. For the purpose of a subsequent disbursement, "qualifying small business" means a business to which the board has previously made a disbursement and that, in the judgment of the board, evidences continued potential for high growth.
[PL 2001, c. 541, §1 (AMD).]

5. Side fund. "Side fund" means a fund other than the Small Enterprise Growth Fund administered by the board that is invested as determined by the board.
[PL 2009, c. 475, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW). PL 1999, c. 504, §2 (AMD). PL 2001, c. 541, §1 (AMD). PL 2009, c. 475, §§1-3 (AMD).

§383. Program funds established

1. Creation of fund. There is established the Small Enterprise Growth Fund, which is a revolving fund used to provide funding for disbursements to qualifying small businesses in the State seeking to pursue an eligible project. The fund must be deposited with and maintained and administered by the Finance Authority of Maine and consists of appropriations provided for that purpose, interest accrued on the fund balance, funds received by the board to be applied to the fund, all funds remaining in the Pine Tree Partnership Fund and any funds received from repayment, interest, royalties, equities or other interests in business enterprises, products or services. The fund is a nonlapsing fund.
[PL 1995, c. 699, §3 (NEW).]

1-A. Creation of side funds. The board may create one or more side funds for placement of certain funds received by the board. A side fund may be structured as a revolving fund in addition to the Small Enterprise Growth Fund or as a fund in which the investor will have funds drawn and returned over an agreed time period.
[PL 2009, c. 475, §4 (NEW).]

2. Administrative expenses. Costs and expenses of maintaining and servicing program funds and administering the Small Enterprise Growth Program established by this chapter may be paid out of amounts in the program funds.
[PL 2009, c. 475, §4 (AMD).]

3. Management fees. The board may charge and accept management fees for management of money placed in program funds other than money placed directly by the State.
[PL 2009, c. 475, §4 (NEW).]

4. Agreements. The board may enter into an agreement or contract with a 3rd party for investment in a side fund. The board may allocate ownership in a side fund through the agreement. The board may also repay money received and return profits according to terms in the agreement. The board may create a formula or terms for the sharing of profits on a side fund in the agreement.
[PL 2009, c. 475, §4 (NEW).]

5. Profits. The profits on a side fund retained by the board must be contributed to the fund.
[PL 2009, c. 475, §4 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW). PL 2009, c. 475, §4 (AMD).

§384. Board

1. Establishment; membership. There is established as a body corporate and politic and a public instrumentality of the State the Small Enterprise Growth Board, which consists of 11 members appointed by the Governor as follows:

A. An experienced commercial lender; [PL 1995, c. 699, §3 (NEW).]

B. An attorney with knowledge of securities law; [PL 1995, c. 699, §3 (NEW).]

C. Five members of the public who have knowledge and experience in managing or investing in high-growth small businesses; [PL 1995, c. 699, §3 (NEW).]

D. Three members of the public who have knowledge and experience in the development of technological innovation; and [PL 1995, c. 699, §3 (NEW).]

E. The Commissioner of Economic and Community Development or the commissioner's designee, who shall serve as a voting ex officio member of the board. [PL 1995, c. 699, §3 (NEW).]
[PL 2005, c. 425, §23 (AMD).]

2. Chair. The board shall annually elect a chair from among its members.

[PL 1995, c. 699, §3 (NEW).]

3. Terms. The members other than the Commissioner of Economic and Community Development or the commissioner's designee serve for 2-year terms and may be reappointed for up to 3 consecutive terms. A member may serve for more than 3 2-year terms if the terms are not consecutive.
[PL 1999, c. 504, §3 (AMD).]

4. Compensation. Members are entitled to compensation in accordance with Title 5, chapter 379.
[PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW). PL 1999, c. 504, §3 (AMD). PL 2005, c. 425, §23 (AMD).

§385. Duties of board

The board has the following powers and duties. [PL 1995, c. 699, §3 (NEW).]

1. Receipt of money and property. The board may accept and receive gifts, grants, investments, bequests or devises from any source, including funds from the Federal Government or any subdivision of the Federal Government.
[PL 1995, c. 699, §3 (NEW).]

2. Administer program. The board must administer the Small Enterprise Growth Program and may contract with the Finance Authority of Maine, financial institutions, educational institutions, business enterprises, nonprofit institutions and organizations or individuals for such assistance in administering the program as the board may require.
[PL 1995, c. 699, §3 (NEW).]

3. Ownership interests. The board may hold an ownership interest in a private enterprise when it is determined by the board that such an interest is necessary or desirable in order for the fund to obtain a reasonable return on its investment in the private enterprise.
[PL 1999, c. 504, §4 (AMD).]

4. Rules. The board may adopt rules, in accordance with the Maine Administrative Procedure Act, to carry out this chapter.
[PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW). PL 1999, c. 504, §4 (AMD).

§386. Eligible projects

In order for a qualifying small business to be eligible for financial assistance under the program, the following criteria must be met. [PL 1995, c. 699, §3 (NEW).]

1. Engagement; involvement. The qualifying small business must be engaged in or involve at least one of the following:

A. Marine science; [PL 1995, c. 699, §3 (NEW).]

B. Biotechnology; [PL 1995, c. 699, §3 (NEW).]

C. Manufacturing; [PL 1995, c. 699, §3 (NEW).]

D. Export of goods or services to locations outside the State or activities that result in significant amounts of capital being imported into the State; [PL 1995, c. 699, §3 (NEW).]

E. Software development; [PL 1995, c. 699, §3 (NEW).]

F. Provision or development of environmental services or technologies; [PL 1995, c. 699, §3 (NEW).]

G. Provision or development of financial or insurance products or services; [PL 1995, c. 699, §3 (NEW).]

H. Production of value-added goods from natural resources; or [PL 1995, c. 699, §3 (NEW).]

I. Other enterprises that the board determines will further the purposes and intent of the program, including, but not limited to, retail sales, tourism and agricultural production. [PL 1995, c. 699, §3 (NEW).]

[PL 1995, c. 699, §3 (NEW).]

2. Growth; public benefit. The qualifying small business must demonstrate the potential for high growth and public benefit.

[PL 1995, c. 699, §3 (NEW).]

3. Need for assistance. The qualifying small business must provide evidence of each of the following:

A. Commitment of all reasonably available resources to the project; [PL 1995, c. 699, §3 (NEW).]

B. A need for financial assistance from the fund to realize its projected growth and achievement of public benefits; and [PL 1995, c. 699, §3 (NEW).]

C. [PL 1999, c. 504, §5 (RP).]

[PL 1999, c. 504, §5 (AMD).]

4. Financing plan. The qualifying small business must submit a financing plan as part of an overall business plan. The proposed financing plan must include adequate mechanisms to monitor the accomplishment of the business plan as proposed.

[PL 1995, c. 699, §3 (NEW).]

The disbursement may not be used to make distributions to or for the benefit of an owner of the business borrowing from the fund or a related entity. [PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW). PL 1999, c. 504, §5 (AMD).

§387. Review of applications

In order to effectively review and process applications under the program, the board may delegate the authority to deny applications for disbursements from the fund to one or more subcommittees of the members. Such delegation may provide that the action of the subcommittee constitutes final agency action. The board may delegate authority to recommend approval of applications, but final approval may be given only by the board. [PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW).

§388. Financing terms and conditions

Disbursements may be made from program funds under the following terms and conditions. [PL 1995, c. 699, §3 (NEW).]

1. Disbursements. Initial disbursements may not exceed $500,000 to a qualifying small business, including an affiliated entity. An initial disbursement plus any subsequent disbursements in the aggregate to a qualifying small business may not exceed an amount equal to 10 percent of the capitalization of the fund from all appropriations received for application to the fund, plus any funds received from repayment, interest, royalties, equities or other interests in business enterprises, products or services to the extent the repayment, interest, royalties, equities or other interests are in excess of the amount initially invested in the business making the payments, plus interest accrued on the fund balance

and other funds received by the board to be applied to the fund. The board shall report annually by December 20th of each year to the joint standing committee of the Legislature having jurisdiction over business and economic development matters on all disbursements made under this subsection.
[PL 2001, c. 541, §2 (AMD).]

2. Provide evidence. The qualifying small business shall provide evidence satisfactory to the board that the small business has obtained or will obtain, prior to the board's disbursement, matching funds in an amount at least equal to the board's investment in the form of debt or equity that is at risk in the small business.
[PL 1999, c. 504, §7 (RPR).]

3. Agreement. The board must enter into an agreement with the recipient of the disbursement setting forth the terms of repayment of the fund's investment in the recipient. This agreement may include such terms and conditions as the board determines will provide a reasonable return on its investment taking into consideration the risk of the investment. These terms and conditions may include one or more of the following:

A. Repayment of the full amount disbursed; [PL 1999, c. 504, §7 (NEW).]

B. Payment of interest based on the board's assessment of the risk of the investment; [PL 1999, c. 504, §7 (NEW).]

C. Payment of return based on the board's ownership interest in the recipient; [PL 1999, c. 504, §7 (NEW).]

D. Flexible payments based on the financial success of the recipient; [PL 1999, c. 504, §7 (NEW).]

E. Royalties or additional payments based on sales, net cash flow or other financial measures; [PL 1999, c. 504, §7 (NEW).]

F. Rights to equity in the enterprise in the form of warrants or similar rights; or [PL 1999, c. 504, §7 (NEW).]

G. Such other terms and conditions as the board determines are appropriate for the investment. [PL 1999, c. 504, §7 (NEW).]

[PL 1999, c. 504, §7 (RPR).]

4. Report. The board shall require that each disbursement recipient report to the board at least annually on each of the following factors:

A. Financial performance; [PL 1995, c. 699, §3 (NEW).]

B. Job creation; [PL 1995, c. 699, §3 (NEW).]

C. Technological progress; [PL 1995, c. 699, §3 (NEW).]

D. Market progress; and [PL 1995, c. 699, §3 (NEW).]

E. Any other factors as the board may require. [PL 1995, c. 699, §3 (NEW).]

[PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW). PL 1999, c. 504, §§6,7 (AMD). PL 2001, c. 541, §2 (AMD).

§389. Cooperation and coordination

The University of Maine System, the Small Business Development Center Program, the Maine World Trade Association and the Maine Science and Technology Foundation shall provide such support and assistance as the board may request, within the expertise of each. [PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW).

§390. Conflicts of interest

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the board, and each employee, contractor, agent or other representative of the board is deemed an "executive employee" solely for purposes of Title 5, section 18, and for no other purpose. Title 17, section 3104 does not apply to any of those representatives. If a member does not participate in an action or deliberation with respect to a particular project, that member is presumed not to have personally and substantially participated in a decision of the board with respect to that project. Every interest of a board member in any matter before the board must be disclosed to the board in writing. [PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW).

§391. Disclosure and confidentiality of records

1. Disclosure required. Notwithstanding subsections 2 and 3, and except as provided in paragraph F, the board shall make available the following records, either to any person upon a request that reasonably describes the records to which access is sought or, if no request is made, in any manner and at any time that the board may determine:

A. After a written application or proposal for financial assistance or property transfer has been filed in a form specified by or acceptable to the board:

(1) Names of recipients of or applicants for financial assistance, including principals, where applicable;

(2) Amounts, types and general terms of financial assistance provided to those recipients or requested by those applicants;

(3) Description of projects and businesses benefiting or to benefit from the financial assistance;

(4) Names of transferors or transferees, including principals, of property to or from the board, the general terms of transfer and the purposes for which transferred property will be used; and

(5) Number of jobs and the amount of tax revenues projected and resulting from a project; [PL 1995, c. 699, §3 (NEW).]

B. Any information pursuant to a waiver determined satisfactory by the board; [PL 1995, c. 699, §3 (NEW).]

C. Information that, as determined by the board, has already been made available to the public; and [PL 1995, c. 699, §3 (NEW).]

D. Information necessary to comply with Title 1, section 407, subsection 1. [PL 1995, c. 699, §3 (NEW).]

The board shall provide to a legislative committee the information or records specified in a written request signed by the chair of that legislative committee. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it.
[PL 1995, c. 699, §3 (NEW).]

2. Confidential information. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any record obtained or developed by the board prior to receipt of a written application or proposal, in a form specified by or acceptable to the board, for financial assistance to be provided

by or with the assistance of the board or in connection with a transfer of property to or from the board. After receipt by the board of the application or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this subsection; [PL 1995, c. 699, §3 (NEW).]

B. Any record obtained or developed by the board that:

(1) A person, including the board, to whom the record belongs or pertains has requested be designated confidential; and

(2) The board has determined contains information that gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through board records, or access to which by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the board in the case of a person other than the board, to any person to whom the record belongs or pertains; [PL 1995, c. 699, §3 (NEW).]

C. Any financial statement or tax return of an individual or any other record obtained or developed by the board the disclosure of which would constitute an invasion of personal privacy, as determined by the board; [PL 1995, c. 699, §3 (NEW).]

D. Any record, including any financial statement or tax return obtained or developed by the board in connection with any monitoring or servicing activity by the board, pertaining to any financial assistance provided or to be provided by or with the assistance of the board; [PL 1995, c. 699, §3 (NEW).]

E. Any record obtained or developed by the board that contains an assessment by a person who is not employed by the board of the creditworthiness or financial condition of any person or project; and [PL 1995, c. 699, §3 (NEW).]

F. Any financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance from the board, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential. [PL 1995, c. 699, §3 (NEW).]
[PL 1995, c. 699, §3 (NEW).]

3. Wrongful disclosure prohibited. A member, officer, employee, agent, other representative of the board or other person may not knowingly divulge or disclose records declared confidential by this section, except that the board may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

A. Impersonal, statistical or general information; [PL 1995, c. 699, §3 (NEW).]

B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property; [PL 1995, c. 699, §3 (NEW).]

C. To a financing institution or credit reporting service; [PL 1995, c. 699, §3 (NEW).]

D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance; [PL 1995, c. 699, §3 (NEW).]

E. If necessary to ensure collection of any obligation in which it has or may have an interest; [PL 1995, c. 699, §3 (NEW).]

F. In any litigation or proceeding in which the board has appeared, introduction for the record of any information obtained from records declared confidential by this section; and [PL 1995, c. 699, §3 (NEW).]

G. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on its face or otherwise to have been issued or made upon lawful authority. [PL 1995, c. 699, §3 (NEW).]

[PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW).

§392. Governmental function

The board shall administer and exercise the authority granted to it by this chapter. The carrying out of its powers and duties is considered the performance of an essential governmental function. [PL 1995, c. 699, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 699, §3 (NEW).

CHAPTER 14

CLEAN CAR INCENTIVES PILOT PROGRAM

§393. Definitions

(REPEALED)

SECTION HISTORY

PL 1999, c. 684, §1 (NEW). PL 2001, c. 367, §1 (AMD). PL 2001, c. 714, §JJ1 (RP).

§394. High-pollution Vehicle Retirement Pilot Program established

(REPEALED)

SECTION HISTORY

PL 1999, c. 684, §1 (NEW). PL 2001, c. 367, §2 (AMD). PL 2001, c. 714, §JJ1 (RP).

§395. Repeal

(REPEALED)

SECTION HISTORY

PL 1999, c. 684, §1 (NEW). PL 2001, c. 714, §JJ1 (RP).

PART 2

BUILDING AND DEVELOPMENT

CHAPTER 101

DEPARTMENT OF COMMERCE AND INDUSTRY

SUBCHAPTER 1

ORGANIZATION

§401. Commissioner

(REPEALED)

SECTION HISTORY

PL 1967, c. 490, §5 (AMD). PL 1969, c. 504, §18 (AMD). PL 1971, c. 584, §1 (AMD). PL 1975, c. 481, §4 (RP).

§402. -- Powers and duties

(REPEALED)

SECTION HISTORY

P&SL 1969, c. 197, §D3 (AMD). PL 1969, c. 442, §1 (AMD). PL 1971, c. 234 (AMD). PL 1975, c. 481, §4 (RP).

§403. Cooperation with others

(REPEALED)

SECTION HISTORY

PL 1969, c. 442, §2 (AMD). PL 1975, c. 481, §4 (RP).

§404. Advisory council

(REPEALED)

SECTION HISTORY

PL 1973, c. 254 (AMD). PL 1975, c. 481, §4 (RP).

§405. -- Duties and privileges

(REPEALED)

SECTION HISTORY

PL 1967, c. 371 (AMD). PL 1975, c. 481, §4 (RP).

SUBCHAPTER 2

RESEARCH, PLANNING AND PROGRAM ASSISTANCE

§451. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1967, c. 533, §2 (AMD). PL 1969, c. 442, §3 (AMD). PL 1975, c. 481, §4 (RP).

SUBCHAPTER 3

INDUSTRIAL DEVELOPMENT

§500. Subdivisions

(REPEALED)

SECTION HISTORY

PL 1969, c. 442, §4 (NEW). PL 1975, c. 481, §4 (RP).

§501. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1969, c. 442, §§5,6 (AMD). PL 1975, c. 481, §4 (RP).

SUBCHAPTER 4

SUBDIVISION OF VACATION-TRAVEL DEVELOPMENT

§551. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1969, c. 442, §7 (AMD). PL 1971, c. 544, §23 (AMD). PL 1975, c. 481, §4 (RP).

SUBCHAPTER 4-A

COMMUNITY DEVELOPMENT

§552. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1969, c. 442, §8 (NEW). PL 1975, c. 481, §4 (RP).

SUBCHAPTER 5

PUBLICITY AND PUBLIC RELATIONS

§601. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1969, c. 442, §9 (RP).

SUBCHAPTER 5-A

PROMOTION

§611. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1969, c. 442, §10 (NEW). PL 1973, c. 574, §2 (AMD). PL 1975, c. 481, §4 (RP).

SUBCHAPTER 6

GEOLOGICAL SURVEY

§651. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1965, c. 204 (RPR). PL 1969, c. 442, §11 (RP).

SUBCHAPTER 6-A

SCIENCE, TECHNOLOGY AND MINERAL RESOURCES

§661. Powers and duties

(REPEALED)

SECTION HISTORY

PL 1969, c. 442, §12 (NEW). P&SL 1971, c. 91, §D2 (RP).

CHAPTER 102

COMMUNITY INDUSTRIAL BUILDINGS IN MAINE

§671. Policy and purposes

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §26 (NEW). PL 1981, c. 476, §1 (RP).

§672. Definitions

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §26 (NEW). PL 1973, c. 677, §1 (AMD). PL 1979, c. 541, §B8 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 525, §§1-4 (AMD). PL 1981, c. 698, §§29-32 (AMD).

§673. Authority; powers and duties

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §26 (NEW). PL 1981, c. 476, §1 (RP). PL 1981, c. 525, §5 (AMD). PL 1981, c. 698, §33 (AMD).

§674. Community Industrial Building Fund

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §26 (NEW). PL 1981, c. 476, §1 (RP). PL 1981, c. 525, §6 (AMD). PL 1981, c. 698, §34 (AMD).

§675. Biennial report

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §26 (NEW). PL 1981, c. 476, §1 (RP).

§676. Assistance to development corporations

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §26 (NEW). PL 1973, c. 677, §2 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 525, §§7,8 (AMD). PL 1981, c. 698, §35 (RP).

§677. Promotion and development

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §26 (NEW). PL 1981, c. 476, §1 (RP). PL 1981, c. 525, §9 (AMD). PL 1981, c. 698, §36 (RP).

§678. Taxes

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §26 (NEW). PL 1973, c. 677, §3 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 525, §10 (AMD). PL 1981, c. 698, §37 (AMD).

§679. Economically deprived areas

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §26 (NEW). PL 1981, c. 476, §1 (RP). PL 1981, c. 525, §11 (AMD). PL 1981, c. 698, §38 (RP).

§680. Interim lease of the project

(REPEALED)

SECTION HISTORY

PL 1977, c. 82, §1 (NEW). PL 1981, c. 476, §1 (RP).

CHAPTER 102-A

MAINE HEALTH DATA PROCESSING CENTER

§681. Authority to establish

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). PL 2009, c. 613, §1 (AMD). MRSA T. 10 §691 (RP).

§682. Function of center

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). PL 2009, c. 613, §2 (AMD). MRSA T. 10 §691 (RP).

§683. Board of directors; officers

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). PL 2009, c. 71, §1 (AMD). PL 2009, c. 613, §3 (AMD). MRSA T. 10 §691 (RP).

§684. General powers

(REPEALED)

SECTION HISTORY

RR 2001, c. 2, §B22 (COR). RR 2001, c. 2, §B58 (AFF). PL 2001, c. 456, §1 (NEW). PL 2005, c. 565, §§1-3 (AMD). MRSA T. 10 §691 (RP).

§685. Limitation of powers

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). MRSA T. 10 §691 (RP).

§686. Prohibited interests of officers, directors and employees

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). MRSA T. 10 §691 (RP).

§687. Funding

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). MRSA T. 10 §691 (RP).

§688. Audit; public access

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). PL 2009, c. 613, §4 (AMD). MRSA T. 10 §691 (RP).

§689. General conditions; dissolution

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). PL 2005, c. 565, §4 (AMD). PL 2009, c. 613, §§5, 6 (AMD). MRSA T. 10 §691 (RP).

§690. Liberal construction

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). MRSA T. 10 §691 (RP).

§691. Repeal

(REPEALED)

SECTION HISTORY

PL 2001, c. 456, §1 (NEW). PL 2005, c. 253, §1 (AMD). PL 2009, c. 71, §2 (AMD). MRSA T. 10 §691 (RP).

CHAPTER 103

GUARANTEE AUTHORITY

§701. Title

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §21 (AMD). PL 1981, c. 476, §1 (RP).

§702. Purpose

(REPEALED)

SECTION HISTORY

PL 1965, c. 142, §1 (AMD). PL 1967, c. 525, §1 (AMD). PL 1973, c. 633, §21 (AMD). PL 1975, c. 566, §1 (AMD). PL 1981, c. 476, §1 (RP).

§703. Definitions

(REPEALED)

SECTION HISTORY

PL 1965, c. 142, §2 (AMD). PL 1965, c. 471, §§1-3 (AMD). PL 1967, c. 525, §§2-5 (AMD). PL 1967, c. 548, §1 (AMD). PL 1969, c. 97 (AMD). PL 1971, c. 343, §§1,2 (AMD). PL 1975, c. 566, §§2-4 (AMD). PL 1977, c. 82, §2 (AMD). PL 1977, c. 489, §§1-4 (AMD). PL 1979, c. 228, §1 (AMD). PL 1979, c. 541, §B9 (AMD). PL 1979, c. 731, §14 (AMD). PL 1981, c. 476, §1 (RP).

SUBCHAPTER 2

CREATION AND OPERATION OF AUTHORITY

§751. Organization of authority

(REPEALED)

SECTION HISTORY

PL 1965, c. 471, §4 (AMD). PL 1967, c. 525, §6 (AMD). PL 1971, c. 343, §3 (AMD). PL 1973, c. 1, §1 (AMD). PL 1973, c. 633, §2 (RPR). PL 1973, c. 788, §39 (AMD). PL 1975, c. 566, §§5-6 (AMD). PL 1975, c. 771, §§115-117 (AMD). PL 1977, c. 489, §§5,6 (AMD). PL 1979, c. 533, §§7,8 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 512, §§2,3 (AMD). PL 1981, c. 698, §§39,40 (AMD).

§752. Powers

(REPEALED)

SECTION HISTORY

PL 1967, c. 525, §7 (AMD). PL 1975, c. 566, §§7,8 (AMD). PL 1977, c. 489, §7 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 512, §§4,5 (AMD). PL 1981, c. 698, §§41,42 (AMD).

§753. Credit of State pledged

(REPEALED)

SECTION HISTORY

PL 1967, c. 525, §8 (AMD). PL 1975, c. 117, §1 (AMD). PL 1975, c. 566, §9 (AMD). PL 1975, c. 770, §53 (RPR). PL 1979, c. 228, §2 (AMD). PL 1981, c. 476, §1 (RP).

§753-A. Authority to manage

(REPEALED)

SECTION HISTORY

PL 1973, c. 1, §2 (NEW). PL 1973, c. 788, §40 (AMD). PL 1981, c. 476, §1 (RP).

§754. Expenses

(REPEALED)

SECTION HISTORY

PL 1967, c. 525, §9 (RPR). PL 1975, c. 566, §10 (RPR). PL 1977, c. 489, §8 (AMD). PL 1981, c. 192, §2 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 698, §43 (RP).

§755. Indemnification

(REPEALED)

SECTION HISTORY

PL 1973, c. 633, §3 (NEW). PL 1981, c. 476, §1 (RP).

§756. Investment plan

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §9 (NEW). PL 1981, c. 476, §1 (RP).

SUBCHAPTER 3

MORTGAGES AND INSURANCE

§801. Mortgage Insurance Fund

(REPEALED)

SECTION HISTORY

PL 1975, c. 566, §11 (AMD). PL 1979, c. 228, §3 (AMD). PL 1981, c. 476, §1 (RP).

§802. Additions

(REPEALED)

SECTION HISTORY

PL 1975, c. 117, §2 (AMD). PL 1975, c. 566, §12 (AMD). PL 1975, c. 770, §54 (AMD). PL 1975, c. 771, §118 (AMD). PL 1977, c. 78, §33 (RPR). PL 1979, c. 228, §4 (AMD). PL 1979,

c. 709, §1 (AMD). PL 1981, c. 192, §3 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 698, §44 (RP).

§803. Insurance of mortgages

(REPEALED)

SECTION HISTORY

PL 1965, c. 471, §§5-7 (AMD). PL 1967, c. 525, §§10,11 (AMD). PL 1967, c. 548, §§2,3 (AMD). PL 1969, c. 569, §1 (AMD). PL 1971, c. 343, §§4-6 (AMD). PL 1971, c. 375, §1 (AMD). PL 1971, c. 618, §§11,17 (AMD). PL 1973, c. 1, §§3,4 (AMD). PL 1973, c. 633, §§4-6 (AMD). PL 1973, c. 788, §41 (AMD). PL 1975, c. 117, §3 (AMD). PL 1975, c. 566, §§13-15 (AMD). PL 1975, c. 770, §55 (AMD). PL 1977, c. 489, §§10,11 (AMD). PL 1979, c. 228, §§5,6 (AMD). PL 1979, c. 709, §2 (AMD). PL 1981, c. 470, §§A20-A22 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 698, §45 (RP).

§804. Contract of insurance

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §1 (RP).

§805. Mortgage insurance premiums

(REPEALED)

SECTION HISTORY

PL 1979, c. 541, §A90 (AMD). PL 1981, c. 476, §1 (RP).

§806. Acquisition and disposal of property

(REPEALED)

SECTION HISTORY

PL 1967, c. 525, §12 (AMD). PL 1975, c. 566, §16 (AMD). PL 1979, c. 228, §7 (AMD). PL 1979, c. 329 (AMD). PL 1981, c. 476, §1 (RP).

§807. Mortgages eligible for investment

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §1 (RP).

§808. Local development corporations

(REPEALED)

SECTION HISTORY

PL 1965, c. 471, §8 (AMD). PL 1967, c. 525, §13 (AMD). PL 1979, c. 228, §8 (AMD). PL 1981, c. 476, §1 (RP).

§809. Safeguarding the Industrial Building and Recreational Project Mortgage Insurance Fund

(REPEALED)

SECTION HISTORY

PL 1967, c. 407 (NEW). PL 1975, c. 566, §17 (AMD). PL 1979, c. 228, §9 (AMD). PL 1981, c. 476, §1 (RP).

SUBCHAPTER 4

RECORDS

§851. Records of account

(REPEALED)

SECTION HISTORY

PL 1973, c. 585, §11 (AMD). PL 1981, c. 476, §1 (RP).

§852. Records confidential

(REPEALED)

SECTION HISTORY

PL 1965, c. 471, §9 (AMD). PL 1969, c. 584, §1 (AMD). PL 1981, c. 476, §1 (RP).

CHAPTER 104

MAINE GUARANTEE AUTHORITY REVENUE OBLIGATION SECURITIES

§861. Title

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§862. General grant of powers

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1979, c. 674, §1 (RPR). PL 1981, c. 476, §1 (RP).

§863. Definitions

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1979, c. 674, §§2-7 (AMD). PL 1981, c. 320, §1 (AMD). PL 1981, c. 425, §§1,2 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 698, §46 (RP).

§864. Powers

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1979, c. 674, §8 (AMD). PL 1981, c. 425, §3 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 512, §§6,7 (AMD). PL 1981, c. 698, §47 (RP).

§865. Conflicts of interest

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1979, c. 734, §8 (AMD). PL 1981, c. 476, §1 (RP).

§866. Issuance of revenue obligation securities

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1979, c. 228, §10 (AMD). PL 1981, c. 425, §4 (AMD). PL 1981, c. 476, §1 (RP). PL 1981, c. 698, §48 (RP).

§867. Pledges and covenants; trust agreement

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§868. Rentals and revenues

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§869. Sinking fund

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§870. Trust funds

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§871. Remedies

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§872. Revenue refunding securities

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§873. Tax exemption

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§874. Leasehold or other interests of lessee taxable

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§875. Records confidential

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§876. Purpose

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1979, c. 674, §9 (AMD). PL 1981, c. 476, §1 (RP).

§877. Governmental function

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§878. Liberal construction

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

§879. Bonds as legal investments

(REPEALED)

SECTION HISTORY

PL 1977, c. 489, §12 (NEW). PL 1981, c. 476, §1 (RP).

CHAPTER 105

WASHINGTON COUNTY

§901. Economic Advisory Committee

(REPEALED)

SECTION HISTORY

PL 1975, c. 755, §3 (RP).

§902. Development agents

(REPEALED)

SECTION HISTORY

PL 1975, c. 755, §3 (RP).

CHAPTER 106

OXFORD COUNTY

§911. Economic and recreational development

(REPEALED)

SECTION HISTORY

PL 1965, c. 122 (NEW). PL 1967, c. 442 (AMD). PL 1969, c. 107 (RP).

CHAPTER 107

MAINE DEVELOPMENT FOUNDATION; MAINE ECONOMIC GROWTH COUNCIL

§915. Legislative findings and intent

The State of Maine has long had serious conditions of unemployment, underemployment, low per capita income and resource underutilization that cause substantial hardships to many individuals and families, impede the economic and physical development of various regions of the State, and adversely affect the general welfare and prosperity of the State. [RR 2013, c. 2, §11 (COR).]

There is a need to establish a new basis for a creative partnership of the private and public sectors for economic development, a partnership which can capitalize on the interests, resources and efforts of each sector, but which does not compromise the public interest or the profit motive. The state's solitary burden to provide for development should lessen through involving the private sector in a leadership role. [PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW). RR 2013, c. 2, §11 (COR).

§916. Establishment

The Maine Development Foundation is hereby established to foster, support and assist economic growth and revitalization in Maine. The foundation shall carry out its purposes in complement to and in coordination with the economic development activities of the private sector, community and regional agencies and State Government. [PL 1977, c. 548, §1 (NEW).]

The foundation shall exist as a not-for-profit corporation with a public purpose, and the exercise by the foundation of the powers conferred by this chapter shall be deemed and held to be an essential governmental function. [PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW).

§917. Purpose

(REPEALED)

SECTION HISTORY

PL 1977, c. 548, §1 (NEW). PL 1981, c. 512, §§8,9 (AMD). PL 1981, c. 686, §1 (AMD). PL 1985, c. 161, §1 (AMD). PL 1987, c. 534, §§B3,B23 (RP).

§917-A. Purpose

The Maine Development Foundation shall foster, assist and participate in efforts for economic growth and revitalization, in coordination with existing state, regional and local agencies, such efforts to include, but not be limited to, providing for or stimulating the following provisions. [PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

1. Public, private partnerships. The Maine Development Foundation shall strive to:

A. Bridge the gap in knowledge and communications between the public and private sectors; [PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

B. Build the leadership capacity of public and private sector persons and the institutional capacity of agencies to accomplish economic development; and [PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

C. Expand the traditional business and government partnership to include other significant sectors of the economy. [PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

[PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

2. Economic analysis. The Maine Development Foundation may:

A. Develop and propose new ideas and recommend changes to State Government and others for the growth and development of the State's economy, including development strategies and economic development programs to best meet the economic needs, problems and conditions of the State; [PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

B. Analyze opportunities to improve the marketing of Maine products and the development of new markets, especially foreign; and [PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

C. Analyze opportunities to promote business investment in the State. [PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

[PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

3. Economic education. The Maine Development Foundation may provide Legislators, officials of State Government, business people, municipal officials, development professionals and others with an educational program on the Maine economy, including training, information and experiential learning on the Maine economy, business investment, government operations and the relationship between public policy decisions and business investment, with the goal of strengthening public and private partnership to accomplish economic development.

[PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

4. Economic opportunities. The Maine Development Foundation may:

A. Identify and develop specific economic opportunities in the State; and [PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

B. Design, coordinate and implement, when necessary, development projects of a statewide or broad regional significance. [PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

[PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

5. Good climate for economic development. The Maine Development Foundation shall strive to promote an improved climate for economic development in the State through judicious use of the public and private nature of the foundation to provide objective analysis and develop broad consensus on issues of significance to the economic health of the State, provided that the promotion does not require the foundation to register as a lobbyist employer pursuant to Title 3, chapter 15, and further provided that the foundation does not advocate to the general public a position on a question as defined in Title 21-A, section 1, subsection 35.

[PL 1987, c. 534, Pt. B, §§ 4, 23 (NEW).]

6. Attract and retain youth in the State. The Maine Development Foundation shall establish and oversee an initiative to develop, recommend and implement specific strategies and efforts to attract and retain youth in this State. For the purposes of this subsection, "youth" means persons 20 to 40 years of age. The initiative must be guided by an independent steering committee selected by the Maine Development Foundation Board of Directors that is composed of youth with a diverse representation of gender, race, geography, professional sector and education and including representation from regional young persons groups and networks across the State. The Maine Development Foundation shall perform activities to advance this initiative, including but not limited to:

A. The support of regional efforts in this State to connect, attract and retain youth. Areas of support include professional and leadership development, social networking and community building and

collaboration between regional groups for the purpose of promoting best practices; [PL 2007, c. 240, Pt. RRRR, §3 (NEW).]

B. The support and promotion of existing and emerging economic development, public policy and community initiatives that expand opportunities for youth in this State; and [PL 2007, c. 240, Pt. RRRR, §3 (NEW).]

C. The development and oversight of a comprehensive website linking youth to professional, educational, social, recreational, cultural and civic opportunities in this State. [PL 2007, c. 240, Pt. RRRR, §3 (NEW).]

[PL 2007, c. 240, Pt. RRRR, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 534, §§B4,B23 (NEW). PL 2007, c. 240, Pt. RRRR, §3 (AMD).

§918. Corporators

Corporators, who shall elect members of the board of directors as provided in section 919, must consist of individuals and organizations classified as private sector corporators, public sector corporators and ex officio corporators. [RR 2013, c. 2, §12 (COR).]

1. Private sector corporators. Private sector corporators are those individuals, partnerships, firms, corporations and other organizations providing support annually to the foundation at a level determined by the board of directors.

[PL 1997, c. 662, §1 (AMD).]

2. Public sector corporators. Public sector corporators are those agencies of government and other organizations providing support annually to the foundation, at a level determined by the board of directors. For the purposes of this chapter, public sector corporators include: municipal and county government; councils of government; local and area development corporations; regional planning commissions; development districts; state agencies; higher educational facilities, including the components of the state university system, the Maine Maritime Academy, private colleges and postsecondary schools, and community colleges; and such other public or quasi-public entities as may be approved by the directors of the foundation.

[PL 1997, c. 662, §2 (AMD); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

3. Ex officio corporators. Ex officio corporators consist of the heads of the major state departments and agencies and the Chancellor of the University of Maine System. State department and agency heads include the following:

Treasurer of State;

Director of the Governor's Office of Policy and Management;

Commissioner of Economic and Community Development;

Commissioner of Agriculture, Conservation and Forestry;

Commissioner of Professional and Financial Regulation;

Commissioner of Education;

Commissioner of Environmental Protection;

Commissioner of Administrative and Financial Services;

Commissioner of Health and Human Services;

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Labor;

Commissioner of Marine Resources;

Commissioner of Transportation;

Chief Executive Officer of the Finance Authority of Maine;

Executive Director of the Maine Municipal Bond Bank; and

Executive Director of the Maine State Housing Authority.

[PL 2011, c. 655, Pt. EE, §13 (AMD); PL 2011, c. 655, Pt. EE, §30 (AFF); PL 2011, c. 657, Pt. W, §6 (REV).]

4. Voting rights. Each corporator shall have a vote in such affairs of the foundation as may involve the corporators, provided that, in the case where the corporator is an organization and not an individual, the governing body of that organization shall designate the individual who is to exercise the voting right.
[PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW). PL 1983, c. 636 (AMD). PL 1985, c. 779, §38 (AMD). PL 1985, c. 785, §A87 (AMD). PL 1987, c. 402, §A88 (AMD). PL 1989, c. 443, §19 (AMD). PL 1989, c. 700, §A36 (AMD). PL 1991, c. 780, §Y113 (AMD). PL 1993, c. 349, §24 (AMD). RR 1995, c. 2, §19 (COR). PL 1997, c. 662, §§1,2 (AMD). PL 2001, c. 354, §3 (AMD). RR 2003, c. 2, §14 (COR). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2011, c. 655, Pt. EE, §13 (AMD). PL 2011, c. 655, Pt. EE, §30 (AFF). PL 2011, c. 657, Pt. W, §6 (REV). RR 2013, c. 2, §12 (COR).

§919. Board of directors; officers

The Board of Directors of the Maine Development Foundation, referred to in this chapter as the "board of directors," consists of a minimum of 15 directors elected or appointed to serve in that capacity in accordance with this section. The board of directors shall annually determine the number of directors for the succeeding year. The corporators shall elect 1/2 of the elected directors from among the private sector corporators and 1/2 of the elected directors from among the public sector corporators. The Governor shall appoint 2 directors from among the ex officio corporators. Except for the president of the Maine Development Foundation, a person may not serve as a director for more than 5 years in succession. The corporators shall elect a chair, a vice-chair and a treasurer from among the board of directors. The board of directors shall appoint a president of the Maine Development Foundation. The president may not be appointed from among the other directors. Upon appointment, the president becomes a director and the chief executive officer of the Maine Development Foundation. [PL 1997, c. 662, §3 (RPR).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW). PL 1997, c. 662, §3 (RPR).

§920. General powers

The Maine Development Foundation is empowered to: [PL 1977, c. 548, §1 (NEW).]

1. Suit. Sue or be sued in its own name;
[PL 1977, c. 548, §1 (NEW).]

2. Application for and receipt of funds. Apply for and receive funds from any private source or governmental entity, whether by way of grant, donation or loan or any other manner;
[PL 1977, c. 548, §1 (NEW).]

3. Economic development services; fees. Provide services to public or private entities to assist their efforts in economic development in Maine and to charge such fees for these services as it may deem appropriate;
[PL 1977, c. 548, §1 (NEW).]

4. Real and personal property. Purchase, receive, hold, lease or acquire by foreclosure, and operate, manage, license and sell, convey, transfer, grant or lease real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the foundation from time to time in the satisfaction of debts or enforcement of obligations;
[PL 1977, c. 548, §1 (NEW).]

5. Expenditures and obligations regarding real and personal property. Make all expenditures and incur any obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property or interests therein acquired by the foundation;
[PL 1977, c. 548, §1 (NEW).]

6. Securities. Acquire, subscribe for, own, hold, sell, assign, transfer, mortgage or pledge the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of any person, firm, corporation, joint stock company, partnership, association or trust, and, while the owner or holder thereof, exercise all the rights, powers and privileges of ownership, including the right to vote thereon;
[PL 1977, c. 548, §1 (NEW).]

7. Encumbrance of property. Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in subsections 4, 5 or 6 as security for the payment of any part of the purchase price thereof;
[PL 1977, c. 548, §1 (NEW).]

8. Equity investments and loans. Make direct equity investments in or loans to local and regional economic development corporations and to small and medium size businesses;
[PL 1977, c. 548, §1 (NEW).]

9. Contracts and liabilities. Make contracts, including contracts for services and incur liabilities for any of the purposes authorized therein;
[PL 1977, c. 548, §1 (NEW).]

10. Debt. Borrow money for any of the purposes authorized herein; incur debt, including the power to issue therefor its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured; and secure the same by mortgage, pledge, deed of trust or other lien on its property, rights and privileges of every kind and nature, or any part thereof, or interest therein;
[PL 1977, c. 548, §1 (NEW).]

11. Cooperation with agencies and organizations. Cooperate with and avail itself of the services of governmental agencies and the University of Maine System; and cooperate and assist and otherwise encourage organizations, local or regional, private or public, in the various communities of the State in the promotion, assistance and development of the business prosperity and economic welfare of such communities and the State; and
[PL 1985, c. 779, §39 (AMD).]

12. Bylaws. Adopt bylaws not inconsistent herewith for the governance of its affairs, to have the general powers accorded corporations under Title 13-C, section 302, and do all other things necessary or convenient to carry out the lawful purposes of the foundation.
[RR 2001, c. 2, Pt. B, §23 (COR); RR 2001, c. 2, Pt. B, §58 (AFF).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW). PL 1985, c. 779, §39 (AMD). RR 2001, c. 2, §B23 (COR). RR 2001, c. 2, §B58 (AFF).

§921. Limitation of powers

The foundation, notwithstanding the foregoing, shall have no power or authority to enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies, nor shall it have the power of eminent domain or any other power not provided to business corporations generally. Bonds, notes and other evidences of indebtedness of the foundation shall not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State. [PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW).

§922. Liability of officers, directors

All officers, directors, employees and other agents of the foundation entrusted with the custody of the securities of or authorized to disburse the funds of the foundation shall be bonded, either by a blanket bond or by individual bonds, with a surety bond or bonds with a minimum limitation of $100,000 coverage for each person covered thereby, conditioned upon the faithful performance of their duties, the premiums for which shall be paid out of the assets of the foundation. [PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW).

§923. Prohibited interests of officers, directors and employees

No officer, director or employee of the foundation or their spouses or dependent children shall receive any direct personal benefit from the activities of the foundation in assisting any private entity. This provision shall not prohibit corporations or other entities with which an officer or director is associated by reason of ownership or employment from participating in economic development activities with the foundation, provided that such ownership or employment is made known to the board, and the officer or director abstains from voting on matters relating to such participation. This prohibition does not extend to corporators who are not officers or directors of the foundation. [PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW).

§924. Donations to the State

The State of Maine, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the foundation and transfer such funds, property or other interests to the foundation. [PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW).

§925. Annual report, audit

The foundation shall provide an annual report and an independent audit of its activities to the Governor, the Legislature, its corporators and members. The foundation shall be subject to such further audit and review as deemed necessary by the Governor or the Legislative Council at the expense of the State. [PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW).

§926. General conditions; dissolution

The Maine Development Foundation shall operate as a not-for-profit organization consistent with its composition and broad public purposes. The following conditions shall apply to the operation or dissolution of the foundation. [PL 1977, c. 548, §1 (NEW).]

1. Net earnings of the foundation. No part of the net earnings of the foundation shall inure to the benefit of any corporator, officer, director or employee except that the foundation shall be authorized and empowered to pay reasonable compensation for services rendered, and otherwise hold, manage and dispose of its property in furtherance of the purposes of the foundation.
[PL 1977, c. 548, §1 (NEW).]

2. Dissolution of foundation. Upon dissolution of the foundation, the corporators shall, after paying or making provision for the payment of all liabilities of the foundation, cause all of the remaining assets of the foundation to be transferred to the State.
[PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW).

§927. Liberal construction

This chapter shall be construed liberally to effect the interest and purposes of the foundation for an improved economic development effort in the State and shall be broadly interpreted to effect such intent and purposes and not as a limitation of powers. [PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW).

§928. Initial organization

In order to provide for the initial organization of the foundation, the Governor shall appoint an organizing committee of 14 persons, 7 of whom shall be eligible to be private sector corporators, 5 of whom shall be eligible to be public sector corporators and 2 of whom shall be state department and agency heads from among the list set forth in section 918, subsection 3. The Governor shall designate the chairman of the committee. The organizing committee shall solicit individuals and corporations from the private and public sectors as described in this chapter to be corporators of the Maine Development Foundation. [PL 1979, c. 127, §57 (AMD).]

The committee shall call and hold an initial meeting of the corporators no later than 6 months from the effective date of this Act. The initial meeting shall be for the election of directors and officers of the foundation. The committee shall prepare an agenda for and the chairman shall chair the initial meeting. The committee shall serve as the nominating committee for the initial election only, and may submit suggested bylaws and procedures for consideration by the corporators. [PL 1977, c. 548, §1 (NEW).]

After the initial meeting of the corporators, the organizing committee shall be dissolved and its members shall serve the foundation only as they may be qualified as corporators. The State Development Office and the State Planning Office may provide assistance to the organizing committee in the initial development of the foundation. [PL 1977, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 548, §1 (NEW). PL 1979, c. 127, §57 (AMD).

§929-A. Maine Economic Growth Council

1. The Maine Economic Growth Council; establishment. The Maine Economic Growth Council, referred to in this section and section 929-B as "the council," is established to develop, maintain and evaluate a long-term economic plan for the State.
[PL 1993, c. 410, Pt. MMM, §1 (NEW).]

2. Membership. The council consists of 19 members. The Governor, President of the Senate and Speaker of the House of Representatives shall jointly appoint the following 18 members, 2 of whom shall serve as cochairs of the council:

A. Thirteen members having a broad range of expertise in areas including but not limited to: labor, environment, business and education; [PL 2007, c. 420, §5 (AMD).]

B. Two members of the Senate with a demonstrated interest in economic development, one of whom belongs to the political party holding the largest number of seats in the Senate and one of whom belongs to the political party holding the 2nd largest number of seats in the Senate; [PL 2013, c. 102, §1 (AMD); PL 2013, c. 102, §3 (AFF).]

B-1. Two members of the House of Representatives with a demonstrated interest in economic development, one of whom belongs to the political party holding the largest number of seats in the House of Representatives and one of whom belongs to the political party holding the 2nd largest number of seats in the House of Representatives; and [PL 2013, c. 102, §1 (NEW); PL 2013, c. 102, §3 (AFF).]

C. One member from the Maine Innovation Economy Advisory Board under section 949. [PL 2007, c. 420, §5 (NEW).]

The Commissioner of Economic and Community Development or the commissioner's designee is a member of the council.
[PL 2013, c. 102, §1 (AMD); PL 2013, c. 102, §3 (AFF).]

3. Appointments; terms. This subsection governs the appointment and terms of members.

A. A member appointed pursuant to subsection 2, paragraph A or C serves a 3-year term and serves until a successor is appointed. [PL 2013, c. 102, §2 (NEW); PL 2013, c. 102, §3 (AFF).]

B. A member appointed pursuant to subsection 2, paragraph B or B-1 must be appointed no later than March 15th of the first year of the legislative biennium in which appointment is made and serves a 2-year term that begins on March 15th of the first year of the legislative biennium in which appointment is made, regardless of whether by the end of the term the member remains a Senator or a member of the House of Representatives. [PL 2013, c. 102, §2 (NEW); PL 2013, c. 102, §3 (AFF).]
[PL 2013, c. 102, §2 (RPR); PL 2013, c. 102, §3 (AFF).]

4. Quorum. Ten members of the council constitute a quorum.
[PL 1993, c. 410, Pt. MMM, §1 (NEW).]

5. Compensation. Members of the council are not entitled to compensation for their services, except for those members of the Legislature appointed to the council who receive the legislative per diem.
[PL 1993, c. 410, Pt. MMM, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 410, §MMM1 (NEW). PL 1995, c. 688, §9 (AMD). PL 1997, c. 425, §1 (AMD). PL 2007, c. 420, §5 (AMD). PL 2013, c. 102, §§1, 2 (AMD). PL 2013, c. 102, §3 (AFF).

§929-B. Powers and duties

1. Develop a long-term plan for the State's economy. The council shall:

A. Develop and recommend a long-range plan, goals, benchmarks and alternative strategies for a sustainable state economy; [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

B. Monitor progress in accomplishing the plan's vision, goals and benchmarks; and [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

C. Recommend changes in the plan to reflect the dynamics of the international, national and state economy. [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

[PL 1993, c. 410, Pt. MMM, §1 (NEW).]

2. Process. The council shall use the following guidelines when developing the plan described in subsection 1.

A. The process must be long-term and continuous with a 5-to-7-year planning horizon. It must include clear authority for monitoring and evaluating on a regular basis. [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

B. The process must have a strategic focus and measurable outcomes, with clear goal-setting and performance indicators. [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

C. The council may appoint working groups and advisory committees as necessary, representing key concerned parties to accomplish the goals outlined in this section. [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

D. The process must be statewide in scope, using available technology to ensure that all areas of the State have accessibility to the work of the council. [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

E. Preparation and maintenance of the plan must be through a public and private partnership approach that is objective and nonpartisan. [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

[PL 1993, c. 410, Pt. MMM, §1 (NEW).]

3. Contents. The plan developed by the council must consist of:

A. A plan for the State's economy based on economic opportunity for all citizens and a shared commitment to sustainable development that recognizes that new forms of cooperation among government, business and society are required to achieve the goals; [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

B. Benchmarks for accomplishing the plan that are specific, quantifiable performance indicators against which each of the goals that have been set forth to accomplish the vision can be measured; [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

C. Alternative strategies to accomplish the benchmarks based upon the best practices in Maine, other states and other countries; [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

D. A strategy for the overall economy, broadly defined and not limited to what is traditionally termed "economic development." The plan must include consideration of education and training, redeployment of state resources, investments in science and technology and infrastructure; and [PL 1993, c. 410, Pt. MMM, §1 (NEW).]

E. Identification of:

(1) The types of industries and jobs with significant growth potential in the State;

(2) The State's evolving industrial base;

(3) The dynamic national and international markets;

(4) Existing efforts to convert military economies to civilian economies;

(5) Other relevant studies and evaluations in the private and public sector dealing with the long-term economic growth of the State;

(6) The work force challenges faced by welfare recipients and strategies to address their economic and related needs; and

(7) Other relevant studies and evaluations in the private and public sector concerning the availability of child care. [PL 1999, c. 272, §3 (AMD).]

[PL 1999, c. 272, §3 (AMD).]

4. Fiscal agent. The Department of Economic and Community Development shall serve as the council's fiscal agent providing regular financial reports to the council on funds received and expended and an annual audit. The council shall seek funds and accept gifts, if necessary, to support the council's objectives.

[PL 1997, c. 48, §2 (AMD).]

5. Staff support. The council shall contract with the Maine Development Foundation for staff support to fulfill the requirements for carrying out the purposes of this section.

[PL 1993, c. 410, Pt. MMM, §1 (NEW).]

6. Report. The council shall report to the joint standing committee of the Legislature having jurisdiction over housing and economic development matters. The council shall recommend its plan to the committee biennially at the beginning of each new Legislature, except that the first plan must be presented by January 1, 1995. The recommended plan must be used by the Economic Development and Business Assistance Coordinating Council as a guide to deliver economic development services.

[PL 1993, c. 725, §3 (AMD).]

SECTION HISTORY

PL 1993, c. 410, §MMM1 (NEW). PL 1993, c. 709, §1 (AMD). PL 1993, c. 725, §3 (AMD). PL 1997, c. 48, §2 (AMD). PL 1999, c. 272, §3 (AMD).

§929-C. Research and development budgetary recommendations

The Maine Economic Growth Council, established in section 929-A, with input from the Office of Innovation, established pursuant to Title 5, section 13105, and the Maine Innovation Economy Advisory Board, under section 949, shall review the innovation economy action plan, as described in Title 10, chapter 107-D, and develop specific annual budgetary recommendations to support the plan's vision and goals. These recommendations must include specific bonding and General Fund appropriations investment levels. By June 1st of each year, the council shall submit its recommendations, along with an annual accountability update that summarizes the State's commitment to research and development investments in the prior year, to the Governor, the Legislature and the joint standing committee of the Legislature having jurisdiction over business, research and economic development issues. [PL 2007, c. 420, §6 (NEW).]

SECTION HISTORY

PL 2007, c. 420, §6 (NEW).

CHAPTER 107-A

MAINE WORLD TRADE ASSOCIATION

§931. Establishment

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§932. Duties

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§933. Members of the association

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§934. Board of directors and officers

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF). PL 1995, c. 688, §10 (AMD). PL 1997, c. 393, §A15 (AMD).

§935. General powers

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§935-A. Adoption of bylaws

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§936. Limitation of powers

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§937. Liability of officers, directors and employees

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§938. Prohibited interests of officers, directors and employees

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§939. Donations to the State

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§940. Matching fund

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§941. Annual report; audit

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§942. General conditions; dissolution

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

§943. Liberal construction

(REPEALED)

SECTION HISTORY

PL 1989, c. 875, §§K1,3 (NEW). PL 1995, c. 648, §4 (RP). PL 1995, c. 648, §9 (AFF).

CHAPTER 107-B

MAINE INTERNATIONAL TRADE CENTER

§945. Establishment

The Maine International Trade Center, referred to in this chapter as the "center," is established to enhance the competitive advantage of state businesses desiring to compete in the international market. The center provides a source of leadership, coordination and a shared vision for international trade development in the State. The purpose of the center, through its cooperative public and private board, is to refine, revise and implement the State's international strategic plan by providing and enhancing services in coordination with the economic development activities of the private sector, community and regional agencies and State Government. [PL 1995, c. 648, §5 (NEW).]

The center is a private nonprofit corporation with a public purpose and the exercise by the center of the powers conferred by this chapter is held to be an essential governmental function. [PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-A. Duties

The center shall provide a base level of services without regard to membership in the center and enhanced services as the center's board of directors may direct, to private entities, individuals, the State and to quasi-public and public entities. The center shall encourage and assist the growth of the State's international economic activities in the following ways. [PL 1995, c. 648, §5 (NEW).]

1. Forum. The center shall provide a continuing forum for the exchange of expertise, ideas and innovations between the public and private sectors.
[PL 1995, c. 648, §5 (NEW).]

2. Education. The center shall offer quality education and technical services to businesses in the State that compete or seek to compete in worldwide markets.
[PL 1995, c. 648, §5 (NEW).]

3. Development of programs. The center shall act as a catalyst in the development and coordination of international programs.
[PL 1995, c. 648, §5 (NEW).]

4. Public policy. The center shall underscore the importance of international trade as a priority of public policy and to enhance public appreciation of the relevance of the international economy.
[PL 1995, c. 648, §5 (NEW).]

5. Information. The center shall provide information necessary to transact international business and to make effective decisions concerning international trade and policy.
[PL 1995, c. 648, §5 (NEW).]

6. Infrastructure. The center shall support the development and availability of an overall infrastructure conducive to international business.
[PL 1995, c. 648, §5 (NEW).]

7. Dissemination of programs. The center shall promote the development and dissemination of education, training and technical assistance programs appropriate for foreign countries.
[PL 1995, c. 648, §5 (NEW).]

8. Market opportunities. The center shall identify market opportunities and potential contracts in foreign countries that match the technologies and expertise available in the State and coordinate and submit appropriate proposal responses.
[PL 1995, c. 648, §5 (NEW).]

9. Data base. The center shall maintain an international commerce data base to assist in making program decisions.
[PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-B. Members of center

Members of the center are individuals and organizations that pay dues to the center or are state agencies as specified in subsection 1. Memberships may be set at different levels. Members shall elect 7 members to the board of directors of the center pursuant to section 945-C. [PL 1995, c. 648, §5 (NEW).]

1. Members. Members are the private individuals, partnerships, firms, corporations, governmental entities and other organizations who pay dues to the center. For the purposes of this chapter, members may include, but are not limited to, municipal and county government, councils of government, local and area development corporations, regional planning commissions, development districts, state agencies, higher educational facilities, including the components of the University of Maine System, the Maine Maritime Academy, private colleges and postsecondary schools and community colleges, and other public or quasi-public entities. The following 7 public organizations are granted membership by virtue of the State's contribution to the organization and are exempt from dues requirements and each is entitled to designate one individual to exercise its voting right: the Department of Agriculture, Conservation and Forestry, the Governor's Office of Policy and Management, the Finance Authority of Maine, the Department of Labor, the Department of Marine Resources, the Department of Economic and Community Development and the Department of Transportation.
[PL 2013, c. 405, Pt. D, §5 (AMD).]

2. Voting rights. All members have a vote in the affairs of the center as set forth in the bylaws of the center, except that when the member is an organization and not an individual the governing body of that organization shall designate the individual who is to exercise the voting right.
[PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2011, c. 655, Pt. EE, §14 (AMD). PL 2011, c. 655, Pt. EE, §30 (AFF). PL 2013, c. 405, Pt. D, §5 (AMD).

§945-C. Board of directors and officers

The Board of Directors of the Maine International Trade Center, referred to in this chapter as the "board of directors," consists of 7 directors elected from the membership and 5 directors appointed by the Governor. Each director is entitled to one vote. Board members' terms must be staggered as determined in the bylaws of the center. [PL 1995, c. 648, §5 (NEW).]

The state representative of the United States Department of Commerce and the state representative of the United States Small Business Administration may serve as nonvoting ex officio directors. [PL 1995, c. 648, §5 (NEW).]

1. Elected directors. The members shall elect 7 directors from among the center's dues-paying membership.
[PL 1995, c. 648, §5 (NEW).]

2. Governor-selected directors. The Governor shall select 5 directors, one of whom must be the International Trade Director at the Department of Economic and Community Development. The other 4 directors must have international business or professional experience.
[PL 1995, c. 648, §5 (NEW).]

3. Chair; vice-chair; treasurer. The board of directors shall elect the chair and the vice-chair of the board of directors and the treasurer of the center from among the directors.
[PL 1995, c. 648, §5 (NEW).]

4. President. The International Trade Director at the Department of Economic and Community Development shall serve as the president of the center upon confirmation by a majority of the board of directors. Once every 2 years, the Governor shall submit the International Trade Director's name to the board of directors for reappointment. Reappointment is subject to confirmation by a majority of the board of directors.
[PL 1995, c. 648, §5 (NEW).]

5. Duties of president. The president shall:

A. Serve as the liaison between the board of directors and the center; [PL 1995, c. 648, §5 (NEW).]

B. Manage the center's programs and services; [PL 1995, c. 648, §5 (NEW).]

C. Ensure that the center's programs reflect the policy and management decisions as described in the strategic plan for the State concerning international trade; [PL 1995, c. 648, §5 (NEW).]

D. Coordinate all services to continually meet the needs of the center as described in the strategic plan for the State; [PL 1995, c. 648, §5 (NEW).]

E. Play a leadership role in coordinating, facilitating and helping to prioritize both the short-term and long-term recommendations of this strategic plan; [PL 1995, c. 648, §5 (NEW).]

F. Serve as the State's diplomat, providing leadership in the area of international trade and advocating within the State and abroad on behalf of the State's international trade community; and [PL 1995, c. 648, §5 (NEW).]

G. Perform such other duties as the board considers appropriate. [PL 1995, c. 648, §5 (NEW).]
[PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-D. General powers

The center may: [PL 1995, c. 648, §5 (NEW).]

1. Suit. Sue or be sued in its own name;
[PL 1995, c. 648, §5 (NEW).]

2. Application for and receipt of funds. Apply for and receive funds from any private source or governmental entity, whether by grant, donation, loan or any other manner;
[PL 1995, c. 648, §5 (NEW).]

3. Economic development services; fees. Employ a staff and provide services to public or private entities to assist their efforts in the development of international trade in the State and to charge such fees for these services as it determines appropriate;
[PL 1995, c. 648, §5 (NEW).]

4. Real and personal property. Purchase, receive, hold, lease, acquire by foreclosure, operate, manage, license, sell, convey, transfer or grant real and personal property, together with those rights and privileges that may be incidental and appurtenant to the real and personal property and the use of the real and personal property, including, but not limited to, any real or personal property acquired by the center from time to time in the satisfaction of debts or enforcement of obligations;
[PL 1995, c. 648, §5 (NEW).]

5. Expenditures and obligations regarding real and personal property. Make all expenditures and incur any obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property or interests in real and personal property acquired by the center;
[PL 1995, c. 648, §5 (NEW).]

6. Securities. Acquire, subscribe for, own, hold, sell, assign, transfer, mortgage or pledge the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of any person, firm, corporation, joint stock company, partnership, association or trust and, while the owner or holder thereof, exercise all the rights, powers and privileges of ownership, including the right to vote thereon;
[PL 1995, c. 648, §5 (NEW).]

7. Encumbrance of property. Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in subsection 4, 5 or 6 as security for the payment of any part of the purchase price of the property right or thing of value;
[PL 1995, c. 648, §5 (NEW).]

8. Contracts and liabilities. Make contracts, including contracts for services, and incur liabilities for any of the purposes authorized in those contracts;
[PL 1995, c. 648, §5 (NEW).]

9. Debt. Borrow money for any of the purposes authorized in this chapter; incur debt, including the power to issue its bonds, debentures, notes or other evidences of indebtedness, whether secured or

unsecured; and secure the same by mortgage, pledge, deed of trust or other lien on its property, rights and privileges of every kind and nature, or any part thereof or interest therein; and
[PL 1995, c. 648, §5 (NEW).]

10. Cooperation with agencies and organizations. Cooperate with governmental agencies and the University of Maine System; and cooperate, assist and encourage organizations, local or regional, private or public, in the communities of the State in the promotion, assistance and development of international trade in those communities and the State.
[PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-E. Adoption of bylaws

The center shall adopt bylaws consistent with this chapter for the governance of its affairs and has the general powers accorded corporations under Title 13-C, section 302. The center shall take all actions necessary or convenient to carry out the lawful purposes of the center under this chapter. [RR 2001, c. 2, Pt. B, §24 (COR); RR 2001, c. 2, Pt. B, §58 (AFF).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW). RR 2001, c. 2, §B24 (COR). RR 2001, c. 2, §B58 (AFF).

§945-F. Limitation of powers

The center may not enter into contracts, obligations or commitments of any kind on behalf of the State or any of its agencies, nor may it have the power of eminent domain or any other power not provided to business corporations generally. Bonds, notes and other evidences of indebtedness of the center may not in any way be a debt or liability of the State or constitute a pledge of the faith and credit of the State. [PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-G. Liability of officers, directors and employees

All officers, directors, employees and other agents of the center entrusted with the custody of the securities of the center or authorized to disburse the funds of the center must be bonded, either by a blanket bond or by individual bonds, with a surety bond or bonds with a minimum limitation of $100,000 coverage for each person covered by the surety bond, conditioned upon the faithful performance of duties, the premiums for which are paid out of the assets of the center. [PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-H. Prohibited interests of officers, directors and employees

Officers, directors or employees of the center or their spouses or dependent children may not receive any direct personal benefit from the activities of the center in assisting any private entity. This section does not prohibit corporations or other entities with which officers or directors are associated by reason of ownership or employment from participating in international trade activities of the center or receiving services offered by the center as long as the ownership or employment is made known to the board of directors and, if applicable, the officers or directors abstain from voting on matters relating to that participation. This section does not apply to members who are not officers or directors of the center. [PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-I. Donations to State

The State, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the center and transfer those funds, property or other interests to the center. [PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-J. Confidential records

The records and proceedings of the center are public for the purposes of Title 1, chapter 13, except as otherwise provided in this section. [PL 2009, c. 567, §2 (AMD).]

1. Proprietary information; other information. Information provided to or developed by the center and included in a business or marketing plan is public unless the person to whom the information belongs or pertains requests that it be designated as confidential and the center has determined it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the center or the person submitting the information and would make available information not otherwise publicly available.
[PL 2009, c. 567, §3 (AMD).]

2. Tax or financial information. Any financial statement, supporting data or tax return of any person is confidential.
[PL 1995, c. 648, §5 (NEW).]

3. Credit assessment. Any record obtained by the center that contains an assessment of the credit worthiness, credit rating or financial condition of any person is confidential.
[PL 1995, c. 648, §5 (NEW).]

This section does not prohibit the disclosure of information that is otherwise available in the public domain. [PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW). PL 2009, c. 567, §§2, 3 (AMD).

§945-K. Annual report; audit

The center shall provide an annual report and an independent audit of its activities to the Governor, the joint standing committee of the Legislature having jurisdiction over economic development matters and the members of the center. [PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-L. General conditions; dissolution

The center shall operate as a nonprofit organization consistent with its composition and broad public purposes. The following conditions apply to the operation or dissolution of the center. [PL 1995, c. 648, §5 (NEW).]

1. Net earnings of center. No part of the net earnings of the center may inure to the benefit of any member, officer, director or employee, except that the center may pay reasonable compensation for services rendered and otherwise hold, manage and dispose of its property for the purposes of the center. [PL 1995, c. 648, §5 (NEW).]

2. Dissolution of center. Upon dissolution of the center, the members shall transfer all unexpended General Fund appropriations to the State before paying or making provision for the payment of all other liabilities of the center.
[PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

§945-M. Liberal construction

This chapter may be construed liberally to effect the intent and purposes of the center for an improved and enhanced international trade development effort in the State and may not be construed as a limitation of powers. [PL 1995, c. 648, §5 (NEW).]

SECTION HISTORY

PL 1995, c. 648, §5 (NEW).

CHAPTER 107-C

MAINE ECONOMIC IMPROVEMENT FUND

§946. Establishment

The Maine Economic Improvement Fund is established to administer investments in targeted research and development and product innovation and to provide the basic investment necessary to obtain matching funds and competitive grants from private and federal sources. [PL 1997, c. 556, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 556, §3 (NEW).

§947. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 556, §3 (NEW).]

1. Fund. "Fund" means the Maine Economic Improvement Fund.
[PL 1997, c. 556, §3 (NEW).]

2. Research and development. "Research and development" means applied scientific research and related commercial development conducted by the University of Maine System, its member institutions and its employees and students in the target areas.
[PL 1997, c. 556, §3 (NEW).]

3. Target areas. "Target areas" means the targeted technologies identified in Title 5, chapter 407 for which applied research and development is considered most likely to produce significant benefits to the people and economy of the State.

A. [PL 1999, c. 401, Pt. AAA, §4 (RP).]

B. [PL 1999, c. 401, Pt. AAA, §4 (RP).]

C. [PL 1999, c. 401, Pt. AAA, §4 (RP).]

D. [PL 1999, c. 401, Pt. AAA, §4 (RP).]

E. [PL 1999, c. 401, Pt. AAA, §4 (RP).]
[PL 1999, c. 401, Pt. AAA, §4 (AMD).]

SECTION HISTORY

PL 1997, c. 556, §3 (NEW). PL 1999, c. 401, §AAA4 (AMD).

§948. Administration of fund

1. Administration of fund. The Board of Trustees of the University of Maine System shall administer the fund. The board may utilize the assets of the fund to carry out and effectuate the purposes, duties and responsibilities of this chapter, including, but not limited to:

A. Taking actions in partnership with private enterprise, the Federal Government and private and public research institutions to:

(1) Invest in applied research and development in the target areas within the University of Maine System; and

(2) Support the development of private enterprise based upon research and development performed within the University of Maine System; [PL 1997, c. 683, Pt. A, §4 (RPR).]

B. Receiving money from any public or private source to augment state contributions to the fund; [PL 1997, c. 683, Pt. A, §4 (RPR).]

C. Approving an annual budget for the fund and investing and expending money from within the fund; [PL 1997, c. 683, Pt. A, §4 (RPR).]

D. Contracting with public entities as necessary to further the directives of this section; [PL 1997, c. 683, Pt. A, §4 (RPR).]

E. Carrying forward any unexpended state appropriations into succeeding fiscal years; [PL 1997, c. 683, Pt. A, §4 (RPR).]

F. Providing an annual report to the Governor and the Legislature by January 1st of each regular session of the Legislature setting forth:

(1) The operations of the fund during the fiscal year;

(2) The assets and liabilities of the fund at the end of its most recent fiscal year;

(3) The annual measurable goals and objectives of the fund, as established by the board, and an assessment of the achievement of those goals and objectives. The goals and objectives must include, but may not be limited to, education, research and development; and

(4) A summary of the research and development projects that have been funded pursuant to paragraph H, including any external funding sources that have been leveraged as a result of these awards; [PL 2011, c. 698, §1 (AMD).]

G. Protecting all intellectual property in accordance with the "University of Maine System Statement of Policy Governing Patents and Copyrights," including, but not limited to, proprietary information contained in proposals, grants, contracts or other legal agreements. Publication of information may be reasonably delayed until appropriate measures have been taken to protect the intellectual property; and [PL 2011, c. 698, §2 (AMD).]

H. Apportioning a minimum percentage of the annual disbursements from the fund among the University of Maine at Augusta, the University of Maine at Farmington, the University of Maine at Fort Kent, the University of Maine at Machias, the University of Maine at Presque Isle and the Maine Maritime Academy to support research and development as follows: beginning July 1, 2013 a minimum of 2.5% and beginning July 1, 2015 a minimum of 3%. [PL 2013, c. 225, §2 (AMD).]

[PL 2013, c. 225, §2 (AMD).]

SECTION HISTORY

PL 1997, c. 556, §3 (NEW). PL 1997, c. 683, §A4 (RPR). PL 1999, c. 401, §AAA5 (AMD). PL 2011, c. 698, §§1-3 (AMD). PL 2013, c. 225, §2 (AMD).

CHAPTER 107-D

MAINE INNOVATION ECONOMY ADVISORY BOARD

§949. Maine Innovation Economy Advisory Board

1. Establishment. The Maine Innovation Economy Advisory Board, referred to in this chapter as "the advisory board" and established by Title 5, section 12004-I, subsection 6-G, is established to coordinate the State's research and development activities and to foster collaboration among its higher education and nonprofit research institutions and members of the business community.
[PL 2007, c. 420, §7 (NEW).]

2. Appointment and composition. The advisory board consists of the following members:

A. Two ex officio members:

(1) The Director of the Maine Technology Institute, as established in Title 5, section 12004-G, subsection 33-D, or the director's designee; and

(2) The Director of the Office of Innovation, as established in Title 5, section 13105, or the director's designee; and [PL 2007, c. 420, §7 (NEW).]

B. Thirty members appointed by the Governor:

(1) Seven representatives from the for-profit business community within the 7 targeted technologies as defined in Title 5, section 15301;

(2) Seven representatives involved with nonprofit research institutions within the 7 targeted technologies as defined in Title 5, section 15301;

(3) Four representatives of the Maine Biomedical Research Board established pursuant to Title 5, section 12004-G, subsection 4-B;

(4) Two representatives from nonprofit research laboratories with main offices or headquarters in this State and demonstrated expertise and credentials in marine research;

(5) One representative of the University of Maine and one representative of the University of Southern Maine;

(6) Four representatives of private universities and colleges within the State;

(7) One representative of the University of Maine Center for Law and Innovation;

(8) One representative of the Small Enterprise Growth Program as established in section 381; and

(9) Two representatives with demonstrated expertise in venture capital. [PL 2007, c. 420, §7 (NEW).]

[PL 2007, c. 420, §7 (NEW).]

3. Terms; vacancies; limits. The term of office for members of the advisory board is 3 years. When a vacancy occurs, it must be filled by the same appointing authority, and the new member shall serve for the remainder of the term. Members who serve on the advisory board by virtue of their offices serve terms coincident with their terms in office. Members may continue to serve until their replacements are designated. A vacancy in a position held by an ex officio member that occurs other than by the expiration of a term must be filled by a designee appointed by the Commissioner of

Economic and Community Development for the unexpired term. A vacancy may not impair the right of the remaining members to exercise all of the powers of the advisory board.
[PL 2007, c. 420, §7 (NEW).]

4. Chair; election of officers. The members of the advisory board shall annually elect one of the advisory board's members as chair and one of its members as vice-chair to set the agenda and schedule meetings. The advisory board may elect other officers and designate their duties.
[PL 2007, c. 420, §7 (NEW).]

5. Voting rights. Each member of the advisory board has a vote.
[PL 2007, c. 420, §7 (NEW).]

6. Meetings. The advisory board shall hold quarterly meetings each year. Additional meetings may be held as necessary to conduct the business of the advisory board.
[PL 2007, c. 420, §7 (NEW).]

7. Compensation. Members of the advisory board are not entitled to compensation.
[PL 2007, c. 420, §7 (NEW).]

8. Adoption of bylaws. The advisory board shall adopt bylaws consistent with this section for the governance of its affairs and to address the resolution of conflicts of interest that may arise.
[PL 2007, c. 420, §7 (NEW).]

9. Quorum. A majority of the members of the advisory board constitutes a quorum.
[PL 2007, c. 420, §7 (NEW).]

10. Staff support. The Department of Economic and Community Development, Office of Innovation shall provide staff support to the advisory board to carry out the purposes of this section.
[PL 2007, c. 420, §7 (NEW).]

11. Powers and duties. The powers and duties of the advisory board are as set out in this subsection.

A. Every 5 years starting in 2010, the advisory board shall develop an innovation economy action plan for the application of science and technology to improve the State's position in the global economy. The plan must identify specific steps that public and private research institutions must implement to improve the State's science and technology infrastructure, goals for encouraging collaborative initiatives among public and private research institutions, steps that can be implemented immediately without new state funding and resources and steps that will require new state appropriations or major reallocation of state appropriations and resources. The plan must include numerical objectives, costs and an evaluation protocol, as well as a provision for assigning and ensuring accountability for those who receive state research and development funds. [PL 2007, c. 420, §7 (NEW).]

B. The advisory board shall assist state and federal policy makers in advancing research and development capacity initiatives in the State and in developing corresponding funding strategies; provide input on economic planning and the commercial application of the State's research and development efforts; facilitate research opportunities that create sustained, interinstitutional, collaborative, multidisciplinary, centers-based research projects; advocate for the State's research and development sector and interests; disseminate information about its work throughout the State; and serve as the EPSCoR steering committee, as referred to in Title 5, section 13110, for the State and evaluate proposals made to the Maine EPSCoR Program and related programs. [PL 2007, c. 420, §7 (NEW).]

[PL 2007, c. 420, §7 (NEW).]

12. Report. The advisory board shall submit a report on the innovation economy action plan developed under subsection 11 to the Maine Economic Growth Council by the first Wednesday in

March every 5 years, beginning in 2010. The advisory board shall submit a progress report on the innovation economy action plan to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters and to the Governor by the first Wednesday in March of each year, beginning in 2008.
[PL 2007, c. 420, §7 (NEW).]

SECTION HISTORY

PL 2007, c. 420, §7 (NEW).

CHAPTER 108

THE MAINE CAPITAL CORPORATION

§950. Statement of legislative findings and intent

(REPEALED)

SECTION HISTORY

PL 1977, c. 531, §1 (NEW). PL 1979, c. 587, §§1,2 (AMD). PL 1983, c. 700, §1 (AMD). MRSA T. 10 §955 (RP).

§951. Formation; name; purposes

(REPEALED)

SECTION HISTORY

PL 1977, c. 531, §1 (NEW). PL 1979, c. 587, §3 (RPR). PL 1983, c. 700, §2 (AMD). MRSA T. 10 §955 (RP).

§952. Limitations on purposes and powers

(REPEALED)

SECTION HISTORY

PL 1977, c. 531, §1 (NEW). PL 1979, c. 587, §4 (AMD). PL 1981, c. 364, §1 (AMD). PL 1983, c. 700, §3 (AMD). PL 1985, c. 506, §A9 (AMD). PL 1987, c. 186, §§1-4 (AMD). MRSA T. 10 §955 (RP).

§953. Initial organization; approval of Commissioner of Business Regulation

(REPEALED)

SECTION HISTORY

PL 1977, c. 531, §1 (NEW). MRSA T. 10 §955 (RP).

§954. Subscription and sales of stock; first shareholders meetings

(REPEALED)

SECTION HISTORY

PL 1977, c. 531, §1 (NEW). MRSA T. 10 §955 (RP).

§955. Repeal

(REPEALED)

SECTION HISTORY

PL 1983, c. 700, §4 (NEW). PL 1993, c. 531, §1 (RP).

CHAPTER 109

MAINE NATURAL RESOURCE CAPITAL COMPANY

§956. Formation; name; purpose

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §4 (NEW). PL 1985, c. 344, §2 (AMD). PL 1985, c. 714, §2 (AMD). PL 1987, c. 854, §§1,5 (RP).

§957. Limitations on purposes and powers

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §4 (NEW). PL 1985, c. 344, §2 (AMD). PL 1985, c. 714, §3 (AMD). PL 1987, c. 854, §§1,5 (RP).

§958. Initial organization

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §4 (NEW). PL 1983, c. 553, §46 (AMD). PL 1985, c. 344, §3 (RPR). PL 1987, c. 854, §§1,5 (RP).

§959. Subscription and sales of stock; first stockholders meeting

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §4 (NEW). PL 1985, c. 344, §4 (RPR). PL 1985, c. 714, §4 (AMD). PL 1987, c. 854, §§1,5 (RP).

CHAPTER 110

FINANCE AUTHORITY OF MAINE

SUBCHAPTER 1

FINANCE AUTHORITY OF MAINE ACT

§961. Finance Authority of Maine Act

This chapter shall be known and may be cited as the "Finance Authority of Maine Act." [PL 1983, c. 519, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW).

§962. Purpose

There is a statewide need to provide enlarged opportunities for gainful employment to the people of the State and to ensure the preservation and betterment of the economy and the general health, safety and welfare of the State and its inhabitants; to provide a more healthy environment through the

restoration of purity to the air, the water or the earth of the State which are fouled with, among other things, industrial and other waste materials and pollutants, and to ensure the preservation and betterment of the living standards and health of its inhabitants; to stimulate a larger flow of private investment funds from banks, investment institutions, insurance companies and other financial institutions, including pension and retirement funds, to help finance planning, development, acquisition, construction, improvement, expansion and placing in operation of industrial, manufacturing, recreational, fishing, agricultural, business and natural resource enterprises and eligible projects of the State and its political subdivisions; and to increase the access of smaller business, veterans and students pursuing postsecondary education to financing at reasonable terms and rates. [PL 2013, c. 34, §1 (AMD).]

In order to fulfill these purposes and to make the best use of the State's limited resources, the Finance Authority of Maine shall consider the state economic development strategy and the policies and activities of the Department of Economic and Community Development in implementing its powers, duties and responsibilities. [PL 1987, c. 534, Pt. B, §§5, 23 (NEW).]

The Finance Authority of Maine, as established by this chapter and authorized by Title 5, section 12004-F, subsection 1, to fulfill these purposes is, in addition to its other powers, authorized to: [PL 1989, c. 503, Pt. B, §51 (AMD).]

1. Loans. Encourage the making of loans to finance the planning, development, acquisition, construction, improvement, expansion and placing in operation of industrial, manufacturing, recreational, fishing, agricultural and other business and natural resource enterprises;
[PL 2003, c. 537, §1 (AMD); PL 2003, c. 537, §53 (AFF).]

2. Revenue obligation securities. Issue revenue obligation securities to finance eligible projects, except that revenue obligation securities may not be issued for energy distribution system projects or energy generating system projects unless the authority issued a certificate of approval for those eligible projects before January 1, 2020 pursuant to subchapter 3;
[PL 2015, c. 504, §1 (AMD).]

2-A. Interest subsidies; grants. Provide interest rate subsidies on commercial loans or grants to businesses and nonprofit organizations;
[PL 1987, c. 533, §1 (NEW).]

3. Assist municipalities. Assist municipalities to issue revenue obligation securities for financing eligible projects;
[PL 1985, c. 344, §5 (AMD).]

4. Small businesses and veteran-owned small businesses. Encourage the making of loans to small businesses and veteran-owned small businesses;
[PL 2003, c. 537, §2 (AMD); PL 2003, c. 537, §53 (AFF).]

5. Natural resource financing. Provide natural resource financing; and
[PL 1989, c. 559, §1 (AMD).]

6. Student financial assistance programs. Provide and administer a comprehensive, consolidated system of student financial assistance programs.
[PL 1989, c. 559, §2 (NEW).]

The authority will serve a public purpose and perform an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter. Any benefits accruing to private individuals or associations, as a result of the activities of the authority, are deemed by the Legislature to be incidental to the public purposes to be achieved by the implementation of this chapter. [PL 1985, c. 344, §5 (AMD).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1983, c. 812, §62 (AMD). PL 1985, c. 344, §5 (AMD). PL 1985, c. 714, §5 (AMD). PL 1987, c. 533, §1 (AMD). PL 1987, c. 534, §§B5,B23 (AMD). PL 1989, c. 503, §B51 (AMD). PL 1989, c. 559, §§1,2 (AMD). PL 2003, c. 537, §§1,2 (AMD). PL 2003, c. 537, §53 (AFF). PL 2011, c. 586, §1 (AMD). PL 2013, c. 34, §1 (AMD). PL 2015, c. 504, §1 (AMD).

§963. Definitions

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1985, c. 344, §6 (RP).

§963-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 344, §7 (NEW).]

1. Agricultural enterprise. "Agricultural enterprise" means knowledge, skill or labor applied to growing or raising plants or animals, harvesting plants or growing or obtaining plant or animal by-products, includes forestry and aquaculture and includes production, processing, storing, packaging or marketing products derived from agricultural enterprise.
[PL 1985, c. 344, §7 (NEW).]

1-A. Aboveground oil storage facility. "Aboveground oil storage facility," also referred to as a "facility," means any aboveground oil storage tank or tanks, together with associated piping, and transfer and dispensing facilities located over land or water of the State at a single location for more than 4 months per year and used or intended to be used for the storage or supply of oil. Oil terminal facilities, as defined in Title 38, section 542, subsection 7, and propane facilities are not included in this definition.
[PL 1993, c. 601, §1 (NEW).]

1-B. Aboveground oil storage tank. "Aboveground oil storage tank," also referred to as "tank," means any aboveground container, less than 10% of the capacity of which is beneath the surface of the ground, that is used or intended to be used for the storage or supply of oil. Included in this definition are any tanks situated upon or above the surface of a floor in such a manner that they may be readily inspected.
[PL 1993, c. 601, §1 (NEW).]

2. Agricultural land. "Agricultural land" means land capable of supporting commercial farming and forestry production.
[PL 1985, c. 344, §7 (NEW).]

3. Application and service fees. "Application and service fees" means the amount of money charged for the cost of application, servicing or technical assistance.
[PL 1985, c. 344, §7 (NEW).]

4. Authority. "Authority" means the Finance Authority of Maine as established by this chapter.
[PL 1985, c. 344, §7 (NEW).]

5. Bond. "Bond" means revenue obligation security.
[PL 1985, c. 344, §7 (NEW).]

5-A. Clean fuel.
[PL 2019, c. 160, §1 (RP).]

5-B. Clean fuel vehicle.
[PL 2019, c. 160, §1 (RP).]

5-C. Clean fuel vehicle project.
[PL 2019, c. 160, §1 (RP).]

6. Commitment to issue loan insurance. "Commitment to issue loan insurance" means a commitment to provide insurance for loan payments subject to terms specified by the authority.
[PL 2003, c. 537, §3 (AMD); PL 2003, c. 537, §53 (AFF).]

7. Cost of project. "Cost of project" means the cost or value of land, buildings, real estate improvements, labor, materials, machinery and equipment, property rights, easements, franchises, financing charges, interest, engineering and legal services, plans, specifications, surveys, cost estimates, studies and other expenses as may be necessary or incidental to the development, construction, acquisition, financing and placing in operation of an eligible project. In addition to these costs, reserves for payment of future debt on any revenue obligation securities may be included as part of the cost of the project.

Any obligation or expenses incurred by the State, the authority, a municipality or any private person in connection with any of the items of cost specified in this subsection related to revenue obligation securities may be included as part of the cost and reimbursed to the State, the authority, municipality or person out of the proceeds of the securities issued.
[PL 1985, c. 344, §7 (NEW).]

7-A. Electric rate stabilization project. "Electric rate stabilization project" means an agreement by a transmission and distribution utility with a qualifying facility, as defined in Title 35-A, section 3303, that will result in the reduction of costs to the transmission and distribution utility and that has been certified by the Public Utilities Commission to meet the standards established under Title 35-A, section 3156.
[PL 1999, c. 657, §2 (AMD).]

8. Eligible collateral. "Eligible collateral" means accounts, as-extracted collateral, chattel paper, commercial tort claims, consumer goods, deposit accounts, documents, equipment, farm products, fixtures, general intangibles, instruments, investment property, inventory, letter of credit rights, manufactured homes, money, real estate, supporting obligations and accessions to any of the foregoing and any other business assets.
[PL 2003, c. 537, §3 (AMD); PL 2003, c. 537, §53 (AFF).]

9. Eligible enterprise. "Eligible enterprise" means an agricultural enterprise, fishing enterprise, industrial enterprise, manufacturing enterprise or recreational enterprise.
[PL 1985, c. 344, §7 (NEW).]

10. Eligible project. "Eligible project" means any of the following:

A. Any eligible enterprise; [PL 2003, c. 537, §4 (AMD); PL 2003, c. 537, §53 (AFF).]

B. [PL 2003, c. 537, §4 (RP); PL 2003, c. 537, §53 (AFF).]

C. [PL 2003, c. 537, §4 (RP); PL 2003, c. 537, §53 (AFF).]

D. Any vessel registered under the law of the United States or a state; [PL 1985, c. 344, §7 (NEW).]

E. Any energy conservation project; [PL 1985, c. 344, §7 (NEW).]

F. Any energy distribution system project; [PL 1985, c. 344, §7 (NEW).]

G. Any energy generating system project; [PL 1985, c. 344, §7 (NEW).]

H. Any pollution-control project; [PL 1987, c. 521, §1 (AMD).]

I. Any water supply system project; [PL 1987, c. 846, §1 (AMD).]

J. Any underground oil storage facility replacement project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery; [PL 1991, c. 439, §1 (AMD).]

K. Any overboard discharge replacement project; [PL 1991, c. 439, §2 (AMD).]

L. Any hazardous waste or solid waste recycling or reduction project; [PL 1993, c. 712, §2 (AMD).]

M. Any aboveground oil replacement or upgrade project, including equipment installed to meet requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery; [PL 1995, c. 4, §1 (AMD).]

N. Any electric rate stabilization project; [PL 1995, c. 289, §1 (AMD).]

O. [PL 2019, c. 160, §2 (RP).]

P. Any workers' compensation residual market mechanism project; [PL 1999, c. 484, §1 (AMD); PL 1999, c. 513, §1 (AMD).]

Q. [PL 2019, c. 160, §3 (RP).]

R. Any paper industry job retention project; [PL 2009, c. 372, Pt. D, §1 (AMD).]

R. **(REALLOCATED TO T. 10, §963-A, sub-§10, ¶S)** [RR 1999, c. 1, §9 (RAL); PL 1999, c. 513, §3 (NEW).]

S. **(REALLOCATED FROM T. 10, §963-A, sub-§10, ¶R)** Any transmission facilities project; [PL 2013, c. 378, §1 (AMD).]

T. An Efficiency Maine project; and [PL 2013, c. 378, §2 (AMD).]

U. Any offshore wind energy development as defined in Title 35-A, section 102, subsection 10-A or project to manufacture components for an offshore wind energy development. [PL 2013, c. 378, §3 (NEW).]

"Eligible project" includes any project, the financing of which through the issuance of revenue obligation securities would result in the interest on the revenue obligation securities qualifying, as of the date of issuance, as tax-exempt under 26 United States Code, Section 103, as amended.

"Eligible project" also includes any "recovery zone property," as defined under 26 United States Code, Section 1400U-3, as amended, the financing of which through the issuance of revenue obligation securities would result in the interest on the revenue obligation securities qualifying, as of the date of issuance, as tax-exempt under 26 United States Code, Section 103, as amended. "Eligible project" also includes any project that qualifies for financing with a qualified energy conservation bond.
[PL 2019, c. 160, §§2, 3 (AMD).]

10-A. Efficiency Maine project. "Efficiency Maine project" means a project approved by the Efficiency Maine Trust Board, as established in Title 5, section 12004-G, subsection 10-C, to carry out the purposes of Title 35-A, chapter 97 relating to increasing energy efficiency or conservation.
[PL 2009, c. 372, Pt. D, §4 (NEW).]

11. Energy conservation project. "Energy conservation project" means the purchasing and installation of energy conservation equipment or facilities, including building modifications.
[PL 1985, c. 344, §7 (NEW).]

12. Energy distribution system project. "Energy distribution system project" means an energy distribution system owned, in whole or in part, by an individual, municipality, corporation or other governmental entity or business association and that uses biomass, peat, solar, waste, water and related dams, wind, wood or coal or that distributes or transmits oil, biofuels, propane, compressed natural gas, liquefied natural gas or natural gas.

[PL 2011, c. 586, §2 (AMD).]

13. Energy generating system project. "Energy generating system project" means:

A. For a system which does not generate electricity, an energy generating system owned, in whole or in part, by an individual, municipality, corporation or other governmental entity or business association and which system uses biomass, peat, solar, waste, water and related dams, wind, wood or coal, or which is an energy conservation project, including a transportation project consistent with the United States Internal Revenue Service guidelines; or [PL 1985, c. 344, §7 (NEW).]

B. For a system that does generate electricity, an energy generating system, including wires, cables and other material and equipment necessary and convenient for the delivery of electricity from the electricity generating facility to the transmission and distribution utility system within the State, that uses biomass, peat, solar, waste, water and related dams, wind, wood or coal and that is owned, in whole or in part, by an individual, municipality, corporation, limited liability company or other governmental entity or business association that qualifies as a cogenerator or small power producer under Title 35-A, chapter 33. [PL 2015, c. 504, §2 (AMD).]

[PL 2015, c. 504, §2 (AMD).]

14. Entrant to natural resource enterprises. "Entrant to natural resource enterprises" means an individual or a business organization who or which engages or proposes to engage in one or more natural resource enterprises.

[PL 1985, c. 344, §7 (NEW).]

15. Facility. "Facility" means an eligible project.

[PL 2003, c. 537, §5 (AMD); PL 2003, c. 537, §53 (AFF).]

16. Family farm corporation. "Family farm corporation" means a corporation formed under the laws of the State for the purpose of farming and owning agricultural land in which at least 2/3 of the stock is held by members of a family related to each other within the 3rd degree of consanguinity or affinity, including the spouses, sons-in-law and daughters-in-law of any such family member.

[PL 1985, c. 344, §7 (NEW).]

17. Federal agency. "Federal agency" or "Federal Government" means the United States, the President of the United States and any current or future corporation, department, agency, authority or instrumentality created, designated or established by the United States, including, but not limited to, the Federal Land Bank, the Federal Intermediate Credit Bank and the Bank for Cooperatives.

[PL 1985, c. 344, §7 (NEW).]

17-A. Final remedy selection. "Final remedy selection" means:

A. In the case of the Department of Environmental Protection, a final determination by the Commissioner of Environmental Protection or the commissioner's designee of the appropriate response action at a waste motor oil disposal site that is an uncontrolled hazardous substance site; and [PL 2007, c. 464, §1 (NEW).]

B. In the case of the United States Environmental Protection Agency, the remedy selected in a final record of decision for the so-called Hows Corner Federal Superfund Site in Plymouth, Maine. [PL 2007, c. 464, §1 (NEW).]

[PL 2007, c. 464, §1 (NEW).]

18. Financial document. "Financial document" means a lease, installment sale agreement, conditional sale agreement, note, mortgage, loan agreement or other instrument pertaining to an extension of financial assistance.

[PL 1985, c. 344, §7 (NEW).]

19. Financing assistance. "Financing assistance" or "financial assistance" means guarantees, leases, insurance, financing credits, loans or the purchase or discounts thereof, letters of credit, financing assistance payments, grants or other financial aid.
[PL 1985, c. 344, §7 (NEW).]

20. Financing institution. "Financing institution" or "financial institution" means any bank, trust company, national banking association, savings bank, savings and loan association, federal savings and loan association, industrial bank, mortgage company, insurance company, credit union, local development corporation or any other institution or entity authorized to do business in this State, or any state or federal agency which customarily provides financing assistance.
[PL 1985, c. 344, §7 (NEW).]

21. Fishing enterprise. "Fishing enterprise" means knowledge, skill or labor applied to growing or catching fish, including shellfish, in fresh or salt water, including aquaculture, and includes production, processing, storing, packaging or marketing products derived from fishing enterprises.
[PL 1985, c. 344, §7 (NEW).]

22. Fund.

[PL 1985, c. 714, §6 (RP).]

23. Industrial enterprise. "Industrial enterprise" means knowledge, skill or labor applied to conduct of a trade or business, selling of goods, providing services, providing dwelling accommodations, mining, education or discovery, research, development or refinement of new or known substances, processes or products.
[PL 1985, c. 344, §7 (NEW).]

24. Insured. "Insured" means any individual, partnership, corporation, association or other entity which is the beneficiary of a loan insurance agreement with the authority.
[PL 1985, c. 344, §7 (NEW).]

24-A. Interest rate swap agreement. "Interest rate swap agreement" means a financial agreement as defined by the Finance Authority of Maine by rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.
[PL 1989, c. 552, §4 (NEW).]

24-B. Insured certificate. "Insured certificate" means a certificate evidencing fractional undivided ownership interest in a pool of mortgage loans, each of which is insured by the authority pursuant to this chapter, that is insured by the authority pursuant to and subject to the limitations of section 1026-E.
[PL 1993, c. 460, §1 (NEW).]

25. Lease. "Lease" means a contract providing for the use of a project or portions of a project for a term of years for a designated or determinable rent. A lease may include an installment sales contract. A lease may include such other terms as the authority may permit or require.
[PL 1985, c. 344, §7 (NEW).]

26. Lessee. "Lessee" means a tenant under a lease and may include an installment purchaser.
[PL 1985, c. 344, §7 (NEW).]

27. Loan. "Loan" means an extension of credit made in consideration of a written promise of repayment or any other conditions that may be established by the authority, performance of which may be secured by mortgage.
[PL 2003, c. 537, §6 (AMD); PL 2003, c. 537, §53 (AFF).]

27-A. Loan insurance agreement. "Loan insurance agreement" means an agreement pursuant to which the authority insures payment of a loan pursuant to subchapter 2, and also means an agreement pursuant to which the authority insures or guarantees an insured certificate, if the authority's loan

insurance liability for insuring an insured certificate is in lieu of and not in addition to its liability for insuring that portion of a mortgage loan represented by the insured certificate.
[PL 2003, c. 537, §7 (AMD); PL 2003, c. 537, §53 (AFF).]

28. Local development corporation. "Local development corporation" means a nonprofit corporation established under Title 13, chapter 81; Title 13-B; or other law acceptable to the authority and empowered to foster, encourage and assist any eligible enterprise.
[PL 1985, c. 344, §7 (NEW).]

29. Maine Job-start Program. "Maine Job-start Program" means the program governed by subchapter VII.
[PL 1985, c. 344, §7 (NEW).]

30. Maine Small Business Loan Program.
[PL 2003, c. 537, §8 (RP); PL 2003, c. 537, §53 (AFF).]

31. Maine Veterans' Small Business Loan Program.
[PL 2003, c. 537, §8 (RP); PL 2003, c. 537, §53 (AFF).]

31-A. Major business expansion project.
[PL 2019, c. 160, §4 (RP).]

32. Manufacturing enterprise. "Manufacturing enterprise" means knowledge, skill or labor applied to giving of new shapes, new qualities or new combinations to matter as material products and includes assembling, fabricating, making, creating, working, preparing, milling, processing, recycling, manufacturing, finishing, fashioning, producing, storing, warehousing, preserving, distributing, handling or transporting in any manner goods, wares, merchandise, metals, fabrics, materials, substances, product or matter of any kind or nature including materials recovered from solid and hazardous wastes.
[PL 1989, c. 585, Pt. C, §7 (AMD).]

33. Maturity date. "Maturity date" means the date on which final payment is due as provided in a note, revenue obligation security or other financial document.
[PL 1985, c. 344, §7 (NEW).]

34. Mortgage. "Mortgage" means an agreement granting a lien upon or a security interest in eligible collateral upon certain conditions and includes, but is not limited to, a mortgage of real estate, an assignment of rents, a pledge or a security agreement.
[PL 1985, c. 344, §7 (NEW).]

35. Mortgagee. "Mortgagee" means a grantee or obligee under, or a transferee or successor of a grantee or obligee under, a mortgage.
[PL 1985, c. 344, §7 (NEW).]

36. Loan Insurance Program. "Loan Insurance Program" means the program governed by subchapter 2.
[PL 2003, c. 537, §9 (AMD); PL 2003, c. 537, §53 (AFF).]

37. Mortgage loan.
[PL 2003, c. 537, §10 (RP); PL 2003, c. 537, §53 (AFF).]

38. Loan payments. "Loan payments" means payments required by or received on account of a mortgage or any other financial document, including, but not limited to, payments covering interest, installments of principal, taxes, assessments, loan insurance premiums and hazard insurance premiums.
[PL 2003, c. 537, §11 (AMD); PL 2003, c. 537, §53 (AFF).]

39. Mortgagor. "Mortgagor" means the grantor or party giving rights to eligible collateral pursuant to a mortgage and includes the successors or assigns of a mortgagor.
[PL 1985, c. 344, §7 (NEW).]

39-A. Municipal officers. "Municipal officers" means municipal officers as defined in Title 30-A, section 2001, subsection 10. "Municipal officers" also means the county commissioners of any county but solely for the purpose of authorizing and facilitating the issuance of recovery zone facility bonds.
[PL 2009, c. 517, §2 (NEW).]

40. Municipal Securities Approval Program. "Municipal Securities Approval Program" means the program governed by subchapter IV.
[PL 1985, c. 344, §7 (NEW).]

40-A. Municipality. "Municipality" means any municipality as defined in Title 30-A, section 2001, subsection 8. "Municipality" also means any county but solely for the purpose of issuing recovery zone facility bonds.
[PL 2009, c. 517, §3 (NEW).]

41. Natural resource enterprise. "Natural resource enterprise" means an agricultural enterprise or a fishing enterprise, but does not include selling of food at wholesale or retail, except when that selling is carried out as part of the natural resource enterprise.
[PL 1985, c. 344, §7 (NEW).]

42. Note. "Note" means an evidence of indebtedness and includes a revenue obligation security.
[PL 1985, c. 344, §7 (NEW).]

42-A. Overboard discharge. "Overboard discharge" means the same as set forth in Title 38, section 466, subsection 9-A.
[PL 1987, c. 846, §4 (NEW).]

42-B. Overboard discharge replacement project. "Overboard discharge replacement project" means the removal, rehabilitation or replacement of a privately owned waste water disposal system utilized by a business which results in an overboard discharge.
[PL 1987, c. 846, §4 (NEW).]

42-C. Paper industry job retention project. "Paper industry job retention project" means the acquisition and improvement of a paper production facility in the State, in which not less than 40% of the ownership of the project will be, at the time the financial assistance is provided, owned or controlled by or for the benefit of a majority of the employees of the project through a qualified employee stock ownership program or other employee ownership program recognized in the federal Internal Revenue Code.
[PL 1999, c. 484, §4 (NEW).]

42-C. (REALLOCATED TO T. 10, §963-A, sub-§42-D) Orphan share.
[RR 1999, c. 1, §10 (RAL); PL 1999, c. 505, Pt. A, §2 (NEW).]

42-D. (REALLOCATED FROM T. 10, §963-A, sub-§42-C) Orphan share. "Orphan share" means the percentage of the total response costs payable by parties who are bankrupt, dissolved, insolvent or no longer in business or whose current identity or location can not be determined.
[RR 1999, c. 1, §10 (RAL).]

42-E. Plymouth waste oil site remedial study. "Plymouth waste oil site remedial study" means a remedial investigation and feasibility study undertaken in accordance with 40 Code of Federal Regulations, Section 300.430 with respect to the Portland-Bangor Waste Oil Services Site in Plymouth designated by the United States Environmental Protection Agency as a National Priorities List site.
[PL 1999, c. 713, §1 (NEW).]

42-F. Past cost settlement. "Past cost settlement" means the settlement between the potentially responsible parties, the United States and the State, embodied in the consent decree filed with the United States District Court for the District of Maine, Civil Docket 00-249-B.

[PL 2001, c. 356, §2 (NEW).]

43. Pollution-control project. "Pollution-control project" means any building, structure, machinery, equipment or facility, including transportation, equipment or facility, which may be deemed necessary for preventing, avoiding, reducing, controlling, abating or eliminating contamination, solid waste, thermal pollution or pollution by any other means of the air, water or earth, together with all land, property, rights, rights-of-way, franchises, easements and interests in lands necessary or convenient for the construction or operation of the project.
[PL 1985, c. 344, §7 (NEW).]

43-A. Professional. "Professional," when used with reference to office space, means professions or professionals regulated or licensed under applicable state law.
[PL 1987, c. 393, §1 (NEW).]

44. Project. "Project" means any eligible project.
[PL 2003, c. 537, §12 (AMD); PL 2003, c. 537, §53 (AFF).]

44-A. Qualified energy conservation bond. "Qualified energy conservation bond" has the same meaning as in 26 United States Code, Section 54D(a), as amended.
[PL 2009, c. 517, §4 (NEW).]

44-B. Recovery zone facility bond. "Recovery zone facility bond" has the same meaning as in 26 United States Code, Section 1400U-3, as amended.
[PL 2009, c. 517, §5 (NEW).]

45. Recreational enterprise. "Recreational enterprise" means knowledge, skill or labor applied to providing facilities or opportunities for recreation, culture, entertainment or tourism.
[PL 1985, c. 344, §7 (NEW).]

45-A. Recycling or waste reduction project. "Recycling or waste reduction project" means any building, structure, machinery, equipment or facility which may be considered necessary for recovery, separation, remanufacture or reuse of materials contained in solid or hazardous waste or for the reduced generation of solid or hazardous waste, together with all land, property, rights, rights-of-way, franchises, easements and interests in lands necessary or convenient for the construction or operation of the project.
[PL 1989, c. 585, Pt. C, §8 (NEW).]

46. Rent or rental. "Rent" or "rental" means payments under a lease.
[PL 1985, c. 344, §7 (NEW).]

47. Resident. "Resident" or "resident of the State" means a person who is domiciled in this State.
[PL 1985, c. 344, §7 (NEW).]

47-A. Responsible party. "Responsible party" has the same meaning as set forth in Title 38, section 1362, subsection 2 and has the same meaning as the term "potentially responsible party" as defined in 40 Code of Federal Regulations, Section 304-12(m).
[PL 1999, c. 505, Pt. A, §3 (NEW).]

47-B. Response costs. "Response costs" means:

A. Costs incurred or costs that will be incurred by a responsible party for investigation, study, removal, remediation, institutional controls, alternative water supplies, operation, maintenance, monitoring or other acts or activities to protect human health and the environment at a waste motor oil disposal site; [PL 2007, c. 464, §2 (NEW).]

B. Costs incurred or costs that will be incurred by the Department of Environmental Protection or the United States Environmental Protection Agency in conducting, monitoring or supervising work at a waste motor oil disposal site, in reviewing or developing plans, reports and other items at a

waste motor oil disposal site and for administrative activities, including providing notice to responsible parties, at a waste motor oil disposal site; [PL 2007, c. 464, §2 (NEW).]

C. [PL 2011, c. 211, §1 (RP); PL 2011, c. 211, §27 (AFF).]

D. A payment or payments, including any settlement premium, that a responsible party is required to make pursuant to a final de minimis or cash-out settlement among the United States, the State and one or more responsible parties or pursuant to a final de minimis or cash-out settlement among 2 or more responsible parties; and [PL 2007, c. 618, §1 (AMD).]

E. Damages for injury to or destruction or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss, resulting from hazardous substances at a waste motor oil disposal site pursuant to Title 38, chapter 13-B and 42 United States Code, Section 9601 et seq. [PL 2007, c. 464, §2 (NEW).]

[PL 2011, c. 211, §1 (AMD); PL 2011, c. 211, §27 (AFF).]

47-C. Potentially responsible party (PRP) group. "Potentially responsible party (PRP) group" means a group of responsible parties organized to manage liabilities at a waste motor oil disposal site listed in subsection 51-E and that have negotiated final settlement agreements with the United States Environmental Protection Agency or the Department of Environmental Protection.
[PL 2007, c. 464, §3 (NEW).]

47-D. Retirement system. "Retirement system" means the Maine Public Employees Retirement System, established pursuant to Title 5, chapter 421.
[PL 2009, c. 633, §2 (NEW).]

48. Revenue Obligation Securities Program. "Revenue Obligation Securities Program" means the program governed by subchapter III.
[PL 1985, c. 344, §7 (NEW).]

49. Revenue obligation security. "Revenue obligation security" or "security" means a note, bond, interim certificate, debenture or other evidence of indebtedness, including any recovery zone facility bond or qualified energy conservation bond, payment of which is secured by a pledge of revenues, as provided in section 1045-A or 1065, or by assignment or pledge of other eligible collateral.
[PL 2009, c. 517, §6 (AMD).]

49-A. Seller-sponsored loan. "Seller-sponsored loan" means a loan to one or more individuals or to a family farm corporation from the seller of agricultural land, which loan represents all or a significant portion of the purchase price for that land, provided that the authority has issued a certificate designating the loan as a seller-sponsored loan with respect to an identified seller after finding that the interest rate to be charged is reasonably consistent with current interest rates for loans for the purchase of agricultural land, and that the purchasers intend to use the land primarily for growing or raising plants or animals for business purposes. The loan shall cease to be a seller-sponsored loan if the land ceases to be used for agricultural purposes.
[PL 1987, c. 769, Pt. A, §43 (RPR).]

49-B. Underground oil storage facility. "Underground oil storage facility" means any tank, together with associated piping and dispensing facilities, 10% or more of which is located beneath the surface of the ground and not on or above a floor in such a manner that it may be readily inspected, located at a single location and used, formerly used or intended to be used for the marketing and distribution of oil, petroleum products or their by-products to persons or entities other than the owner of the facility.
[PL 1989, c. 543, §1 (AMD).]

49-C. Underground oil storage facility project. "Underground oil storage facility project" means the renovation, removal, disposal or replacement of all or any part of an underground oil storage facility

that is used for marketing and distribution of oil, petroleum products or their by-products to persons or entities other than the owner of the facility.
[PL 2001, c. 231, §1 (AMD).]

49-D. Underground oil storage tank; tank. "Underground oil storage tank" or "tank" means any tank, together with associated piping, 10% or more of which is located beneath the surface of the ground and not on or above a floor in such a manner that it may be readily inspected, located at a single location and used, formerly used or intended to be used for consumption by the owner or user of the tank on the premises.
[PL 1989, c. 543, §2 (NEW); PL 1989, c. 552, §4 (NEW); PL 1989, c. 878, Pt. A, §23 (RPR).]

49-E. Underground oil storage tank project. "Underground oil storage tank project" or "tank project" means the renovation, removal, disposal or replacement of all or any part of an underground oil storage tank.
[PL 2001, c. 231, §2 (AMD).]

49-F. Swap counterparty. "Swap counterparty" means a person who is a party to an interest rate swap agreement.
[PL 1989, c. 878, Pt. A, §24 (NEW).]

49-G. Total response costs. "Total response costs" means the total costs that have been or will be paid in association with investigatory, removal or remedial activities at the Portland-Bangor Waste Oil Services Site in Plymouth, including costs incurred by the Department of Environmental Protection, the United States Environmental Protection Agency and 3rd parties to carry out investigatory, removal or remedial activities at that site approved by the Department of Environmental Protection or the United States Environmental Protection Agency.
[PL 2001, c. 356, §3 (AMD).]

49-G. (REALLOCATED TO T. 10, §963-A, sub-§49-H) Transmission facilities project.
[RR 1999, c. 1, §11 (RAL); PL 1999, c. 513, §4 (NEW).]

49-H. (REALLOCATED FROM T. 10, §963-A, sub-§49-G) Transmission facilities project. "Transmission facilities project" means a project approved by the Northern Maine Transmission Corporation, as established in section 9202, to carry out the purposes of chapter 1003 or any electric transmission, gas transmission, energy transfer or electric generation facility, including necessary appurtenances, otherwise proposed to the authority to benefit northern Maine.
[PL 2003, c. 506, §1 (AMD).]

49-I. Time-critical removal action. "Time-critical removal action" means the removal activities undertaken pursuant to the Administrative Order by Consent for Time-Critical Removal Action, United States Environmental Protection Agency Docket No. CERCLA 1-97-1080.
[PL 2001, c. 356, §4 (NEW).]

49-J. Targeted technologies. "Targeted technologies" means biotechnology, aquaculture and marine technology, composite materials technology, environmental technology, advanced technologies for forestry and agriculture, information technology and precision manufacturing technology.
[PL 2009, c. 633, §3 (NEW).]

50. User. "User" means one or more persons acting as lessee, purchaser, mortgagor or borrower under a financial document.
[PL 1985, c. 344, §7 (NEW).]

50-A. Value-added. "Value-added" means that an enhancement to a product or service that increases the value or marketability of the product or service has been applied.
[PL 2013, c. 438, §1 (NEW).]

51. Veteran. "Veteran" means any person who served in the United States Armed Forces and was not dishonorably discharged.
[PL 1997, c. 489, §4 (AMD).]

51-A. Wartime veteran. "Wartime veteran" means any person who served in the United States Armed Forces during any federally recognized period of conflict who is certified to be a wartime veteran by the Maine Bureau of Veterans' Services and was not dishonorably discharged.
[PL 2001, c. 417, §3 (AMD); PL 2019, c. 377, §6 (REV).]

51-B. Waste oil. "Waste oil" means a petroleum-based oil that, through use or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties. "Waste oil" includes mixtures of waste oil and water.
[PL 1999, c. 505, Pt. A, §5 (NEW).]

51-C. Waste oil disposal site. "Waste oil disposal site" means the Portland-Bangor Waste Oil Services Site in Plymouth designated by the Department of Environmental Protection as an uncontrolled hazardous substance site.
[PL 2001, c. 356, §5 (AMD).]

51-D. Waste motor oil. "Waste motor oil" means any lubricating oil classified for use in an internal combustion engine, transmission, gear box, differential or hydraulics for a motor vehicle, a boat, an off-highway recreational vehicle, commercial or household power equipment, earth-moving equipment, special equipment or special mobile equipment, as defined in Title 29-A, section 101, subsections 69 and 70, that through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or the loss of original properties.
[PL 2007, c. 464, §4 (NEW).]

51-E. Waste motor oil disposal site. "Waste motor oil disposal site" means the following 4 sites where waste motor oil was stored and that are now contaminated and subject to such response action requirements as the Department of Environmental Protection or the United States Environmental Protection Agency may impose according to applicable law:

A. Portland-Bangor Waste Oil Services Site/Hows Corner Federal Superfund Site - Plymouth, Maine; [PL 2007, c. 464, §5 (NEW).]

B. Portland-Bangor Waste Oil Services Site/Maine Uncontrolled Hazardous Substances Site - Ellsworth, Maine; [PL 2007, c. 464, §5 (NEW).]

C. Portland-Bangor Waste Oil Services Site/Maine Uncontrolled Hazardous Substances Site - Casco, Maine; and [PL 2007, c. 464, §5 (NEW).]

D. Portland-Bangor Waste Oil Services Site/Maine Uncontrolled Hazardous Substances Site - Presque Isle, Maine. [PL 2007, c. 464, §5 (NEW).]

[PL 2007, c. 464, §5 (NEW).]

52. Water supply system project. "Water supply system project" means any building structure, facilities, machinery, pipes, aqueducts, conduits, drains or the equipment which may be deemed necessary to supply water for municipal, domestic, business or combined use, together with all land, property, rights-of-way, franchises, easements and interests in lands which may be acquired for construction or operation of the project.
[PL 1985, c. 344, §7 (NEW).]

52-A. Workers' compensation residual market mechanism project. "Workers' compensation residual market mechanism project" means a loan or loans requested by the Board of Governors of the Maine Workers' Compensation Residual Market Pool pursuant to Title 24-A, section 2395, subsection 5.
[PL 1995, c. 289, §4 (NEW).]

53. Student pursuing higher education. "Student pursuing higher education" means an eligible student receiving higher education financial assistance from the authority pursuant to Title 20-A, chapter 421, 423, 424 or 428.
[PL 1993, c. 410, Pt. EEEE, §1 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §7 (NEW). PL 1985, c. 714, §6 (AMD). PL 1987, c. 141, §B7 (AMD). PL 1987, c. 393, §§1,2 (AMD). PL 1987, c. 521, §§§1-3 (AMD). PL 1987, c. 769, §§A43-A45 (AMD). PL 1987, c. 846, §§1-4 (AMD). PL 1989, c. 543, §§1,2 (AMD). PL 1989, c. 552, §4 (AMD). PL 1989, c. 585, §§C4-8 (AMD). PL 1989, c. 857, §45 (AMD). PL 1989, c. 878, §§A23,24 (AMD). PL 1991, c. 439, §§1-4 (AMD). PL 1993, c. 410, §EEEE1 (AMD). PL 1993, c. 427, §3 (AMD). PL 1993, c. 460, §§1,2 (AMD). PL 1993, c. 601, §1 (AMD). PL 1993, c. 712, §§1-4 (AMD). PL 1995, c. 4, §§1-4 (AMD). PL 1995, c. 289, §§1-4 (AMD). PL 1997, c. 489, §§4,5 (AMD). PL 1997, c. 500, §§1-4 (AMD). RR 1999, c. 1, §§7-11 (COR). PL 1999, c. 484, §§1-4 (AMD). PL 1999, c. 504, §8 (AMD). PL 1999, c. 505, §§A2-5 (AMD). PL 1999, c. 513, §§1-4 (AMD). PL 1999, c. 657, §2 (AMD). PL 1999, c. 713, §1 (AMD). PL 2001, c. 231, §§1,2 (AMD). PL 2001, c. 356, §§2-5 (AMD). PL 2001, c. 417, §§2,3 (AMD). PL 2003, c. 506, §1 (AMD). PL 2003, c. 537, §§3-12 (AMD). PL 2003, c. 537, §53 (AFF). PL 2007, c. 464, §§1-5 (AMD). PL 2007, c. 618, §1 (AMD). PL 2009, c. 372, Pt. D, §§1-4 (AMD). PL 2009, c. 517, §§1-6 (AMD). PL 2009, c. 633, §§2, 3 (AMD). PL 2011, c. 211, §1 (AMD). PL 2011, c. 211, §27 (AFF). PL 2011, c. 261, §1 (AMD). PL 2011, c. 586, §2 (AMD). PL 2013, c. 378, §§1-3 (AMD). PL 2013, c. 438, §1 (AMD). PL 2015, c. 504, §2 (AMD). PL 2019, c. 160, §§1-4 (AMD). PL 2019, c. 377, §6 (REV).

§964. Organization and responsibility

1. Finance Authority of Maine. The Finance Authority of Maine is established as a body corporate and politic and a public instrumentality of the State, and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of essential governmental functions.

The Finance Authority of Maine shall be responsible for the administration of the:

A. Loan Insurance Program; [PL 2003, c. 537, §13 (AMD); PL 2003, c. 537, §53 (AFF).]

B. Revenue Obligation Securities Program; [PL 1983, c. 519, §6 (NEW).]

C. Municipal Securities Approval Program; [PL 1983, c. 519, §6 (NEW).]

D. [PL 2003, c. 537, §14 (RP); PL 2003, c. 537, §53 (AFF).]

E. [PL 2003, c. 537, §15 (RP); PL 2003, c. 537, §53 (AFF).]

F. Natural Resources Financing and Marketing Programs; [PL 1985, c. 344, §8 (AMD).]

G. Maine Job-start Program; [PL 1989, c. 559, §3 (AMD).]

H. Such other programs as the authority may by law be authorized to administer; [PL 1989, c. 559, §3 (AMD); PL 1989, c. 774, §1 (AMD).]

I. Student financial assistance programs; and [PL 1989, c. 559, §4 (NEW); PL 1989, c. 774, §2 (AMD).]

J. Waste oil furnace loan program. [PL 1989, c. 774, §3 (NEW).]
[PL 2003, c. 537, §§13-15 (AMD); PL 2003, c. 537, §53 (AFF).]

2. Divisions. The Finance Authority of Maine contains such divisions as may be of assistance to implement the programs and perform the duties as defined in this chapter and as required by the authority. The divisions include:

A. [PL 2001, c. 417, §4 (RP).]

B. [PL 2001, c. 417, §4 (RP).]

C. Business Assistance; [PL 2001, c. 417, §4 (AMD).]

D. Finance and Administration; [PL 2001, c. 417, §4 (AMD).]

E. Education Assistance; and [PL 2001, c. 417, §4 (AMD).]

F. Legal. [PL 2001, c. 417, §4 (NEW).]

[PL 2001, c. 417, §4 (AMD).]

3. Programs and policies. In implementing its powers, duties, responsibilities and programs, the Finance Authority of Maine shall consider the state economic development strategy and the policies and activities of the Department of Economic and Community Development.

[PL 1987, c. 534, Pt. B, §§6, 23 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1985, c. 344, §§8,9 (AMD). PL 1987, c. 534, §§B6,B23 (AMD). PL 1989, c. 552, §5 (AMD). PL 1989, c. 559, §§3,4 (AMD). PL 1989, c. 598, §§2,3 (AMD). PL 1989, c. 698, §4 (AMD). PL 1989, c. 774, §§1-3 (AMD). PL 2001, c. 417, §4 (AMD). PL 2003, c. 537, §§13-15 (AMD). PL 2003, c. 537, §53 (AFF).

§965. Membership

There shall be 15 voting members of the authority as follows. [PL 1989, c. 598, §4 (AMD).]

1. Selected board members.

[PL 2001, c. 417, §5 (RP).]

2. Designated members. Three members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development and subject to confirmation by the Legislature shall consist of:

A. One member who is a certified public accountant; [PL 1983, c. 519, §6 (NEW).]

B. One member who is an attorney; and [PL 1983, c. 519, §6 (NEW).]

C. One member who is a commercial banker. [PL 1983, c. 519, §6 (NEW).]

[PL 1987, c. 596, §1 (AMD).]

3. At-large members. Nine members appointed by the Governor in accordance with the following and subject to review by the joint standing committee of the Legislature having jurisdiction over economic development matters and subject to confirmation by the Legislature must be appointed from at large.

A. Two of the at-large members must be veterans. [PL 2001, c. 417, §6 (NEW).]

B. Two of the at-large members must be knowledgeable in the field of natural resource enterprises or financing. [PL 2001, c. 417, §6 (NEW).]

C. One of the at-large members must be knowledgeable in the field of student financial assistance. [PL 2001, c. 417, §6 (NEW).]

D. One of the at-large members must be knowledgeable in the field of higher education. [PL 2001, c. 417, §6 (NEW).]

[PL 2001, c. 417, §6 (AMD).]

4. State members. Three members of the authority shall represent the State and shall consist of:

A. The Commissioner of Economic and Community Development or the commissioner's designee; [PL 2005, c. 425, §24 (AMD).]

B. One natural resources commissioner designated by the Governor from either the Department of Agriculture, Conservation and Forestry or the Department of Marine Resources; and [PL 1985, c. 344, §12 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

C. The Treasurer of State, ex officio. [PL 1987, c. 403, §2 (RPR).]

[PL 2005, c. 425, §24 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

4-A. Director; serving on more than one board. With the exception of a member serving in an ex officio capacity pursuant to subsection 4, a member may not serve at the same time as a director or officer of any nonprofit corporation formed pursuant to the former Title 20, section 2237 and Title 20-A, section 11407 or of any entity that has a contract to provide a significant level of administrative services to the authority or to any nonprofit corporation formed pursuant to the former Title 20, section 2237 and Title 20-A, section 11407.

[PL 2015, c. 170, §6 (AMD); PL 2015, c. 170, §30 (AFF).]

5. Compensation. A member of the authority shall be compensated as provided in Title 5, chapter 379.

[PL 1985, c. 344, §13 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1985, c. 344, §§10-13 (AMD). PL 1987, c. 403, §§1,2 (AMD). PL 1987, c. 534, §§B7,B23 (AMD). PL 1987, c. 596, §1 (AMD). PL 1989, c. 559, §§5-7 (AMD). PL 1989, c. 598, §§4,5 (AMD). PL 1989, c. 698, §5 (AMD). PL 1991, c. 511, §A1 (AMD). PL 1991, c. 854, §§A1,2 (AMD). PL 1993, c. 359, §§C2,3 (AMD). PL 1999, c. 728, §9 (AMD). PL 2001, c. 417, §§5,6 (AMD). PL 2005, c. 425, §24 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2015, c. 170, §6 (AMD). PL 2015, c. 170, §30 (AFF).

§966. Terms of office

The terms of office for the designated and at-large members defined in section 965, subsections 2 and 3, are for 4 years, except for initial appointees. [PL 2001, c. 417, §7 (AMD).]

1. Initial terms of office. The initial terms of office shall apply to the initial designated and at-large appointees, as defined in section 965, subsections 2 and 3. The initial terms of office for these members shall be as follows:

A. One shall be appointed for one year; [PL 1983, c. 519, §6 (NEW).]

B. Two shall be appointed for 2 years; [PL 1983, c. 519, §6 (NEW).]

C. Two shall be appointed for 3 years; and [PL 1983, c. 519, §6 (NEW).]

D. One shall be appointed for one year. [PL 1983, c. 519, §6 (NEW).]

For purposes of determining eligibility for reappointment of the designated and at-large members, the initial appointments for one or 2 years, as described in paragraphs A and B, shall not be deemed to be full terms.

[PL 1983, c. 519, §6 (NEW).]

2. Limitation on terms; removal. Except for state members, a member of the authority shall serve no more than 2 full consecutive terms. Any member of the board may be removed by the Governor for cause.

[PL 1983, c. 519, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 2001, c. 417, §7 (AMD).

§967. Compensation; expenses; indemnification

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1983, c. 812, §§63,64 (AMD). PL 1985, c. 344, §14 (RP).

§967-A. Limitation of liability

No member of the authority, no member of any board of the authority and no employee of the authority may be subject to any personal liability for having acted within the course and scope of his membership or employment to carry out any power or duty under this chapter. The authority shall indemnify any member of the authority, any member of any board of the authority and any employee of the authority against expenses actually and necessarily incurred by him in connection with the defense of any action or proceeding in which he is made a party by reason of past or present association with the authority. [PL 1985, c. 344, §15 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §15 (NEW).

§968. Administration

The authority shall elect one of its members as chairman; one member as vice-chairman, who shall serve as secretary; one member as treasurer; and shall employ a chief executive officer. [PL 1983, c. 519, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW).

§969. Powers and duties of the authority

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1985, c. 344, §16 (RP).

§969-A. Powers and duties of the authority

The authority may, subject to any limitation of this chapter: [PL 1985, c. 344, §17 (NEW).]

1. Borrow. Borrow money or otherwise obtain credit in its own name;
[PL 1985, c. 344, §17 (NEW).]

2. Lend. Lend money or otherwise extend credit to any person and exercise all powers of a lender or creditor;
[PL 1985, c. 344, §17 (NEW).]

2-A. Interest subsidies; grants. Provide grants or interest rate subsidies on commercial loans to businesses, farms and nonprofit organizations and provide or participate in interest rate cap agreements and other agreements providing businesses with protection against interest rate fluctuations;
[PL 1991, c. 511, Pt. A, §2 (AMD).]

3. Insure. Insure or guarantee performance of any loan agreement or other obligation, including taking all actions necessary to implement and administer a program of insurance for loans to students pursuing postsecondary education;
[PL 2013, c. 34, §2 (AMD).]

4. Property. Acquire, use, improve or dispose of any interest in or type of real or personal property, including grant, purchase, sale, borrow, loan, lease, foreclosure, mortgage, assignment or other lawful means, with or without public bidding, and also including the assessment of fees, the receipt of reimbursements for expenses incurred in carrying out its purposes and the expenditure or investment of its funds;
[PL 1985, c. 344, §17 (NEW).]

5. Loan transactions. Purchase, sell, service, pledge, invest in, hold, trade, accept as collateral or otherwise deal in, acquire or transfer, on such terms and conditions as the authority may specify, any loan, pass-through certificate, pledge including any pledge of revenue participation certificate, revenue obligation security or other mortgage-backed or mortgage-related security. Any such transaction may be conducted by public or private offering, with or without public bidding. In connection with the purchase or sale of a loan or of a beneficial interest or participation in a loan, the authority may enter into one or more agreements providing for the custody, control and administration of the loan. Any such agreement may provide that the authority, a financial institution or other person shall act as trustor, trustee or custodian under the agreement. Any such agreement may provide that, with respect to loans governed by the agreement, title to a loan, or to a beneficial interest or participation in a loan, is deemed to have been transferred on terms and to the extent specified in that agreement and that the effect of a sale of a beneficial interest or participation in a loan is the same as a sale of a loan.

The authority may issue or cause to be issued certificates or other instruments evidencing the holder's fractional interest in a pool of loans, which interest may be undivided or limited to one or more specific loans. Whether or not the certificates or instruments are of such form or character as to be negotiable instruments under Title 11, article 3-A, the certificates or instruments are negotiable instruments within the meaning of and for all the purposes of Title 11, article 3-A, subject only to such registration requirements as the authority may establish.

In connection with the exercise of the powers authorized in this subsection and those powers otherwise granted to the authority, the authority may create and operate a secondary market and warehousing facility or facilities for loans or the insured portion of loans that provide liquidity to lenders making loans;
[PL 2003, c. 537, §16 (AMD); PL 2003, c. 537, §53 (AFF).]

6. Information. Obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of the authority, including any information pertaining to:

A. Management or financing of any enterprise or project eligible for assistance from the authority; [PL 1985, c. 344, §17 (NEW).]

B. Producing, processing or marketing of any product of any enterprise eligible for assistance from the authority; [PL 1985, c. 344, §17 (NEW).]

C. Land use; [PL 1985, c. 344, §17 (NEW).]

D. Other regulatory or assistance programs, resources or services; [PL 1985, c. 344, §17 (NEW).]

E. Design and construction techniques; and [PL 1985, c. 344, §17 (NEW).]

F. Any project receiving financial assistance from or through the authority, including, without limitation, by means of examination of books or records pertaining to the project. [PL 1985, c. 344, §17 (NEW).]

The authority may conduct hearings, hear testimony under oath, administer oaths, issue subpoenas requiring the attendance of witnesses or the production of records or other things and may issue commissions for the examination of witnesses who are outside of the State or unable to attend or are excused from attendance;
[PL 1985, c. 344, §17 (NEW).]

6-A. Matching service. Subject to the requirements and limitations of applicable law, establish and implement a program to assist the growth of business within the State by matching businesses seeking investment capital with investors seeking investment opportunities;
[PL 1989, c. 552, §6 (NEW).]

7. Insurance. Procure insurance in aid of any of its corporate purposes;

[PL 1985, c. 344, §17 (NEW).]

8. Nonprofit entity. In accordance with the limitations and restrictions of this chapter, cause any of its powers or duties to be carried out by one or more nonprofit organizations exempt from taxation under the Internal Revenue Code and organized, created or operated under the laws of this State;
[PL 1989, c. 765, §1 (AMD).]

9. Certifications. Obtain any certification, warranty, affidavit or other representation necessary or useful for carrying out any of its powers or duties;
[PL 1985, c. 344, §17 (NEW).]

10. Employees. Employ persons, including private legal counsel and financial experts, on either a temporary or permanent basis, in order to carry out any of its powers and duties. The authority shall obtain fidelity insurance coverage on behalf of its full-time employees. Employees of the authority shall not be subject to Title 5, chapters 71 and 372. The members of the authority may by rulemaking pursuant to Title 5, chapter 375, subchapter II, delegate powers and duties of the authority to employees of the authority and each employee is fully authorized to act in the name and on behalf of the authority pursuant to any delegation;
[PL 1989, c. 502, Pt. C, §3 (AMD).]

11. Sue; be sued. Sue or initiate or appear in any proceeding. The authority may be sued in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741;
[PL 1985, c. 344, §17 (NEW).]

12. Office. Maintain an office at a place designated by it within the State;
[PL 1985, c. 344, §17 (NEW).]

13. Seal. Adopt an official seal and alter it at pleasure;
[PL 1985, c. 344, §17 (NEW).]

14. Rules. Pursuant to Title 5, chapter 375, adopt any rule, including its bylaws, necessary or useful for carrying out any of its powers or duties;
[PL 1985, c. 344, §17 (NEW).]

14-A. Receive funds. Receive and accept from any source allocations, appropriations, loans, grants and contributions of money or other things of value to be held, used or applied to carry out this chapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from any federal agency or governmental subdivision or the State and its agencies. In fiscal year 1992-93 only, the State Controller shall pay the authority's state allotment to the authority on July 1st and December 1st of that year. Effective July 1, 1993, the State Controller shall pay the authority's state allotment on the first day of each quarter to meet the estimated quarterly disbursement requirements of the authority for higher education programs. The authority shall submit a General Fund request for the fiscal year 1993-94 and fiscal year 1994-95 biennium in accordance with Title 5, section 1665 to support the administration of higher education programs;
[PL 1991, c. 780, Pt. P, §1 (AMD).]

14-B. Invest funds. Invest funds received from any source for carrying out this chapter, and expend interest earnings on those funds as appropriate to implement this chapter, including use for program and administrative costs;
[PL 1989, c. 698, §6 (NEW).]

14-C. Student loan secondary market. Take all actions necessary to implement and administer a student loan secondary market;
[PL 2003, c. 455, §1 (NEW).]

15. Agreements. Make, modify and carry out any agreement necessary or useful for carrying out any of its powers, duties or purposes, including without limitation any construction agreement, purchase or acquisition agreement, loan or lease agreement, agreement conditioned upon the subleasing of the demised premises, partnership agreement, limited partnership agreement, joint venture agreement, participation agreement or agreement with leasing corporations or other financial intermediaries; and [PL 1985, c. 344, §17 (NEW).]

16. Other powers. Do any act or thing necessary or useful for carrying out any of its powers, duties or purposes.
[PL 1985, c. 344, §17 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §17 (NEW). PL 1985, c. 714, §7 (AMD). PL 1985, c. 818, §1 (AMD). PL 1989, c. 502, §C3 (AMD). PL 1989, c. 552, §6 (AMD). PL 1989, c. 698, §6 (AMD). PL 1989, c. 765, §1 (AMD). PL 1991, c. 511, §§A2,3 (AMD). PL 1991, c. 780, §P1 (AMD). PL 2003, c. 455, §1 (AMD). PL 2003, c. 537, §16 (AMD). PL 2003, c. 537, §53 (AFF). PL 2013, c. 34, §2 (AMD).

§970. Insured or guaranteed loans for industrial projects

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1985, c. 344, §18 (RP).

§970-A. Other mortgage insurance

In carrying out the purposes of this chapter, the authority shall, to the greatest extent possible, require the utilization of private or other governmental sources of mortgage insurance or credit enhancement devices in order to assure the most effective and efficient use of state resources for mortgage insurance. [PL 1985, c. 344, §19 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §19 (NEW).

§971. Actions of the members

Seven members of the authority constitute a quorum of the members. The affirmative vote of the greater of 5 members, present and voting, or a majority of those members present and voting is necessary for any action taken by the members. No vacancy in the membership of the authority may impair the right of the quorum to exercise all powers and perform all duties of the members. [PL 1995, c. 117, Pt. C, §1 (AMD).]

Notwithstanding any other provision of law, in a situation determined by the chief executive officer to be an emergency requiring action of the members on not more than 3 days' oral notice, an emergency meeting of the members may be conducted by telephone in accordance with the following. [PL 1995, c. 117, Pt. C, §1 (NEW).]

1. Placement of call. A conference call to the members must be placed by ordinary commercial means at an appointed time.
[PL 1995, c. 117, Pt. C, §1 (NEW).]

2. Record of call. The authority shall arrange for recordation of the conference call when appropriate and prepare minutes of the emergency meeting.
[PL 1995, c. 117, Pt. C, §1 (NEW).]

3. Notice of emergency meeting. Public notice of the emergency meeting must be given in accordance with Title 1, section 406 and that public notice must include the time of the meeting and the location of a telephone with a speakerphone attachment that enables all persons participating in the

telephone meeting to be heard and understood and that is available for members of the public to hear the business conducted at the telephone meeting.
[PL 1995, c. 117, Pt. C, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1985, c. 344, §20 (AMD). PL 1985, c. 714, §8 (AMD). PL 1995, c. 117, §C1 (AMD).

§972. Chief executive officer

The chief executive officer shall be the chief administrative officer of the authority and shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over housing and economic development and to confirmation by the Legislature. At least 10 days before the Governor seeks review by the joint standing committee, the Governor shall consult with the members of the authority regarding the proposed appointee. [PL 1989, c. 4, §1 (AMD).]

The chief executive officer shall supervise the administrative affairs and technical activities of the authority in accordance with rules and policies of the authority. The chief executive officer shall, in the name and on behalf of the authority: [PL 1985, c. 344, §21 (AMD).]

1. Employ directors. In accordance with procedures of the authority, employ the directors of the divisions established by the authority. The directors shall serve at the pleasure of the chief executive officer;
[PL 1993, c. 359, Pt. C, §4 (AMD).]

2. Employ professional and nonprofessional personnel. In accordance with procedures of the authority, employ professional and nonprofessional personnel, including private legal counsel and financial experts, of the authority. The personnel shall serve at the pleasure of the chief executive officer;
[PL 1985, c. 344, §21 (AMD).]

3. Provide for coordination of personnel and programs. Provide for the sharing of personnel among the divisions and the authority and provide for the coordination of administration of common projects and programs;
[PL 1985, c. 344, §21 (AMD).]

4. Attend meetings. Attend or be represented at meetings of the members and boards of the authority;
[PL 1985, c. 344, §21 (AMD).]

5. Approve expenses. Approve all accounts for salaries, per diems, allowable expenses of the authority, or of any employee or consultant, and expenses incidental to the operation of the authority;
[PL 1983, c. 519, §6 (NEW).]

6. Publish an annual report. Make an annual report to the members of the authority documenting its actions and make other reports at the request of the members of the authority;
[PL 1985, c. 344, §21 (AMD).]

7. Maintain a liaison with other state agencies. Maintain a close liaison with the Department of Economic and Community Development; Department of Agriculture, Conservation and Forestry; and Department of Marine Resources; and provide assistance to facilitate the planning and financing of eligible projects;
[PL 1989, c. 552, §8 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

8. Perform other duties. Perform other duties directed by action of the members of the authority in carrying out the purposes of this chapter; and
[PL 1985, c. 344, §21 (AMD).]

9. Provide information on employment opportunities. Provide copies of the employment plans required by section 979 to the Department of Labor and the Department of Health and Human Services. [PL 1987, c. 697, §1 (RPR); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1985, c. 344, §21 (AMD). PL 1987, c. 534, §§B8,B23 (AMD). PL 1987, c. 697, §1 (AMD). PL 1989, c. 4, §1 (AMD). PL 1989, c. 552, §§7,8 (AMD). PL 1989, c. 598, §6 (AMD). PL 1989, c. 698, §7 (AMD). PL 1993, c. 359, §C4 (AMD). PL 2003, c. 689, §B6 (REV). PL 2011, c. 657, Pt. W, §5 (REV).

§973. Conflicts of interest

Notwithstanding Title 5, section 18, subsection 1, paragraph B, each member of the authority and each employee, contractor, agent or other representative of the authority is deemed an "executive employee" solely for purposes of Title 5, section 18, and for no other purpose, except that the chief executive officer in addition is deemed an "executive employee" for purposes of Title 5, section 19. Title 17, section 3104 does not apply to any of those representatives. [PL 2001, c. 417, §8 (AMD).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1985, c. 344, §22 (RPR). PL 1989, c. 598, §7 (AMD). PL 1989, c. 698, §8 (AMD). PL 1993, c. 359, §C5 (AMD). PL 1993, c. 460, §3 (AMD). PL 1993, c. 460, §9 (AFF). PL 1995, c. 462, §A16 (RPR). PL 2001, c. 417, §8 (AMD).

§974. Annual report; audit

1. Report. The authority shall submit to the Governor, the Speaker of the House of Representatives, the President of the Senate and the joint standing committees of the Legislature having jurisdiction over housing and economic development and education, not later than 120 days after the close of its fiscal year, a complete report on the activities of the authority. The report may also be provided to any other member of the Legislature and to any other person. The report must include all of the following:

A. A description of its operations, including a description of projects assisted under this chapter; [PL 1985, c. 344, §23 (AMD).]

B. An accounting of its receipts and expenditures, assets and liabilities at the end of its fiscal year; [PL 1983, c. 519, §6 (NEW).]

C. A schedule of the bonds and notes outstanding at the end of its fiscal year and a statement of the amounts redeemed and issued during its fiscal year, including a report on its reserve funds; [PL 1983, c. 519, §6 (NEW).]

D. A statement of its proposed and projected activities for the ensuing year and the relationship of these activities to the State's economic development policies; [PL 1989, c. 552, §9 (AMD).]

E. Recommendations as to further actions which may be suitable for achieving the purposes of this chapter; [PL 1983, c. 730, §1 (AMD).]

F. A statement of the defaults, if any, of persons, firms, corporations and other organizations receiving assistance under this chapter in those cases where substantial liquidation of collateral has taken place, a statement of the total amount of mortgage insurance payments made during the fiscal year and a statement of the percentage derived by dividing the amount of the mortgage insurance payments during the fiscal year into the outstanding principal balance as of the fiscal year end of the authority's unpaid obligations pursuant to mortgage insurance contracts; [PL 1985, c. 714, §9 (AMD).]

G. A summary of the actual and potential employment opportunities reported on employment plans pursuant to section 979; [PL 1987, c. 697, §2 (AMD).]

H. A separate section pertaining to the activities of the authority carried out pursuant to subchapter I-A, which shall provide the following:

(1) A description of the operations of the authority pursuant to subchapter I-A, including a description of the progress toward the accomplishment of the purposes of section 982;

(2) An analysis of the needs of the natural resource-based sector in the State and a statement of the authority's proposed and projected activities for the ensuing year to meet these needs; and

(3) Recommendations as to further actions which may be suitable for achieving the purposes of subchapter I-A; [PL 1985, c. 344, §23 (NEW).]

I. A description of any financial assistance provided for energy conservation purposes, the success of various energy saving techniques assisted and the overall energy benefits achieved by the financial assistance; [PL 1989, c. 552, §9 (AMD); PL 1989, c. 698, §9 (AMD).]

J. [PL 1989, c. 552, §9 (RP).]

K. A description of the operations of the authority pursuant to section 980-A for the most recent calendar year and of its plans, if any, for revising any allocation system established pursuant to section 980-A; and [PL 1989, c. 698, §9 (AMD).]

L. A complete report on the student financial assistance activities of the authority. [PL 1989, c. 698, §9 (NEW).]

[PL 1989, c. 552, §9 (AMD); PL 1989, c. 698, §9 (AMD).]

2. Treasurer of State; annual financial report. The authority shall provide the Treasurer of State, within 120 days after the close of its fiscal year, its annual financial report certified by an independent certified public accountant, who may be the accountant or a member of the firm of accountants who regularly audits the books and accounts of the authority, selected by the authority. The authority is also subject to the provisions of Title 5, chapter 11. The authority may combine for accounting purposes any or all funds established for its programs and activities.

[PL 1989, c. 698, §9 (AMD).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1983, c. 730, §§1,2 (AMD). PL 1985, c. 344, §23 (AMD). PL 1985, c. 714, §§9,10 (AMD). PL 1987, c. 697, §2 (AMD). PL 1989, c. 552, §9 (AMD). PL 1989, c. 698, §9 (AMD).

§975. Records confidential

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §6 (NEW). PL 1985, c. 344, §24 (RP).

§975-A. Disclosure and confidentiality of records

1. Disclosure required. Notwithstanding subsections 2 and 3 and except as provided in paragraph F, the following shall be made available to any person upon request reasonably describing the records to which access is sought or, if no request is made, in any manner and at any time which the authority may determine:

A. After filing of a written application or proposal for financial assistance or property transfer, in form specified by or acceptable to the authority:

(1) Names of recipients of or applicants for financial assistance, including principals, where applicable;

(2) Amounts, types and general terms of financial assistance provided to those recipients or requested by those applicants;

(3) Descriptions of projects and businesses benefiting or to benefit from the financial assistance;

(4) Names of transferors or transferees, including principals, of property to or from the authority, the general terms of transfer and the purposes for which transferred property will be used;

(5) Number of jobs and the amount of tax revenues projected or resulting in connection with a project;

(6) Upon the authority's satisfaction of its loan insurance liability, the amount of any loan insurance payments with respect to a loan insurance contract; and

(7) Names of financial institutions participating in providing financial assistance and the general terms of that financial assistance; [PL 2003, c. 537, §17 (AMD); PL 2003, c. 537, §53 (AFF).]

B. Any information pursuant to waiver deemed satisfactory by the authority; [PL 1985, c. 344, §25 (NEW).]

C. Information which, as determined by the authority, has already been made available to the public; [PL 1985, c. 344, §25 (NEW).]

D. Any information necessary to carry out section 1043 or 1063; [PL 1985, c. 344, §25 (NEW).]

E. Information necessary to comply with Title 1, section 407, subsection 1; [PL 1985, c. 344, §25 (NEW).]

F. Information or records specified in a written request signed by the chairmen of a legislative committee shall be provided to the legislative committee. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it; and [PL 1985, c. 344, §25 (NEW).]

G. The annual report of the authority required pursuant to section 974. [PL 1985, c. 344, §25 (NEW).]

[PL 2003, c. 537, §17 (AMD); PL 2003, c. 537, §53 (AFF).]

2. Confidential information. The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any record obtained or developed by the authority prior to receipt of a written application or proposal, in form specified by or acceptable to the authority, for financial assistance to be provided by or with the assistance of the authority or in connection with a transfer of property to or from the authority. After receipt by the authority of the application or proposal, a record pertaining to the application or proposal shall not be considered confidential unless it meets the requirements of other paragraphs of this subsection; [PL 1985, c. 344, §25 (NEW).]

B. Any record obtained or developed by the authority which fulfills the following requirements:

(1) A person, including the authority, to whom the record belongs or pertains has requested that the record be designated confidential; and

(2) The authority has determined that information in the record gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through authority records, or that access to the information by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the authority, in the

case of a person other than the authority, to any person to whom the record belongs or pertains; [PL 1985, c. 344, §25 (NEW).]

C. Any financial statement or tax return of an individual or any other record obtained or developed by the authority the disclosure of which would constitute an invasion of personal privacy, as determined by the authority; [PL 1985, c. 344, §25 (NEW).]

D. Any record including any financial statement or tax return obtained or developed by the authority in connection with any monitoring or servicing activity by the authority pertaining to any financial assistance provided or to be provided by or with the assistance of the authority; [PL 1985, c. 344, §25 (NEW).]

E. Any record obtained or developed by the authority which contains an assessment by a person who is not employed by the authority of the credit worthiness or financial condition of any person or project; [PL 1989, c. 552, §10 (NEW).]

F. Any financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance from the authority pursuant only to subchapters III or IV, except section 1053, subsection 5, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and [PL 1989, c. 552, §10 (AMD).]

G. Any record, including any financial statement, business plan or tax return obtained or developed by the authority in connection with the matching of potential investors with Maine businesses by the authority through its maintenance of a data base or other record keeping system. For purposes of this section, an application by a potential investor shall not be deemed to be an application for financial assistance. [PL 1989, c. 552, §11 (NEW).]

[PL 1989, c. 552, §§10, 11 (AMD).]

3. Wrongful disclosure prohibited. No member, officer, employee, agent, other representative of the authority or other person may knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types or under the following circumstances:

A. Impersonal, statistical or general information; [PL 1985, c. 344, §25 (NEW).]

B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property; [PL 1985, c. 344, §25 (NEW).]

C. To a financing institution or credit reporting service; [PL 1985, c. 344, §25 (NEW).]

D. Information necessary to comply with any federal or state law, including section 979, or rule or with any agreement pertaining to financial assistance; [PL 1987, c. 697, §3 (AMD).]

E. Information to the extent the authority deems the disclosure necessary to the sale or transfer of revenue obligation securities or to the sale or transfer of bonds of the State; [PL 1985, c. 344, §25 (NEW).]

F. If necessary to assure collection of any obligation in which it has or may have an interest; [PL 1985, c. 344, §25 (NEW).]

G. In any litigation or proceeding in which the authority has appeared, introduction for the record of any information obtained from records declared confidential by this section; and [PL 1985, c. 344, §25 (NEW).]

H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and provided that any such order

appears on its face or otherwise to have been issued or made upon lawful authority. [PL 1985, c. 344, §25 (NEW).]

[PL 1987, c. 697, §3 (AMD).]

4. Records on effective date. Whether any record in the possession of the authority on the effective date of this section is confidential shall be determined pursuant to this section and not pursuant to the law in effect when the authority or any of its predecessors obtained any such record and any such record shall or may be disclosed or divulged to the extent required or permitted by this section.

[PL 1985, c. 344, §25 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §25 (NEW). PL 1987, c. 697, §3 (AMD). PL 1989, c. 552, §§10,11 (AMD). PL 2003, c. 537, §17 (AMD). PL 2003, c. 537, §53 (AFF).

§976. Liberal construction

This chapter, being necessary for the welfare of the State and its inhabitants, shall be liberally construed. In the event of any conflict between this chapter and any other law, this chapter shall prevail, but the power and authority granted is deemed to be in addition to and not in derogation of power and authority granted by any other law. [PL 1983, c. 519, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW).

§977. The Finance Authority of Maine; successor

The authority shall be the successor to the Maine Guarantee Authority, the Maine Veterans Small Business Loan Authority and the Maine Small Business Loan Authority. All properties, rights in land, buildings and equipment and any funds, moneys, revenues and receipts or assets of each of the authorities, including funds previously appropriated by the State for the Maine Guarantee Authority, the Maine Veterans Small Business Loan Authority and the Maine Small Business Loan Authority shall belong to the Finance Authority of Maine as successor. All liabilities of the Maine Guarantee Authority, the Maine Veterans Small Business Loan Authority and the Maine Small Business Loan Authority shall become liabilities of the Finance Authority of Maine. Any resolution with respect to the issuance of bonds or insurance by the Maine Guarantee Authority, the Maine Veterans Small Business Loan Authority, the Maine Small Business Loan Authority and any other action taken by them with respect to assisting in the financing of any project shall be a resolution of the Finance Authority of Maine or an action taken by the Finance Authority of Maine. [PL 1983, c. 519, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW).

§978. Governmental function

The Finance Authority of Maine shall administer and exercise the authority granted to it by this chapter. The carrying out of its powers and duties is deemed the performance of an essential governmental function. [PL 1983, c. 519, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §6 (NEW).

§979. Employment plan

The authority and its chief executive officer shall ensure that each applicant for assistance submit an employment plan which describes the business and its products or services and which provides information on new employment opportunities, including types of jobs, skills and training necessary for placement and training the applicant could provide. The chief executive officer shall provide this

information to the Department of Labor and the Department of Health and Human Services. This provision shall apply only to those applicants with more than 10 employees. [PL 1987, c. 697, §4 (RPR); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1983, c. 730, §3 (NEW). PL 1987, c. 697, §4 (RPR). PL 2003, c. 689, §B6 (REV).

§980. Taxation and fees

Notwithstanding any other provision of law, for the purposes of this chapter, transactions and property of the authority shall be treated as follows. [PL 1985, c. 344, §26 (NEW).]

1. Revenue obligation securities; exemption from taxation. Revenue obligation securities of the authority are declared to be issued for an essential public and governmental purpose and to be public instruments and, together with interest and income, including the profit made from their transfer or sale, shall be exempt from taxation within the State.
[PL 1985, c. 344, §26 (NEW).]

2. Conveyances, leases, mortgages, deeds of trust; indentures; exemptions from taxation. Conveyances by or to the authority and leases, mortgages and deeds of trust or trust indentures by or to the authority shall be exempt from all taxation by the State or any of its political subdivisions, including, but not limited to, any applicable license, excise or other taxes imposed in respect of the privilege of engaging in any of the activities in which the authority may engage.
[PL 1985, c. 344, §26 (NEW).]

3. Property exemption from taxation and other assessments. Property acquired, held or transferred by the authority shall be exempt from all taxes and from betterments and special assessments of the city, town, county, State or any political subdivision thereof. The authority may agree to make payments in lieu of taxes to the applicable political subdivisions.
[PL 1985, c. 344, §26 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §26 (NEW).

§980-A. Allocation of federal bond ceiling

The authority may, by rulemaking pursuant to Title 5, chapter 375, subchapter II, establish a process that is different from the federal formula for allocating that portion of the ceiling established by the United States Code, Title 26, Section 146, as amended, allocated to the authority pursuant to section 363. For purposes of this section, the authority may also limit the types of projects which are eligible to receive allocations of the ceiling and establish other requirements and limitations for assuring effective and efficient use of the ceiling. The authority shall include in its report pursuant to section 974 a description of its operations pursuant to this section for the most recent calendar year and of its plans, if any, to revise any allocation system established pursuant to this section. The chief executive officer is designated as the state official authorized to issue the certification under the United States Code, Title 26, Section 149(e)(2)(F), as amended, for allocations of the state ceiling allocated to the authority pursuant to section 363. [PL 1987, c. 3, §3 (AMD).]

SECTION HISTORY

PL 1985, c. 344, §26 (NEW). PL 1985, c. 594, §2 (AMD). PL 1987, c. 3, §3 (AMD).

§980-B. Maine Veterans' Small Business Loan Board

(REPEALED)

SECTION HISTORY

PL 1985, c. 344, §26 (NEW). PL 1989, c. 503, §B52 (AMD). PL 1989, c. 857, §46 (RPR). PL 1991, c. 511, §A4 (AMD). PL 1991, c. 622, §S22 (RP).

§980-C. Location or use of collateral

The authority shall, by rulemaking pursuant to Title 5, chapter 375, subchapter II, establish for each program governed by or operated pursuant to this chapter requirements and limitations for assuring that any eligible project or collateral maintains minimum contact with the State. In the case of real estate, the authority shall require that the real estate be located within the State. The authority shall establish requirements and limitations pertaining to fishing or other vessels. [PL 1985, c. 344, §26 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §26 (NEW).

§980-D. Payroll Processor Recovery Fund

The Payroll Processor Recovery Fund, referred to in this section as "the fund," is created. The fund must be deposited with and maintained by the authority. The fund must be administered by the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation, referred to in this section as "the fund administrator," in accordance with the provisions of chapter 222. All money received by the authority from the fund administrator for the purpose of providing a source of recovery for employers injured by a payroll processor's failure to pay taxes or unemployment premiums must be credited to the fund. A portion of the interest earned on money in the fund may be used to pay the fund maintenance expenses of the authority; the balance must be credited to the fund. The balance in the fund must revert to the fund administrator if the need for the fund is obviated. [PL 2005, c. 500, §1 (NEW); PL 2007, c. 273, Pt. B, §6 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

SECTION HISTORY

PL 2005, c. 500, §1 (NEW). PL 2007, c. 273, Pt. B, §6 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF).

SUBCHAPTER 1-A

NATURAL RESOURCES FINANCING AND MARKETING PROGRAMS

§981. Legislative findings

The Legislature has consistently found that agriculture, forestry and fisheries are major industries in the State, contributing substantially to the state's overall economy, essential to the maintenance and strengthening of rural life and values and necessary to the preservation of the health, safety and welfare of all of the people of the State. The Legislature also recognizes that food and fiber production is an appropriate use of the natural resources of the State. The Legislature finds that the survival of the family farm and of fishing and forestry enterprises is of special concern to the people of the State and that the ability of these enterprises to prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy. In addition, the Legislature specifically finds: [PL 1983, c. 519, §7 (NEW).]

1. Existing conditions. Compared with the national average, Maine is a capital-short State, with particular lack of long-term debt and equity capital. The existing interest rates and the existing pattern of lending to the agricultural, forestry and fishing industries are constraining the optimal economic use of farm, fisheries and forest resources. The State, in the past, has been overly reliant on the financing programs of the Federal Government, particularly the Farmers Home Administration. The ordinary operations of private enterprise in the State have not corrected this condition, leaving Maine vulnerable

to changes in federal policy. Farm debt has risen much faster than gross income, with the cost of borrowing money rising more rapidly than any other production cost. Similar financing difficulties confront other natural resource enterprises, particularly wood-processing and other value-added enterprises;
[PL 1983, c. 519, §7 (NEW).]

2. New natural resource enterprises. New natural resource enterprises face particular problems in obtaining adequate financing. There are more full-time farmers going out of business than entering farming, a problem which is caused, in part, because loans for new farmers for agricultural land, improvements and operations are either unavailable or unaffordable through the conventional credit markets. There are increasing numbers of new, small and part-time farmers whose needs are not adequately served by any existing financing or technical assistance programs;
[PL 1983, c. 519, §7 (NEW).]

3. Marketing and technical assistance. Enterprises adding the greatest value by conversion of native raw products and by promotion of raw and processed Maine products are of particular benefit to the State. Producers and processors of natural resource products are not receiving sufficient assistance in marketing and management. There is an overall lack of a statewide marketing strategy for natural resource products and producers of these products do not receive the market information, technical assistance or market service necessary to optimize their marketing and profits. There is a need for technical assistance and training in business management, particularly among new, small and part-time participants in natural resource enterprises;
[PL 1983, c. 519, §7 (NEW).]

4. Resulting problems. The lack of affordable financing options and marketing and other technical assistance jeopardizes the maintenance of agricultural, forestry and fishery operations at present levels and makes expansion and diversification of these enterprises more difficult. The lack of appropriate financing and technical assistance is contributing to the abandonment of agricultural lands in the State. The inability to continue agricultural, forestry and fishery operations at current or expanded levels jeopardizes the continued existence of family-owned natural resource enterprises and lessens the supply of locally produced food and fiber available to fulfill the needs of the citizens of this State. The constraints on the operation and expansion of natural resource enterprises decrease the available employment, particularly in rural areas and result in the problems attendant on unemployment. The threat to the viability of the family farm and other natural resource enterprises directly threatens the essence of the rural values and way of life, to the detriment of the welfare of all the people of the State;
[PL 1983, c. 519, §7 (NEW).]

5. Public necessity. The existing situation will not be relieved or improved through the operation of private enterprise alone. It is necessary, desirable and in the best interest of the welfare of all of the citizens of the State that provisions be made to work with existing public and private institutions to promote the development of natural resources by making available to persons engaged in natural resource enterprises or wishing to enter these enterprises, adequate marketing and technical assistance, as well as adequate financing opportunities, at interest rates lower than would be otherwise obtainable; and
[PL 1985, c. 344, §27 (AMD).]

6. Public purpose and benefit. The authority is established to stimulate the economy, to reduce unemployment, to support community development and to assure an adequate supply of food and fiber, in all respects for the benefit of the people of the State and for the improvement of their health, safety and welfare. The authority will be serving a public purpose and performing an essential governmental function in the exercise of the powers and duties conferred upon it by this subchapter. Any benefits accruing to private individuals or associations, as a result of the activities of the authority, are deemed by the Legislature to be incidental to the public purposes to be achieved by the implementation of this subchapter.

[PL 1985, c. 344, §27 (AMD).]

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §27 (AMD).

§982. Purpose

The purposes of this subchapter include: [PL 1983, c. 519, §7 (NEW).]

1. General. To relieve those conditions which now exist which represent difficulties in natural resource enterprise financing and development and to assist in planning, coordinating and implementing programs that will encourage further public and private participation and investment to achieve this end;
[PL 1983, c. 519, §7 (NEW).]

2. Current and increased production. To maintain the land and water base necessary to the production of food and fiber and to encourage the continuation and expansion of successful production of the natural resource products of the State in order to secure adequate food and fiber to the people of the State, to secure markets and to assure the stability of the local economy;
[PL 1983, c. 519, §7 (NEW).]

3. Value added. To encourage the creation and expansion of processing or manufacturing enterprises adding value to agricultural, forestry and fisheries products, grown or harvested in the State;
[PL 1983, c. 519, §7 (NEW).]

4. Market improvements. To coordinate, improve and expand the marketing of raw, processed and manufactured products of the fisheries, farms and forests of the State;
[PL 1983, c. 519, §7 (NEW).]

5. Employment opportunities. To expand opportunities for full and part-time gainful employment and facilitate entry into farming, fishing and forestry in order to maintain adequate food and fiber production capabilities in the State and to improve the unemployment situation in the State and the demands on state services which arise because of unemployment and related problems;
[PL 1983, c. 519, §7 (NEW).]

6. Expanded participation of lending institutions and improved credit opportunities. To provide for additional capital resources for natural resource enterprises from the sale of bonds and to otherwise make adequate credit available at interest rates that enable persons to enter, maintain and expand natural resource enterprises; to encourage the investment of private capital and the diversification and competition among financing institutions in the natural resource sector; and
[PL 1983, c. 519, §7 (NEW).]

7. Improved technical assistance. To provide a central source for credit information and other financial management training and services to farmers, fishermen and foresters to better enable them to obtain adequate financial assistance from existing sources and to provide similar technical assistance, research and service in marketing products of natural resource enterprises.
[PL 1983, c. 519, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §7 (NEW).

§983. Definitions

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §28 (RP).

§984. Natural Resources Financing and Marketing Programs

1. Implementation of programs. The authority shall be responsible for the implementation of the Natural Resources Financing and Marketing Programs.
[PL 1985, c. 344, §29 (AMD).]

2. Powers and duties. The authority shall have all the powers and duties necessary to carry out the purposes and provisions of this subchapter, including, but not limited to, the power to:

A. In cooperation with the University of Maine System and other state, local and federal agencies or instrumentalities, conduct studies, including studies concerning land use and availability, financial management and marketing, to analyze the situation and needs of those persons in the State engaged in or wishing to enter natural resource enterprises. The authority may develop plans and recommendations as to its role and the role of the State generally in facilitating the development of natural resource enterprises; [PL 1985, c. 779, §40 (AMD).]

B. [PL 1985, c. 344, §29 (RP).]

C. [PL 1985, c. 344, §29 (RP).]

D. Provide to public and private entities technical assistance and advice related to purposes of this subchapter, including:

(1) Establishment of an expert advisory group which shall be available, upon request, to consult with financing institutions as to the merits of loan applications for natural resource enterprises;

(2) Provision of advice to persons engaged or seeking to be engaged in natural resource enterprises as to the nature and source of relevant governmental assistance programs; and

(3) Provision of advice and educational programs as to production, processing, marketing and managing natural resource enterprises; [PL 1983, c. 519, §7 (NEW).]

E. Contract with financing institutions to make natural resource enterprise loans on behalf of the authority. In establishing a financing program pursuant to this paragraph, the authority shall establish guidelines for the operation of and participation in loan programs and shall assure compliance with those guidelines. Loans made under this paragraph shall not exceed $250,000. The authority shall promulgate regulations governing eligibility which take into consideration the established guidelines and the ability of applicants to compete successfully in the private lending market and to pay amounts at which private enterprise is providing natural resource financing. In promulgating such regulations, the authority may establish income or asset limitations for eligibility.

The authority may, without contracting with a financing institution, make natural resource enterprise loans only in one or more areas of the State, to the extent that no financing institution, after both initial and such successive reasonable opportunities as the authority shall provide, has contracted with the authority to participate in a natural resource enterprise loan program; [PL 1985, c. 344, §29 (AMD).]

F. Develop mechanisms for guaranteeing repayment of loans or other obligations of indebtedness incurred in connection with natural resource enterprises; [PL 1985, c. 344, §29 (AMD).]

G. [PL 1985, c. 344, §29 (RP).]

H. [PL 1985, c. 344, §29 (RP).]

I. [PL 1985, c. 344, §29 (RP).]

J. Take, in addition to the other powers enumerated in this section, such actions as may be necessary to qualify as an "other financing institution" as that term is defined by the Federal Intermediate Credit Bank, to participate in an agricultural credit corporation or to act in any similar way to achieve the purposes of this subchapter; [PL 1983, c. 519, §7 (NEW).]

K. Serve as a clearinghouse for information relating to financing, management and marketing concerns of natural resource enterprises and gather and disseminate information regarding these activities. The authority shall encourage and coordinate effective use of existing and new services to assist natural resource enterprise development; [PL 1985, c. 344, §29 (AMD).]

L. Receive advice and assistance from, and coordinate its programs with, the Department of Economic and Community Development, the Maine State Housing Authority, the Maine Development Foundation and other state agencies with relevant expertise. In addition, programs authorized in this subchapter may be coordinated or combined with other public and private national, state, regional or local programs that the agency determines will facilitate the purposes of this subchapter; and [PL 2001, c. 417, §9 (AMD).]

M. [PL 1985, c. 344, §29 (RP).]

N. Be designated by the Governor as the public agency of the State to receive federal funds available to the State in relation to financing natural resource enterprises and, once designated, receive and expend these funds. [PL 1985, c. 344, §29 (AMD).]

[PL 2001, c. 417, §9 (AMD).]

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §29 (AMD). PL 1985, c. 779, §40 (AMD). PL 1987, c. 534, §§B9,B23 (AMD). PL 2001, c. 417, §9 (AMD).

§985. The Natural Resource Financing and Marketing Board

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1983, c. 812, §65 (AMD). PL 1985, c. 344, §30 (AMD). PL 1987, c. 402, §A89 (AMD). PL 1989, c. 4, §2 (AMD). PL 2001, c. 417, §10 (RP).

§986. General standards and duties

In the implementation of this subchapter and in the specific selection of persons, programs and projects to receive its assistance, the following powers, duties and standards shall apply. [PL 1983, c. 519, §7 (NEW).]

1. Ownership. The authority shall not become an owner of land or facilities, except on a temporary basis where necessary to protect its investments, to maintain land in natural resource production, to facilitate transfer of lands or facilities for the use of entrants to natural resource enterprises or to otherwise implement its programs, provided that this limitation shall not apply to any development rights related to agricultural land which may be acquired by the authority, which rights may be retained by the authority, nor shall this section apply to any property acquired without payment by the authority of financial consideration. During the period of time that the authority may hold any such property, it is declared to be public property used for essential public and governmental purposes.

[PL 1985, c. 344, §31 (AMD).]

2. Accepted business standards. The authority shall exercise diligence and care in selection of persons and projects to receive its assistance and shall apply reasonable business and lending standards in selection and subsequent implementation of the programs and individual agreements authorized by this subchapter.

[PL 1983, c. 519, §7 (NEW).]

3. Delegation. In addition to section 984, the authority may delegate primary responsibility for determination and implementation of a project to any federal agency which assumes an obligation to repay any loan, either directly or by insurance or guarantee, for that project.

[PL 1983, c. 519, §7 (NEW).]

4. Procure insurance. The authority may procure insurance from public or private entities against any loss in connection with its operations and property interests, including insurance for any loss in connection with any bonds or obligations held by it and any of its property or assets and for payment of any bonds or obligations issued by it. To the maximum extent possible, the authority shall use the loan insurance program established pursuant to subchapter 2.
[PL 2003, c. 537, §18 (AMD); PL 2003, c. 537, §53 (AFF).]

5. Exercise of departmental authority. Upon the concurrence of the applicable commissioner, the authority may exercise such powers of the Department of Marine Resources or the Department of Agriculture, Conservation and Forestry as may be necessary to the purposes of this subchapter.
[PL 1983, c. 519, §7 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

6. Nondiscrimination. The opportunity to receive assistance from the authority, directly or indirectly, shall be open to all persons regardless of race, creed, color, sex, national origin, age, physical or mental impairment or religion. The authority shall assure the availability of its programs on an equitable basis in all geographic areas of the State, provided that this section does not preclude the authority from identifying areas of the State which may be better suited to certain natural resource enterprises than others and does not preclude the authority from recognizing the value of a critical mass of natural resource economic activity in given areas.
[PL 1985, c. 344, §31 (AMD).]

7. Maximum amounts. The authority may, by rule, determine the portion of a project or class of projects to be financed by it, but in no case may the authority finance or guarantee more than 90% of the total value of a project.
[PL 1983, c. 519, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §31 (AMD). PL 2003, c. 537, §18 (AMD). PL 2003, c. 537, §53 (AFF). PL 2011, c. 657, Pt. W, §5 (REV).

§987. Standards for financing assistance

In addition to the applicable provisions of section 986, financing assistance provided pursuant to this subchapter shall not be provided for except upon a finding that the following criteria have been satisfied. [PL 1985, c. 344, §32 (AMD).]

1. Residence. If the person is seeking assistance for the purchase of agricultural land, the person is a resident of the State, or in the case of corporations, partnerships, joint ventures or other associations, the majority interest of the association shall be beneficially owned by residents of the State. If the person, corporation, partnership, joint ventures or other association is seeking assistance for some other purpose, a preference shall be given to residents.
[PL 1983, c. 519, §7 (NEW).]

2. Location. The project is or will be located within the State.
[PL 1985, c. 344, §32 (AMD).]

3. Experience. The person has sufficient education, training, ability and expertise in the type of natural resource enterprise for which financing assistance is requested.
[PL 1983, c. 519, §7 (NEW).]

4. Access to resources. The person has or will have access to adequate resources in addition to the financing assistance provided under this subchapter to commence or continue the enterprise.
[PL 1983, c. 519, §7 (NEW).]

5.

[PL 1985, c. 344, §32 (RP).]

6. Agricultural land. If the financing assistance is for the acquisition of agricultural land, the person agrees in writing for such period as the authority shall specify to follow such soil conservation and related standards as the authority shall, by rule, adopt; not to convey the land without written permission of the authority and, in the case of farmland within the definition of Title 36, section 1102, to apply and continue to elect to apply during the period of receipt of financing assistance for farm and open space classifications under Title 36, chapter 105, subchapter X. This agreement shall be recorded in the registry of deeds for the county or counties where the land is located.
[PL 1985, c. 344, §32 (AMD).]

7. State policy. The natural resource enterprise will comply with enunciated state policy regarding soil conservation, environmental protection, agricultural development and similar state initiatives. In particular, all projects receiving financing assistance through the authority shall be in accordance with any plan adopted pursuant to section 984 and with the applicable planning, zoning, sanitary and building laws, ordinances and regulations of the State and of the locality in which the project is situated.
[PL 1985, c. 344, §32 (AMD).]

8. Public benefit. The natural resource enterprise will provide for the betterment of the health and welfare of the inhabitants of the State and make a significant contribution to either the economic growth of the community or to the retention of agricultural land in production. For purposes of this section, the authority shall, by rule, adopt criteria defining the acceptable impact on employment, natural resource production, harvesting, marketing, land use and other factors. In reaching its determination in this regard, the authority shall be guided by the provisions of sections 981 and 982.
[PL 1985, c. 344, §32 (AMD).]

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §32 (AMD).

§988. Financing assistance to natural resource enterprises

The authority may provide financing assistance or participate in providing financing assistance to eligible persons under this section and section 997 in the following manner. [PL 1983, c. 519, §7 (NEW).]

1. General conditions. Financing assistance provided pursuant to this subchapter may be on such terms and conditions as may be agreed upon by the authority from time to time. These terms may include, but are not limited to, requirements as to prepayment, period of repayment, interest rate, rentals, project design and planning, security requirements and evidences of indebtedness. The authority may require a borrower to execute a note, loan agreement or other evidence of indebtedness and furnish additional assurances and guarantees, including insurance, reasonably related to protecting the security of the loan.
[PL 1985, c. 344, §33 (AMD).]

2. Assured compliance. The authority may, by rule, provide for permitted assumptions of loans or for other transfers of interest in property financed by the authority to persons who are otherwise qualified to receive assistance under this chapter. In all other cases, the person receiving the financing assistance shall agree, in writing, to use the land or property so acquired only for the purposes specified in the application to or subsequent written agreement with the authority. These agreements shall be recorded in the registry of deeds for the county or counties in which the property is located.

The authority, at its option, may declare immediately payable all amounts due the authority if all or a part of the land, facilities or other property involved is leased, sold or otherwise transferred to another person.
[PL 1985, c. 344, §34 (AMD).]

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §§33,34 (AMD).

§988-A. Natural Resources Capital Investment Fund

1. Creation. The Natural Resources Capital Investment Fund is created and established under the jurisdiction and control of the authority.
[PL 1989, c. 552, §12 (NEW).]

2. Sources of money. There shall be paid into the fund the following:

A. All money appropriated for inclusion in the fund; [PL 1989, c. 552, §12 (NEW).]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund; [PL 1989, c. 552, §12 (NEW).]

C. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of advances from the fund; and [PL 1989, c. 552, §12 (NEW).]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [PL 1989, c. 552, §12 (NEW).]
[PL 1989, c. 552, §12 (NEW).]

3. Application of fund. Money in the fund may be applied to carry out any power of the authority under or in connection with section 988-B, including, without limitation, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest, dividends and other amounts due on secured loans or equity interests. Money in the fund may be used for direct loans in connection with a project eligible under section 988-B. The authority, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for direct loans or secured loans or investments. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in a manner permitted by law.
[PL 1989, c. 552, §12 (NEW).]

4. Accounts within fund. The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds.
[PL 1989, c. 552, §12 (NEW).]

5. Revolving fund. The fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this section and section 988-B.
[PL 1989, c. 552, §12 (NEW).]

SECTION HISTORY

PL 1989, c. 552, §12 (NEW).

§988-B. Natural resources capital investment program

1. Purpose. The purpose of this section is to establish a program to provide assistance in the financing and development of natural resource projects designed to increase the State's capacity to produce, harvest, store, process, distribute, market and improve the quality of its natural resource products. The goal is to expand the opportunities for natural resource enterprises and promote the quality of Maine products nationally and internationally.
[PL 1989, c. 552, §12 (NEW).]

2. Eligible projects. To be eligible for assistance under the program, projects must be located in the State and must consist of the construction, renovation or acquisition of land, buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial natural resource enterprise, as that term is defined in section 963-A, subsection 41. Financing assistance may be provided with respect to the soft costs associated with eligible projects, but not for working capital.

[PL 1989, c. 552, §12 (NEW).]

3. Eligible borrowers. Eligible borrowers shall include profit and nonprofit businesses, producer groups, cooperatives and governmental entities.
[PL 1989, c. 552, §12 (NEW).]

4. Assistance provided. The authority is authorized to provide assistance in the form of direct loans or security for commercial loans or equity investments, subject to the following limitations.

A. In the case of direct loans, funds may be provided from the fund established under section 988-A for up to 45% of total project costs. Borrowers must contribute at least 10% of total project costs in equity or the equivalent and the balance of project costs may be financed by a lender. The authority may provide that repayment of loans from the fund and the security therefor may be subordinate to the lender loan. The interest rate, other loan terms and conditions and fees to the authority may be established by the authority by rulemaking pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, provided that the interest rate is not less than 5% per year and loan terms do not exceed 10 years for equipment, 20 years for vessels and 25 years for real estate. [PL 1989, c. 552, §12 (NEW).]

B. In the case of security for commercial loans, funds may be provided from the fund established under section 988-A to the lender as collateral for the loan on terms and conditions established by the authority by rulemaking pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, provided that funds deposited with the lender do not exceed 45% of the total loan. The authority may also provide funds to a lender as a deposit in the name of the authority at a reduced rate of interest provided that the interest savings to the lender is passed on to the borrower in the form of a lower interest rate on the loan. [PL 1989, c. 552, §12 (NEW).]

C. In the case of security for equity investments, the authority may pledge or deposit money from the fund established under section 988-A as security for up to 30% of a direct equity investment in an eligible borrower on terms and conditions established by the authority by rulemaking pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. [PL 1989, c. 552, §12 (NEW).]

D. Assistance from the fund pursuant to this section may not exceed in aggregate 45% of total project costs of an eligible project. The authority may establish a mechanism for reserving funds for or giving priority to projects in industries or areas of the State deemed to require special assistance. [PL 1989, c. 552, §12 (NEW).]

E. Each applicant must demonstrate a reasonable likelihood that it would not be able to obtain financing or investment sufficient for the project's needs on reasonable terms without assistance from the fund, that there is a reasonable likelihood that it will be able to repay the loan or secured investment and that the project will assist in accomplishing the purposes of this subchapter. [PL 1989, c. 552, §12 (NEW).]

[PL 1989, c. 552, §12 (NEW).]

SECTION HISTORY

PL 1989, c. 552, §12 (NEW).

§989. Financing assistance to and purchases of loans

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §35 (RP).

§990. Bonds of the authority

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §35 (RP).

§991. Refunding bonds

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §35 (RP).

§992. Notice requirements

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §35 (RP).

§993. Reserve funds and appropriations

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §35 (RP).

§994. Remedies of bondholders and noteholders

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §35 (RP).

§995. Agreement of the State

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §35 (RP).

§996. Bonds and notes as legal investments

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §35 (RP).

§997. Program for entrants to natural resource enterprises

In addition to other programs and financing assistance established under this subchapter which may be available to natural resource enterprises, the authority shall establish a supplemental financing and technical assistance program designed specifically to meet the needs of entrants to natural resource enterprises. [PL 1985, c. 344, §36 (AMD).]

1. Criteria for participation. In addition to the applicable provisions of sections 987 and 988, persons seeking financing assistance under the entrants to natural resource enterprises programs shall be subject to the following.

A. In the case of an applicant who is an individual, the entrant to natural resource enterprises shall be a resident of the State and shall have, together with his spouse and dependent children, an aggregate net worth, as determined by the authority, of $100,000 or less when an application is made. In the case of an applicant which is a business organization, the entrant to natural resource enterprises shall be organized under the laws of the State so that at least 51% of the controlling

ownership is held by residents of the State each of whom has, together with his or her spouse and dependent children, an aggregate net worth, as determined by the authority, of $100,000 or less when an application is made. [PL 1985, c. 344, §36 (RPR).]

B. The authority shall provide financing assistance in such amount as it determines is appropriate to reflect the cost of a reasonably-sized beginning enterprise. [PL 1985, c. 344, §36 (AMD).]

C. The entrant has not previously received financing assistance under the program for the acquisition of property similar in nature to the property for which the financing assistance is sought, except that this restriction shall not apply if the amount previously received for an enterprise, plus the amount of the additional assistance sought for that enterprise, does not exceed the total determined by the authority pursuant to paragraph B. [PL 1985, c. 344, §36 (AMD).]

D. The entrant agrees to engage in one or more natural resource enterprises and to participate in such marketing and training programs as the authority may require. [PL 1985, c. 344, §36 (AMD).]

E. The entrant agrees to such other conditions as the authority may impose. [PL 1985, c. 344, §36 (AMD).]

[PL 1985, c. 344, §36 (AMD).]

2. Financing assistance terms. In addition to the applicable provisions of sections 987 and 988, assistance provided pursuant to this section may involve special financing terms, including, but not limited to:

A. For the acquisition of land and facilities, arrangements where the authority agrees to make payments and binding commitments and to continue these payments, if necessary, over the life of the mortgage on behalf of entrants to natural resource enterprises in order to reduce interest costs on market rate credit to the level the authority by rule determines conducive to achieving the purpose of this section, provided that the rate shall not be lower than 5%. Persons benefiting from these assistance payments may be required to pay a larger interest payment as their ability to pay increases. No commitment made by the authority under this paragraph may be construed to commit the faith and credit of the State; [PL 1985, c. 344, §36 (AMD).]

B. Deferred payment schedules; [PL 1983, c. 519, §7 (NEW).]

C. Loan insurance for loans that satisfy the following requirements:

(1) The lender must be a seller of agricultural land and other eligible collateral:

(a) Who is a natural person; or

(b) That is a family farm corporation;

(2) The borrower must be an entrant to natural resource enterprises;

(3) The loan must be made for the purpose of financing all or part of the purchase price of agricultural land and other eligible collateral; and

(4) The interest rate on the loan must be significantly less than the market interest rate, if required by the authority; and [PL 2003, c. 537, §19 (AMD); PL 2003, c. 537, §53 (AFF).]

D. Other similar agreements to facilitate participation in the natural resource sector. [PL 1983, c. 519, §7 (NEW).]

[PL 2003, c. 537, §19 (AMD); PL 2003, c. 537, §53 (AFF).]

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §36 (AMD). PL 2003, c. 537, §19 (AMD). PL 2003, c. 537, §53 (AFF).

§997-A. Agriculturally Derived Fuel Fund

(REPEALED)

SECTION HISTORY

PL 1999, c. 474, §2 (NEW). PL 2007, c. 395, §§5, 6 (AMD). PL 2009, c. 124, §1 (RP).

§997-B. Agricultural Products Utilization Commission

(REPEALED)

SECTION HISTORY

PL 1999, c. 474, §2 (NEW). PL 1999, c. 731, §VVV3 (AMD). PL 2007, c. 395, §7 (RP).

§998. Limitation of liability

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §37 (RP).

§999. Taxation and fees

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §37 (RP).

§1000. Annual report

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §37 (RP).

§1000-A. Liberal construction

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §7 (NEW). PL 1985, c. 344, §37 (RP).

SUBCHAPTER 1-B

DIVISION OF MAINE BUSINESS DEVELOPMENT AND FINANCE

§1001. Definitions

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §7 (RPR). PL 1983, c. 648, §§1,2 (AMD). PL 1983, c. 699, §§1,2 (AMD). PL 1983, c. 856, §1 (AMD). PL 1983, c. 862, §30 (AMD). PL 1985, c. 344, §38 (RP).

§1002. General powers

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §7 (RPR). PL 1983, c. 856, §§2,3 (AMD). PL 1985, c. 344, §39 (RP).

§1003. Definitions

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §49 (AMD). PL 1981, c. 698, §50 (AMD). PL 1983, c. 519, §6 (RP).

§1004. Organization

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §§51,52 (AMD). PL 1983, c. 519, §6 (RP).

§1005. General powers

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §53 (AMD). PL 1983, c. 499, §1 (AMD). PL 1983, c. 519, §6 (RP). PL 1985, c. 506, §B9 (AMD).

§1006. Investment plan; reports

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §6 (RP).

§1007. Records confidential

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §6 (RP).

§1008. Liberal construction

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §6 (RP).

§1009. Governmental function

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §6 (RP).

SUBCHAPTER 1-C

NATURAL DISASTER BUSINESS ASSISTANCE

§1011. Natural Disaster Business Assistance Fund

1. Fund established. The Natural Disaster Business Assistance Fund is established under the jurisdiction of the Finance Authority of Maine.
[PL 1987, c. 159, §1 (NEW).]

2. Sources of fund. The following shall be paid into the fund:

A. All money appropriated for inclusion in the fund; [PL 1987, c. 159, §1 (NEW).]

B. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of loans or advances from the fund; [PL 1987, c. 159, §1 (NEW).]

C. Subject to any pledge, contract or other obligation, all interest, dividends or other income from investment of the fund; and [PL 1987, c. 159, §1 (NEW).]

D. Any other money, including federal money, deposited in the fund to implement the provisions of this subchapter. [PL 1987, c. 159, §1 (NEW).]

[PL 1987, c. 159, §1 (NEW).]

3. Application of fund. The authority may apply money in the fund to carry out any power of the authority under this subchapter, including, without limitation, to make loans or to pledge or transfer and deposit money in the fund as security for, and to apply money in the fund in payment of principal of, interest and other amounts due on loans made or secured by the authority pursuant to this subchapter. Money in the fund not needed currently to meet the obligations of the authority as provided for in this subchapter may be invested in such manner as may be permitted by law.

[PL 1987, c. 159, §1 (NEW).]

4. Accounts within fund. The authority may divide the funds into such separate accounts as it determines necessary or convenient for carrying out this subchapter.

[PL 1987, c. 159, §1 (NEW).]

5. Revolving fund. The fund shall be a nonlapsing revolving fund. All money in the fund shall be continuously applied by the authority to carry out this subchapter.

[PL 1987, c. 159, §1 (NEW).]

6. Commitment and administrative fees. The authority may fix commitment fees in an amount not to exceed 1% of the initial principal amount of a loan made or insured under this subchapter. These fees shall be deposited into the fund created under this section.

[PL 1987, c. 159, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 159, §1 (NEW).

§1012. Maine Natural Disaster Business Assistance Program

1. Purpose. The authority shall administer the Maine Natural Disaster Business Assistance Program for the purpose of providing assistance to businesses that are victims of natural disasters which have caused the State or portions of the State to be declared disaster areas by the President of the United States or his authorized representative.

[PL 1987, c. 159, §1 (NEW).]

2. Eligibility. Any eligible enterprise, as defined in section 963-A, subsection 9, shall be eligible for financial assistance under the program provided that:

A. The applicant has suffered serious financial hardship as a direct result of a natural disaster; [PL 1987, c. 159, §1 (NEW).]

B. The applicant has insufficient access to federal or other disaster funds or other financial assistance on a timely basis other than pursuant to this program; and [PL 1987, c. 159, §1 (NEW).]

C. The applicant is a business enterprise operated for profit. [PL 1987, c. 159, §1 (NEW).]

[PL 1987, c. 159, §1 (NEW).]

3. Operation. Financial assistance under the program shall be used for the purpose of assisting eligible enterprises in recovering from the effects of natural disasters. The program may be administered in conjunction with other programs of the authority. Money in the fund may be used:

A. To provide direct loans to eligible enterprises; [PL 1987, c. 159, §1 (NEW).]

B. As security for loans from financial institutions to eligible enterprises; and [PL 1987, c. 159, §1 (NEW).]

C. To provide direct interim financing to eligible applicants pending receipt of federal disaster funds or financial assistance from other sources, which funds or financial assistance will be used to repay the interim loan from the authority. [PL 1987, c. 159, §1 (NEW).]

[PL 1987, c. 159, §1 (NEW).]

4. Criteria. No financial assistance may be approved unless the authority determines that there is a reasonable likelihood that the applicant will be able to repay any loan made or secured under the program, that the applicant has demonstrated that it has insufficient access to other sources of funds and that the financial assistance is needed to assure the recovery of the applicant from the effects of the natural disaster. All applications must be received not later than June 30, 1987. The authority, by rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, may establish temporary reservations for geographic areas of the State and may establish such other criteria as may be consistent with the purposes of the program.

[PL 1987, c. 159, §1 (NEW).]

5. Limitations on financial assistance. Financial assistance under this subchapter shall be subject to the following limitations.

A. The initial term of financial assistance to applicants who are eligible to apply for federal funds as a result of a natural disaster shall not exceed 6 months. If federal funds are not available within the initial 6-month term to repay loans made or secured under this subchapter, the authority may extend the financial assistance or convert a loan from a financial institution secured under this subchapter to a direct loan for such term and on such conditions as may be appropriate and consistent with the purposes of this subchapter. [PL 1987, c. 159, §1 (NEW).]

B. Loans pursuant to this subchapter shall ordinarily be made at interest rates not exceeding the prime rate of interest as reported in national financial publications and for terms not exceeding 20 years, provided that the authority may in its discretion vary those limitations if necessary to ensure the viability of the enterprise and repayment of the loan, and provided further that the authority may charge a higher rate of interest after default. [PL 1987, c. 159, §1 (NEW).]

C. Loans made or secured under this subchapter shall be secured by such collateral, including personal guarantees, as may be reasonably available. The authority may provide financial assistance with less than adequate collateral when the applicant is credit worthy and demonstrates the ability to repay the loan. [PL 1987, c. 159, §1 (NEW).]

D. The amount of financial assistance to an applicant from the fund shall not exceed $50,000, provided that the initial amount of each loan shall not exceed the minimum amount necessary for operation of the applicant's business during the initial 6-month term, as determined by the authority. [PL 1987, c. 159, §1 (NEW).]

E. The authority may agree to deposit money from the fund with a financial institution to secure a loan to an eligible applicant and may waive the payment to the authority of some or all of the interest accruing on such deposit, provided that the applicant receives a reduced interest rate as a result of the deposit. [PL 1987, c. 159, §1 (NEW).]

F. The authority may impose and collect a penalty of an amount not to exceed 50% of the amount of principal, interest and other charges due from a recipient of financial assistance under this

subchapter in any case when the authority determines that the recipient has willfully applied the financial assistance to purposes or uses other than those purposes or uses approved by the authority or when the recipient has willfully failed to promptly repay the financial assistance with federal or other disaster funds available for that purpose as required by the authority. [PL 1987, c. 159, §1 (NEW).]

G. Money from the fund shall not be released to or for the benefit of recipients until all applicable local, state and federal permits have been issued, and, for recipients located in flood plains, evidence of flood insurance has been provided. [PL 1987, c. 159, §1 (NEW).]

[PL 1987, c. 159, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 159, §1 (NEW).

SUBCHAPTER 1-D

STUDENT FINANCIAL ASSISTANCE PROGRAM

§1013. Program established

The authority shall administer a program of comprehensive, consolidated student financial assistance for Maine students and their families. The authority is authorized to carry out various programs making financial and other assistance available to borrowers, institutions, or both, to finance costs of attendance at institutions of higher education. The authority is further authorized to issue its bonds, lend the proceeds of the bonds and exercise any other power set forth in this subchapter for these purposes. In carrying out its responsibilities, the authority shall be responsible for administering: [PL 1989, c. 698, §10 (RPR).]

1. Maine State Grant Program. The Maine State Grant Program, pursuant to Title 20-A, chapter 419-A;
[PL 2001, c. 70, §1 (AMD).]

2. Teachers for Maine Program. The Teachers for Maine Program, as established in Title 20-A, chapter 428;
[PL 1997, c. 97, §1 (RPR).]

3. State Osteopathic Loan Fund. The State Osteopathic Loan Fund, as established in Title 20-A, chapter 423;
[PL 1989, c. 698, §10 (RPR).]

4. Postgraduate medical education program. The postgraduate medical education program, as established in Title 20-A, chapter 421;
[PL 1989, c. 698, §10 (RPR).]

5. Loan insurance programs. The Robert T. Stafford Loan Program, the Parent Loans to Undergraduate Students Program and the Supplemental Loans for Students Program pursuant to Title 20-A, chapter 417, subchapter I;
[PL 1989, c. 698, §10 (RPR).]

6. Robert C. Byrd Honors Scholarship Program. The Robert C. Byrd Honors Scholarship Program, pursuant to Title 20-A, chapter 417, subchapter II;
[PL 1989, c. 698, §10 (RPR).]

7. Paul Douglas Teacher Scholarship Program. The Paul Douglas Teacher Scholarship Program, pursuant to Title 20-A, chapter 417, subchapter II;
[PL 1989, c. 698, §10 (RPR).]

8. Supplemental loan program. The supplemental loan program as established in Title 20-A, chapter 417-B;
[PL 1991, c. 603, §3 (AMD).]

9. Tuition waiver program. The tuition waiver program pursuant to Title 20-A, chapter 429;
[PL 1989, c. 559, §8 (NEW); PL 1989, c. 698, §10 (RPR).]

10. Student financial assistance counseling and outreach program. The student financial assistance counseling and outreach program, as established in Title 20-A, chapter 430-B;
[PL 1997, c. 97, §2 (AMD).]

11. Student Educational Enhancement Deposit Plan.

[PL 1991, c. 824, Pt. B, §4 (RP).]

12. Maine Choice Program.

[PL 1995, c. 462, Pt. A, §18 (RP).]

13. Higher Education Loan and Loan Insurance Program. The Higher Education Loan and Loan Insurance Program, as established in Title 20-A, chapter 417-C;
[PL 2013, c. 34, §3 (AMD).]

14. University of Maine System Scholarship Fund.

[PL 2005, c. 683, Pt. A, §14 (RP).]

15. Scholarships for Maine Fund. The Scholarships for Maine Fund, as established in Title 20-A, chapter 419-C;
[PL 2001, c. 417, §11 (AMD).]

16. Maine Education Savings Program. The Maine Education Savings Program, as established in Title 20-A, chapter 417-E; and
[PL 2001, c. 417, §12 (AMD); PL 2017, c. 474, Pt. F, §9 (REV).]

17. Maine Dental Education Loan Program. The Maine Dental Education Loan Program as established in Title 20-A, chapter 426.
[PL 2001, c. 417, §13 (NEW).]

SECTION HISTORY

PL 1989, c. 559, §8 (NEW). PL 1989, c. 698, §10 (RPR). PL 1991, c. 603, §§3-5 (AMD). PL 1991, c. 612, §§1,2 (AMD). PL 1991, c. 824, §§A12,B4,C1 (AMD). PL 1995, c. 462, §§A17,18 (AMD). PL 1997, c. 97, §§1-4 (AMD). PL 1997, c. 732, §§2,3 (AMD). PL 2001, c. 70, §1 (AMD). PL 2001, c. 417, §§11-13 (AMD). PL 2005, c. 683, §A14 (AMD). PL 2013, c. 34, §3 (AMD). PL 2017, c. 474, Pt. F, §9 (REV).

§1014. Loan insurance program

The authority may establish and administer a student loan insurance program as provided in Title 20-A, chapter 417. [PL 1989, c. 698, §10 (NEW).]

1. Agency of jurisdiction for guaranteed loan program. For the purpose of the Constitution of Maine, Article VIII, Part First, Section 2, the authority, in accordance with Title 20-A, chapter 417, is the agency authorized under the federal guaranteed loan program to direct the issuance of bonds, to loan funds and to secure funds for loans to Maine students attending institutions of higher education.
[PL 1989, c. 698, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 698, §10 (NEW).

§1015. Legal services

Upon request of the authority, the Attorney General shall provide legal services related to implementation of this subchapter. [PL 1989, c. 698, §10 (NEW).]

SECTION HISTORY

PL 1989, c. 698, §10 (NEW).

§1016. Maine Education Assistance Board

(REPEALED)

SECTION HISTORY

PL 1989, c. 598, §8 (NEW). PL 1989, c. 698, §10 (RPR). PL 1989, c. 700, §A37 (AMD). PL 1989, c. 878, §F1 (AMD). PL 1995, c. 519, §4 (AMD). PL 2001, c. 417, §14 (RP).

§1017. Sunset

(REPEALED)

SECTION HISTORY

PL 1989, c. 698, §10 (NEW). PL 1991, c. 832, §2 (RP).

SUBCHAPTER 1-E

NURSING EDUCATION

§1019. Nursing education loan repayment program

1. Nursing education loan repayment program. The nursing education loan repayment program is established for the purpose of increasing the number of nursing faculty in nursing education programs in the State.
[PL 2005, c. 417, §1 (NEW).]

2. Criteria. For an applicant to participate in the nursing education loan repayment program established under subsection 1, the applicant must:

A. Be a nurse; [PL 2005, c. 417, §1 (NEW).]

B. Complete a master's or doctoral degree in nursing; [PL 2005, c. 417, §1 (NEW).]

C. Possess an outstanding education loan relating to the master's or doctoral nursing degree; and [PL 2005, c. 417, §1 (NEW).]

D. Sign a statement of intent in a form acceptable to the authority to work as nursing faculty in a nursing education program in the State for a minimum of 3 years after acceptance into the nursing education loan repayment program. [PL 2005, c. 417, §1 (NEW).]
[PL 2005, c. 417, §1 (NEW).]

3. Nursing education loan repayment fund. The nursing education loan repayment fund, referred to in this section as "the fund," is created as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this subchapter.

A. The authority may receive, invest and expend on behalf of the fund money from gifts, grants, bequests, loans and donations in addition to money appropriated or allocated by the State. Money received by the authority on behalf of the fund must be used for the purposes of this subchapter. The fund must be maintained and administered by the authority. Any unexpended balance in the fund carries forward for continued use under this subchapter. [PL 2005, c. 417, §1 (NEW).]

B. Costs and expenses of maintaining, servicing and administering the fund and of administering the nursing education loan repayment program may be paid out of amounts in the fund. [PL 2005, c. 417, §1 (NEW).]

[PL 2005, c. 417, §1 (NEW).]

4. Administration. The nursing education loan repayment program and the nursing education loan repayment fund are administered by the authority. The authority shall repay the loan of an applicant who meets the criteria in subsection 2 in the amount of up to $4,500 for a master's degree and up to $6,000 for a doctoral degree. The authority may adopt rules to carry out the purposes of this subchapter. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 417, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 417, §1 (NEW).

SUBCHAPTER 1-F

WASTE MOTOR OIL DISPOSAL SITE REMEDIATION PROGRAM

§1020. Waste Motor Oil Revenue Fund

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

A. "Eligible person" means a person that is eligible, pursuant to section 1020-A, to have that person's share of response costs paid from the proceeds of revenue obligation securities issued pursuant to this subchapter or is eligible to have that person's share of response costs paid from the fund as otherwise set forth in this subchapter. [PL 2011, c. 211, §2 (AMD); PL 2011, c. 211, §27 (AFF).]

A-1. [PL 2011, c. 211, §2 (RP); PL 2011, c. 211, §27 (AFF).]

A-2. "Diesel engine crankcase oil" means motor vehicle oil that is classified for use in a diesel engine crankcase by meeting the performance requirements of the American Petroleum Institute beginning with CA standards and all succeeding specifications under those standards, inclusive of all original equipment manufacturer-specific engine oils. [PL 2011, c. 211, §2 (AMD); PL 2011, c. 211, §27 (AFF).]

B. [PL 2007, c. 618, §4 (RP); PL 2007, c. 618, §14 (AFF).]

C. "Fund" means the Waste Motor Oil Revenue Fund established under subsection 2 to be deposited with and administered by the authority. [PL 2007, c. 464, §6 (NEW).]

C-1. "Gasoline engine crankcase oil" means motor vehicle oil that is classified for use in a gasoline engine crankcase by meeting the performance requirements of the American Petroleum Institute, beginning with SA standards through the most current standards, inclusive of original equipment manufacturer-specific engine oils, and International Lubricant Standardization and Approval Committee GF-1 standards through current standards, inclusive of all original equipment manufacturer-specific engine oils. [PL 2011, c. 211, §2 (AMD); PL 2011, c. 211, §27 (AFF).]

D. "Motor vehicle" has the same meaning as in Title 29-A, section 101, subsection 42. [PL 2007, c. 464, §6 (NEW).]

E. [PL 2007, c. 618, §6 (RP); PL 2007, c. 618, §14 (AFF).]

F. "Motor vehicle oil" means any lubricating oil or other lubricant that is reclaimable and classified for use in an internal combustion engine or the transmission, gear box, hydraulic system, compressor or differential for a motor vehicle, including but not limited to natural, synthetic and rerefined motor oils, whether or not in retail containers. [PL 2011, c. 211, §2 (AMD); PL 2011, c. 211, §27 (AFF).]

G. "Motor vehicle oil dealer" means any person, firm or corporation engaged in the business of producing, packaging or otherwise preparing motor vehicle oil for market, or selling or distributing motor vehicle oil. [PL 2007, c. 618, §8 (NEW).]

H. [PL 2011, c. 211, §2 (RP); PL 2011, c. 211, §27 (AFF).]

[PL 2011, c. 211, §2 (AMD); PL 2011, c. 211, §27 (AFF).]

2. Creation; sources of fund. The Waste Motor Oil Revenue Fund is established. The fund consists of:

A. All money appropriated for inclusion in the fund; [PL 2007, c. 464, §6 (NEW).]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money in the fund; [PL 2007, c. 464, §6 (NEW).]

C. Any other money available to the authority and directed by the authority to be paid into the fund; and [PL 2007, c. 464, §6 (NEW).]

D. All revenue received from the State Tax Assessor pursuant to former subsection 6 and subsection 6-A. [PL 2009, c. 434, §1 (AMD); PL 2009, c. 434, §84 (AFF).]

[PL 2009, c. 434, §1 (AMD); PL 2009, c. 434, §84 (AFF).]

3. Application of fund. Money in the fund must be applied to the payment of principal of, interest on, redemption premiums on or other costs of revenue obligation securities issued pursuant to section 1020-A and may, in whole or in part, be pledged or transferred and deposited as security for those securities. Money in the fund not immediately needed to meet the obligations of the authority as provided for in this subsection may be invested in such a manner as permitted by law. Any reasonable costs incurred by the authority in administering this fund may be taken from the money in the fund.

Notwithstanding any provision of this subchapter to the contrary, money in the fund may not be transferred from the fund or otherwise applied except as expressly provided in this subsection unless:

A. All amounts required by the trust documents securing those revenue obligation securities to be transferred to the trustee or to a paying agent have been transferred during the same calendar year; [PL 2011, c. 211, §3 (NEW).]

B. All costs incurred, or projected by the authority to be incurred, in administering the fund in that calendar year have been funded through the transfer of such amounts to the authority; and [PL 2011, c. 211, §3 (NEW).]

C. The completion of the transfer or other application does not result in a balance in the fund of less than $600,000. [PL 2011, c. 211, §3 (NEW).]

[PL 2011, c. 211, §3 (AMD).]

3-A. Excess revenue; application. By April 15th annually, the authority shall determine whether, as of the immediately preceding December 31st, the fund contained more than $600,000, which is referred to in this subsection as "excess revenue." Excess revenue must be used to satisfy the following obligations in the following order each year, until the excess revenue is exhausted or the obligations have been satisfied, whichever comes first.

A. As the first obligation, an amount not to exceed $65,000 per year for payments to eligible motor vehicle oil dealers pursuant to section 1020-C. The amount available for reimbursement must be

reported to the State Tax Assessor no later than April 15th annually. [PL 2011, c. 211, §4 (NEW).]

B. [PL 2011, c. 211, §4 (NEW); MRSA T. 10 §1020, sub3A, ¶B (RP).]

C. [PL 2011, c. 211, §4 (NEW); MRSA T. 10 §1020, sub3A, ¶C (RP).]

D. As the 4th obligation, transfer of up to $1,000,000 per year to the Uncontrolled Sites Fund established under Title 38, section 1364, subsection 6 until $6,919,681.57 has been transferred for response costs incurred by the Department of Environmental Protection at the waste motor oil disposal site. [PL 2011, c. 211, §4 (NEW).]

E. As the 5th obligation, an additional reimbursement from the fund to eligible motor vehicle oil dealers pursuant to section 1020-C. The amount available for reimbursement under this paragraph must be reported to the State Tax Assessor no later than April 15th annually. [PL 2011, c. 211, §4 (NEW).]

F. As the 6th obligation, notwithstanding the $1,000,000 annual limit specified in paragraph D, an additional transfer of any remaining excess revenues to the Uncontrolled Sites Fund established under Title 38, section 1364, subsection 6 until the amount specified in paragraph D is paid in full. [PL 2011, c. 211, §4 (NEW).]

[PL 2011, c. 211, §4 (NEW).]

4. Accounts within fund. The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out the purposes of this subchapter.

[PL 2007, c. 464, §6 (NEW).]

5. Revolving fund. The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the authority to carry out the purposes of this subchapter except as provided in subsection 3.

[PL 2007, c. 464, §6 (NEW).]

6. Premium.

[PL 2007, c. 618, §10 (AMD); MRSA T. 10 §1020, sub-§6 (RP).]

6-A. Premium. In addition to any other tax or charge imposed under state or federal law, a premium is imposed on motor vehicle oil sold or distributed in the State as provided in this subsection. A motor vehicle oil dealer that makes the first sale or distribution of motor vehicle oil in the State shall pay the premium.

The premium is calculated as follows:

A. Diesel engine crankcase oil is subject to a premium of 35¢ per gallon; [PL 2011, c. 211, §5 (NEW); PL 2011, c. 211, §27 (AFF).]

B. Gasoline engine crankcase oil sold or distributed in a container with a volume of 5 gallons or less is subject to a premium of 35¢ per gallon; [PL 2011, c. 211, §5 (NEW); PL 2011, c. 211, §27 (AFF).]

C. Gasoline engine crankcase oil sold or distributed in a container with a volume of more than 5 gallons is subject to a premium of $1.10 per gallon; and [PL 2011, c. 211, §5 (NEW); PL 2011, c. 211, §27 (AFF).]

D. All motor vehicle oil other than diesel engine crankcase oil and gasoline engine crankcase oil that is sold or distributed in a container with a volume of 16 gallons or less is subject to a premium of 35¢ per gallon. [PL 2011, c. 211, §5 (NEW); PL 2011, c. 211, §27 (AFF).]

All premiums must be paid to the State Tax Assessor and are subject to the administrative provisions of Title 36, Parts 1 and 3 as though they were a sales tax liability. By the 20th day of each month, the

State Tax Assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the premium collected under this subsection in the previous month. When notified by the State Tax Assessor, the State Controller shall transfer that amount to the fund.
[PL 2011, c. 211, §5 (RPR); PL 2011, c. 211, §27 (AFF).]

7. Effective date. This section takes effect on October 1, 2007 and remains in effect until the later of June 30, 2018 and any date thereafter but no later than December 31, 2030 on which the authority notifies the State Tax Assessor that there are no outstanding revenue obligation securities that were issued pursuant to section 1020-A.
[PL 2007, c. 618, §12 (AMD).]

8. Successor standards.
[PL 2011, c. 211, §6 (RP).]

SECTION HISTORY

PL 2007, c. 464, §6 (NEW). PL 2007, c. 618, §§2-13 (AMD). PL 2007, c. 618, §14 (AFF). PL 2009, c. 213, Pt. KKK, §§1, 2 (AMD). PL 2009, c. 434, §1 (AMD). PL 2009, c. 434, §84 (AFF). PL 2011, c. 211, §§2-6 (AMD). PL 2011, c. 211, §27 (AFF).

§1020-A. Waste motor oil disposal site remediation program

1. Issue of securities. The authority shall issue revenue obligation securities pursuant to subchapter 3 in an amount sufficient to:

A. Pay the response costs of eligible persons, except that a revenue obligation security may not be issued after July 1, 2011 to fund the payments required by this paragraph; [PL 2011, c. 211, §7 (AMD).]

B. Establish any capital reserve fund pursuant to section 1053; and [PL 2007, c. 464, §6 (NEW).]

C. Pay the costs of issuance of revenue obligation securities. [PL 2007, c. 464, §6 (NEW).]
[PL 2007, c. 464, §6 (NEW); PL 2011, c. 211, §7 (AMD).]

2. Payment of proceeds. The authority shall pay proceeds of the revenue obligation securities to or on behalf of the responsible parties in accordance with subsection 4.
[PL 2011, c. 211, §8 (AMD); PL 2011, c. 211, §27 (AFF).]

3. Revenue refunding securities. The authority may provide for issuance of revenue refunding securities pursuant to section 1048.
[PL 2007, c. 464, §6 (NEW).]

4. Certificate of determination. From time to time, the authority shall ascertain from the Department of Environmental Protection, the United States Environmental Protection Agency or the responsible parties, as applicable, the final remedy selection and response costs for each waste motor oil disposal site.

A. When the authority is advised by the Department of Environmental Protection, the United States Environmental Protection Agency or the responsible parties of the issuance of a final remedy selection and that the remedy will be implemented pursuant to a consent decree or other final settlement order or agreement determining substantially final response costs for a waste motor oil disposal site, the authority shall determine those costs for that waste motor oil disposal site that represent the collective share of those persons eligible under subsection 7 to have their share of those costs for the waste motor oil disposal site paid from the proceeds of revenue obligation securities. In determining the amount of response costs incurred by an eligible person prior to the effective date of a consent decree or other final settlement order or agreement, the authority shall rely on a written certificate of costs from the potentially responsible party (PRP) group, if any, at the waste oil disposal site. If a potentially responsible party (PRP) group is not active at a waste oil disposal site, the authority shall rely on a written certificate of costs from each eligible person

supported by copies of invoices, receipts or other evidence of payment. The certificate of costs must be made under oath and subject to the provisions of Title 17-A, section 451. In determining the amount of response costs to be incurred by an eligible person after the effective date of a consent decree or other final settlement order or agreement, the authority shall rely on the final allocation of response costs as agreed on by the responsible parties and as reflected in the consent decree or other final settlement order or agreement. [PL 2007, c. 464, §6 (NEW).]

A-1. [PL 2011, c. 211, §9 (RP).]

B. With respect to a waste motor oil disposal site, following the determinations made pursuant to paragraph A, the authority shall issue a certificate of determination setting forth the amount of:

(1) The response costs paid or to be paid with respect to that waste motor oil disposal site;

(2) The eligible response costs with respect to that waste motor oil disposal site to be paid from the proceeds of revenue obligation securities; and

(3) The proceeds of the revenue obligation securities to be paid to or on behalf of the responsible parties. [PL 2011, c. 211, §10 (AMD).]

C. The authority may issue no more than one supplemental certificate of determination with respect to a waste motor oil disposal site, which may provide for the payment from the proceeds of additional revenue obligation securities of an amount equal to no more than 10% of the amount of costs initially certified for that waste motor oil disposal site. The authority is not authorized to issue more than 2 certificates of determination for a waste motor oil disposal site. [PL 2007, c. 464, §6 (NEW).]

[PL 2011, c. 211, §§9, 10 (AMD).]

5. Eligibility. For purposes of this section, "person" means any natural person, corporation, partnership or other entity identified as a responsible party at a waste motor oil disposal site. The following persons that contributed waste motor oil to a waste motor oil disposal site and who have been designated by the Department of Environmental Protection or the United States Environmental Protection Agency as responsible parties with respect to any of the waste motor oil disposal sites are eligible to have their share of response costs paid from the proceeds of revenue obligation securities issued pursuant to this subchapter:

A. Those responsible parties that the Department of Environmental Protection or United States Environmental Protection Agency determines are insolvent, unlocated or defunct; [PL 2007, c. 464, §6 (NEW).]

B. Those responsible parties that the Department of Environmental Protection or United States Environmental Protection Agency determines have a limited ability to pay; [PL 2007, c. 464, §6 (NEW).]

C. Those responsible parties that the Department of Environmental Protection or United States Environmental Protection Agency determines are responsible for 110 gallons or less of waste motor oil at a waste motor oil disposal site; [PL 2007, c. 464, §6 (NEW).]

D. The State and any agencies, authorities, departments, boards, commissions or instrumentalities of the State or political subdivisions of the State; [PL 2007, c. 464, §6 (NEW).]

E. All franchised new car and truck dealers licensed pursuant to Title 29-A, chapter 9, subchapter 3 or the successors in interest of any such franchised new car or truck dealers. The Secretary of State shall certify to the authority those responsible parties that were licensed pursuant to Title 29-A, chapter 9, subchapter 3; [PL 2007, c. 464, §6 (NEW).]

F. All used car and truck dealers licensed in accordance with Title 29-A, chapter 9, subchapter 3 or the successors in interest of any such used car and truck dealers. The Secretary of State shall

certify to the authority those responsible parties that were licensed pursuant to Title 29-A, chapter 9, subchapter 3; [PL 2007, c. 464, §6 (NEW).]

G. A person or its successor in interest that:

(1) Performed repairs at repair facilities located in this State on motor vehicles that are owned by 3rd parties;

(2) Is identified as qualified under this subsection by the potentially responsible party (PRP) group at the waste oil disposal site or, in the case when the response action was or will be undertaken by the State, by the Department of Environmental Protection; and

(3) Certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection; [PL 2009, c. 304, §3 (AMD).]

H. Any person or its successor in interest that performed repairs on its own fleet of motor vehicles, is identified by the potentially responsible party group at the waste motor oil disposal site or, in the case when the response action was or will be undertaken by the State is identified by the Department of Environmental Protection, as qualified under this subsection and certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection. The motor vehicles at all pertinent times must have been registered, garaged and serviced in this State; and [PL 2011, c. 211, §11 (AMD).]

I. Any person or its successor in interest that performed repairs, at repair facilities located in this State, on special equipment or special mobile equipment, as defined in Title 29-A, section 101, subsections 69 and 70, is identified by the potentially responsible party group at the waste motor oil disposal site or, in the case when the response action was or will be undertaken by the State is identified by the Department of Environmental Protection, as qualified under this subsection and certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection. [PL 2011, c. 211, §11 (AMD).]

Notwithstanding any provision of this subsection to the contrary, at the Ellsworth, Casco and Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D, eligible persons include all responsible parties except those enumerated in subsection 6.
[PL 2011, c. 211, §11 (AMD).]

6. Parties ineligible. The United States of America and its agencies, authorities, departments, boards, commissions and instrumentalities are not eligible to have any share of any of their obligation for response costs covered by revenue obligation securities issued pursuant to this section.
[PL 2007, c. 464, §6 (NEW).]

7. Registry determinations regarding eligibility. In accordance with the criteria set forth in subsection 5, the authority shall establish a registry of all responsible parties who qualify to have their share of response costs paid pursuant to this subchapter.

A. In order to establish the registry, the authority shall review the list of responsible parties prepared by the Department of Environmental Protection or the United States Environmental Protection Agency with respect to the waste motor oil disposal sites, must have access to all Department of Environmental Protection and United States Environmental Protection Agency records that relate in any way to the volume or composition of materials that may have been deposited in a waste motor oil disposal site and shall confirm which responsible parties meet the criteria established in subsection 5. The confirmed responsible parties must be placed on the registry. In addition, with regard to eligibility, the authority may consider and rely upon information provided by the potentially responsible party (PRP) group conducting response activities at the waste motor oil disposal site. Copies of the registry must be made available to the public at the office of the chief executive officer of the authority. [PL 2007, c. 464, §6 (NEW).]

B. The authority shall cause the registry for each waste motor oil disposal site to be published 2 times, 7 days apart, simultaneously in the weekend edition of the following newspapers or any of their successors: the Bangor Daily News, the Portland Press Herald, the Kennebec Journal, the Morning Sentinel, the Brunswick Times Record, the Aroostook Republican, the Lewiston Sun Journal and the Biddeford Journal Tribune. [PL 2007, c. 464, §6 (NEW).]

C. Any responsible party may request reconsideration of any authority decision relating to eligibility for that responsible party. All reconsideration determinations must be made by the Department of Environmental Protection and in accordance with Title 5, chapter 375, subchapter 4. All requests for reconsideration must be mailed, postage prepaid, to the Department of Environmental Protection at the address designated by the authority. All requests for reconsideration must be in writing and include such information as the responsible party desires to draw to the Department of Environmental Protection's attention and must be received by the department no later than 30 days from the 2nd date of publication of notice in the newspapers identified in paragraph B. The request for reconsideration must be accompanied by a filing fee to the Department of Environmental Protection in the amount of $500. The decision of the Department of Environmental Protection constitutes final agency action. [PL 2007, c. 464, §6 (NEW).]

D. Any responsible party may appeal a decision by the Department of Environmental Protection to the Kennebec County Superior Court pursuant to Title 5, section 9061 within 30 days of the date of the decision. An appeal under this paragraph is nontestimonial. The record consists solely of written materials reviewed by the Department of Environmental Protection and its decision. [PL 2011, c. 559, Pt. A, §9 (AMD).]

[PL 2011, c. 559, Pt. A, §9 (AMD).]

8. Rules. The authority shall adopt rules necessary to implement this subchapter. Rules adopted by the authority pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 464, §6 (NEW).]

9. Liability releases and covenants at certain sites. This subsection applies to the Ellsworth, Casco and Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D and referred to in this subsection as "the sites." Upon receipt by the Department of Environmental Protection of the first $3,500,000 pursuant to section 1020, subsection 3-A, paragraphs D and F:

A. The Department of Environmental Protection or any other agency or instrumentality of the State may not sue or take administrative action against any responsible party at a waste motor oil disposal site under any state or federal statute or common law regarding response costs or environmental conditions related to the release, threatened release or presence of hazardous substances at or from any of the sites prior to the effective date of this paragraph, including, without limitation, past response costs, future response costs, oversight costs, natural resource damages and the cost of assessment; [PL 2011, c. 211, §12 (NEW).]

B. The State, including all of its departments, agencies and instrumentalities, by and through the Attorney General, shall execute a release in favor of all eligible persons at the sites. The release must forever discharge and release all eligible persons from all claims, suits, actions, liabilities, causes of action, demands, costs, damages and expenses of any nature whatsoever, including, without limitation, past response costs, future response costs, oversight costs, natural resource damages and the cost of assessment, whether known or unknown, arising out of, directly or indirectly, a release, threatened release or presence of hazardous substances at or from the sites prior to the effective date of this paragraph; and [PL 2011, c. 211, §12 (NEW).]

C. The eligible persons at the sites are protected from contribution actions or claims regarding those sites. [PL 2011, c. 211, §12 (NEW).]

The State shall include a covenant not to sue and contribution protection in any consent decree or other settlement agreement entered into between the State and federal agencies related to recovery of the State's response costs at the sites.
[PL 2011, c. 211, §12 (NEW).]

SECTION HISTORY

PL 2007, c. 464, §6 (NEW). PL 2009, c. 304, §§1-5 (AMD). PL 2011, c. 211, §§7-12 (AMD). PL 2011, c. 211, §27 (AFF). PL 2011, c. 559, Pt. A, §9 (AMD).

§1020-B. Status reports

The following reports related to the waste motor oil disposal site remediation program under section 1020-A must be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources matters. [PL 2009, c. 213, Pt. KKK, §3 (NEW).]

1. Program report. By January 15, 2010 and every 2 years thereafter, the authority and the Department of Environmental Protection shall report on the status of the waste motor oil disposal site remediation program under section 1020-A.
[PL 2009, c. 213, Pt. KKK, §3 (NEW).]

2. Funding report. By February 15, 2010 and every year thereafter, the authority and the State Tax Assessor shall report the revenue collected pursuant to section 1020, subsection 6-A for the preceding calendar year. The report may be incorporated into the biennial report required under subsection 1. The joint standing committee of the Legislature having jurisdiction over natural resources matters shall determine, beginning in 2013 and every odd-numbered year thereafter, whether the premium imposed pursuant to section 1020, subsection 6-A may be reduced or eliminated in a manner that does not adversely affect the ability of the authority to provide for the full and timely payment of the principal of, interest on, redemption premiums on or other costs of all revenue obligation securities issued pursuant to section 1020-A that remain outstanding as those costs become due or adversely affect the security for those revenue obligation securities and may submit legislation related to the determination and report required under this subsection.
[PL 2011, c. 211, §13 (AMD).]

SECTION HISTORY

PL 2009, c. 213, Pt. KKK, §3 (NEW). PL 2011, c. 211, §13 (AMD).

§1020-C. Motor vehicle oil premium reimbursement

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

A. "Eligible dealer" means a motor vehicle oil dealer that has sold or distributed motor vehicle oil outside the State on which the motor vehicle oil premium was imposed by section 1020, subsection 6-A. [PL 2011, c. 548, §1 (AMD); PL 2011, c. 548, §36 (AFF).]

B. "Eligible premium" means a premium that has been reported and paid by a motor vehicle oil dealer to the State Tax Assessor on motor vehicle oil that was subsequently sold or distributed by an eligible dealer outside the State during the relevant reimbursement period. [PL 2011, c. 548, §1 (AMD); PL 2011, c. 548, §36 (AFF).]

C. "Reimbursement claim" means the value of all eligible premiums reported by an eligible dealer during a reimbursement year. [PL 2011, c. 211, §14 (NEW).]

D. "Unreimbursed eligible premium" means a properly filed eligible premium that has not been reimbursed to the eligible dealer for current or prior year obligations. [PL 2011, c. 211, §14 (NEW).]
[PL 2011, c. 548, §1 (AMD); PL 2011, c. 548, §36 (AFF).]

2. Annual application for reimbursement. An eligible dealer shall submit a claim for reimbursement of eligible premiums on motor vehicle oil sold by that dealer outside the State on a form prescribed by the State Tax Assessor no later than March 31st annually. An application filed in 2011 or 2012 may include a reimbursement request for eligible premiums paid from October 1, 2009 to December 31, 2011. Reimbursement claims submitted beginning in 2013 may be made only for eligible premiums paid in the immediately preceding calendar year. All applications for reimbursement must be made under penalties of perjury. For purposes of this subsection, an application for reimbursement is considered a return, as defined in Title 36, section 111, subsection 4.
[PL 2011, c. 548, §2 (AMD); PL 2011, c. 548, §36 (AFF).]

3. Calculation of reimbursement. Reimbursement of funds available in the fund is calculated according to this subsection.

A. Annually, no later than April 30th immediately following notification by the authority pursuant to section 1020, subsection 3-A, paragraphs A and E, the State Tax Assessor shall calculate the value of reimbursement claims. The State Tax Assessor shall provide reimbursement, as determined pursuant to paragraph B, to eligible dealers no later than the immediately following May 31st. [PL 2011, c. 211, §14 (NEW).]

B. For any reimbursement year, the total amount reimbursed to an eligible dealer may not exceed that eligible dealer's unreimbursed eligible premiums. Priority is given to the oldest unreimbursed eligible premiums in succession until all eligible premiums have been reimbursed. [PL 2011, c. 211, §14 (NEW).]

The amount of reimbursement for each eligible dealer is calculated as follows: The State Tax Assessor shall reimburse each eligible dealer for any reimbursement year an amount equal to a fraction, the numerator of which is the total amount of each eligible dealer's eligible premium and the denominator of which is the total amount of reimbursement claims for the same reimbursement year, multiplied by the amount determined as available by the authority pursuant to section 1020, subsection 3-A, paragraphs A and E. Interest is not due on any reimbursement made to an eligible dealer pursuant to this subsection.
[PL 2011, c. 211, §14 (NEW).]

4. Payment. A reimbursement made in accordance with this section must be paid from the amount the authority reports to the State Tax Assessor pursuant to section 1020, subsection 3-A, paragraphs A and E.
[PL 2011, c. 211, §14 (NEW).]

SECTION HISTORY

PL 2011, c. 211, §14 (NEW). PL 2011, c. 548, §§1, 2 (AMD). PL 2011, c. 548, §36 (AFF).

SUBCHAPTER 2

MORTGAGE INSURANCE PROGRAMS

§1021. Credit of State pledged

The authority may insure the payment of mortgage loans, secured by eligible projects, and may insure or guaranty insured certificates, and to this end the faith and credit of the State is pledged, consistent with the terms and limitations of the Constitution of Maine, Article IX, Sections 14-A and 14-D and such further limitations as may be provided by this subchapter. [PL 1993, c. 460, §4 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §8 (AMD). PL 1985, c. 344, §41 (AMD). PL 1993, c. 460, §4 (AMD).

§1022. Powers of the authority under this program

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §42 (RP).

§1023. Creation of Mortgage Insurance Fund

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §§54,55 (AMD). PL 1983, c. 519, §9 (AMD). PL 1985, c. 344, §43 (RP).

§1023-A. Proceeds received by authority

(REPEALED)

SECTION HISTORY

PL 1981, c. 698, §56 (NEW). PL 1985, c. 344, §44 (RP).

§1023-B. Mortgage Insurance Fund

1. Creation. There is created and established under the jurisdiction and control of the authority the Mortgage Insurance Fund.
[PL 1985, c. 344, §45 (NEW).]

2. Deposited with Treasurer of State or invested. Money in the fund, not needed currently to meet the obligations of the authority as provided for in this subchapter, shall be deposited with the Treasurer of State to the credit of the fund or may be invested in such manner as is provided for by law.
[PL 1985, c. 344, §45 (NEW).]

3. Items charged or credited. The authority may charge or credit to the fund:

A. All expenses of the authority, including payments required pursuant to mortgage insurance agreements and operating expenses; and [PL 1985, c. 344, §45 (NEW).]

B. All income of the authority, including mortgage insurance premiums, fees, reimbursements and proceeds of sale, lease or other disposition of its property, except that proceeds received by the authority from the sale, lease or other disposition of property it may have acquired in accordance with section 1025, subsection 1, shall be credited either to the Mortgage Insurance Fund or the Loan Insurance Reserve Fund as directed by the authority. [PL 1985, c. 714, §11 (AMD).]

[PL 1985, c. 714, §11 (AMD).]

4. Accounts. The authority may divide the fund into such separate accounts as it determines are necessary or convenient for carrying out the purposes of this chapter.
[PL 1985, c. 344, §45 (NEW).]

5. Bond proceeds. Proceeds of bonds issued for purposes authorized by the Constitution of Maine, Article IX, Section 14-A, may not be commingled, for accounting purposes, with proceeds of bonds issued for purposes of the Constitution of Maine, Article IX, Section 14-D.
[PL 1985, c. 344, §45 (NEW).]

6. Revolving fund. The fund shall be a nonlapsing revolving fund. All money in the fund shall be continuously applied by the authority to carry out this chapter.
[PL 1985, c. 344, §45 (NEW).]

7. Successor. Funds held by the authority under prior law in the Mortgage Insurance Fund, the Maine Small Business Loan Insurance Fund and the Veterans' Small Business Loan Insurance Fund shall be held in the Mortgage Insurance Fund created by this section.
[PL 1985, c. 344, §45 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §45 (NEW). PL 1985, c. 714, §11 (AMD).

§1023-C. Loan Insurance Reserve Fund

1. Creation. There is created and established under the jurisdiction and control of the authority the Loan Insurance Reserve Fund.
[PL 1985, c. 714, §12 (NEW).]

2. Sources of fund. There shall be paid into the Loan Insurance Reserve Fund:

A. All money appropriated for inclusion in the fund; [PL 1985, c. 714, §12 (NEW).]

B. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of advances from the fund; [PL 1985, c. 714, §12 (NEW).]

C. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund; [PL 1985, c. 714, §12 (NEW).]

D. After the sum of $300,000 is transferred into the General Fund by the State Controller, the balance available in the Guarantee Reserve Fund shall be transferred to the fund by the State Controller in accordance with the following:

(1) The transfer described in this paragraph shall take place 91 days after the adjournment of the Second Regular Session of the 112th Legislature; and

(2) The sum to be transferred from the Guarantee Reserve Fund to the Loan Insurance Reserve Fund shall be reduced by the amount of any transfers of money to the authority pursuant to section 1024 on or before the transfer provided for by this paragraph. [PL 1985, c. 714, §12 (NEW).]

E. Any other money available to the authority and directed by the authority to be paid into the fund. [PL 1985, c. 714, §12 (NEW).]
[PL 1985, c. 714, §12 (NEW).]

3. Application of fund. Money in the Loan Insurance Reserve Fund may be applied to carry out any power of the authority, including, without limitation, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal of, interest on or redemption premiums on revenue obligation securities of the authority. Money in the fund not needed currently to meet the obligations of the authority as provided for in this chapter may be invested in such manner as may be permitted by law.
[PL 1985, c. 714, §12 (NEW).]

4. Accounts within fund. The authority may divide the Loan Insurance Reserve Fund into such separate accounts as it determines are necessary or convenient for carrying out the purposes of this chapter.
[PL 1985, c. 714, §12 (NEW).]

5. Revolving fund. The Loan Insurance Reserve Fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this chapter.
[PL 1985, c. 714, §12 (NEW).]

SECTION HISTORY

PL 1985, c. 714, §12 (NEW).

§1023-D. Underground Oil Storage Replacement Fund

1. Creation. The Underground Oil Storage Replacement Fund is created and established under the jurisdiction and control of the authority.
[PL 1989, c. 543, §3 (AMD).]

2. Sources of money. There must be paid into the fund the following:

A. All money appropriated for inclusion in the fund or appropriated to the authority for use in providing financial assistance to owners of underground oil storage facilities or tanks, subject to any restrictions applicable to the appropriation; [PL 1989, c. 543, §3 (AMD).]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund; [PL 1987, c. 521, §4 (NEW).]

C. Subject to any pledge, contract or other obligations, any money the authority receives in repayment of advances from the fund; and [PL 1995, c. 399, §1 (AMD); PL 1995, c. 399, §21 (AFF).]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [PL 1987, c. 521, §4 (NEW).]

Without limiting the generality of any other power or authority given to or conferred upon the authority in anticipation of the appropriation or transfer of any money for inclusion in the fund, the authority may borrow funds for application to the fund. All funds borrowed pursuant to this authorization, including interest on the borrowed funds, must be repaid from such fees or by other appropriation.
[PL 1999, c. 505, Pt. A, §6 (AMD).]

3. Application of fund. Money in the fund may be applied to carry out any power of the authority under this section or under or in connection with section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b), including, but not limited to, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest and other amounts due on insured loans. Except as otherwise prohibited under this subsection, money in the fund may be used for direct loans or grants for all or part of underground oil storage facility projects, underground oil storage tank projects, aboveground oil storage tank or facility construction or replacement projects or gasoline service station vapor control or petroleum liquids transfer vapor recovery projects when the authority determines that:

A. One or more of the following circumstances exists:

(1) The underground oil storage facility or tank is leaking or has been identified by the Department of Environmental Protection as posing an environmental threat, or removal is required by applicable law;

(2) The applicant is required to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery;

(3) The applicant is constructing, replacing or renovating a tank or facility used for the aboveground storage of oil and the work is supervised by a state-registered professional engineer with training and experience in aboveground oil storage facility installation; or

(4) The applicant is renovating an underground oil storage tank or facility, the work is supervised by an underground oil storage tank installer certified by the Board of Underground Storage Tank Installers under Title 32, chapter 104-A and the estimated cost of the work exceeds $1,000; [PL 2003, c. 537, §20 (AMD); PL 2003, c. 537, §53 (AFF).]

B. The applicant, if the applicant is not a unit of local government, demonstrates financial need for the assistance; and [PL 1993, c. 601, §2 (RPR).]

C. If the assistance includes a loan, there is a reasonable likelihood that the applicant will be able to repay the loan. [PL 1993, c. 601, §2 (RPR).]

D. [PL 1989, c. 543, §3 (RP).]

E. [PL 1993, c. 601, §2 (RP).]

Applicants demonstrating the requirement to install equipment related to the improvement of air quality pursuant to section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b) and who own fewer than 15 service stations, and who are not able to repay a loan, are eligible to receive no more than $35,000 per service station in grants for the payment of expenses relating to the installation of this equipment.

The authority, pursuant to Title 5, chapter 375, subchapter 2, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans and grants. In the case of loans, the authority may charge an interest rate that may be as low as 0% and may be greater, depending on the financial ability of the applicant to pay as determined by the authority, up to a maximum of the prime rate of interest charged by major New York banks. The maximum the authority may loan or grant to any one borrower, including related entities as determined by the authority, is $600,000. Loans or grants for the purposes listed in paragraph A, subparagraph (3) may not exceed $1,000,000 in a 12-month period. Grants may not be made for the purpose listed in paragraph A, subparagraph (4). Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested as permitted by law.
[PL 2003, c. 537, §20 (AMD); PL 2003, c. 537, §53 (AFF).]

4. Accounts within fund. The authority may divide the fund into such separate accounts as it determines are necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds or grants for underground oil storage facility removal and direct loan funds or grants for tank removal.
[PL 1989, c. 543, §3 (AMD).]

5. Revolving fund. The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the authority to carry out this section and section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b).
[PL 2003, c. 537, §21 (AMD); PL 2003, c. 537, §53 (AFF).]

SECTION HISTORY

PL 1987, c. 521, §4 (NEW). PL 1989, c. 543, §3 (AMD). PL 1991, c. 439, §5 (AMD). PL 1993, c. 601, §2 (AMD). PL 1995, c. 399, §1 (AMD). PL 1995, c. 399, §21 (AFF). PL 1997, c. 613, §1 (AMD). PL 1999, c. 505, §A6 (AMD). PL 2001, c. 231, §3 (AMD). PL 2003, c. 537, §§20,21 (AMD). PL 2003, c. 537, §53 (AFF).

§1023-E. Overboard Discharge Replacement Fund

(REPEALED)

SECTION HISTORY

PL 1987, c. 846, §5 (NEW). PL 2003, c. 537, §22 (RP). PL 2003, c. 537, §53 (AFF).

§1023-F. Innovation Finance Fund

(REPEALED)

SECTION HISTORY

PL 1989, c. 552, §12 (NEW). PL 1989, c. 585, §C9 (NEW). PL 1989, c. 878, §A25 (RPR). PL 2003, c. 537, §23 (RP). PL 2003, c. 537, §53 (AFF).

§1023-G. Waste Reduction and Recycling Loan Fund

1. Creation. The Waste Reduction and Recycling Loan Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the authority.
[PL 1989, c. 878, Pt. A, §26 (NEW).]

2. Sources of money. The fund shall consist of the following:

A. All money appropriated or allocated for inclusion in the fund; [PL 1989, c. 878, Pt. A, §26 (NEW).]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money from the fund; [PL 1989, c. 878, Pt. A, §26 (NEW).]

C. Subject to any pledge, contract or other obligations, any money that the authority receives in repayment of advances from the fund; and [PL 1989, c. 878, Pt. A, §26 (NEW).]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [PL 1989, c. 878, Pt. A, §26 (NEW).]
[PL 1989, c. 878, Pt. A, §26 (NEW).]

3. Application of fund. Money in the fund may be used for direct loans to finance all or part of any project when the authority determines that:

A. The project is:

(1) Designed to substantially reduce or eliminate the production in a trade or business of solid waste or hazardous waste as defined in Title 38, section 1303-C;

(2) A project devoted to resource recovery, as defined in Title 38, section 1303-C, except that the combustion of solid or hazardous waste shall not be considered resource recovery for the purposes of this section; or

(3) A project devoted to the reuse of post-consumer materials; [PL 1989, c. 878, Pt. A, §26 (NEW).]

B. There is a reasonable likelihood that the applicant will be able to repay the loan; [PL 1989, c. 878, Pt. A, §26 (NEW).]

C. The amount and terms of the loan are reasonable to provide an incentive to the applicant to undertake the project, which may include a below-market interest rate, and the project will not result in a net increase in solid or hazardous waste to be disposed of within the State; and [PL 1989, c. 878, Pt. A, §26 (NEW).]

D. The project will contribute to achieving the goals identified in the state waste management and recycling plan adopted under Title 38, chapter 24 and is determined by the Department of Environmental Protection to be consistent with that plan. Prior to adopting the state waste management and recycling plan, the fund may be used for projects that help achieve the goals identified in the state recycling plan approved under former Title 38, section 1310-M. [PL 2011, c. 655, Pt. GG, §4 (AMD); PL 2011, c. 655, Pt. GG, §70 (AFF).]

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in such a manner as permitted by law.
[PL 2011, c. 655, Pt. GG, §4 (AMD); PL 2011, c. 655, Pt. GG, §70 (AFF).]

4. Accounts within fund. The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds.
[PL 1989, c. 878, Pt. A, §26 (NEW).]

5. Revolving fund. The fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this section.
[PL 1989, c. 878, Pt. A, §26 (NEW).]

SECTION HISTORY

PL 1989, c. 878, §A26 (NEW). PL 1995, c. 656, §A2 (AMD). PL 2011, c. 655, Pt. GG, §4 (AMD). PL 2011, c. 655, Pt. GG, §70 (AFF).

§1023-I. Economic Recovery Program Fund

1. Creation. The Economic Recovery Program Fund, referred to in this section as the "fund," is created under the jurisdiction and control of the authority.
[PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

2. Sources of money. The fund consists of the following:

A. All money appropriated or allocated for inclusion in the fund, from whatever source; [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money from the fund; [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

C. Subject to any pledge, contract, fee or other obligation, any money that the authority receives in repayment of advances from the fund; and [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]
[PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

3. Application of the fund. Money in the fund, except money in the 1994 Bond Proceeds Account, may be applied to carry out any power of the authority under or in connection with section 1026-J or to pay obligations incurred in connection with the fund. Money in the 1994 Bond Proceeds Account may be applied to carry out any power of the authority under or in connection with section 1026-J or 1026-L or to pay obligations incurred in connection with the fund. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in a manner permitted by law.
[PL 1995, c. 117, Pt. B, §1 (AMD); PL 1995, c. 117, Pt. B, §2 (AFF).]

4. Accounts within fund. The authority may divide the fund into separate accounts it determines necessary or convenient for carrying out this section. Notwithstanding this subsection, the authority shall create and establish within the fund the 1992 Bond Proceeds Account and the 1994 Bond Proceeds Account. The authority shall allocate and deposit to the 1992 Bond Proceeds Account all proceeds of bonds issued pursuant to Private and Special Law 1991, chapter 113, Part A and, subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money or any money that the authority receives in repayment of advances from the 1992 Bond Proceeds Account in the fund and shall allocate to the 1994 Bond Proceeds Account all proceeds of any bonds authorized in 1994 to be issued for the purpose of meeting the needs of the Economic Recovery Program and, subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money or any money that the authority receives in repayment of advances from the 1994 Bond Proceeds Account in the fund.
[PL 1993, c. 722, Pt. B, §1 (AMD); PL 1993, c. 722, Pt. B, §3 (AFF).]

5. Revolving fund. The fund is a nonlapsing, revolving fund. All money in the 1992 Bond Proceeds Account of the fund must be continuously applied by the authority to carry out this section and section 1026-J and all money in the 1994 Bond Proceeds Account of the fund must be continuously

applied by the authority to carry out this section, section 1026-A, subsection 1, paragraph A, subparagraph (2) and section 1026-J.
[PL 2003, c. 537, §24 (AMD); PL 2003, c. 537, §53 (AFF).]

SECTION HISTORY

PL 1991, c. 849, §1 (NEW). PL 1991, c. 849, §7 (AFF). PL 1993, c. 722, §B1 (AMD). PL 1993, c. 722, §B3 (AFF). PL 1995, c. 117, §B1 (AMD). PL 1995, c. 117, §B2 (AFF). PL 2003, c. 537, §24 (AMD). PL 2003, c. 537, §53 (AFF).

§1023-J. Agricultural Marketing Loan Fund

The Agricultural Marketing Loan Fund, referred to in this section as the "fund," is created. The fund must be deposited with and maintained by the Finance Authority of Maine. The fund must be administered by the Commissioner of Agriculture, Conservation and Forestry in accordance with Title 7, chapter 101, subchapter 1-D. All money received by the Finance Authority of Maine from any source for the development and implementation of an improved agricultural marketing loan program must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for financing loans for agricultural enterprises may be used only for the following purposes: to provide assistance to agricultural enterprises in this State for the design, construction or improvement of commodity and storage buildings and packing and marketing facilities; for the purchase, construction or renovation of buildings, equipment, docks, wharves, piers or vessels used in connection with a commercial agricultural enterprise; for the purchase of land in connection with development of new cranberry acreage; for the purchase of land for irrigation reservoirs or to provide direct access to water for irrigation; for the purchase of land necessary for the start-up of a new agricultural enterprise; for the expansion of an existing agricultural enterprise when the land acquisition is necessary to comply with land use regulations; for the development of a business plan for improvements to pastureland, including seeding and actions to promote rotational grazing; or, if the commissioner so approves at the time of loan insurance commitment, to pledge money in the fund as security for, and to apply money in the fund to, payment of principal, interest and other amounts due on any term loans insured by the Finance Authority of Maine to an eligible dairy farmer. Repayment of these loans and interest on these loans must be credited to the fund and may be used for the purposes stated in this section or Title 7, section 436. Interest earned on money in the fund and interest earned on loans made from the fund may be used to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made from the fund since the inception of the agricultural marketing loan program, to the extent that these costs exceed the fee for administrative costs established by Title 7, section 435, subsection 4. [PL 2017, c. 475, Pt. A, §12 (AMD).]

A purchaser of a modern storage facility that was previously financed with a state loan from the Potato Marketing Improvement Fund may receive a loan from the Agricultural Marketing Loan Fund, but not for the same project financed by the Potato Marketing Improvement Fund. Mortgages obtained from the fund may be assumed by subsequent purchasers of the property. [PL 1995, c. 658, §2 (NEW).]

In order to provide monetary support for Maine milk producers, the Commissioner of Agriculture, Conservation and Forestry may take actions and direct the Finance Authority of Maine to take actions to provide support including entering into agreements as may be necessary to sell, assign or otherwise pledge amounts in the aggregate principal amount of loans and undivided interests in a pool of loans, and assign or pledge any cash balances in the fund, mortgages or other security to provide assurance that amounts provided as monetary support by the commissioner to milk producers are returned to their original source. [PL 2003, c. 120, §3 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

PL 1995, c. 658, §2 (NEW). PL 1999, c. 593, §2 (AMD). PL 1999, c. 769, §7 (AMD). PL 2001, c. 471, §A12 (AMD). PL 2003, c. 120, §3 (AMD). PL 2003, c. 578, §8 (AMD). PL 2011, c. 380, Pt. OOO, §1 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2017, c. 475, Pt. A, §12 (AMD).

§1023-K. Clean Fuel Vehicle Fund

(REPEALED)

SECTION HISTORY

PL 1997, c. 500, §5 (NEW). PL 1999, c. 684, §§2-4 (AMD). PL 2001, c. 367, §3 (AMD). PL 2001, c. 714, §§JJ2-4 (AMD). PL 2003, c. 537, §§25,26 (AMD). PL 2003, c. 537, §53 (AFF). PL 2009, c. 124, §2 (AMD). PL 2011, c. 655, Pt. MM, §§6, 7 (AMD). PL 2011, c. 655, Pt. MM, §26 (AFF). PL 2013, c. 368, Pt. SSSS, §1 (RP).

§1023-L. Waste Oil Clean-up Fund

(REPEALED)

SECTION HISTORY

RR 1999, c. 1, §§12,13 (COR). PL 1999, c. 505, §A7 (NEW). PL 1999, c. 531, §H1 (AMD). PL 1999, c. 531, §H2 (AFF). PL 1999, c. 604, §§1,2 (AMD). PL 1999, c. 713, §2 (AMD). PL 2001, c. 356, §6 (AMD). PL 2003, c. 451, §§X11,12 (AMD). PL 2003, c. 537, §27 (AMD). PL 2003, c. 537, §53 (AFF). PL 2007, c. 464, §§7, 8 (AMD). PL 2011, c. 211, §15 (RP). PL 2011, c. 211, §27 (AFF).

§1023-M. Plymouth Waste Oil Loan Program

(REPEALED)

SECTION HISTORY

PL 1999, c. 713, §3 (NEW). PL 2001, c. 356, §7 (AMD). PL 2001, c. 561, §1 (AMD). PL 2003, c. 129, §§1-4 (AMD). PL 2003, c. 129, §5 (AFF). PL 2003, c. 537, §28 (AMD). PL 2003, c. 537, §53 (AFF). PL 2003, c. 596, §1 (AMD). PL 2007, c. 220, §§1, 2 (AMD). PL 2007, c. 479, §1 (AMD). PL 2007, c. 479, §2 (AFF). PL 2011, c. 211, §16 (RP). PL 2011, c. 211, §27 (AFF).

§1023-N. Potato Marketing Improvement Fund

There is created a fund known as the Potato Marketing Improvement Fund, referred to in this section as "the fund." The fund must be deposited with and maintained by the authority to be used solely for investment in the Maine potato industry. The fund must be administered by the Maine Potato Board, established in Title 36, section 4603 and referred to in this section as "the board," and the Potato Marketing Improvement Fund Committee, established in Title 5, section 12004-H, subsection 10-A. All money received by the authority from any source for the development and implementation of improved storage, packing and marketing and programs and activities that improve the economic viability of the potato industry must be credited to the fund. Any money credited to the fund from the issuance of bonds on behalf of the State for agricultural development may be used only for the purposes of state loans as prescribed by Title 7, section 974-A to provide assistance to potato farmers for the design, construction, improvement, support and operation of storage, packing and marketing facilities; for programs and activities that improve the economic viability of the potato industry; and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans and grants made therein, to the extent that the costs exceed the fee for administrative costs established by Title 7, section 974-A, subsection 2. At the discretion of the Commissioner of Agriculture, Conservation and Forestry, the authority shall make payments directly to the board, which shall use those payments to implement the requirements of this section. During any period that the commissioner has authorized direct payments from the authority to the board, the authority shall make written annual reports to the commissioner and the joint standing committee of the Legislature having jurisdiction over

agriculture, conservation and forestry matters detailing the amounts of payments to the board and the dates payments were made and detailing the expenditure of those payments. Repayment of the loans and interest on the loans must be credited to the fund to be available for making additional state loans for the same purposes, except that any interest earned on the cash balance of the fund may be used for the grants authorized by Title 7, section 975-A. In order to provide additional amounts for loans, the commissioner, upon consultation with the board, may take such actions and enter into such agreements as may be necessary to sell or assign up to $2,000,000 in the aggregate principal amount of loans and undivided interests in a pool of loans and assign or pledge any mortgage or other security to the authority, under the terms and conditions the commissioner considers advisable upon consultation with the board. The assignment and related transactions may not result in indebtedness of the State. The proceeds of the sale or assignment must be credited to the fund and used for the purposes authorized in this section. [PL 2013, c. 403, §11 (AMD).]

A purchaser of a modern storage facility that was previously financed with a state loan from the fund may receive a loan under the conditions of this section. Mortgages obtained from the fund may be assumed by subsequent purchasers of the property. The board shall adopt rules concerning the purchase of existing buildings. [PL 2013, c. 403, §12 (AMD).]

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. These rules must include provisions that ensure that such purchases are in keeping with the purposes and intent of this subchapter and of Private and Special Law 1981, chapters 65 and 75. They must also include a definition of a modern storage facility. [PL 2001, c. 125, §6 (NEW).]

SECTION HISTORY

PL 2001, c. 125, §6 (NEW). PL 2005, c. 335, §7 (AMD). PL 2011, c. 657, Pt. W, §§5, 6 (REV). PL 2013, c. 403, §§11, 12 (AMD).

§1023-O. Visual and Digital Media Loan Fund

(REPEALED)

SECTION HISTORY

PL 2011, c. 372, §2 (NEW). MRSA T. 10 §1023-O, sub-§3 (RP).

§1023-P. Dairy Improvement Fund

The Dairy Improvement Fund, referred to in this section as "the fund," is created. The fund must be deposited with and maintained by the authority. The Commissioner of Agriculture, Conservation and Forestry shall administer the fund in accordance with Title 7, section 2910-B and this section. All money received by the authority in accordance with Title 7, section 2910-B and Title 8, section 1036, subsection 2-A, paragraph M must be credited to the fund. Money credited to the fund must be used to provide loans to assist dairy farmers in making capital improvements to maintain and enhance the viability of their farms and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans made from the fund. [PL 2011, c. 625, §5 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

Repayment of loans and interest on these loans must be credited to the fund and may be used for the purposes stated in this section and Title 7, section 2910-B. [PL 2011, c. 625, §5 (NEW).]

The authority may adopt rules necessary to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 625, §5 (NEW).]

SECTION HISTORY

PL 2011, c. 625, §5 (NEW). PL 2011, c. 657, Pt. W, §6 (REV).

§1024. Additions to funds

1. Request for funds. If at any time the money in the Mortgage Insurance Fund and the money in the Loan Insurance Reserve Fund, exclusive of the money pledged or assigned as security for specific obligations of the authority, is insufficient to meet expenses and obligations of the authority, as these expenses and obligations are projected by the authority to become due and payable, the authority shall in writing request the Governor to provide the necessary money. The Governor shall transfer sufficient money to the Mortgage Insurance Fund or Loan Insurance Reserve Fund, as directed by the authority, from the State Contingent Account or the proceeds of bonds of the State issued pursuant to subsection 2. If at any time the money in the Underground Oil Storage Replacement Fund, exclusive of any amounts reserved by law for direct loans pursuant to section 1023-D, subsection 3, is insufficient to meet the expenses and obligations of the authority incurred pursuant to section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b), as these expenses and obligations are projected by the authority to become due and payable, the authority shall in writing request the Governor to provide the necessary money. Within 30 days of receipt of the request, the Governor shall transfer sufficient money to the Underground Oil Storage Replacement Fund from the Maine Ground and Surface Waters Clean-up and Response Fund or the proceeds of bonds of the State issued pursuant to subsection 2.
[PL 2015, c. 319, §3 (AMD).]

2. Issuance of bonds. If a request for funds is made under subsection 1 and if there are insufficient funds in the State Contingent Account, bonds of the State shall be issued in the following manner:

A. By the Treasurer of State on orders from the Governor; [PL 1985, c. 714, §13 (RPR).]

B. In the amount required, but not exceeding in the aggregate at any one time outstanding the amount set forth in:

(1) The Constitution of Maine, Article IX, Section 14-A, as it may be from time to time amended, except that bonds issued under that section and this subsection may not exceed in the aggregate at any one time outstanding the principal amount of $90,000,000; and

(2) The Constitution of Maine, Article IX, Section 14-D, as it may be from time to time amended, except that bonds issued under that section and this subsection may not exceed in the aggregate at any one time outstanding the principal amount of $4,000,000; [PL 1993, c. 460, §5 (AMD).]

C. To mature serially or to run for such periods as the Governor may determine, not to exceed 10 years, to be subject to prior redemption or repurchase at the option of the State or the holder, as the Governor may determine, with or without premium; [PL 1985, c. 714, §13 (RPR).]

D. At variable or fixed rates of interest, in such denominations, at such price, at public or private sale, in such manner and on such other terms and conditions as approved by the Governor; and [PL 1985, c. 714, §13 (RPR).]

E. As a pledge of the full faith and credit of the State. [PL 1985, c. 714, §13 (RPR).]

If, at any time, the Governor fails to honor such a request for funds or to so order the Treasurer of State or, if the Treasurer of State fails to issue such bonds upon such order, any beneficiary of a valid mortgage insurance obligation of the authority may, by suit against the Governor, seek to require the Governor to honor the request either by payment from the State Contingent Account or by ordering the Treasurer of State to issue such bonds with the proceeds applied to honor the request and may, by suit against the Treasurer of State, seek to require the Treasurer of State to issue the bonds.
[PL 1993, c. 460, §5 (AMD).]

3. Insurance authorization. The authority shall not at any time have, in the aggregate principal amount outstanding, mortgage insurance obligations pursuant to this subchapter in excess of the amounts of authorized and unissued bonds pursuant to subsection 2, paragraph B.
[PL 1985, c. 714, §13 (RPR).]

4. Refunding bonds. The State, acting through the Treasurer of State on orders from the Governor, may issue refunding bonds of the State to refund any outstanding bonds issued pursuant to subsection 2. The refunding bonds shall meet the conditions of subsection 2, paragraphs C, D and E. In computing the total amount of bonds of the State which may at any time be outstanding pursuant to subsection 2, the amount of the outstanding bonds refunded or to be refunded from the proceeds of the sale of new bonds or by exchange of new bonds shall be excluded.
[PL 1985, c. 714, §13 (RPR).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §§57,58 (AMD). PL 1983, c. 4 (AMD). PL 1985, c. 198, §1 (AMD). PL 1985, c. 344, §46 (RPR). PL 1985, c. 714, §13 (RPR). PL 1987, c. 521, §§5,6 (AMD). PL 1987, c. 697, §5 (AMD). PL 1987, c. 846, §§6,7 (AMD). PL 1989, c. 543, §4 (AMD). PL 1993, c. 460, §5 (AMD). PL 2003, c. 537, §29 (AMD). PL 2003, c. 537, §53 (AFF). PL 2015, c. 319, §3 (AMD).

§1025. Safeguarding the Mortgage Insurance Fund

When, in the opinion of the authority, the action is necessary to safeguard the Mortgage Insurance Fund, Loan Insurance Reserve Fund, Underground Oil Storage Replacement Fund or Overboard Discharge Replacement Fund and to maintain income from eligible projects, the authority may, in addition to its other powers: [PL 1989, c. 543, §5 (AMD).]

1. Acquisition and disposal of property. Take assignments of insured mortgages and other forms of security and take title by foreclosure or conveyance to any eligible project. The authority may sell, or on a temporary basis lease or rent, the eligible project for a use other than that specified in this chapter. The authority shall be liable to a municipality for property taxes on any unimproved real property owned by it in the municipality due on or after April 1st at least one year after acquisition of the property by the authority;
[PL 1985, c. 344, §47 (AMD).]

2. Mortgagor rent or lease. Permit a mortgagor to lease or rent an insured project, temporarily and under conditions set by the authority, to a responsible lessee or tenant for a use other than that specified in this chapter; and
[PL 1985, c. 344, §47 (AMD).]

3. Extend time. Extend the time of payment of the loan beyond original maturity, extend the insurance accordingly, waive mortgage insurance premiums and extend or waive other terms and conditions of the loan.
[PL 1985, c. 714, §15 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §10 (AMD). PL 1985, c. 344, §47 (AMD). PL 1985, c. 714, §§14,15 (AMD). PL 1987, c. 521, §7 (AMD). PL 1987, c. 846, §8 (AMD). PL 1989, c. 543, §5 (AMD).

§1026. Criteria for projects

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §59 (AMD). PL 1985, c. 344, §48 (RP).

§1026-A. Insurance of loans

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2015, c. 38, §3) Insurance. The authority may make commitments and agreements to insure loan payments. Any loan insurance must be subject to the following:

A. Loan insurance may not exceed:

(1) One hundred percent of the principal amount of the loan made to any borrower including related entities for any of the following types of loans or projects:

(a) Loans to veterans and wartime veterans, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(b) Underground and aboveground oil storage facility projects and projects to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(c) Sustainable biofuel vehicle projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(d) Waste oil disposal site clean-up projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $1,000,000; or

(e) The Plymouth waste oil remedial study, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $1,000,000; and

(2) Ninety percent of the principal amount of the loan made to any borrower, including related entities for any other manufacturing enterprise, industrial enterprise, recreational enterprise, fishing enterprise, agricultural enterprise, natural resource enterprise or any other eligible business enterprise; [PL 2019, c. 160, §5 (AMD).]

B. The loan must be serviced as required by the authority; [PL 2003, c. 537, §30 (AMD); PL 2003, c. 537, §53 (AFF).]

C. [PL 2003, c. 537, §30 (RP); PL 2003, c. 537, §53 (AFF).]

D. The authority must determine that there is a reasonable prospect that the loan will be repaid; [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

E. The loan must be in compliance with the credit policy of the authority; [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

F. Loan insurance payments may not exceed the lesser of:

(1) Principal, outstanding accrued interest and collection costs approved by the authority; and

(2) The original insured amount; and [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

G. Terms other than those specified in paragraphs A to F as may be required by law or by rule of the authority. [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

The authority may provide insurance for related entities of up to $7,500,000.

Notwithstanding any provision to the contrary in this chapter, the authority may provide special loan insurance benefits to veterans and wartime veterans determined by rule of the authority developed in

consultation with the Department of Defense, Veterans and Emergency Management, Maine Bureau of Veterans' Services.

For all loan insurance liability in excess of $1,000,000 and in other instances when the authority determines it is appropriate, the authority shall obtain a written assessment from the Department of Environmental Protection of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.
[PL 2019, c. 160, §5 (AMD); PL 2019, c. 377, §6 (REV).]

1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2015, c. 38, §3) Insurance. The authority may make commitments and agreements to insure loan payments. Any loan insurance must be subject to the following:

A. Loan insurance may not exceed:

(1) One hundred percent of the principal amount of the loan made to any borrower including related entities for any of the following types of loans or projects:

(a) Loans to veterans and wartime veterans, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(b) Underground and aboveground oil storage facility projects and projects to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(c) Clean fuel vehicle projects and sustainable biofuel vehicle projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $5,000,000;

(d) Waste oil disposal site clean-up projects, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $1,000,000; or

(e) The Plymouth waste oil remedial study, except that the authority may not at any time have, in the aggregate amount of the principal and interest outstanding, loan insurance obligations pursuant to this division exceeding $1,000,000; and

(2) Ninety percent of the principal amount of the loan made to any borrower, including related entities for any other manufacturing enterprise, industrial enterprise, recreational enterprise, fishing enterprise, agricultural enterprise, natural resource enterprise or any other eligible business enterprise; [PL 2009, c. 124, §3 (AMD).]

B. The loan must be serviced as required by the authority; [PL 2003, c. 537, §30 (AMD); PL 2003, c. 537, §53 (AFF).]

C. [PL 2003, c. 537, §30 (RP); PL 2003, c. 537, §53 (AFF).]

D. The authority must determine that there is a reasonable prospect that the loan will be repaid; [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

E. The loan must be in compliance with the credit policy of the authority; [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

F. Loan insurance payments may not exceed the lesser of:

(1) Principal, outstanding accrued interest and collection costs approved by the authority; and

(2) The original insured amount; and [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

G. Terms other than those specified in paragraphs A to F as may be required by law or by rule of the authority. [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

The authority may provide insurance for related entities of up to $10,000,000.

Notwithstanding any provision to the contrary in this chapter, the authority may provide special loan insurance benefits to veterans and wartime veterans determined by rule of the authority developed in consultation with the Department of Defense, Veterans and Emergency Management, Maine Bureau of Veterans' Services.

For all loan insurance liability in excess of $1,000,000 and in other instances when the authority determines it is appropriate, the authority shall obtain a written assessment from the Department of Environmental Protection of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.
[PL 2015, c. 38, §1 (AMD); PL 2015, c. 494, Pt. C, §7 (AFF); PL 2019, c. 377, §6 (REV).]

1-A. Coinsurance.

[PL 2003, c. 537, §30 (RP); PL 2003, c. 537, §53 (AFF).]

2. Loan eligibility. The authority may insure loan payments under this subchapter subject to the following requirements:

A. The loan must be secured by a lien on or a security interest in eligible collateral, subject to such encumbrances, including, without limitation, coordinate first liens, as are acceptable to the authority; [PL 2003, c. 537, §30 (AMD); PL 2003, c. 537, §53 (AFF).]

B. The eligible collateral must be owned, leased, used or held by or otherwise benefit an eligible enterprise; [PL 2003, c. 537, §30 (AMD); PL 2003, c. 537, §53 (AFF).]

C. The documents must contain provisions satisfactory to the authority pertaining to the payment of principal and interest and contain covenants and other provisions satisfactory to the authority pertaining to taxes, assessments, repairs, maintenance, insurance, default, remedies, transfer or alteration of eligible collateral, change in management or control of the business and such other matters as the authority may determine; and [PL 2003, c. 537, §30 (AMD); PL 2003, c. 537, §53 (AFF).]

D. Other conditions prescribed by law or by the authority must have been complied with. [PL 2003, c. 537, §30 (AMD); PL 2003, c. 537, §53 (AFF).]
[PL 2003, c. 537, §30 (AMD); PL 2003, c. 537, §53 (AFF).]

3. Mortgage insured loan limitation for small businesses.

[PL 2003, c. 537, §30 (RP); PL 2003, c. 537, §53 (AFF).]

4. Ineligible for loan insurance. The authority may not provide loan insurance for the following:

A. Investment real estate; [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

B. Religious organizations; [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

C. Fraternal organizations; [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

D. Residential housing, other than congregate or group housing; or [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

E. Consumer loans. [PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]
[PL 2003, c. 537, §30 (NEW); PL 2003, c. 537, §53 (AFF).]

5. Limitations on loan insurance. The authority may establish a maximum insurance liability for particular sectors and for existing loans by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2009, c. 131, §1 (AMD).]

SECTION HISTORY

PL 1985, c. 344, §49 (NEW). PL 1985, c. 714, §§16-18 (AMD). PL 1987, c. 697, §6 (AMD). PL 1991, c. 854, §§A3-6 (AMD). PL 1993, c. 319, §1 (AMD). PL 2003, c. 537, §30 (AMD). PL 2003, c. 537, §53 (AFF). PL 2009, c. 124, §3 (AMD). PL 2009, c. 131, §1 (AMD). PL 2015, c. 38, §1 (AMD). PL 2015, c. 38, §3 (AFF). PL 2015, c. 494, Pt. C, §7 (AFF). PL 2019, c. 160, §5 (AMD). PL 2019, c. 377, §6 (REV).

§1026-B. Mortgage insurance of $1,000,000 or less

(REPEALED)

SECTION HISTORY

PL 1985, c. 344, §49 (NEW). PL 1985, c. 714, §§19-21 (AMD). PL 1987, c. 393, §§3,4 (AMD). PL 1987, c. 402, §B14 (AMD). PL 1987, c. 581, §§1,2 (AMD). PL 1991, c. 511, §§A5-7 (AMD). PL 1999, c. 504, §9 (AMD). PL 2003, c. 537, §31 (RP). PL 2003, c. 537, §53 (AFF).

§1026-C. Mortgage insurance for veterans

(REPEALED)

SECTION HISTORY

PL 1985, c. 344, §49 (NEW). PL 1985, c. 714, §§22,23 (AMD). PL 1987, c. 393, §§5-7 (AMD). PL 1989, c. 857, §47 (AMD). PL 1991, c. 626, §3 (AMD). PL 1991, c. 854, §A6 (AMD). PL 1997, c. 455, §6 (AMD). PL 1997, c. 489, §6 (AMD). PL 2003, c. 537, §32 (RP). PL 2003, c. 537, §53 (AFF).

§1026-D. Mortgage insurance for other projects

(REPEALED)

SECTION HISTORY

PL 1985, c. 344, §49 (NEW). PL 1985, c. 714, §24 (AMD). PL 1987, c. 393, §§8,9 (AMD). PL 1987, c. 697, §§7,8 (AMD). PL 1989, c. 552, §13 (AMD). PL 1991, c. 606, §F1 (AMD). PL 2001, c. 417, §15 (AMD). PL 2003, c. 537, §33 (RP). PL 2003, c. 537, §53 (AFF).

§1026-E. Pool insurance

In addition to its other powers under this chapter, subject to the limitations of this subchapter, the authority may insure mortgage payments with respect to mortgage loans designated as one or more pools or other segregated portfolios. Any such insurance may not exceed 50% of the aggregate principal balances of the mortgage loans as of the date on which the mortgage loans are designated for inclusion in a pool. The authority shall, by rulemaking pursuant to Title 5, chapter 375, subchapter 2, establish requirements for demonstrating project feasibility and for collateral. [PL 2003, c. 537, §34 (AMD); PL 2003, c. 537, §53 (AFF).]

1. Secondary market pool insurance. Notwithstanding the first paragraph in connection with the creation and operation of a secondary market program for mortgage loans and the insured portions of mortgage loans, in addition to its other powers under this chapter, the authority may insure or guarantee payment, including timely payment, of principal and interest due to holders of insured certificates, if each such insured certificate evidences a fractional undivided ownership interest in a separate and

identifiable pool consisting only of that portion of individual mortgage loans that, at origination of the pool, is insured by the authority pursuant to one or more applicable provisions of this chapter. Any such insurance or guaranty of an insured certificate must be in lieu of and not in addition to its insurance of that portion of the individual mortgage loan evidenced by the insured certificate.
[PL 1993, c. 460, §6 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §49 (NEW). PL 1985, c. 714, §25 (AMD). PL 1993, c. 460, §6 (AMD). PL 2003, c. 537, §34 (AMD). PL 2003, c. 537, §53 (AFF).

§1026-F. Mortgage insurance for underground and aboveground oil storage facility projects and projects related to the installation of equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery

(REPEALED)

SECTION HISTORY

PL 1987, c. 521, §8 (NEW). PL 1993, c. 601, §3 (AMD). PL 2003, c. 537, §35 (RP). PL 2003, c. 537, §53 (AFF).

§1026-G. Mortgage insurance for overboard discharge replacement projects

(REPEALED)

SECTION HISTORY

PL 1987, c. 846, §9 (NEW). PL 2003, c. 537, §36 (RP). PL 2003, c. 537, §53 (AFF).

§1026-H. Innovation finance program

(REPEALED)

SECTION HISTORY

PL 1989, c. 552, §14 (NEW). PL 2003, c. 537, §37 (RP). PL 2003, c. 537, §53 (AFF).

§1026-J. Economic Recovery Program

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

The Economic Recovery Program, referred to in this section as the "program," is established to provide loans to businesses that do not have sufficient access to credit but demonstrate the ability to survive, preserve and create jobs, and repay the obligations. [PL 1999, c. 731, Pt. VVV, §4 (AMD).]

1. Eligibility for loans. Businesses may apply to the authority for loans under the program.

A. The projects to be financed must pertain to manufacturing, industrial, recreational or natural resource enterprises, be located in the State and provide significant public benefit in relation to the amount of the loan, as determined by the authority. Public benefits include, but are not limited to, preservation of jobs, increased opportunities for employment, increased capital flows, particularly capital flowing in from outside the State, and increased state and municipal tax revenues. Loan proceeds may be used for any appropriate commercial purpose, as determined by the authority, including working capital and bridge loans pending other financing. [PL 1997, c. 563, Pt. A, §1 (AMD).]

B. The authority must determine that the borrower is a for-profit or nonprofit commercial entity and, except as provided in subsection 4, that it is creditworthy and reasonably likely to repay the loan. [PL 1997, c. 563, Pt. A, §1 (AMD).]

C. The authority must determine that the borrower has insufficient access to other funds and that the loan is necessary in order for the public benefits of the application to be realized. [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

D. [PL 1999, c. 731, Pt. VVV, §5 (RP).]

[PL 1999, c. 731, Pt. VVV, §5 (AMD).]

2. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2015, c. 224, §2) Loan terms and conditions. Loans may not exceed $1,000,000 per project. The authority may establish prudent terms and conditions for loans, including limits on the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years in the case of loans primarily secured by real estate, 10 years in the case of loans secured primarily by machinery and equipment and 7 years for other loans. The interest rate charged on each loan may not exceed the prime rate for interest plus 4%, as determined by the authority. The authority may establish conditions, such as balloon payments, to encourage borrowers to make the transition to conventional financing as soon as they are reasonably able to do so. The authority may further assist the borrower by allowing for the deferral of interest or principal payments for a period of time. Loans may be subject to conditions that allow the authority to make a reasonable return based on the risk of the investment, which may include royalties or additional payments based on sales, net cash flow or other financial measures and rights to equity in the company.

[PL 1999, c. 731, Pt. VVV, §6 (AMD).]

2. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2015, c. 224, §2) Loan terms and conditions. Loans may not exceed $2,000,000 per project. The authority may establish prudent terms and conditions for loans, including limits on the amount of loans for any one project and requiring adequate collateral for the loans. Loan terms may not exceed 20 years in the case of loans primarily secured by real estate, 10 years in the case of loans secured primarily by machinery and equipment and 7 years for other loans. The interest rate charged on each loan may not exceed the prime rate for interest plus 4%, as determined by the authority. The authority may establish conditions, such as balloon payments, to encourage borrowers to make the transition to conventional financing as soon as they are reasonably able to do so. The authority may further assist the borrower by allowing for the deferral of interest or principal payments for a period of time. Loans may be subject to conditions that allow the authority to make a reasonable return based on the risk of the investment, which may include royalties or additional payments based on sales, net cash flow or other financial measures and rights to equity in the company.

[PL 2015, c. 224, §1 (AMD); PL 2015, c. 494, Pt. C, §8 (AFF).]

3. Rulemaking. The authority shall establish rules for the implementation of the program established by this section, including, but not limited to, the establishment of fees that may be charged for the administration of the program, and may do so notwithstanding:

A. The omission of any such rules from the authority's current regulatory agenda prepared pursuant to Title 5, section 8060 or provided pursuant to Title 5, section 8053-A, subsection 2; or [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

B. Any limitation imposed by Title 5, section 8064. [PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

[PL 1991, c. 849, §1 (NEW); PL 1991, c. 849, §7 (AFF).]

4. Business injured in 1998 ice storms. In order to provide timely and effective assistance to businesses injured by the 1998 ice storms, related power outages and other impacts, the authority is authorized to provide loans of up to $10,000 in addition to and not to the exclusion of larger loans under the program. For purposes of this subsection, the authority may establish a streamlined application, loan approval and disbursement process for borrowers that demonstrate that:

A. They have been damaged by the storm; [PL 1997, c. 563, Pt. A, §2 (NEW).]

B. They have insufficient access to conventional sources of capital or to federal disaster assistance in a timely manner; and [PL 1997, c. 563, Pt. A, §2 (NEW).]

C. Their credit history demonstrates a reasonable willingness and ability to pay past debts and other obligations or that any past credit problems can be explained to the satisfaction of the authority. [PL 1997, c. 563, Pt. A, §2 (NEW).]

The authority may require less than adequate collateral for loans under this subsection, may provide for deferral of payments of principal or both principal and interest, and may waive accrual of interest for a period of up to 12 months. In order to process loan requests as promptly as possible, the chief executive officer is authorized to act on behalf of the authority and may approve loans under this section on such terms and conditions as the chief executive officer determines necessary or prudent, without the need for rulemaking and without being limited by the provisions of existing rules adopted in accordance with subsection 3. Assistance under this subsection is limited to an aggregate of no more than $2,000,000, and all applications under this subsection must be received no later than April 30, 1998.
[PL 1997, c. 563, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 849, §1 (NEW). PL 1991, c. 849, §7 (AFF). PL 1997, c. 563, §§A1,2 (AMD). PL 1999, c. 731, §§VVV4-6 (AMD). PL 2015, c. 224, §1 (AMD). PL 2015, c. 224, §2 (AFF). PL 2015, c. 494, Pt. C, §8 (AFF).

§1026-K. Loan insurance for small businesses

(REPEALED)

SECTION HISTORY

PL 1993, c. 319, §2 (NEW). PL 2003, c. 537, §38 (RP). PL 2003, c. 537, §53 (AFF).

§1026-L. Capital Access Program

1. Capital Access Program established. The authority shall establish a program known as the Capital Access Program, referred to in this section as "CAP," for the benefit of each participating state bank. The Capital Access Program Fund, referred to in this section as the "fund," is established to implement the CAP. The fund must be separate and apart from all other funds of the authority and held exclusively to secure the principal of and the interest on CAP loans made by a participating state bank.
[PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

2. Contribution limit. The amount of the authority's contribution to the fund may not exceed 10% of the principal amount of CAP loans to be secured by the fund. As a condition of the authority making a contribution to the fund, the authority may require the borrower or the participating state bank to make a contribution to the fund and may impose other conditions the authority determines necessary. All money contributed to the fund by the authority must be held in the name of the authority. Investment earnings on the fund must be credited to the fund and periodically paid to the authority, unless a CAP participation agreement pursuant to subsection 3 provides otherwise.
[PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

3. Bank participation; rules. Before establishing a CAP at a participating state bank, the authority must enter into a CAP participation agreement with the participating state bank. The CAP participation agreement must specify:

A. The maximum amount of the authority's contributions to the CAP; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

B. Conditions under which the authority may make contributions to the CAP; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

C. Conditions under which the participating state bank may demand payment from a CAP to pay a defaulted CAP loan; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

D. Minimum due diligence procedures for servicing CAP loans; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

E. Conditions under which the participating state bank or a borrower may be required to contribute to the CAP; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

F. Provisions for the payment of authority fees, costs and expenses from earnings on the CAP or otherwise; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

G. Provisions for the termination of the CAP, in whole or in part, and disbursement of any excess funds in the CAP; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

H. Criteria and procedures that qualify a loan as a CAP loan; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

I. The requirement that the participating state bank report to the authority at least annually regarding outstanding balances on CAP loans, delinquent CAP loans and such other information as the authority determines appropriate; [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

J. Permitted investments in the CAP; and [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

K. Other terms and conditions the authority determines necessary. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

[PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

4. Minimum requirements. At a minimum, CAP loans must meet the following requirements.

A. The borrower must be either a start-up business or may not have had annual sales in its most recently completed fiscal year greater than $5,000,000. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

B. The total outstanding principal amount of CAP loans to the borrower may not exceed $500,000. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

C. The proceeds of the CAP loan must be used for business purposes. [PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

By written notice to participating state banks, the authority may impose requirements on CAP loans in addition to those contained in this subsection or in a CAP participation agreement. Additional requirements do not apply to CAP loans already made or to CAP loans for which written commitments exist if CAP loans from these written commitments are made within 3 months after the date of the written notice.

[PL 1993, c. 722, Pt. B, §2 (NEW); PL 1993, c. 722, Pt. B, §3 (AFF).]

SECTION HISTORY

PL 1993, c. 722, §B2 (NEW). PL 1993, c. 722, §B3 (AFF).

§1026-M. Regional Economic Development Revolving Loan Program

1. Established. The Regional Economic Development Revolving Loan Program, referred to in this section as the "program," is established to provide financial assistance to businesses that need assistance in order to create or retain jobs. The authority shall administer the program on behalf of participating eligible economic development corporations or entities. The Regional Economic Development Revolving Loan Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program, interest

earnings on the fund and any amounts repaid to the program by participating corporations. Amounts in the fund must be used by the authority for purposes authorized in this section. The authority shall reserve an amount not less than $300,000 for loans for quality child care projects and may make loans directly to those projects.
[PL 1999, c. 401, Pt. OOO, §1 (AMD).]

2. Eligible corporations. The fund is open to local, regional and statewide nonprofit or governmental economic development corporations or entities that are capable of providing financial assistance to businesses in order to create and protect jobs, as well as revitalize downtowns and build strong communities and a sustainable economy, referred to in this section as "corporations." In the case of loans to quality child care projects, the authority may also provide loans directly to eligible borrowers. To be eligible for assistance from the fund:

A. A corporation must apply to the authority to participate in the fund. The application must describe the corporation and its funding sources, the region or regions it serves, its methods and criteria for qualifying borrowers, including any targeted lending and economic development strategies, its expertise in management assistance and financing of small and emerging businesses, the method by which it will leverage funds from other sources in an amount at least equal to 2 times the amount requested from the fund and other information the authority determines necessary; [PL 2013, c. 605, §1 (AMD); PL 2013, c. 605, §9 (AFF).]

B. A corporation must have a strategy for the creation and retention of jobs, an effective small business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service loans and assist its clients or it must have a strategy for real estate development including commercial and mixed-use real estate and community facilities; [PL 2013, c. 605, §1 (AMD); PL 2013, c. 605, §9 (AFF).]

C. The corporation must be determined by the authority to be able to prudently and effectively administer a direct loan fund and to coordinate with other business assistance programs and employment training and social assistance programs; [PL 1999, c. 401, Pt. OOO, §1 (AMD).]

D. The corporation must propose performance measurements and goals and a process for monitoring compliance with proposed measurements and goals. The authority shall assist corporations in developing loan or equity-like debt underwriting and administrative capacity and in portfolio monitoring and servicing and may establish one or more advisory boards or committees to assist corporations; and [PL 2013, c. 605, §1 (AMD); PL 2013, c. 605, §9 (AFF).]

E. A child care project must apply to the authority or to a corporation and meet the eligibility criteria for a borrower. [PL 1999, c. 401, Pt. OOO, §1 (NEW).]
[PL 2013, c. 605, §1 (AMD); PL 2013, c. 605, §9 (AFF).]

3. Disbursements from fund. If an application is approved, the authority shall determine the amount to be disbursed to the corporation, taking into account:

A. The size of the region or regions served by the corporation and the expected demand for loan funds in that region or those regions; [PL 2013, c. 605, §2 (AMD); PL 2013, c. 605, §9 (AFF).]

B. The demand for funds from other eligible corporations in relation to the total amount available in the fund; and [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

C. Whether an eligible corporation will serve statewide or will serve a geographic area or segment of potential business borrowers not served by other applicants. [PL 2013, c. 605, §2 (AMD); PL 2013, c. 605, §9 (AFF).]

A corporation may not receive more than $3,500,000 from the fund. Funds must be disbursed directly to and retained by the eligible corporation in accordance with the contract between the corporation and

the authority. Funds must be disbursed to the corporation in the form of a loan or a grant. The authority may, in its discretion, disburse fund amounts in one lump sum or periodic disbursements.
[PL 2013, c. 605, §2 (AMD); PL 2013, c. 605, §9 (AFF).]

4. Contract. A corporation that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a corporation shall, at a minimum, conform to the following terms and conditions:

A. The corporation shall certify that it will use funds only for eligible purposes; [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

B. The corporation shall review applications for financial assistance, determine the feasibility of the application and approve or deny the application, which determination is final in the case of loans under $150,000 or in the case of denials of any amount; [PL 2009, c. 131, §3 (AMD).]

C. An officer or employee of the corporation or a member of its credit committee may not participate in any way in, or have any influence over, a decision on a project in which that officer, employee or member has a direct or indirect personal financial interest; [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

D. If the corporation breaches its contract with the authority or ceases to operate a loan program in substantial conformance with its proposal to the authority, the authority may withhold further funding and may require repayment of any undisbursed loan funds and loan repayments to the authority; and [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

E. Other terms and conditions as the authority determines appropriate. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]
[PL 2009, c. 131, §3 (AMD).]

5. Administrative costs. A corporation may not use any money disbursed from the fund by the authority for administrative expenses, but may charge a commitment fee of up to 2% and may use interest earnings not to exceed 7% of each loan annually on loans to cover reasonable operating costs, including loan fund management, technical assistance and education. The authority shall review and approve a corporation's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its administration of the fund.
[PL 2013, c. 605, §3 (AMD); PL 2013, c. 605, §9 (AFF).]

6. Financing terms and conditions. Loans may be made from program funds under the following terms and conditions.

A. Loans may not exceed $350,000 to a borrower, including an affiliated entity, and approval of the authority is required for any loan in excess of $150,000. Loans or portions of loans to a quality child care project to be used solely for lead abatement may not exceed $15,000. [PL 2013, c. 605, §4 (AMD); PL 2013, c. 605, §9 (AFF).]

B. Loans of $50,000 or more for borrowers other than quality child care projects may not exceed 1/2 of the net new funds being provided to a borrower. Loans of less than $50,000 and loans for quality child care projects may be for the total amount of new funds being provided to the borrower. [PL 2013, c. 605, §5 (AMD); PL 2013, c. 605, §9 (AFF).]

C. The authority and each corporation shall establish interest rates, amortization schedules and repayment terms for each borrower, except that loans may not be for a term longer than 20 years and:

(1) Loans to a quality child care project must bear a rate of interest not greater than 5%; or

(2) Loans to any other eligible borrower may not bear a rate of interest greater than the prime rate of interest plus 7%. [PL 2013, c. 605, §6 (AMD); PL 2013, c. 605, §9 (AFF).]

D. When necessary, a corporation may provide for flexible repayment terms and may require additional payments tied to the borrower's financial success. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

E. A corporation shall require collateral for loans when available, but may subordinate to loans from other lenders. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

[PL 2013, c. 605, §§4-6 (AMD); PL 2013, c. 605, §9 (AFF).]

7. Eligible projects. In order for a project or borrower to be eligible for financial assistance under the program, the following criteria must be met.

A. The business for which funds are requested has 100 or fewer employees or annual sales of $10,000,000 or less, and it consists of or involves at least one of the following:

(1) Manufacturing technologies, such as value-added wood products, specialty fabricated metal and electronic products, precision manufacturing and use of composites or advanced materials;

(2) Technologies, such as advanced information systems, advanced telecommunications, energy and environmental products and services;

(3) Value-added natural resource enterprises and biological and natural resource technologies, such as aquaculture, marine technology, agriculture, forestry products and biotechnology;

(4) A business converting from defense dependency;

(5) A business significantly engaged in export of goods or services to locations outside the State;

(6) A business that dedicates significant resources to research and development activities;

(7) Other businesses with 15 or fewer employees;

(8) A child care project that includes any business that, for compensation, provides a regular service of care and protection for any part of a day less than 24 hours to a child or children under 16 years of age whose parents work outside the home, attend an educational program or are otherwise unable to care for their children;

(9) A business significantly engaged in commercial and mixed-use real estate and community facilities; and

(10) A business significantly engaged in serving tourists, such as in the areas of outdoor recreation, culture and heritage and hospitality.

Notwithstanding the requirements of this paragraph, until June 30, 2012, a project or a borrower that is eligible for loan insurance under section 1026-A is eligible for financial assistance under the program. [PL 2013, c. 605, §7 (AMD); PL 2013, c. 605, §9 (AFF).]

B. The borrower is unable to obtain funding needed for the project from other public and private sources, including the personal resources of the owners of the business borrowing from the fund. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

C. The borrower has committed all reasonably available resources to the project, obtained financial commitment from other sources of financing and demonstrated a reasonable likelihood that the loan can be repaid. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

D. The loan is not used to make distributions to or for the benefit of an owner of the business borrowing from the fund or a related entity. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

[PL 2013, c. 605, §7 (AMD); PL 2013, c. 605, §9 (AFF).]

8. Priorities. Among eligible applicants, a corporation shall give priority to businesses and projects with the potential of meeting one or more of the following objectives.

A. The financing will help the business pursue a business that adds significant value to raw materials or inventory. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

B. The financing is likely to result in a long-term net increase in permanent, quality jobs that meet a local or regional need or the retention of jobs in jeopardy of being lost. [PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

[PL 2013, c. 605, §8 (AMD); PL 2013, c. 605, §9 (AFF).]

9. Reports. A corporation shall report at least semiannually to the authority on the projects the corporation funds and the administration of the program. The report must include a description of each project, the amount, type and terms of assistance the project received, the number of jobs that were created or retained and other information the authority requires. The report must contain an accounting of the loan portfolio and any loans that are in default, as well as an accounting of the corporation's administrative and technical assistance expenses incurred and charged to the program.

[PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

10. Audit. The authority shall review annually each corporation's participation in the program and may, in its discretion, require an independent audit at the expense of the corporation. If the authority determines that a corporation has used funds for ineligible purposes, the corporation shall repay those funds to the authority for deposit into the fund. The authority may not disburse additional funds to a corporation until the corporation has repaid the misapplied funds and has fully complied with its obligations under the contract with the authority.

[PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

11. Written procedures. The authority shall adopt rules governing the program pursuant to Title 5, chapter 375.

[PL 1993, c. 722, Pt. C, §1 (NEW); PL 1993, c. 722, Pt. C, §2 (AFF).]

SECTION HISTORY

PL 1993, c. 722, §C1 (NEW). PL 1993, c. 722, §C2 (AFF). PL 1999, c. 401, §§OOO1-3 (AMD). PL 2001, c. 639, §§1,2 (AMD). PL 2003, c. 195, §1 (AMD). PL 2007, c. 683, Pt. B, §1 (AMD). PL 2009, c. 131, §§2-6 (AMD). PL 2011, c. 11, §1 (AMD). PL 2013, c. 605, §§1-8 (AMD). PL 2013, c. 605, §9 (AFF).

§1026-N. Maine Economic Development Venture Capital Revolving Investment Program

1. Established. The Maine Economic Development Venture Capital Revolving Investment Program, referred to in this section as the "program," is established to provide venture capital to businesses that need assistance in order to create or retain jobs. The Maine Economic Development Venture Capital Revolving Investment Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program or allocated for inclusion in the fund, from whatever source, interest and investment earnings on the fund and any amounts repaid to the program by participating venture capital funds.

[PL 1999, c. 731, Pt. VVV, §7 (AMD).]

2. Eligible venture capital funds. Money in the fund may be invested in one or more private, professionally managed venture capital funds located in the State capable of providing venture capital to businesses in order to create and protect jobs and that provide evidence of past or potential management success and risk diversification. To be eligible for investments from the fund, a private venture capital fund must:

A. Apply to the authority. The application must describe the private venture capital fund and its funding sources, the region it serves, its methods and criteria for qualifying investments, including

any targeted investing and economic development strategy, its expertise in venture capital assistance and investing in small and emerging businesses, the method by which it will leverage funds from other sources than those received from the fund and other information the authority determines necessary; [PL 1995, c. 424, §1 (NEW).]

B. Have a strategy for the creation and retention of jobs, an effective small business marketing and technical assistance plan and enough expert assistance available to it to underwrite, document and service investments and to assist the businesses in which it invests; [PL 1995, c. 424, §1 (NEW).]

C. Be determined by the authority to be able to prudently and effectively administer venture capital investments; and [PL 1995, c. 424, §1 (NEW).]

D. Propose performance standards and goals and a process for monitoring compliance with proposed measurement and goals. [PL 1995, c. 424, §1 (NEW).]

[PL 1999, c. 731, Pt. VVV, §7 (AMD).]

3. Disbursements from fund. If an application is approved, the authority shall determine the amount to be invested in the private venture capital fund, taking into account:

A. The size of the region served by the private venture capital fund and the expected demand for venture capital investments in that region; and [PL 1995, c. 424, §1 (NEW).]

B. The demand for venture capital investments from other eligible private venture capital funds in relation to the total amount available in the fund and whether an eligible private venture capital fund will serve a geographic area or segment of potential businesses not served by other applicants. [PL 1995, c. 424, §1 (NEW).]

Funds must be disbursed directly to and retained by the eligible private venture capital fund in accordance with a contract of investment between the private venture capital fund and the authority. All money invested in the private venture capital fund by the authority must be held in the name of the authority. Investment earnings on amounts invested by the authority must be credited to the authority and periodically paid to the authority. Any uncommitted balances existing in the fund at any time may, at the discretion of the authority, be transferred to the Economic Recovery Program Fund established in section 1023-I.

[PL 2015, c. 47, §1 (AMD).]

4. Investment contract. A private venture capital fund that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a private venture capital fund shall, at a minimum, conform to the following terms and conditions:

A. The private venture capital fund shall certify that it will use funds only for eligible purposes and that it will make best efforts to invest an amount equal to the authority's investment in the fund in businesses that meet all eligibility requirements for a tax credit certificate pursuant to section 1100-T, subsection 2, paragraph B; [PL 1999, c. 731, Pt. VVV, §8 (AMD).]

B. [PL 1999, c. 731, Pt. VVV, §9 (RP).]

B-1. The authority has rights equal to those of all other investors in the private venture capital fund; [PL 1999, c. 731, Pt. VVV, §10 (NEW).]

C. If the private venture capital fund breaches its contract with the authority or ceases to operate an investment program in substantial conformance with its proposal to the authority, the authority may require immediate repayment to the authority of any investment made to it from the fund; and [PL 1995, c. 424, §1 (NEW).]

D. Other terms and conditions that the authority determines appropriate. [PL 1995, c. 424, §1 (NEW).]

[PL 1999, c. 731, Pt. VVV, §§8-10 (AMD).]

5. Administrative costs. A private venture capital fund may not use more than 4% annually of the amount invested from the fund by the authority for administrative expenses or load charges. The authority shall review and approve a private venture capital fund's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its administration of the fund.
[PL 1999, c. 731, Pt. VVV, §11 (AMD).]

6. Eligible investments.

[PL 1999, c. 731, Pt. VVV, §12 (RP).]

7. Reports. A private venture capital fund shall report at least semiannually to the authority on the businesses in which the private venture capital fund invests and the administration of the program. The report must include a description of each business, the amount, type and terms of assistance the business received, the amount of funds invested in businesses that meet the criteria of section 1100-T, subsection 2, paragraph B, the number of jobs that were created or retained and other information the authority requires. The report must contain an accounting of the investment portfolio and any investments that are in default, as well as an accounting of the private venture capital fund's administrative and technical assistance expenses incurred and charged.
[PL 1999, c. 731, Pt. VVV, §13 (AMD).]

8. Audit. The authority shall review annually each private venture capital fund's participation in the program and, in its discretion, may require an independent audit at the expense of the private venture capital fund. If the authority determines that a private venture capital fund has used funds for ineligible purposes, the private venture capital fund shall repay those funds to the authority for deposit into the fund.
[PL 1995, c. 424, §1 (NEW).]

9. Rules. The authority shall adopt rules governing the program pursuant to Title 5, chapter 375.
[PL 1995, c. 424, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 424, §1 (NEW). PL 1999, c. 731, §§VVV7-13 (AMD). PL 2015, c. 47, §1 (AMD).

§1026-O. Employee stock ownership program

(REPEALED)

SECTION HISTORY

PL 1997, c. 217, §1 (NEW). PL 2003, c. 537, §39 (RP). PL 2003, c. 537, §53 (AFF).

§1026-P. Mortgage insurance for clean fuel vehicle projects

(REPEALED)

SECTION HISTORY

PL 1997, c. 500, §6 (NEW). PL 2003, c. 537, §40 (RP). PL 2003, c. 537, §53 (AFF).

§1026-Q. Early Care and Education Revolving Loan Program

1. Established. The Early Care and Education Revolving Loan Program, referred to in this section as the "program," is established to provide financial assistance to businesses providing early care and education. The authority shall administer the program, which may include direct loans to early care and education providers, as well as loans or grants by the authority to eligible economic development corporations or entities for the purpose of providing loans to early care and education providers. The Early Care and Education Revolving Loan Program Fund, referred to in this section as the "fund," is established as a revolving fund, into which must be deposited all amounts appropriated to the program,

interest earnings on the fund, any amounts repaid to the program by loan recipients and funds from any other source. Amounts in the fund must be used by the authority for purposes authorized in this section. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

2. Eligible corporations. The program is open to local, regional and statewide nonprofit or governmental economic development corporations or entities capable of providing financial assistance to businesses providing early child care and education. To be eligible to participate in the program:

A. A corporation must apply to the authority to participate in the program. The application must describe the corporation and its funding sources, the region it serves, its methods and criteria for qualifying borrowers, strategies in locating qualified borrowers, its expertise in management assistance and financing of early child care and education businesses, its ability to leverage funds from other sources and other information the authority determines necessary; [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

B. A corporation must have a strategy for the provision of marketing and technical assistance to early child care and education businesses and enough expert assistance available to underwrite, document and process loans and assist its clients; and [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

C. A corporation must be determined by the authority to be able to prudently and effectively administer a direct loan fund and to coordinate the administration of a loan fund with other business assistance programs and employment training and social assistance programs. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

3. Disbursements from fund. If an application is approved, the authority shall determine the amount to be disbursed to the corporation, taking into account:

A. The size of the region served by the corporation and the expected demand for loan funds in that region; [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

B. The demand for funds from other eligible corporations in relation to the total amount available in the fund; and [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

C. Whether an eligible corporation serves a geographic area or segment of potential business borrowers not served by other applicants. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

The authority shall allocate funds in the program considering each of the factors in this subsection and such other factors as the authority establishes by rule. The authority may reserve up to 50% of the funds appropriated for loans to be made by the authority. Funds allocated to a corporation must be disbursed directly to and retained by the eligible corporation in accordance with the contract between the corporation and the authority. Funds must be disbursed to the corporation in the form of a loan or grant. The authority may disburse fund amounts in one lump sum or periodic disbursements.
[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

4. Contract. A corporation that has been approved for participation in the program may enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must provide that a corporation may disburse program funds statewide. The contract must provide that a corporation shall, at a minimum, conform to the following terms and conditions:

A. The corporation shall certify that it will use funds only for eligible purposes; [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

B. The corporation shall review each application for financial assistance, determine the feasibility of the application and approve or deny the application; [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

C. An officer or employee of the corporation or a member of its credit committee may not participate in any way in, or have any influence over, a decision on a project in which that officer,

employee or member has a direct or indirect personal financial interest; [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

D. If the corporation breaches its contract with the authority or ceases to operate a loan program in substantial conformance with its proposal to the authority, the authority may withhold further funding and may require repayment of any undisbursed loan funds and loan repayments to the authority; and [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

E. Other terms and conditions as the authority determines appropriate. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

5. Administrative costs. A corporation may not use any money disbursed from the fund by the authority for administrative expenses, but may charge a commitment fee on each loan of up to 1% and may use interest earnings not to exceed 5% of each loan annually to cover reasonable administrative and technical assistance costs. The authority shall review and approve a corporation's administrative expenses on an annual basis. The authority may establish by rule reasonable administrative fees for its origination of loans and administration of the fund.

[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

6. Financing terms and conditions. Loans may be made from program funds under the following terms and conditions.

A. Loans may not exceed $100,000 to an eligible borrower, except that loans or portions of loans to be used for lead abatement may not exceed $5,000. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

B. Each corporation and the authority shall establish interest rates, amortization schedules and repayment terms for each borrower, except that loans may not bear a rate of interest that, when added to the commitment fee and administrative and technical assistance cost, is less than 6% or exceeds the prime rate of interest. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

C. A corporation or the authority may provide for flexible repayment terms. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

D. A corporation or the authority shall require collateral for loans when available, but may subordinate to loans from other lenders. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

7. Eligible borrower. A project or borrower is eligible for financial assistance under the program if the following criteria are met.

A. The business for which funds are requested must provide early child care and education services to at least 3 children who are not related to the owner of the business or any provider of early care and education services working for the borrower. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

B. The borrower has insufficient access to funding for the project from other public and private sources. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

C. The borrower has committed all reasonably available resources to the project, obtained financial commitment from other sources of financing and demonstrated a reasonable likelihood that the loan can be repaid. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

D. In selecting child care providers to receive loan guarantees, the authority must use the following criteria:

(1) An applicant's status as a licensed or certified child care center;

(2) An applicant's interest in obtaining and ability to obtain accreditation by a nationally recognized program that utilizes recognized quality indicators for child care services that have been approved by the Office of Head Start and Child Care, including input from parents or

clients or both, reviews of policies, procedures and program records and on-site program reviews;

(3) The degree of coordination with Head Start and other community programs; and

(4) The quality of the child care provider's administrative and financial management. [PL 1999, c. 401, Pt. OOO, §4 (NEW).]

8. Reports. A corporation shall report at least semiannually to the authority on the projects the corporation funds and the administration of the program. The report must include a description of each borrower, the amount, type and terms of assistance each borrower received and other information the authority requires. The report must contain an accounting of the loan portfolio and any loans that are in default, as well as an accounting of the corporation's administrative and technical assistance expenses incurred and charged to the program.
[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

9. Audit. The authority shall periodically review each corporation's participation in the program and may, at its discretion, require an independent audit at the expense of the corporation. If the authority determines that a corporation has used funds for ineligible purposes, the corporation shall repay those funds to the authority for deposit into the fund. The authority may not disburse additional funds to a corporation until the corporation has repaid the misapplied funds and has fully complied with its obligations under the contract with the authority.
[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

10. Written procedures. The authority shall adopt rules governing the program. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

11. Annual report. The authority shall report by the last business day of each year on the Early Care and Education Revolving Loan Program to the joint standing committee of the Legislature having jurisdiction over business and economic development matters.
[PL 1999, c. 401, Pt. OOO, §4 (NEW).]

REVISOR'S NOTE: §1026-Q. Mortgage insurance for waste oil disposal site clean-up projects (As enacted by PL 1999, c. 505, Pt. A, §8 is REALLOCATED TO TITLE 10, SECTION 1026-R)

SECTION HISTORY

RR 1999, c. 1, §14 (RAL). PL 1999, c. 401, §OOO4 (NEW). PL 1999, c. 401, Pt. OOO, §4 (NEW). PL 1999, c. 505, §A8 (NEW).

§1026-R. Mortgage insurance for waste oil disposal site clean-up projects

(REPEALED)

(REALLOCATED FROM TITLE 10, SECTION 1026-Q)

SECTION HISTORY

RR 1999, c. 1, §14 (RAL). PL 2003, c. 537, §41 (RP). PL 2003, c. 537, §53 (AFF).

§1026-S. Mortgage loans for Plymouth waste oil site remedial study

(REPEALED)

SECTION HISTORY

PL 1999, c. 713, §4 (NEW). PL 2003, c. 537, §42 (RP). PL 2003, c. 537, §53 (AFF).

§1026-T. Innovation finance program

1. Established. The authority may create and oversee a state innovation finance program, referred to in this section as "the program," to increase the supply of venture capital to the economy of the State

by improving access by innovative businesses in this State to venture capital funds. Investment performance of the program may be partially guaranteed by refundable tax credits issued by the authority to the retirement system. This section does not mandate or require any investment by the retirement system or give the retirement system any economic development responsibilities, its sole responsibility being to safeguard, invest and increase retirement system assets consistent with its fiduciary duty to its members.
[PL 2009, c. 633, §4 (NEW).]

2. Investment goal; guidelines. The goal of the program is to attract more venture capital to innovative businesses in this State by providing the retirement system with an incentive to invest in high-quality venture capital funds that evidence both a commitment to seeking investments in the State and the ability to produce favorable returns to minimize the risk of tax credit redemption. Consistent with this investment goal, the retirement system may, in the exercise of its discretion and consistent with its fiduciary duties to the beneficiaries of the retirement system, apply to the authority for approval under the program for proposed investments in venture capital funds. The authority may approve such a proposed venture capital fund investment under the program if it determines that the venture capital fund will give strong consideration to investing in businesses in this State that fall within the targeted technologies. In making this decision, the authority shall consider whether the venture capital fund:

A. Will maintain at least a periodic presence in the State; [PL 2009, c. 633, §4 (NEW).]

B. Will build linkages to, and accept referrals from, at least some of the organizations promoting the State's innovation economy, including the authority, the Maine Technology Institute under Title 5, section 15302, the Small Enterprise Growth Fund under section 383, the Department of Economic and Community Development, the Maine Patent Program under section 1921, the University of Maine System and other venture capital investors within the State; [PL 2009, c. 633, §4 (NEW).]

C. Will actively prospect for investments in the State; [PL 2009, c. 633, §4 (NEW).]

D. Expresses a commitment to seek investments in businesses in this State that meet its investment criteria; and [PL 2009, c. 633, §4 (NEW).]

E. Demonstrates the ability to make successful venture capital investments. [PL 2009, c. 633, §4 (NEW).]
[PL 2009, c. 633, §4 (NEW).]

3. Investment restrictions. Investments under the program are governed by this subsection.

A. The retirement system may not invest directly in individual businesses under this program but may invest only in venture capital funds that are managed to best achieve the purpose set out under subsection 2. [PL 2009, c. 633, §4 (NEW).]

B. No more than $4,000,000 of tax credits may be placed at risk with respect to any single commitment to a venture capital fund. [PL 2009, c. 633, §4 (NEW).]

C. The retirement system may cooperate with the authority and other organizations promoting the State's innovation economy by encouraging participating venture capital funds to consider investments in this State consistent with their investment strategies. The retirement system may at any time be relieved of this obligation by releasing the State from its obligations under all outstanding tax credit certificates issued under the program. [PL 2009, c. 633, §4 (NEW).]
[PL 2009, c. 633, §4 (NEW).]

4. Refundable tax credits. The authority may issue to the retirement system certificates of up to $20,000,000 in refundable tax credits as provided by Title 36, section 5219-EE to serve as partial security against a loss of capital under the program. Certificates must be issued to expire no later than July 1, 2028.

A. Refundable tax credits as authorized by this subsection may be redeemed only as necessary to offset 80% of any realized loss of capital in the program. [PL 2009, c. 633, §4 (NEW).]

B. A certificate of tax credits issued by the authority under this section is binding on the State and constitutes a solemn contractual commitment of the State protected under the contract clauses of the Constitution of Maine, Article I, Section 11 and the United States Constitution, Article I, Section 10. Once issued, as long as the retirement system is not in default under its agreement with the authority with respect to any certificate of tax credits, the certificate may not be modified, terminated or rescinded until the certificate expires, is redeemed or is released by the retirement system. [PL 2009, c. 633, §4 (NEW).]

C. The authority shall register each refundable tax credit under this section with the Department of Administrative and Financial Services, Bureau of Revenue Services. The retirement system shall report annually to the authority on the status and valuation of investments secured by the certificate of tax credits and such other information as may be required pursuant to an agreement between the retirement system and the authority. The report must include details of capital calls and distributions. [PL 2009, c. 633, §4 (NEW).]

D. A refundable tax credit allowed pursuant to this section is not a security under Title 32, chapter 135. [PL 2009, c. 633, §4 (NEW).]

E. On the final liquidation of a venture capital fund for which a certificate of tax credits has been issued, the retirement system shall notify the authority of termination of the investment and certify the amount of any loss. The authority may request such information or documentation from the retirement system as it determines reasonably necessary to confirm the amount of any loss and shall promptly certify any capital loss to the Department of Administrative and Financial Services, Bureau of Revenue Services. Upon submission by the authority, the bureau shall redeem registered credits as necessary to pay 80% of the loss certified by the authority up to a maximum payment of $4,000,000 with respect to any single venture capital fund investment or an aggregate loss under the program of $20,000,000. For purposes of this subsection, "loss" means the total amount of investment by the retirement system into the venture capital fund less the total value of all distributions received by the retirement system from such venture capital fund, as determined by the authority. [PL 2009, c. 633, §4 (NEW).]

F. Nothing in this section may be construed to place the assets of the authority at risk. Except for those rights that relate to refundable tax credits, nothing in this section may be construed to create an obligation of the State or of any political subdivision of the State, and this section may not be construed to require or mandate the retirement system to make any investments under the program. [PL 2009, c. 633, §4 (NEW).]

G. The authority may charge the retirement system reasonable fees for the cost of implementing and administering the program and any tax credits authorized by this section, not to exceed the authority's out-of-pocket costs plus an annualized fee not to exceed 1% of the outstanding balance of tax credits. In addition, the authority may assess a reasonable program fee from gains received by the retirement system from investments under the program. Any such fees are subject to the approval of the retirement system and the authority. [PL 2009, c. 633, §4 (NEW).]

[PL 2009, c. 633, §4 (NEW).]

SECTION HISTORY

PL 2009, c. 633, §4 (NEW).

§1026-U. Maine Capital Investment Program

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See PL 2015, c. 415, §2)

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

A. "Business development project" means a project that involves the construction, development, rehabilitation, modernization or acquisition of a building, a structure, a system, machinery, equipment or a facility that has a projected cost of at least $50,000,000 or is projected to result in the creation or retention of a least 250 full-time employment positions that pay at least 125% of the annual average weekly wage under Title 26, section 1043, subsection 1-A. [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

B. "Fund" means the Maine Capital Investment Fund established in subsection 4. [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

C. "Program" means the Maine Capital Investment Program authorized pursuant to subsection 2. [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

2. Program authorized. The authority may create and oversee the Maine Capital Investment Program to increase the availability of capital to eligible business development projects as provided under this section.

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

3. Authority assets; obligation. This section may not be construed to place the assets of the authority at risk. This section may not be construed to create an obligation of the State or of any political subdivision of the State.

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

4. Maine Capital Investment Fund. The Maine Capital Investment Fund is established as a nonlapsing revolving loan and equity fund administered by the authority to support the capital needs of business development projects under the program. The fund is capitalized by sums that are appropriated or allocated by the Legislature or transferred to the fund from time to time by the State Controller, interest earned from the investment of fund balances, state bond issues, state employee pension funds, institutional endowments and other funds from any public or private source received for use for any of the purposes for which the fund has been established. The authority may charge the fund reasonable fees for the cost of implementing and administering the program and any loans or bonds authorized by this section.

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

5. Criteria to qualify for financial support. The authority shall provide financial support to an applicant to support a business development project under the program based in part but not solely on the following criteria:

A. The creditworthiness of the applicant, including factors such as the applicant's historical financial performance, management ability, plan to market the applicant's product or service and whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in the applicant's industry; [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

B. The sufficiency of collateral pledged by the applicant; [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

C. The sufficiency of projected revenues from the business development project or other sources to repay the financial support received under and meet the requirements of subsection 6 for the term of the obligation; [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

D. The extent to which financial support from the authority enhances the employment and wage benefits projected to be created by the business development project; [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

E. The duration of the employment and wage benefits projected to be created by the business development project; and [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

F. Demonstration that the financial support from the authority is necessary due to the reduced cost and increased flexibility of the financial support and not due to the applicant's inability to obtain financing from another source. [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

6. Financial support. The authority may provide the following financial support to an applicant determined to be qualified under subsection 5:

A. A direct loan of up to $50,000,000 from the fund for a single business development project, which must be matched by an amount that is equal to at least 25% of the loan amount and that is obtained from a source other than the fund; or [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

B. Up to $100,000,000 in bond funding from bonds issued pursuant to subsection 7 for a single business development project and up to $200,000,000 in bond funding to the same applicant for multiple business development projects. [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

The authority may require other terms or conditions of financial support under this subsection as the authority determines necessary and reasonable.

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

7. Bonding authorization. The authority may provide by resolution for the issuance of bonds in accordance with subsection 6, paragraph B for the purpose of funding business development projects. Bonds issued pursuant to this subsection do not constitute a general obligation of the authority, and the authority may not pledge an obligation under section 1053 or otherwise seek an appropriation for repayment. Bonds issued under this subsection do not constitute a debt of the State or any agency or political subdivision of the State and are payable solely from the revenues of the business development project for which the bonds are issued. Neither the faith nor credit nor taxing power of the State or any political subdivision of the State may be pledged to payment of the bonds issued under this subsection. Notwithstanding any other provision of law, any bonds issued pursuant to this subsection are fully negotiable. If any member of the authority whose signature appears on the bond or coupons ceases to be a member of the authority before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that member of the authority had remained a member of the authority until delivery.

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

8. Requirements of recipient. A recipient of financial support under subsection 6 shall provide the following.

A. In addition to repayment of the financial support received under subsection 6 pursuant to the terms set by the authority, within 5 years after the completion of the business development project the recipient shall pay to the fund an amount equal to 10% of the amount of the financial support received under subsection 6 pursuant to terms determined by the authority. [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

B. The recipient shall report to the authority 5 years after completion of the business development project. The report must include a description of the business development project and the number of jobs created or retained. The report must identify the entity or entities using the business development project and, for each entity, indicate the extent to which the entity is owned or managed by minorities or women, the percentage of the entity's operations located within and

outside the State, the entity's payroll and the property taxes paid by the entity. [PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

9. Report. The authority shall report annually, on or before January 1st, to the joint standing committee of the Legislature having jurisdiction over economic development matters. The report must include a description of each business development project under the program, the amount, type and terms of financial support the business development project received and the information reported to the authority pursuant to subsection 8. The report must contain an accounting of the fund, bonds issued pursuant to subsection 7 and any loans or bonds that are in default. The accounting must include, at a minimum, identification of amounts received from each public or private source, identification of amounts returned to each public or private source and an accounting of the authority's implementation and administration expenses incurred and charged to the fund.

The committee may request that the joint legislative committee established to oversee program evaluation and government accountability matters direct the Office of Program Evaluation and Government Accountability to review the program as provided in Title 3, section 991.

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

10. Rules. The authority may adopt rules as necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2015, c. 415, §1 (NEW); PL 2015, c. 415, §2 (AFF).]

SECTION HISTORY

PL 2015, c. 415, §1 (NEW). PL 2015, c. 415, §2 (AFF).

§1027. Insurance of mortgages

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §11 (AMD). PL 1985, c. 344, §50 (RP).

§1028. Mortgage insurance premiums

The authority may fix mortgage insurance premiums for the insurance of mortgage payments under this subchapter. The effective rate of the insurance premiums shall not be more than 2% per year of the actual or scheduled outstanding principal obligation at the beginning of each year. The authority shall determine and prescribe the manner in which the premiums shall be payable, the effective rate of the insurance premium, the actual or scheduled outstanding principal obligation and other matters necessary and proper for the assessment and collection of the premiums. [PL 1985, c. 714, §26 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §51 (AMD). PL 1985, c. 714, §26 (AMD).

§1029. Insurance of subchapter 3 loans

1. Eligible for insurance. All payments required under a mortgage, a loan agreement or related documents for a project financed by revenue obligation securities issued pursuant to subchapter 3, including revenue obligation securities that provide full or partial financing for more than one project, are eligible for insurance to the extent permitted under this subchapter.

[PL 2003, c. 537, §43 (AMD); PL 2003, c. 537, §53 (AFF).]

2. Insurance payment. In any case when the authority becomes obligated by contract or other agreement to make an insurance payment with respect to any insured mortgage or other agreement issued with respect to insured subchapter 3 loans, the authority shall:

A. Make the payment at the time and in the manner provided by the applicable contract or agreement, charging the payment to the Mortgage Insurance Fund, Loan Insurance Reserve Fund or, in the case of payments required under agreements issued for aboveground and underground storage facility replacement projects, to the Underground Oil Storage Replacement Fund; [PL 2003, c. 537, §43 (AMD); PL 2003, c. 537, §53 (AFF).]

B. [PL 1985, c. 714, §27 (RP).]

C. [PL 1985, c. 714, §27 (RP).]

D. Take all reasonable steps to enforce the payment of amounts due from the mortgagor. [PL 1985, c. 714, §27 (AMD).]

E. [PL 1985, c. 714, §27 (RP).]

The trustee for any bond or note issued in anticipation of the bond or, if there is no trustee, the holder of any bond or note has the right to bring suit against the authority for payment in accordance with the contract or other agreement executed by the authority.
[PL 2003, c. 537, §43 (AMD); PL 2003, c. 537, §53 (AFF).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §52 (AMD). PL 1985, c. 714, §27 (AMD). PL 1987, c. 521, §9 (AMD). PL 1987, c. 846, §10 (AMD). PL 2003, c. 537, §43 (AMD). PL 2003, c. 537, §53 (AFF).

§1030. Incontestability

Any loan insurance commitment or contract executed and delivered by the authority under this subchapter is conclusive evidence of the eligibility of the loan for insurance subject to satisfaction of any conditions set forth in the loan insurance contract or commitment and that the requirements of sections 1026-A and 1026-E have, to the extent determined applicable by the authority, been satisfied or made conditions of the loan insurance commitment or contract, and the validity of any loan insurance commitment or contract so executed and delivered is incontestable in the hands of an insured except for fraud or misrepresentation on the part of the insured. [PL 2003, c. 537, §44 (AMD); PL 2003, c. 537, §53 (AFF).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §53 (AMD). PL 1987, c. 521, §10 (AMD). PL 1987, c. 846, §11 (AMD). PL 2003, c. 537, §44 (AMD). PL 2003, c. 537, §53 (AFF).

§1031. Loans eligible for investment

Loans insured under this subchapter are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, public and private pension or retirement funds and other persons. [PL 2003, c. 537, §45 (AMD); PL 2003, c. 537, §53 (AFF).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §12 (AMD). PL 1985, c. 344, §54 (AMD). PL 2003, c. 537, §45 (AMD). PL 2003, c. 537, §53 (AFF).

§1032. Capital reserve funds; obligation of State

1. Capital reserve fund. The authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund any money appropriated and made available by the

State for the purposes of any such fund and any other money available to the authority. For purposes of this section, the amount of any letter of credit, insurance contract, surety bond, indemnification agreement or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied shall be deemed to be and counted as money in the capital reserve fund.
[PL 1987, c. 697, §9 (NEW).]

2. Application. Money in any capital reserve fund created pursuant to subsection 1, except as provided in this section, must be used solely with respect to mortgage loans, repayment of which is secured by any such fund, for the payment of principal, accrued interest and costs and expenses chargeable to the mortgage loan, with respect to interest rate swap agreements benefiting eligible enterprises, and with respect to amounts borrowed by the authority to be used for direct loans from the authority to eligible businesses or students pursuing higher education when direct loans have been authorized by law. Money in any capital reserve fund may be used to pay all amounts due and payable, whether by acceleration or otherwise, under the contractual agreements pertaining to such mortgage loans, interest rate swap agreements and loans to the authority, including fees, commissions, indemnities, expenses and other amounts due. Money in excess of the reserve requirement established pursuant to subsection 4 may be transferred to other funds and accounts of the authority.
[PL 1993, c. 410, Pt. EEEE, §2 (AMD).]

3. Security for loans. With respect to any loans that may be insured under this subchapter, interest rate swap agreements benefiting eligible enterprises and loans to the authority to be used for direct loans to eligible enterprises or students pursuing higher education, the authority may provide that such loans, interest rate swap agreements or loans to the authority must be secured by one or more capital reserve funds established pursuant to subsection 1 instead of or in addition to insurance provided under other sections of this subchapter. Limitations and requirements applicable to insurance under sections 1026-A to 1028 are applicable to loans, but not interest rate swap agreements or loans to the authority, to which one or more capital reserve funds apply as if the loans were backed by insurance. Capital reserve funds may secure interest rate swap agreements pertaining to eligible enterprises that demonstrate the ability to honor the swap agreement as determined by the authority and that do not have as a principal element space for retail sales or professional office space, as defined by the authority. Any commitment with respect to a loan executed and delivered pursuant to this section is conclusive evidence of the eligibility of the loan for insurance and the validity of any such commitment or contract is incontestable in the hands of a lender, swap counterparty or lender to the authority except for fraud or misrepresentation on the part of the lender, swap counterparty or lender to the authority. Loans secured by capital reserve funds under this section are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, public and private pension or retirement funds and other persons.
[PL 2003, c. 537, §46 (AMD); PL 2003, c. 537, §53 (AFF).]

4. Reserve requirement. The authority may provide that money in any such capital reserve fund shall not be withdrawn at any time in an amount that would reduce the amount of any such fund below an amount established by the authority with respect to the fund, except for the purpose of paying the amount due pursuant to the terms of any mortgage loan or interest rate swap agreement or loan to the authority, repayment of which is secured by any such fund.
[PL 1989, c. 552, §15 (AMD).]

5. Appropriation. On or before December 1st, annually, the authority shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund to which this section is stated in any written agreement of the authority to apply, to the reserve requirement established by the authority. The Governor shall pay directly from the State Contingent Account to any such fund as much of the amount as is available in that account and shall transmit directly to the Legislature

certification and a statement of the amount, if any, remaining to be paid. The certified amount shall be appropriated and paid to the authority during the current state fiscal year.
[PL 1987, c. 697, §9 (NEW).]

6. Obligations outstanding. The authority may not have at any one time outstanding obligations to which this section is stated in any agreement of the authority to apply in principal amount exceeding $150,000,000, less the amount of revenue obligation securities to which section 1053 is stated in the trust agreement or other document to apply. Amounts of revenue obligation securities that are not taken into account pursuant to section 1053, subsection 6, may not be taken into account for purposes of determining the amount that may be outstanding under this section. Notwithstanding the foregoing, the authority may additionally have outstanding at any one time up to $3,500,000 of obligations relating to direct loans to students pursuing higher education.
[PL 2003, c. 537, §47 (AMD); PL 2003, c. 537, §53 (AFF).]

SECTION HISTORY

PL 1987, c. 697, §9 (NEW). PL 1989, c. 552, §15 (AMD). PL 1993, c. 410, §EEEE2 (AMD). PL 1993, c. 460, §7 (AMD). PL 1993, c. 680, §A19 (AMD). PL 1997, c. 217, §2 (AMD). PL 2003, c. 537, §§46,47 (AMD). PL 2003, c. 537, §53 (AFF).

SUBCHAPTER 2-A

INDUSTRIAL STABILITY PROGRAM

§1035. Purpose

(REPEALED)

SECTION HISTORY

PL 1985, c. 433, §1 (NEW). PL 1989, c. 857, §48 (RP).

§1036. Pilot program

(REPEALED)

SECTION HISTORY

PL 1985, c. 433, §1 (NEW). PL 1987, c. 349, §H8 (AMD). PL 1989, c. 857, §48 (RP).

SUBCHAPTER 2-B

SOCIAL WORK EDUCATION LOAN REPAYMENT PROGRAM

§1038. Social Work Education Loan Repayment Program

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

A. "Fund" means the Social Work Education Loan Repayment Fund established in subsection 4. [PL 2009, c. 427, §1 (NEW).]

B. "Program" means the Social Work Education Loan Repayment Program established in subsection 2. [PL 2009, c. 427, §1 (NEW).]

[PL 2009, c. 427, §1 (NEW).]

2. Social Work Education Loan Repayment Program. The Social Work Education Loan Repayment Program is established for the purpose of increasing the number of social workers practicing in the State.
[PL 2009, c. 427, §1 (NEW).]

3. Criteria. For an applicant to participate in the program, the applicant must:

A. Be a social worker licensed under Title 32, chapter 83; [PL 2009, c. 427, §1 (NEW).]

B. Have completed a bachelor's, master's or doctoral degree in social work from an accredited school of social work within 3 years prior to the date the applicant's application is received by the authority; [PL 2009, c. 427, §1 (NEW).]

C. Possess an outstanding education loan relating to the degree; [PL 2009, c. 427, §1 (NEW).]

D. Practice in an underserved practice area, including but not limited to the practice of social work:

(1) In a public or private child welfare or family service agency;

(2) In a public interest law service;

(3) In a public child care facility;

(4) In a public service for individuals with disabilities;

(5) In a public service for the elderly;

(6) In a public service for veterans; or

(7) At an organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3).

Priority consideration must be given to social workers practicing in a public or private child welfare or family service agency, in a public service for the elderly or in a public service for individuals with disabilities; [RR 2009, c. 1, §11 (COR).]

E. Submit an application to the authority, which must include but is not limited to information concerning academic performance, awards and special honors and community involvement; and [PL 2009, c. 427, §1 (NEW).]

F. Have signed a statement of intent in a form acceptable to the authority to work as a social worker in the State for a minimum of 3 years after acceptance into the program. [PL 2009, c. 427, §1 (NEW).]
[RR 2009, c. 1, §11 (COR).]

4. Social Work Education Loan Repayment Fund. The Social Work Education Loan Repayment Fund is created as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this subchapter.

A. The authority may receive, invest and expend on behalf of the fund money from gifts, grants, bequests and donations in addition to money appropriated or allocated by the State and any federal funds received by the State for the benefit of social workers who have outstanding education loans. Money received by the authority on behalf of the fund must be used for the purposes of this subchapter. The fund must be maintained and administered by the authority. Any unexpended balance in the fund carries forward for continued use under this subchapter. [PL 2009, c. 427, §1 (NEW).]

B. Costs and expenses of maintaining, servicing and administering the fund and of administering the program may be paid out of amounts in the fund. [PL 2009, c. 427, §1 (NEW).]
[PL 2009, c. 427, §1 (NEW).]

5. Administration. The program and the fund are administered by the authority. The authority shall repay the loans of up to 3 applicants each year who meet the criteria in subsection 3 in the amount of up to $5,000 for each applicant. The authority may adopt rules to carry out the purposes of this subchapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2009, c. 427, §1 (NEW).]

SECTION HISTORY

RR 2009, c. 1, §11 (COR). PL 2009, c. 427, §1 (NEW).

SUBCHAPTER 3

REVENUE OBLIGATION SECURITIES PROGRAM

§1041. General powers

The authority may in addition to its other powers and in furtherance of the purposes of this chapter:
[PL 1985, c. 344, §55 (RPR).]

1. Kinds of projects. Acquire, construct, reconstruct, maintain, renew, replace or provide financing assistance for eligible projects, or assist users to acquire, construct, reconstruct, maintain, renew or replace eligible projects;
[PL 1985, c. 344, §56 (RPR).]

2. Securities for projects. Issue revenue obligation securities to pay the cost of or to provide financial assistance for acquisition, construction, reconstruction, renewal or replacement of eligible projects. Any single issue of securities may provide for the cost of or for financial assistance for acquisition, construction, reconstruction, renewal or replacement of any one or more projects which may be separate, unconnected, distinct and unrelated in purpose;
[PL 1985, c. 344, §57 (AMD).]

3. Acquire securities. Issue revenue obligation securities to acquire one or more issues of revenue obligation securities issued by municipalities or to acquire any other bond not eligible for purchase pursuant to Title 30-A, chapter 225. Any single issue of securities may provide funds for the acquisition of revenue obligation securities of one or more municipalities or of bonds for one or more projects which may be separate, unconnected, distinct and unrelated in purpose;
[PL 1987, c. 737, Pt. C, §§14, 106 (AMD); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Refunding securities. Issue revenue refunding obligation securities as provided to refund any outstanding revenue obligation securities issued under this subchapter or under subchapter IV or under previous chapter 104 or to refund any obligations or securities of any municipality;
[PL 1993, c. 741, §1 (AMD).]

5. Serve as broker or agent. Serve as a broker, agent or other financial intermediary for the secondary marketing of obligations issued or incurred in connection with the financing of eligible projects and for the encouragement of the flow of private funds for capital investment;
[PL 1981, c. 476, §2 (NEW).]

6. Facilities. Plan, carry out, acquire, lease and operate facilities and provide for the construction, reconstruction, improvement, alteration or repair of any facility or any part;
[PL 1981, c. 476, §2 (NEW).]

7. Acquisition and disposal of property. Acquire or enable a user to acquire upon reasonable terms from subchapter III funds, the lands, structures, property, rights, rights-of-way, franchises,

easements and other interests in lands, including lands lying under water and riparian rights, which are located within the State and deemed necessary or convenient for the construction or operation of any subsection 1 project, and dispose of them;
[PL 1981, c. 476, §2 (NEW).]

8. Contracts. Make and enter into all financial documents and other contracts and trust agreements securing revenue obligation securities issued under this subchapter, provided all expenses shall be payable solely from funds made available under this subchapter;
[PL 1981, c. 476, §2 (NEW).]

9. Consent to modification of contracts, lease or agreement. To the extent not forbidden under its contract with the holders of bonds, consent to any modification of any contract, lease or agreement of any kind to which the authority is a party;
[PL 1981, c. 476, §2 (NEW).]

10. Employment of specialists. Employ consulting and other engineers, attorneys, accountants, construction and financial experts, superintendents, managers and other necessary employees and agents and fix their compensation, provided all expenses shall be payable solely from funds made available under this subchapter;
[PL 1981, c. 476, §2 (NEW).]

11. Government contracts. Enter into contracts with municipalities, the State or a federal agency relating to any eligible subsection 1 project. In the case of contracts with federal agencies involving pollution-control facilities, the consent of the Board of Environmental Protection shall first be obtained, notwithstanding Title 38, section 362;
[PL 1981, c. 476, §2 (NEW).]

12. Government aid. Accept loans or grants for the planning, construction or acquisition of any eligible subsection 1 project from a municipality, an authorized agency of the State or a federal agency and enter into agreements with the agency respecting the loans or grants. In the case of loans, grants or other aid from a federal agency involving pollution-control facilities, the consent of the Board of Environmental Protection shall first be obtained, notwithstanding Title 38, section 362;
[PL 1981, c. 476, §2 (NEW).]

13. Private aid. Receive and accept aid and contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which these loans, grants and contributions may be made;
[PL 1981, c. 476, §2 (NEW).]

14. Applicability. Provide financial assistance by means of leases which are not subject to Title 14, section 6010. Leases made under this section may provide that obligations of the lessees shall be unconditional;
[PL 1985, c. 344, §59 (AMD).]

15. Application of Title 32, chapter 13. Provide financial assistance by means of revenue obligation securities which are not subject to the provisions of Title 32, chapter 13, relating to dealers in securities;
[PL 1985, c. 344, §60 (AMD).]

16. Energy conservation. Provide financial assistance for energy conservation. The Department of Economic and Community Development shall provide assistance to the authority in determining technical eligibility and merit of applications for energy conservation loans. Each recipient of a loan under this section shall provide the authority, within one year, with detailed information on energy consumption before and after the completion of the energy conservation project;
[PL 1989, c. 878, Pt. A, §27 (RPR).]

17. Electricity. Provide financial assistance for electricity generation projects;

[RR 2011, c. 2, §5 (COR).]

18. Recycling and waste reduction. Provide financial assistance to businesses for recycling and waste reduction projects that are consistent with the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24. The Department of Environmental Protection shall provide assistance to the authority in determining consistency, technical eligibility and merit of application for recycling loans; and
[RR 2011, c. 2, §6 (COR).]

19. Workers' compensation residual market mechanism projects. Provide loans for workers' compensation residual market mechanism projects, if the authority determines that the financing requested by the workers' compensation residual market pool is a reasonable and prudent extension of credit. Revenue obligation securities secured by capital reserve funds pursuant to section 1053 relating to any loan authorized by this section are limited obligations of the authority payable from revenues from the workers' compensation residual market pool and any capital reserve funds pledged for those securities and are not payable from any other assets or funds of the authority.
[PL 1995, c. 289, §5 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §§13,14 (AMD). PL 1983, c. 648, §3 (AMD). PL 1983, c. 699, §3 (AMD). PL 1983, c. 862, §31 (AMD). PL 1985, c. 344, §§55-61 (AMD). PL 1985, c. 593, §1 (AMD). PL 1987, c. 737, §§C14,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1989, c. 501, §DD19 (AMD). PL 1989, c. 585, §§C10,C11 (AMD). PL 1989, c. 878, §A27 (AMD). PL 1993, c. 741, §1 (AMD). PL 1995, c. 289, §5 (AMD). PL 1995, c. 656, §A3 (AMD). PL 1999, c. 657, §3 (AMD). RR 2011, c. 2, §§5, 6 (COR). PL 2011, c. 655, Pt. GG, §5 (AMD). PL 2011, c. 655, Pt. GG, §70 (AFF).

§1041-A. Limitations on certain projects

The authority may not provide financing from proceeds of revenue obligation securities issued by the authority for any housing that is eligible for financing by the Maine State Housing Authority except with respect to property that the authority has acquired or may acquire on account or in anticipation of imminent or actual default under the insurance program. [PL 2003, c. 537, §48 (AMD); PL 2003, c. 537, §53 (AFF).]

1. Scope.

[PL 1991, c. 606, Pt. F, §2 (RP).]

2. Retail stores.

[PL 1991, c. 606, Pt. F, §2 (RP).]

3. Professional office space.

[PL 1991, c. 606, Pt. F, §2 (RP).]

4. Reconstruction of existing building projects.

[PL 1991, c. 606, Pt. F, §2 (RP).]

5. Housing.

[PL 1991, c. 606, Pt. F, §2 (RP).]

SECTION HISTORY

PL 1985, c. 344, §62 (NEW). PL 1985, c. 510 (AMD). PL 1985, c. 714, §28 (AMD). PL 1987, c. 393, §10 (AMD). PL 1991, c. 606, §F2 (RPR). PL 2003, c. 537, §48 (AMD). PL 2003, c. 537, §53 (AFF).

§1042. Assistance to applicants

The authority may assist applicants, who may be persons, firms and corporations, private or public, except as provided in this chapter, in the financing of projects by issuing revenue obligation securities, drafting financing documents, trust agreements and other contracts, arranging the financing and negotiating for the sale of the securities. [PL 1981, c. 476, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW).

§1043. Certificates of approval

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Issue. The authority is authorized and empowered to approve or disapprove projects following submission to it of applications for approval thereof, in such form and with such supporting data as it may require and, upon approval of a project, to issue a certificate of approval. The authority shall publish once in the state newspaper and in a newspaper of general circulation in the area of the State in which the project is to be located, notice of the date on which the authority will consider issuance of a certificate of approval for the project. The notice shall be published at least 7 days prior to the date scheduled for such consideration, shall set forth the name of the applicant, describe generally the project and set forth the time and place at which the application will be considered. In addition to the notice required to be published by the authority, the applicant shall make all reasonable efforts to give timely notice to any and all known competitors of the time and place at which the application will be considered. Where individual written notice is not practical, as determined by the authority, the authority may specify other or additional forms of notice, including display newspaper advertisements and written notice to any trade, industry, professional or interest group. The certificate of approval shall identify and describe each project as to location, purpose and the amount of revenue obligation securities to be issued. If a single issue of revenue obligation securities is to provide for the costs of more than one project, the certificate of approval shall identify the aggregate amount of revenue obligation securities to be issued.
[PL 1985, c. 344, §63 (AMD).]

2. Criteria. Before issuing a certificate of approval for any project, the authority shall determine that:

A. The project will make a contribution to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State; [PL 1985, c. 344, §63 (AMD).]

B. The project will not result in a substantial detriment to existing business in the State. In order to make this determination, the authority shall consider, pursuant to rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, such factors as it deems necessary to measure and evaluate the effect of the project on existing business, including considering:

(1) Whether a project should be approved if, as a result of the project, there will not be sufficient demand within the market area of the State to be served by the project to employ the efficient capacity of existing business; and

(2) Whether any adverse economic effect of the project on existing business is outweighed by the contribution which the project will make to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State.

The applicant shall have the burden of demonstrating that the project will not result in a substantial detriment to existing business in accordance with the requirements of this paragraph, including rules adopted in accordance therewith, except in cases where no interested parties object to the

project, in which event the requirements of this paragraph shall be deemed satisfied. Interested parties shall be given an opportunity, with or without a hearing at the discretion of the authority, to present their objections to the project on grounds that the project will result in a substantial detriment to existing business. If any such party presents such objections with reasonable specificity and persuasiveness, the authority may divulge whatever information concerning the project which it deems necessary for a fair presentation by the objecting party and evaluation of such objections. If the authority finds that the applicant has failed to meet its burden as specified in this paragraph, the application shall be denied. [PL 1985, c. 714, §29 (AMD).]

C. Adequate provision is being made to meet any increased demand upon public facilities that might result from the project; [PL 1981, c. 476, §2 (NEW).]

D. In cases where it is proposed to relocate an industrial-commercial or recreational facility existing in the State, there is a clear economic justification for such relocation; [PL 1981, c. 476, §2 (NEW).]

E. [PL 1985, c. 344, §63 (RP).]

E-1. In the case of recycling and waste reduction projects, the proposed facility must be consistent with the state waste management and recycling plan under Title 38, chapter 24, and will reduce the amount of solid or hazardous waste requiring disposal. [PL 1989, c. 585, Pt. C, §12 (NEW).]

F. In the case of projects that are primarily pollution-control facilities:

(1) The proposed users of the facilities make a contribution to the economy of the State;

(2) A public benefit will result from including the facilities in the project; and

(3) It is unlikely that public facilities meeting the needs of the users and securing comparable public benefit will become available in the reasonably foreseeable future; [PL 1995, c. 4, §5 (AMD).]

G. [PL 1985, c. 344, §63 (RP).]

H. [PL 1985, c. 344, §63 (RP).]

I. The project will, to the extent possible, cooperate with representatives of the Department of Labor and the Department of Health and Human Services regarding employment opportunities for recipients of the services of those departments; [PL 1999, c. 484, §5 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

J. [PL 2019, c. 160, §6 (RP).]

K. In the case of a paper industry job retention project, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. To assist in making its determination the authority may engage, at the borrower's expense, independent consultants to assist in the evaluation of the project. In making this determination, the authority shall consider factors it considers necessary to measure and evaluate the sufficiency of the pledged revenues to repay the securities, including:

(1) Whether individuals or entities obligated to repay the securities have demonstrated sufficient revenues from the project or from other sources to repay the securities and a strong probability that those revenues will continue to be available for the term of the securities;

(2) Whether the applicant demonstrates a strong probability that the project will continue to operate and to provide the public benefits projected to be created for the term of the securities;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financial assistance from the authority;

(4) Whether the applicant's creditworthiness is demonstrated by such factors as historical financial performance, management ability and the applicant's plan for marketing products or service and its ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry. In assessing projected financial performance, the authority must consider the value and effect of any contractual labor cost reductions that will be in effect at the time the financial assistance is provided;

(6) Whether collateral securing the repayment obligation, valued in place and in use, is reasonably sufficient under the circumstances;

(7) Whether the owner will make an important equity contribution to the project. If the applicant requests financing assistance from the authority in an amount greater than $25,000,000, the amount financed by the authority may not exceed $25,000,000 plus 50% of the total project costs in excess of $25,000,000. If other financing is subordinate to the financing provided by the authority, the amount financed by the authority may not exceed $25,000,000 plus 70% of the total project costs in excess of $25,000,000; and

(8) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from the authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority; [PL 2009, c. 372, Pt. D, §5 (AMD).]

L. In the case of transmission facilities projects, the applicant is creditworthy and there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other source of revenues and collateral pledged to the repayment of those securities. In order to make this determination, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including:

(1) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a strong probability that those revenues will continue to be available for the term of the revenue obligation securities;

(2) Whether the applicant demonstrates a strong probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;

(3) Whether the applicant demonstrates that the benefits projected to be created by the project are enhanced through the use of financing assistance from the authority;

(4) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;

(5) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(6) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;

(7) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(8) Whether the proposed project enhances the opportunities for economic development;

(9) The effect that the proposed project financing has on the authority's financial resources; and

(10) Whether the Northern Maine Transmission Corporation, as established in section 9202, has recommended the project.

Upon request by the authority, state agencies, including but not limited to the Public Utilities Commission, shall provide necessary assistance to the authority in evaluating the feasibility of the project and its importance for northern Maine. In providing assistance, the Public Utilities Commission shall consider whether the proposed project enhances the competitiveness of the wholesale and retail energy market; how the proposed project is likely to affect energy prices for Maine residents; whether the proposed project will augment or enhance the reliability and stability of the grid; and whether there is likely to be a long-term need for the product as produced by the proposed project.

The authority may establish, pursuant to rules adopted in accordance with Title 5, chapter 375, subchapter 2, application procedures, approval criteria and reasonable fees for transmission facilities projects. Rules adopted by the authority under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. In addition, the authority may require the applicant to pay the reasonable costs of an evaluation of the project risks by an independent consultant. If the authority directs the applicant to pay for such an independent evaluation of the project, the authority shall make every reasonable effort, in its discretion, to minimize the cost of the evaluation and any delay such an evaluation may cause in authority action.

The authority may not finance any project involving an electric transmission line capable of operating at 69 kilovolts or more unless the Public Utilities Commission has issued a certificate of public convenience for the construction of the line pursuant to Title 35-A, section 3132; [PL 2009, c. 517, §7 (AMD).]

M. In the case of an Efficiency Maine project, as defined in section 963-A, subsection 10-A, there is a reasonable likelihood that the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or otherwise pledged to payment of the bonds will be sufficient to pay the principal, the interest and all other amounts that may at any time become due and payable under the bonds. In making this determination, the authority shall consider Efficiency Maine Trust's analysis of the proposed bond issue and the revenues to make payments on the bonds and may require such information, projections, studies and independent analyses as it considers necessary or desirable and may charge Efficiency Maine Trust reasonable fees and expenses. The authority may require that it be indemnified, defended and held harmless by Efficiency Maine Trust for any liability or cause of action arising out of or with respect to the bonds. The principal and interest of bonds must be made payable solely from the income, proceeds, revenues and funds of Efficiency Maine Trust derived from or held for activities under Title 35-A, chapter 97 or other provision of law. Payment of the principal and interest of bonds may be further secured by a pledge of a loan, grant or contribution from the Federal Government or other source in aid of activities of Efficiency Maine Trust under Title 35-A, chapter 97; [PL 2011, c. 261, §2 (AMD).]

N. In the case of recovery zone facility bonds, the project will benefit the county or counties in which it is located; and [PL 2011, c. 261, §3 (AMD).]

O. **(TEXT EFFECTIVE UNTIL 1/1/20) (TEXT REPEALED 1/1/20)** In the case of an energy distribution system project or an energy generating system project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires, for construction or operation, authorization or certification from the commission, the following conditions are met.

(1) The energy distribution system project or the energy generating system project has received all authorizations or certifications from the Public Utilities Commission necessary for construction and operation of the project. The authority may issue a certificate of approval for a project that has received conditional approvals or certifications from the commission, except that the authority's certificate becomes legally effective only upon fulfillment of the conditional provisions of the commission's certificates or approvals. If the commission has approved rates to be charged by the project or has issued a certificate of public convenience and necessity for the project, the authority shall take into consideration any findings and conclusions of law of the commission, including any findings and conclusions pertaining to the need for the project and the financial viability of the project.

(2) The authority has reviewed and considered any comments provided by the Director of the Governor's Energy Office and the Public Advocate.

(3) The authority has determined that the applicant is creditworthy and that there is a strong likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. In order to make these determinations, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project and the specific purposes of the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including, but not limited to:

(a) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a reasonable probability that those revenues will continue to be available for the term of the revenue obligation securities;

(b) Whether the applicant demonstrates a reasonable probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;

(c) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;

(d) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(e) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;

(f) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(g) Whether the proposed project enhances the opportunities for economic development;

(h) The effect that the proposed project financing has on the authority's financial resources;

(i) The financial performance of similar projects;

(j) The need for the project, as determined by the Public Utilities Commission and as indicated by any comments provided by the Director of the Governor's Energy Office, other public officials and members of the public;

(k) The nature and extent of customer commitment to use the project or the fuel or energy the project distributes, transmits or generates;

(l) The cost advantages to end users of the fuel or energy to be distributed, transmitted or generated by the project, to the extent those advantages may affect market penetration by the project; and

(m) The nature and extent of the applicant's equity contribution to payment of the costs of the project; such a contribution may not be less than 25% of the expected cost of the project.

This paragraph is repealed January 1, 2020. [PL 2017, c. 95, §1 (AMD).]
[PL 2019, c. 160, §6 (AMD).]

3. Effect of certificate. A certificate of approval issued under this subchapter shall be conclusive proof that the authority has made the determinations required by this section.
[PL 1981, c. 476, §2 (NEW).]

4. Exception. This section and section 1044, subsection 2, shall not apply in the case of issue by the authority of revenue obligation securities for the purpose of acquiring one or more issues of outstanding revenue obligation securities issued by municipalities or one or more issues of any other bond not eligible for purchase pursuant to Title 30-A, chapter 225.
[PL 1987, c. 737, Pt. C, §§15, 106 (AMD); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Assistance. In considering any request for financial assistance from an applicant for a project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires for construction or operation authorization or certification from the commission, the commission, upon request of the authority, shall provide assistance in analyzing financial, economic or technical issues on which the commission has expertise. At the request of the commission, the authority shall assess the applicant a fee to be paid to the commission to reimburse the commission for any costs incurred by the commission that cannot be absorbed within its existing resources.
[PL 2011, c. 261, §5 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §§60-64 (AMD). PL 1985, c. 344, §63 (AMD). PL 1985, c. 714, §29 (AMD). PL 1987, c. 697, §10 (AMD). PL 1987, c. 737, §§C15,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1989, c. 585, §C12 (AMD). PL 1995, c. 4, §§5-7 (AMD). PL 1999, c. 484, §§5-7 (AMD). PL 2003, c. 506, §§2-4 (AMD). PL 2003, c. 689, §B6 (REV). PL 2009, c. 372, Pt. D, §§5-7 (AMD). PL 2009, c. 517, §§7-9 (AMD). PL 2011, c. 261, §§2-5 (AMD). PL 2011, c. 586, §3 (AMD). PL 2011, c. 655, Pt. MM, §8 (AMD). PL 2011, c. 655, Pt. MM, §26 (AFF). PL 2015, c. 504, §3 (AMD). PL 2017, c. 95, §1 (AMD). PL 2019, c. 160, §6 (AMD).

§1044. Issuance of revenue obligation securities

1. Notice of intent to issue bonds; actions to contest validity. The authority may provide, at one time or from time to time, for the issuance of revenue obligation securities of the authority for the purposes authorized in this chapter. No revenue obligation securities of the authority may be issued until:

A. A certificate of approval, as provided in section 1043, has been issued; and [PL 1985, c. 344, §64 (AMD).]

B. [PL 1985, c. 344, §64 (RP).]

C. A notice of the intent of the authority to issue the securities is published at least once in the state newspaper and in a newspaper of general circulation in the municipality in which the project is to be located:

(1) No later than 14 full days after the date on which the certificate is issued;

(2) Describing the general purpose or purposes for which the securities are to be issued;

(3) Stating the maximum principal amount of the proposed securities;

(4) Setting forth or summarizing the text of the certificate of approval; and

(5) Including a statement as to the time within which any petition to contest the issuance of the securities or to set aside or otherwise obtain relief on the grounds of invalidity of the certificate of approval must be commenced. [PL 1985, c. 344, §64 (AMD).]

Any action or proceeding in any court to contest the issuance of the securities, to set aside a certificate of approval or to obtain relief upon the grounds that the certificate of approval was improperly issued, was issued for unauthorized purposes, or is otherwise invalid for any reason, must be started within 30 days after the date of the publication required by paragraph C and otherwise shall be governed by Title 5, chapter 375, subchapter VII. Notwithstanding the provisions of section 969-A, subsection 11 and Title 5, chapter 375, subchapter VII, including, but not limited to, Title 5, sections 11002 and 11003, any such action or proceeding must be commenced only by first serving the petition for review upon the authority, in hand, within that 30-day period. For the purposes of this subchapter and the Maine Administrative Procedure Act, Title 5, chapter 375, the later date of newspaper publication required by paragraph C shall constitute the final agency action with respect to the certificate of approval and the issuance of the securities. After the expiration of the 30-day period of limitation, no right of action or defense founded upon the invalidity of the approval or contesting any provision or the issuance of the certificate of approval or the issuance of the securities may be started or asserted nor may the certificate of approval or the issuance of the securities be open to question in any court upon any grounds.
[PL 1989, c. 765, §2 (AMD).]

2. Treasurer of State as agent. The Treasurer of State shall at the direction of the authority, act as the authority's agent for the sale and delivery of revenue obligation securities and anticipatory notes. The Treasurer of State shall assist the authority in the preparation, issuance, negotiation and sale of the securities and notes and provide reasonable advice and management assistance. The authority may employ further counsel or assistants or act in its own behalf, provided that the sale and delivery of revenue obligation securities and anticipatory notes shall be carried out at the authority's direction with and through the Treasurer of State.
[PL 1981, c. 476, §2 (NEW).]

3. Resolution.

[PL 1985, c. 344, §65 (RP).]

4. Conclusive authorization. All revenue obligation securities of the authority shall be conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the authority.
[PL 1985, c. 344, §66 (AMD).]

5. Maturity; interest. The securities of each issue of revenue obligation securities shall be dated, shall mature at a time or times not exceeding 30 years from their date and shall bear interest at a rate or rates determined by the authority. At the option of the authority, the securities may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to their issuance.
[PL 1981, c. 476, §2 (NEW).]

6. Form. The authority shall determine the form of the securities, including any attached interest coupons, the manner of execution of the securities, the denomination or denominations of the securities and the place or places for payment of principal and interest, which may be at any financial institution within or without the State. Revenue obligation securities shall be executed in the name of the authority by the manual or facsimile signature of the authorized official or officials. Any attached coupons shall be executed with the manual or facsimile signature of the authorized official or officials. Signatures

and facsimiles of signatures on securities and coupons will be valid for all purposes even if the authorized official ceases to hold office before delivery of the securities. The securities may be issued in coupon or registered form or both as the authority may determine. Provision may be made for the registration of any coupon securities as to principal alone and as to both principal and interest, and for the reconversion into coupon securities of any securities registered as to both principal and interest. In addition to this subsection, the authority may provide for transfer of registration of its registered revenue obligation securities by book entry on the records of the entity designated for that purpose and may enter into such contractual arrangements as may be necessary to accomplish these purposes. In the event a book entry method of transfer is used, principal of and interest on those registered securities shall be payable to the registered owner shown in the book entry, his legal representatives, successors or transferees.
[PL 1985, c. 344, §67 (AMD).]

7. Sale. The authority may sell the securities at a public or private sale, in a manner and at a price it determines is in the best interest of the authority. The authority shall not sell the securities to any firm, partnership, corporation or association, including an affiliate or subsidiary, which is a party to any contract pertaining to the financed project or which is to rent, purchase, lease or otherwise occupy premises constituting part of the project. The authority may sell its securities to a seller of the project if the project is to be used and operated by a 3rd party.
[PL 1981, c. 476, §2 (NEW).]

8. Proceeds. The proceeds of each issue shall be used solely for the authorized purposes and shall be disbursed as provided in the securing trust agreement or other document. Administration costs incurred by the authority under this program may be drawn from those proceeds. If the proceeds are less than the cost of the project, by error in the estimate or otherwise, additional securities may be issued in a like manner to provide the amount of the deficit and, unless otherwise provided in the securing trust agreement or such other document and without again carrying out the procedures set forth in section 1043, the additional securities are deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the securities first issued for the same purpose. The authority may place limits or restrictions on the issuance of additional revenue obligation securities through the securing trust agreement or other document. The authority may provide for the replacement of mutilated, destroyed or lost securities. Revenue obligation securities may be issued under this subchapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this subchapter. Notwithstanding any of the other provisions of this subchapter, or of any recitals in any securities issued under this subchapter, all such securities are deemed to be negotiable instruments issued under the laws of this State.
[PL 1985, c. 344, §68 (AMD).]

9. Credit not pledged. Except as provided in this subsection, securities issued under this subchapter do not constitute any debt or liability of the State or of any municipality therein or any political subdivision thereof, or of the authority or a pledge of the faith and credit of the State or of any such municipality or political subdivision, but are payable solely from the revenues of the project or projects for which they are issued or from other eligible collateral or the revenues or proceeds of other eligible collateral pledged to the payment of the revenue obligation securities and all such securities must contain on their face a statement to that effect. The issuance of securities under this subchapter does not directly or indirectly or contingently obligate the State or any municipality or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Under subchapter 2, the authority may insure loans made with the proceeds of revenue obligation securities. To these ends, the faith and credit of the State may be pledged, under and consistent with the terms and limitations of the Constitution of Maine, Article IX, Section 14-A or 14-D, and such further limitations, if any, as may be provided by statute.

[PL 2003, c. 537, §49 (AMD); PL 2003, c. 537, §53 (AFF).]

10. Anticipatory borrowing. In anticipation of the sale of securities under this subchapter, the authority may issue temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the securities. The period of such anticipatory borrowing shall not exceed 3 years and the time within which the securities are to become due shall not be extended by the anticipatory borrowing beyond the term permitted by law.
[PL 1985, c. 344, §70 (AMD).]

11. Environmental protection. For all revenue obligation securities in excess of $1,000,000 and in other instances when the authority determines it is appropriate, the authority shall obtain a written assessment from the Department of Environmental Protection of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.
[PL 2003, c. 537, §50 (RPR); PL 2003, c. 537, §53 (AFF).]

12. Energy facilities. In the case of an energy generating system, an energy distribution system or an industrial-commercial project, any of which includes hydroelectric facilities:

A. Revenue obligation securities of the authority shall not be issued until the Public Utilities Commission has certified that all licenses required by that commission with respect to the project have been issued or that none are required; and [PL 1985, c. 344, §71 (NEW).]

B. Revenue obligation securities of the authority shall not be issued until the Director of Energy Resources has reviewed and commented upon the project proposal. The director shall make his comments within 30 days after receipt of a notification and copy of the project proposal from the authority. The authority shall take the comments into consideration in its processing of the project. [PL 1985, c. 344, §71 (NEW).]

[PL 1985, c. 714, §32 (AMD).]

13. Limitation. The authority may not issue revenue obligation securities for energy distribution system projects or energy generating system projects unless the authority issued a certificate of approval for the energy distribution system project or energy generating system project before January 1, 2020. Notwithstanding this subsection, revenue refunding securities may be issued to refund any outstanding revenue obligation securities.
[PL 2015, c. 504, §4 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §§65,66 (AMD). PL 1983, c. 519, §15 (AMD). PL 1985, c. 344, §§64-71 (AMD). PL 1985, c. 714, §§30-32 (AMD). PL 1989, c. 765, §2 (AMD). PL 2003, c. 537, §§49,50 (AMD). PL 2003, c. 537, §53 (AFF). PL 2011, c. 586, §4 (AMD). PL 2015, c. 504, §4 (AMD).

§1045. Trust agreements; financial documents; resolutions

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §72 (RP).

§1045-A. Trust agreements or other documents

1. Trust agreements or other documents. At the discretion of the authority, revenue obligation securities may be issued under this subchapter pursuant to a trust agreement or other document. The trust agreement or other document may:

A. Pledge or assign the revenues or proceeds of the project or projects or other eligible collateral; [PL 1985, c. 344, §73 (NEW).]

B. Set forth the rights and remedies of the security holders and other persons and contain any reasonable and legal provisions for protecting the rights and remedies of the security holders; [PL 1985, c. 344, §73 (NEW).]

C. Restrict the individual right of action by security holders; and [PL 1985, c. 344, §73 (NEW).]

D. Include covenants setting forth the duties of the authority and user in relation to:

(1) Acquisition of property or eligible collateral;

(2) Construction, reconstruction, renewal, replacement and insurance of the project or eligible collateral;

(3) Rents to be charged or other payments to be made for use;

(4) Payment for the project or eligible collateral; and

(5) Custody, safeguarding and application of all money. [PL 1985, c. 344, §73 (NEW).]

Any financial institution may furnish indemnifying bonds or pledge the securities as may be required by the authority.
[PL 1985, c. 344, §73 (NEW).]

2. Mortgages. To further secure the payment of the revenue obligation securities, the trust agreement or other document may mortgage or assign the mortgage of the project, or any part, and create a lien upon or security interest in any or all of the project. In the event of a default with respect to the revenue obligation securities, the trustee, mortgagee or other person may be authorized by the trust agreement or other document containing a mortgage or assignment of a mortgage to take possession of, hold, manage and operate all or any part of the mortgaged property and, with or without taking possession, to sell or, from time to time, to lease the property in accordance with law. Any security interest granted by the authority under this chapter may be created and perfected in accordance with the Uniform Commercial Code, Title 11, Article 9-A.
[PL 1999, c. 699, Pt. D, §4 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

3. Additional provisions. Any trust agreement or other document may contain provisions which shall be a part of the contract with holders of revenue obligation securities as to:

A. Pledging any specified revenues or assets of the authority to secure the payment of the securities, subject to agreements with existing holders of securities; [PL 1985, c. 344, §73 (NEW).]

B. Pledging all or any part of the unencumbered revenues or assets of the authority to secure the payment of the securities, subject to agreements with existing holders of securities; [PL 1985, c. 344, §73 (NEW).]

C. Setting aside of, regulating and disposing of reserves or sinking funds; [PL 1985, c. 344, §73 (NEW).]

D. Limitations on the purpose to which the proceeds of sale of securities may be applied and the pledge of the proceeds to secure the payment of the securities or of any issue of securities; [PL 1985, c. 344, §73 (NEW).]

E. Limitations on the issuance of additional securities; [PL 1985, c. 344, §73 (NEW).]

F. The terms upon which additional securities may be issued and secured and the refunding of outstanding or other securities; [PL 1985, c. 344, §73 (NEW).]

G. The procedure, if any, by which the terms of any contract with holders of securities may be amended or abrogated, including the proportion of the holders which must consent and the manner in which the consent may be given; [PL 1985, c. 344, §73 (NEW).]

H. Limitations on the amount of money to be expended by the authority for operating expenses of the authority; [PL 1985, c. 344, §73 (NEW).]

I. Vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the holders of the securities under this subchapter and limiting or abrogating the right of the holders of the securities to appoint a trustee under this chapter or limiting the rights, powers and duties of the trustee; [PL 1985, c. 344, §73 (NEW).]

J. Defining the acts or omissions to act which will constitute a default in the obligations and duties of the authority to the holders of the securities and providing for the rights and remedies of the holders of the securities in the event of default, including, as a matter of right, the appointment of a receiver; but only if the rights and remedies are not inconsistent with the general laws of the State and other provisions of this subchapter; and [PL 1985, c. 344, §73 (NEW).]

K. Any other matters, of like or different character, which in any way affect the security or protection of the holders of the securities. [PL 1985, c. 344, §73 (NEW).]

[PL 1985, c. 344, §73 (NEW).]

4. Expenses; pledges. All expenses incurred in carrying out a trust agreement or financial document may be treated as a part of the cost of the operation of the project. All pledges of revenue or eligible collateral under this subchapter shall be valid and binding from the time when the pledge is made. All the revenues or eligible collateral pledged and later received by the authority shall immediately be subject to the lien of the pledges without any physical delivery or further action under the Uniform Commercial Code or otherwise. The lien of the pledges shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, against the authority, irrespective of whether the parties have notice thereof.

[PL 1985, c. 344, §73 (NEW).]

5. Other provisions. A trust agreement or financial document may contain other provisions the authority deems reasonable and proper for the security of the security holders.

[PL 1985, c. 344, §73 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §73 (NEW). PL 1999, c. 699, §D4 (AMD). PL 1999, c. 699, §D30 (AFF).

§1046. Rentals and revenues

1. Provisions. Before issuing revenue obligation securities, the authority shall determine that there will at all times be revenues and funds sufficient:

A. To pay the principal of and the interest of the securities as they become due and payable and, in its discretion, to create and maintain reserves for that purpose; and [PL 1985, c. 344, §74 (AMD).]

B. To pay the cost of maintaining and, where applicable, repairing the project unless provision is made in the financial document or other contract for maintenance and, where applicable, repair. [PL 1985, c. 344, §74 (AMD).]

[PL 1985, c. 344, §74 (AMD).]

2. Sinking fund. All project rentals and other revenues, except those required in subsection 1, paragraph B or to provide reserves for maintenance and, where applicable, repair may be set aside at regular intervals, as provided in the trust agreement or other document, and deposited to the credit of a sinking fund charged with payment of the interest and principal of the securities as they fall due, any necessary charges of paying agents for paying principal and interest, and the redemption price or the purchase price of securities retired by call or purchase. The use and disposition of moneys to the credit of the sinking fund shall be subject to regulations prescribed in the trust agreement or other document.

Except as may otherwise be provided in the trust agreement or other document, the sinking fund shall be a fund for the benefit of all securities issued for the project or projects without distinction or priority of one over another.
[PL 1985, c. 344, §74 (AMD).]

3. Trust funds. All moneys received under this subchapter shall be deemed trust funds, to be held and applied solely as provided in this subchapter. Any officer to whom, or any bank, trust company or other fiscal agent or trustee to which the moneys shall be paid shall act as trustees of the moneys and shall hold and apply them for the purposes of this subchapter, subject to the requirements of this subchapter, the trust agreement or other applicable document.
[PL 1985, c. 344, §74 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §74 (AMD).

§1047. Remedies

Any holder of revenue obligation securities or coupons issued under this subchapter and the trustee under any trust agreement, except as restricted by the trust agreement or applicable document, may, by appropriate legal action, protect and enforce any and all rights under the laws of this State or granted under this subchapter, the trust agreement or other document, including the appointment of a receiver, and may enforce and compel the performance of all duties required by this subchapter, the trust agreement or other document to be performed by the authority, including the collecting of rates, fees and charges for the use of the project. Any proceeding shall be brought for the benefit of all holders of the securities and any coupons. [PL 1985, c. 344, §75 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §75 (AMD).

§1048. Revenue refunding securities

The authority may provide for the issuance of revenue refunding securities of the authority to refund any outstanding revenue obligation securities issued under this subchapter, subchapter IV or under previous chapter 104 or to refund any obligations or securities of any municipality, including the payment of any redemption premiums and any interest accrued or to accrue to the date of redemption, and, if considered advisable by the authority, to construct or enable the construction of improvements, extensions, enlargements or additions of the original project. The authority may provide for the issuance of revenue obligation securities of the authority for the combined purpose of refunding any outstanding revenue obligation securities or revenue refunding securities issued under this subchapter, subchapter IV or under previous chapter 104 or to refund any obligations or securities of any municipality, including the payment of redemption premiums and interest accrued or to accrue and paying all or any part of the cost of acquiring or constructing or enabling the acquisition or construction of any additional project or part or any improvements, extensions, enlargements or additions of any project. The issuance of the securities, the maturities and other details, the rights and remedies of the holders and the rights, powers, privileges, duties and obligations of the authority are governed by the provisions of this subchapter insofar as they are applicable. [PL 1993, c. 741, §2 (AMD).]

Notwithstanding the foregoing, the authority may approve or disapprove the issuance of revenue refunding securities without any notice of the issuance being given by the authority, by the applicant or otherwise, under section 1043, subsection 1; section 1044, subsection 1; or otherwise, and without having to hold any public hearing or otherwise fulfill the requirements of section 1043, if the authority determines that no expansion of the original project is involved and there will be no increase in the original amount of the revenue obligation securities issued for the project. Once the authority has made the determinations, it may approve the issuance of revenue refunding securities by issuing an amended certificate of approval. [PL 1993, c. 741, §2 (NEW).]

If, in connection with any outstanding revenue obligation securities issued under previous chapter 104, any predecessor to the authority financed or guaranteed more than 90% of the total value of a project, the authority, in connection with issuing its revenue refunding securities, may continue to finance or guarantee the corresponding percentage of the total value of the project financed or guaranteed by its predecessor, notwithstanding section 1026-A, subsection 1, paragraph A, subparagraph (1). [PL 2003, c. 537, §51 (AMD); PL 2003, c. 537, §53 (AFF).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §76 (AMD). PL 1985, c. 593, §2 (AMD). PL 1993, c. 741, §2 (AMD). PL 2003, c. 537, §51 (AMD). PL 2003, c. 537, §53 (AFF).

§1049. Tax exemption

Revenue obligation securities issued under this subchapter shall constitute a proper public purpose and the securities, their transfer and the income from them, including any profits made on their sale, shall at all times be exempt from taxation within the State, whether or not those securities, their transfer or the income from them, including any profits made on their sale, are subject to taxation under the United States Internal Revenue Code, as amended. [PL 1987, c. 393, §11 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1987, c. 393, §11 (AMD).

§1050. Leasehold or other interests of lessee taxable

The interest of the user of any project is subject to taxation in the manner provided for similar interest in Title 36, section 551, subject to Title 36, sections 655 and 656. [PL 1981, c. 476, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW).

§1051. Bonds as legal investments

The revenue obligation securities of the authority and any loan or extension of credit issued under this subchapter, shall be legal investments in which all public officers and public bodies of the State, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries and all other persons who are now or may later be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital, in their control or belonging to them. The revenue obligation securities and any loan or extension of credit which is issued under this subchapter are also made securities which may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivisions and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the State is now or may later be authorized by law. [PL 1985, c. 344, §77 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §77 (AMD).

§1052. Successor to Maine Guarantee Authority

The Finance Authority of Maine is the successor to the former Maine Guarantee Authority and all securities, mortgages, trust agreements, authorizations, financial documents, resolutions and actions of

the Maine Guarantee Authority shall be obligations, resolutions or actions of the Finance Authority of Maine. [PL 1983, c. 519, §16 (NEW).]

SECTION HISTORY

PL 1983, c. 519, §16 (NEW).

§1053. Capital reserve funds; obligation of State

1. Capital reserve fund. The authority may create and establish one or more capital reserve funds and may pay into any such capital reserve fund any money appropriated and made available by the State for the purposes of any such fund, any proceeds of sale by the authority of revenue obligation securities to the extent determined by the authority and any other money available to the authority. For purposes of this section, the amount of any letter of credit, insurance contract, surety bond or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied shall be deemed to be and counted as money in the capital reserve fund.
[PL 1987, c. 697, §11 (AMD).]

2. Application. Money held in any capital reserve fund, except as provided in this section, shall be used solely with respect to revenue obligation securities, repayment of which is secured by any such fund and solely for the payment of principal of the securities, the purchase or redemption of the securities, including any fees or premiums or the payment of interest on the securities. In addition, if the authority obtains a letter of credit, insurance contract, surety bond or similar financial undertaking to establish and fund a capital reserve fund under subsection 1, money in the fund may be used to pay, as and when due, whether by acceleration or otherwise, all reimbursement obligations of the authority established in connection with that letter of credit, insurance contract, surety bond or similar financial undertaking, including, but not limited to, all fees, expenses, indemnities and commissions. Money in excess of the reserve requirement established as provided in subsection 3 may be transferred to other funds and accounts of the authority.
[PL 1989, c. 594, §1 (AMD); PL 1989, c. 594, §3 (AFF).]

3. Reserve requirement. The authority may provide that money in any such fund shall not be withdrawn at any time in such amount as would reduce the amount of any such fund below an amount established by the authority with respect to the fund, the amount established by the authority being referred to as the "capital reserve requirement," except for the purpose of paying the amount due and payable with respect to revenue obligation securities, repayment of which is secured by any such fund, or reimbursement obligations of the authority with respect to any letter of credit, insurance contract, surety bond or similar financial undertaking pertaining to any such fund.
[PL 1989, c. 594, §2 (AMD); PL 1989, c. 594, §3 (AFF).]

4. Issuance limit. The authority may provide that it shall not issue revenue obligation securities if the capital reserve requirement established by the authority with respect to securities outstanding and then to be issued and secured by any such fund will exceed the amount of any such fund, including the amount available under any letter of credit, insurance contract, surety bond or other similar financial undertaking given to secure the capital reserve requirement, at the time of issuance, unless the authority, at the time of issuance of the securities, shall deposit in any such fund from proceeds of the securities so to be issued, or from other sources, an amount, which, together with the amounts then in any such fund and amounts available under any letter of credit, insurance contract, surety bond or other similar financial undertaking, will not be less than the capital reserve requirement.
[PL 1989, c. 594, §2 (AMD); PL 1989, c. 594, §3 (AFF).]

5. Appropriation. On or before December 1st, annually, the authority shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund, to which this subsection is stated in the trust agreement or other document to apply, to the capital reserve requirement. The Governor shall forthwith pay from the Contingent Account to any such fund so much of the amount as is available in the Contingent Account and shall forthwith transmit to the Legislature such certification

and a statement of the amount, if any, remaining to be paid and the amount so certified shall be appropriated and paid to the authority during the then current state fiscal year.
[PL 1985, c. 344, §78 (NEW).]

6. Securities outstanding. The principal amount of revenue obligation securities the authority may have outstanding at any one time, to which subsection 5 is stated to apply in the trust agreement or other document, may not exceed an aggregate principal amount equal to $762,000,000 as follows:

A. The sum of $180,000,000 consisting of not more than $150,000,000 for loans and up to $30,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for electric rate stabilization projects, loans for energy generating system projects or loans for energy distribution system projects; [PL 2015, c. 504, §5 (AMD).]

B. [PL 2019, c. 160, §7 (RP).]

C. The sum of $57,000,000 consisting of not more than $45,000,000 for loans and up to $12,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to workers' compensation residual market mechanism projects; [PL 1999, c. 531, Pt. G, §1 (RPR).]

D. The sum of $270,000,000 less the aggregate outstanding balance of mortgage loans secured by capital reserve funds pursuant to section 1032 for all other revenue obligation securities issued pursuant to this subchapter; [PL 2019, c. 160, §7 (AMD).]

E. The sum of $120,000,000 consisting of not more than $100,000,000 for loans and up to $20,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for paper industry job retention projects; [PL 2007, c. 464, §9 (AMD).]

F. The sum of $100,000,000 consisting of not more than $85,000,000 for loans and up to $15,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for transmission facilities projects as defined in section 963-A, subsection 49-H; and [PL 2007, c. 464, §9 (AMD).]

G. The sum of $35,000,000 consisting of not more than $30,000,000 for the purposes stated in section 1020-A, subsection 1, paragraphs A and C and up to $5,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to section 1020-A, subsection 1, paragraph A. [PL 2007, c. 464, §9 (NEW).]

The amount of revenue obligation securities issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, as long as proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the authority that may at any time be outstanding for any purpose, the amounts of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments are valued as of any date of calculation at their then current accreted value rather than their face value.
[PL 2019, c. 160, §7 (AMD).]

SECTION HISTORY

PL 1985, c. 344, §78 (NEW). PL 1985, c. 714, §33 (AMD). PL 1987, c. 697, §§11-13 (AMD). PL 1989, c. 552, §18 (AMD). PL 1989, c. 594, §§1, 2 (AMD). PL 1989, c. 594, §3 (AFF). PL 1993, c. 460, §8 (AMD). PL 1993, c. 712, §5 (AMD). PL 1995, c. 4, §8 (AMD). PL 1995, c. 120, §1 (AMD). PL 1995, c. 120, §5 (AFF). PL 1995, c. 289, §6 (AMD). PL 1997, c. 489, §7 (AMD). PL 1997, c. 492, §1 (AMD). PL 1997, c. 492, §7 (AFF). PL 1997, c. 781, §1 (AMD). PL 1999, c. 484, §8 (AMD). PL 1999, c. 513, §5 (AMD). PL 1999, c. 531, §G1 (AMD). PL

2003, c. 506, §5 (AMD). PL 2007, c. 464, §9 (AMD). PL 2011, c. 261, §6 (AMD). PL 2011, c. 586, §5 (AMD). PL 2015, c. 504, §5 (AMD). PL 2019, c. 160, §7 (AMD).

§1054. Taxable bond option

With respect to all or any portion of any issue of any bonds or any series of bonds that the authority may issue in accordance with the limitations and restrictions of this subchapter, the authority may covenant and consent that the interest on the bonds is includable, under the United States Internal Revenue Code of 1986 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code or any subsequent law. Bonds issued pursuant to this section are not subject to any limitations or restrictions of any law that may limit the authority's power to issue those bonds or to the procedures set forth in section 1043 or in section 1044, subsections 1, 11 and 12. The foregoing grant of power may not be construed as limiting the inherent power of the State or its agencies under any other provision of law to issue debt, the interest on which is includable in the gross income of the holders of the interest under the United States Internal Revenue Code or any subsequent law. Any action or proceeding in any court to contest the issuance of the securities, the approval by the authority of a project to benefit from issuance of the securities or the approval by the authority of mortgage insurance or the provision of a capital reserve fund for the securities for any reason must be started within 30 days after the date on which the members of the authority adopt a formal resolution approving issuance of the securities and otherwise must be governed by Title 5, chapter 375, subchapter 7. Once the authority has adopted a resolution to approve the issuance of securities pursuant to this section, any action by the authority to amend, alter or revise the resolution may not commence a new period of time within which any such action or proceeding may be commenced. Notwithstanding the provisions of section 969-A, subsection 11 and Title 5, chapter 375, subchapter 7, including, but not limited to, Title 5, sections 11002 and 11003, any such action or proceeding may be commenced only by first serving the petition for review upon the authority, in hand, within that 30-day period. After the expiration of the 30-day period of limitation, no right of action or defense founded upon the invalidity of the resolution or contesting any provision of the resolution, any amendment to the resolution or the issuance of the securities may be started or asserted nor may the resolution or the issuance of the securities be open to question in any court upon any grounds. [PL 2019, c. 160, §8 (AMD).]

SECTION HISTORY

PL 1985, c. 344, §78 (NEW). PL 1985, c. 593, §3 (AMD). PL 1987, c. 393, §12 (AMD). PL 1995, c. 4, §9 (AMD). PL 2019, c. 160, §8 (AMD).

§1055. Revenue obligation securities for waste facilities, waste disposal services or recycling projects

In addition to any other powers and for the purposes of this chapter and Title 38, chapter 24, the authority may exercise powers and authority previously granted to the former Maine Waste Management Agency in Title 38, sections 2211 to 2222. [PL 1995, c. 465, Pt. B, §5 (NEW); PL 1995, c. 465, Pt. C, §2 (AFF).]

SECTION HISTORY

PL 1995, c. 465, §B5 (NEW). PL 1995, c. 465, §C2 (AFF).

SUBCHAPTER 4

MUNICIPAL SECURITIES APPROVAL PROGRAM

§1061. Powers of the municipality under this program

A municipality may: [PL 1981, c. 476, §2 (NEW).]

1. Kinds of projects. Acquire, construct, reconstruct, maintain, renew, replace or provide financing assistance for eligible projects, or assist a user to acquire, construct, reconstruct, maintain, renew or replace eligible projects;

A. [PL 1985, c. 344, §79 (RP).]

B. [PL 1985, c. 344, §79 (RP).]
[PL 1985, c. 344, §79 (RPR).]

2. Securities. Issue revenue obligation securities of the municipality to pay the costs of, or provide financing for, projects enumerated in subsection 1;
[PL 1981, c. 476, §2 (NEW).]

3. Refunding securities. Issue revenue refunding obligation securities of the municipality to refund any outstanding revenue obligation securities issued under this subchapter or under subchapter III or to refund any other obligations or securities of the municipality;
[PL 1985, c. 593, §4 (AMD).]

4. Acquisition and disposal of property. Acquire or enable a user to acquire upon reasonable terms from subchapter IV funds the lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, which are located within the State and deemed necessary or convenient for the construction or operation of any subsection 1 project and to dispose of them;
[PL 1981, c. 476, §2 (NEW).]

5. Contracts. Make and enter into all financing documents including security agreements, mortgages, contracts and trust agreements securing revenue obligation securities issued under this subchapter, provided all expenses are payable solely from funds made available under this subchapter;
[PL 1981, c. 476, §2 (NEW).]

6. Employment of specialists. Employ consulting and other engineers, attorneys, accountants, construction and financial experts, superintendents, managers and other necessary employees and agents and fix their compensation, provided all expenses are payable solely from funds made available under this subchapter;
[PL 1981, c. 476, §2 (NEW).]

7. Government contracts. Enter into contracts with other municipalities, the State or a federal agency relating to any subsection 1 project. In the case of contracts with federal agencies involving pollution-control facilities, the consent of the Board of Environmental Protection shall first be obtained, notwithstanding Title 38, section 362;
[PL 1981, c. 476, §2 (NEW).]

8. Government aid. Accept loans or grants for the planning, construction or acquisition of any subsection 1 project from an authorized agency of the State or a federal agency and enter into agreements with the agency respecting the loans or grants. In the case of loans, grants or other aid from a federal agency involving pollution-control facilities, the consent of the Board of Environmental Protection shall first be obtained, notwithstanding Title 38, section 362;
[PL 1981, c. 476, §2 (NEW).]

9. General powers. Do all acts and things necessary or convenient to carry out the powers expressly granted in this subchapter. Except as otherwise provided in this subchapter, the powers of a municipality may be exercised by or under the direction of its municipal officers;
[PL 1981, c. 476, §2 (NEW).]

10. Applicability. Title 14, section 6010, shall not apply to leases made under this section. Leases made under this section may provide that obligations of the lessees shall be unconditional; and
[PL 1981, c. 476, §2 (NEW).]

11. Application of Title 32, chapter 13. The provisions of Title 32, chapter 13, relating to dealers in securities, shall not apply to revenue obligation securities issued, reissued or refunded under this subchapter.
[PL 1981, c. 476, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §17 (AMD). PL 1983, c. 648, §4 (AMD). PL 1983, c. 699, §4 (AMD). PL 1983, c. 862, §32 (AMD). PL 1985, c. 344, §79 (AMD). PL 1985, c. 593, §4 (AMD).

§1061-A. Limitations on certain projects

In the case of projects consisting of multi-family or single-family residential property, the Maine State Housing Authority has responsibility to approve or disapprove such projects in accordance with regulations adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, in lieu of the approval required by the authority under this subchapter, provided that this section applies only to projects that require an allocation under any applicable state bond ceiling for tax-exempt bonds. [RR 1991, c. 2, §30 (COR).]

1. Retail stores.

[PL 1991, c. 606, Pt. F, §3 (RP).]

2. Professional office space.

[PL 1991, c. 606, Pt. F, §3 (RP).]

3. Reconstruction of existing building projects.

[PL 1991, c. 606, Pt. F, §3 (RP).]

4. Residential property.

[PL 1991, c. 606, Pt. F, §3 (RP).]

SECTION HISTORY

PL 1985, c. 344, §80 (NEW). PL 1985, c. 594, §3 (AMD). PL 1987, c. 393, §13 (AMD). RR 1991, c. 2, §30 (COR). PL 1991, c. 606, §F3 (RPR).

§1061-B. Designation of issuer of recovery zone facility bonds and qualified energy conservation bonds

To the extent permitted by federal law, and to the extent not previously reallocated pursuant to section 1074-A or 1074-B, the county commissioners of any county may authorize the authority to issue recovery zone facility bonds or qualified energy conservation bonds on behalf of that county pursuant to subchapter 3 or a municipality to issue recovery zone facility bonds or qualified energy conservation bonds on behalf of that county pursuant to this subchapter. [PL 2009, c. 517, §10 (NEW).]

SECTION HISTORY

PL 2009, c. 517, §10 (NEW).

§1062. Assistance to municipalities

The authority may assist municipalities in negotiations with prospects, drafting of contracts, arranging for financing and negotiations for sale of securities to be issued under this subchapter. [PL 1983, c. 519, §18 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §18 (AMD).

§1063. Certificates of approval

1. Issue. The authority may approve or disapprove projects and issue certificates of approval upon application by municipalities proposing to issue revenue obligation securities under this subchapter. The authority shall publish, once in the state newspaper and in a newspaper of general circulation in the municipality in which the project is to be located, notice of the date on which the authority will consider the application. The notice shall be published at least 7 days prior to the date scheduled for such consideration, shall set forth the name of the municipality and the proposed user of the project, describe generally the project and set forth the time and place at which the application will be considered. In addition to the notice required to be published by the authority, the applicant shall make all reasonable efforts to give timely notice to any and all known competitors of the time and place at which the application will be considered. Where individual written notice is not practical, as determined by the authority, the authority may specify other or additional forms of notice, including display newspaper advertisements and written notice to any trade, industry, professional or interest group. The certificate of approval shall identify and describe each project as to location, purpose and amount of revenue obligation securities to be issued.
[PL 1985, c. 344, §81 (AMD).]

2. Criteria. Before issuing a certificate of approval for any project, the authority shall determine that:

A. The project will make a contribution to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State; [PL 1985, c. 344, §82 (AMD).]

B. The project will not result in a substantial detriment to existing business in the State. In order to make this determination, the authority shall consider, pursuant to rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, such factors as it deems necessary to measure and evaluate the effect of the project on existing business, including considering:

(1) Whether a project should be approved if, as a result of the project, there will not be sufficient demand within the market area of the State to be served by the project to employ the efficient capacity of existing business; and

(2) Whether any adverse economic effect of the project on existing business is outweighed by the contribution which the project will make to the economic growth of, the control of pollution in or the betterment of the health, welfare or safety of the inhabitants of the State.

The applicant shall have the burden of demonstrating that the project will not result in a substantial detriment to existing business in accordance with the requirements of this paragraph, including rules adopted in accordance therewith, except in cases where no interested parties object to the project, in which event the requirements of this paragraph shall be deemed satisfied. Interested parties shall be given an opportunity, with or without a hearing at the discretion of the authority, to present their objections to the project on grounds that the project will result in a substantial detriment to existing business. If any such party presents such objections with reasonable specificity and persuasiveness, the authority may divulge whatever information concerning the project which it deems necessary for a fair presentation by the objecting party and evaluation of

such objections. If the authority finds that the applicant has failed to meet its burden as specified in this paragraph, the application shall be denied; [PL 1985, c. 714, §34 (AMD).]

C. Adequate provision is being made to meet any increased demand upon public facilities that might result from the project; [PL 1981, c. 476, §2 (NEW).]

D. In cases where it is proposed to relocate an energy generating system, energy distribution system, industrial-commercial project, water supply system or recreational facility existing in the State, there is a clear economic justification for the relocation; [PL 1981, c. 476, §2 (NEW).]

E. For all revenue obligation securities in excess of $1,000,000 and in other instances when the authority determines it is appropriate, the Department of Environmental Protection has provided a written assessment to the authority of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities. [PL 2003, c. 537, §52 (RPR); PL 2003, c. 537, §53 (AFF).]

F. In the case of projects including pollution-control facilities:

(1) The proposed users of the facilities make a significant contribution to the economy of the State;

(2) A substantial public benefit will result from including the facilities in the project; and

(3) It is unlikely that public facilities meeting the needs of the users and securing comparable public benefit will become available in the reasonable foreseeable future; [PL 1981, c. 476, §2 (NEW).]

G. [PL 1985, c. 344, §84 (RP).]

H. In the case of water supply system projects:

(1) That the project will result in substantial public benefits;

(2) That the issuance of securities for the project has been reviewed and approved by the Public Utilities Commission in accordance with Title 35-A, chapter 9, sections 901 to 910 and 6508; and

(3) The Public Utilities Commission and the Department of Health and Human Services have certified that all permits, licenses and approvals required from those departments have been issued or granted or that none are required, and until a location permit from the applicable licensing authority has been issued or it is determined that none is required. Any subsequent enlargement of or addition to the project, for which approval is sought from the authority, shall also require certification by the Public Utilities Commission and the Department of Health and Human Services; [PL 1987, c. 141, Pt. B, §8 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

I. In the case of an energy generating system project or energy distribution project which is intended to produce or distribute energy for sale to any person, municipality, firm, corporation or the State that the issuance of securities for the project has been reviewed and approved by the Public Utilities Commission in accordance with Title 35-A, chapter 9, sections 901 to 910 and 6508; [PL 1987, c. 141, Pt. B, §8 (AMD).]

I-1. In the case of recycling and waste reduction projects, the proposed facility is consistent with and will contribute to the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24 and will reduce the amount of solid or hazardous waste requiring disposal. The Department of Environmental Protection shall provide assistance to the authority in determining consistency, technical eligibility and merit of applications for

assistance under this subchapter. [PL 2011, c. 655, Pt. GG, §6 (AMD); PL 2011, c. 655, Pt. GG, §70 (AFF).]

J. In the case of an energy generating system, an energy distribution system or an industrial-commercial project, any of which includes hydroelectric facilities deemed necessary for the production of electricity:

(1) The Public Utilities Commission has certified that all required licenses have been issued or that none are required; and

(2) The Director of the Governor's Office of Policy and Management has reviewed and commented upon the project proposal. The Director of the Governor's Office of Policy and Management shall make comments within 30 days after receipt of a notification and copy of the project proposal from the authority. The authority shall take the comments into consideration in its consideration of the project; and [PL 2011, c. 655, Pt. EE, §15 (AMD); PL 2011, c. 655, Pt. EE, §30 (AFF).]

K. If the authority is satisfied that the determinations of this section can be made and that a certificate of approval can be issued, upon receipt of the certificate or certificates required by paragraphs E, H, I and J, the authority may advise the departments concerned which may treat such advice as the completion of arrangements for financing for the purposes of Title 38, section 451, subsection 1, paragraph B. [PL 1985, c. 714, §35 (AMD).]

[PL 2011, c. 655, Pt. EE, §15 (AMD); PL 2011, c. 655, Pt. EE, §30 (AFF); PL 2011, c. 655, Pt. GG, §6 (AMD); PL 2011, c. 655, Pt. GG, §70 (AFF).]

3. Effect of certificate. A certificate of approval issued under this subchapter shall be conclusive proof that the authority has made the determinations required by this section.

[PL 1981, c. 476, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §67 (AMD). PL 1985, c. 344, §§81-84 (AMD). PL 1985, c. 714, §§34,35 (AMD). PL 1987, c. 141, §B8 (AMD). PL 1989, c. 501, §DD20 (AMD). PL 1989, c. 546, §1 (AMD). PL 1989, c. 585, §§C13,C14 (AMD). PL 1989, c. 878, §A28 (AMD). PL 1995, c. 656, §A4 (AMD). PL 2003, c. 537, §52 (AMD). PL 2003, c. 537, §53 (AFF). PL 2003, c. 689, §B6 (REV). PL 2011, c. 655, Pt. EE, §15 (AMD). PL 2011, c. 655, Pt. EE, §30 (AFF). PL 2011, c. 655, Pt. GG, §6 (AMD). PL 2011, c. 655, Pt. GG, §70 (AFF).

§1064. Issuance of revenue obligation securities

1. Notice of intent to issue bonds; actions to contest validity. The municipal officers of any municipality are authorized to provide by resolution, at one time or from time to time, for the issuance of revenue obligation securities of the municipality for the purposes authorized in this subchapter. No revenue obligation securities of the municipality may be authorized and issued until:

A. A certificate of approval, as provided in section 1063, is received; [PL 1981, c. 476, §2 (NEW).]

B. A resolution is adopted by vote of the municipal officers; and [PL 1981, c. 476, §2 (NEW).]

C. A notice of the intent of the municipality to issue the securities is published at least once in the state newspaper and in a newspaper of general circulation in the municipality:

(1) No later than 14 full days after the date on which the resolution is adopted;

(2) Describing the general purpose or purposes for which the securities are to be issued;

(3) Stating the maximum principal amount of the proposed securities;

(4) Setting forth or summarizing the text of the certificate of approval; and

(5) Including a statement as to the time within which any action or proceeding to set aside the resolution or otherwise obtain relief on the grounds of its invalidity or that of the certificate of approval must be commenced. [PL 1981, c. 476, §2 (NEW).]

Any action or proceeding in any court to set aside a resolution or certificate of approval or to obtain relief upon the grounds that the resolution or certificate of approval was improperly adopted, was adopted for unauthorized purposes or is otherwise invalid for any reason, must be started within 30 days after the date of the publication. After the expiration of the period of limitation, no right of action or defense founded upon the invalidity of the resolution or approval or any provision shall be started or asserted nor shall the validity of the resolution or approval or provision be open to question in any court upon any grounds.
[PL 1981, c. 476, §2 (NEW).]

2. Maturity; interest. The securities of each issue of revenue obligation securities shall be dated, shall mature at a time or times not exceeding 25 years from their date or dates and shall bear interest at a rate or rates determined by the option of the municipal officers. The securities may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to their issue. In determining an interest rate, the municipal officers shall specify a rate which shall be the maximum rate for the particular revenue obligation security issue related to a single project, which rate may be a variable rate measured as a percentage of or otherwise in relation to a prime rate or other measuring standard.

A. [PL 1985, c. 714, §36 (RP).]

B. [PL 1985, c. 714, §36 (RP).]

C. [PL 1985, c. 344, §85 (RP).]

D. [PL 1985, c. 714, §36 (RP).]
[PL 1985, c. 714, §36 (RPR).]

3. Form. The municipal officers shall determine the form of the securities, including any attached interest coupons, the manner of execution of the securities, the denomination or denominations of the securities. Revenue obligation securities shall be executed in the name of the municipality by the manual or facsimile signature of the municipal officer or officers authorized in the resolution, but at least one signature on each security shall be a manual signature. Any attached coupons shall be executed with the facsimile signature of the designated official. Signatures and facsimiles of signatures on securities and coupons will be valid for all purposes, even if the designated official ceases to hold office before delivery of the securities. The securities may be issued in coupon or registered form, or both. Provision may be made for the registration of any coupon securities as to principal alone and as to both principal and interest, and for the reconversion into coupon securities of any securities registered as to both principal and interest.
[PL 1981, c. 476, §2 (NEW).]

4. Sale. The municipal officers may sell the securities at a private or public sale, in a manner and at a price they determine, but no sale may be made at a price so low as to require the payment of interest on the money received at more than the interest approved by the authority.

The municipal officers shall not sell the securities to any firm, partnership, corporation, water company or association, including an affiliate or subsidiary, which is a party to any contract pertaining to the financial project or which is to rent, purchase, lease or otherwise occupy premises constituting part of the project. The municipal officers may sell the securities to a seller of the project if the project is to be used and operated by a 3rd party.
[PL 1981, c. 476, §2 (NEW).]

5. Use of proceeds; disbursements; deficits. Proceeds of each issue shall be used solely for the authorized purposes and shall be disbursed as provided in the authorizing resolution or in the securing

trust agreement. If the proceeds shall be less than the cost of the project, by error in the estimate or otherwise, additional securities may be issued in a like manner to provide the amount of the deficit and, unless otherwise provided in the authorizing resolution or the securing trust agreement, the additional securities are deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the securities first issued for the same purpose, provided the aggregate principal amount of revenue obligation securities of a municipality may not exceed the amount approved by the resolution of the municipal officers. The municipality may place limits or restrictions on the issuance of additional revenue obligation securities through the authorizing resolution or any securing trust agreement. The municipality may provide for the replacement of mutilated, destroyed or lost securities. Revenue obligation securities may be issued under this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings, or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this chapter. Notwithstanding any of the other provisions of this subchapter or any recitals in any securities issued under this subchapter, all such securities are deemed to be negotiable instruments issued under the laws of this State.
[PL 1985, c. 344, §86 (AMD).]

6. Credit not pledged. Securities issued under this subchapter shall not constitute any debt or liability of the State, its political subdivisions or any municipality; shall not constitute a pledge of the faith and credit of the State, its political subdivisions or any municipality; shall be payable solely from the revenues of the project or projects for which they are issued; and shall contain on their face a statement to that effect. The securities issued under this subchapter shall not directly or indirectly or contingently obligate the State, its political subdivisions or any municipality to levy or to pledge any form of taxation whatever or to make any appropriation for their payment. The prohibitions or limitations of this subsection shall not be construed to restrict any rights or obligations of a municipality arising under Title 38, section 1304-B.
[PL 1985, c. 593, §5 (AMD).]

7. Anticipatory borrowing. In anticipation of the sale of securities under this subchapter, the municipal officers may issue temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the securities. The period of such anticipatory borrowing shall not exceed one year, and the time within which the securities are to become due shall not be extended by the anticipatory borrowing beyond the time fixed in the authorizing resolution or, if no term is specified, beyond the term permitted by law.
[PL 1981, c. 476, §2 (NEW).]

8. Conclusive authorization. All revenue obligation securities of the municipality shall be conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the municipality.
[PL 1985, c. 344, §87 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §§85-87 (AMD). PL 1985, c. 593, §5 (AMD). PL 1985, c. 714, §36 (AMD).

§1065. Trust agreements; resolutions

1. Trust agreements. At the discretion of the municipal officers, any revenue obligation securities issued under this subchapter may be secured by a trust agreement between the municipality and any corporate trustee or by a mortgage or other financial document. The trust agreement, mortgage, security agreement or other financial document may:

A. Pledge or assign the revenues of the project or projects; [PL 1981, c. 476, §2 (NEW).]

B. Set forth the rights and remedies of the security holders and the trustees and contain any reasonable and legal provisions for protecting the rights and remedies of the security holder; [PL 1981, c. 476, §2 (NEW).]

C. Restrict the individual right of action by security holders; and [PL 1981, c. 476, §2 (NEW).]

D. Include covenants setting forth the duties of the municipal officers and used in relation to:

(1) Acquisition of property;

(2) Construction, reconstruction, renewal, replacement and insurance of the project;

(3) Rents to be charged or other payments to be made for use;

(4) Payment of the project; and

(5) Custody, safeguarding and application of all moneys. [PL 1981, c. 476, §2 (NEW).]

It shall be lawful for any bank or trust company incorporated under the laws of the State, which may act as depository of the proceeds of securities or of revenues, to furnish indemnifying bonds or to pledge the securities as may be required by the municipal officers.
[PL 1981, c. 476, §2 (NEW).]

2. Mortgages. To further secure the payment of the revenue obligation securities, the trust agreement or other financial document may mortgage the project or any part and create a lien upon any or all of the real or personal property of the project. In the event of a default with respect to the revenue obligation securities, the trustee or mortgagee may be authorized by the trust agreement or financial document containing a mortgage or assignment of a mortgage to take possession of, hold, manage and operate all or any part of the mortgaged property and, with or without taking possession, to sell or, from time to time, to lease the property in accordance with law. Any security interest granted by a municipality under this chapter may be created and perfected in accordance with the provisions of the Uniform Commercial Code, Article 9-A.
[PL 1999, c. 699, Pt. D, §5 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

3. Authorizing resolutions. Any resolutions authorizing any issue of revenue obligation securities may contain provisions which shall be a part of the contract with holders, as to:

A. Pledging any specified revenues or assets of the project to secure the payment of the revenue obligation securities or of any issue of revenue obligation securities, subject to agreements with existing holders of revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]

B. Pledging all or any part of the unencumbered revenues or assets of the project to secure the payment of the revenue obligation securities or any issue of revenue obligation securities, subject to agreements with existing holders of revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]

C. Setting aside of, regulating and disposing of reserves or sinking funds; [PL 1981, c. 476, §2 (NEW).]

D. Limitations on the purpose to which the proceeds of revenue obligation securities may be applied and the pledge of the proceeds to secure the payment of the revenue obligation securities or of any issue of revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]

E. Limitations on the issuance of additional revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]

F. The terms upon which additional revenue obligation securities may be issued and secured and the refunding of outstanding or other revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]

G. The procedure, if any, by which the terms of any contract with holders of revenue obligation securities may be amended or abrogated, including the amount of revenue obligation securities to which the holders must consent and the manner in which the consent may be given; [PL 1985, c. 344, §89 (AMD).]

H. Limitations on the amount of moneys to be expended by the municipality for operating expenses of the project; [PL 1985, c. 344, §89 (AMD).]

I. Vesting in a trustee or trustees such property, rights, powers and duties in trust as the municipality may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the holders of the revenue obligation securities under this subchapter and limiting or abrogating the right of the holders of the revenue obligation securities to appoint a trustee under this chapter or limiting the rights, powers and duties of the trustee; [PL 1985, c. 344, §89 (AMD).]

J. Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the municipal officers to the holders of the revenue obligation securities and providing for the rights and remedies of the holders of the revenue obligation securities in the event of such default, including, as a matter of right, the appointment of a receiver; but only if the rights and remedies are not inconsistent with the general laws of the State and other provisions of this subchapter; and [PL 1985, c. 344, §89 (AMD).]

K. Any other matters of like or different character which in any way affect the security or protection of the holders of the revenue obligation securities. [PL 1985, c. 344, §89 (AMD).]

[PL 1985, c. 344, §89 (AMD).]

4. Authorizing resolution; other provisions. At the discretion of the municipal officers, the authorizing resolution may:

A. Pledge or assign the revenues of the project or projects; [PL 1981, c. 476, §2 (NEW).]

B. Set forth the rights and remedies of the security holders and the trustees and contain any reasonable and legal provisions for protecting the rights and remedies of the security holder; [PL 1981, c. 476, §2 (NEW).]

C. Restrict the individual right of action by security holders; and [PL 1981, c. 476, §2 (NEW).]

D. Include covenants setting forth the duties of the municipal officers and user in relation to:

(1) Acquisition of property;

(2) Construction, reconstruction, renewal, replacement and insurance of the project;

(3) Rents to be charged or other payments to be made for use;

(4) Payment of the project; and

(5) Custody, safeguarding and application of all moneys. [PL 1981, c. 476, §2 (NEW).]

It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of securities or of revenues to furnish indemnifying bonds or to pledge the securities as may be required by the authority.

[PL 1981, c. 476, §2 (NEW).]

5. Expenses; pledges. All expenses incurred in carrying out a trust agreement, financial document or resolution may be treated as a part of the cost of the operation of the project. All pledges of revenue under this subchapter shall be valid and binding from the time when the pledge is made. All the revenues pledged and later received by the municipality shall immediately be subject to the lien of the pledges without any physical delivery or further action under the Uniform Commercial Code, or otherwise. The lien of the pledges shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the municipality, irrespective of whether the parties have notice.

[PL 1981, c. 476, §2 (NEW).]

6. Other provisions. A trust agreement, financial document or authorizing resolution may contain other provisions the municipal officers deem reasonable and proper for the security of the security holders.
[PL 1981, c. 476, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §§88,89 (AMD). PL 1999, c. 699, §D5 (AMD). PL 1999, c. 699, §D30 (AFF).

§1066. Rentals and revenues

1. Provisions. Before issuing revenue obligation securities for any project, the municipal officers shall determine that there will at all times be revenues and funds sufficient:

A. To pay the principal of and the interest of the securities as they become due and payable and, in their discretion, to create and maintain reserves for that purpose; and [PL 1985, c. 714, §37 (AMD).]

B. To pay the cost of maintaining and repairing the project unless provision is made in a lease or other contract for maintenance and repair. [PL 1985, c. 714, §37 (AMD).]
[PL 1985, c. 714, §37 (AMD).]

2. Sinking fund. All project rentals and other revenues, except those required in subsection 1, paragraph B, or to provide reserves for maintenance and repair may be set aside at regular intervals, as provided in the resolution, financial document or trust agreement and deposited to the credit of a sinking fund charged with payment of the interest and principal of the securities as they fall due, any necessary charges of paying agents for paying principal and interest, and the redemption price or the purchase price of securities retired by call or purchase. The use and disposition of moneys to the credit of the sinking fund shall be subject to regulations prescribed in the authorizing resolution, the trust agreement or applicable financial document. Except as may otherwise be provided in the resolution, financial document or trust agreement, the sinking fund shall be a fund for the benefit of all securities issued for the project or projects without distinction or priority of one over another.
[PL 1985, c. 344, §90 (AMD).]

3. Trust funds. All moneys received under this subchapter are deemed trust funds, to be held and applied solely as provided in the subchapter. Any officer to whom, or any bank, trust company or other fiscal agent or trustee in which the moneys shall be paid shall act as trustee of the moneys and shall hold and apply them for the purposes of this subchapter, subject to regulations provided in the subchapter, authorizing resolution or trust agreement.
[PL 1981, c. 476, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §90 (AMD). PL 1985, c. 714, §37 (AMD).

§1067. Remedies

Any holder of revenue obligation securities or attached coupons issued under this subchapter and the trustee under any trust agreement, except as restricted by the authorizing resolution, the trust agreement or applicable financial document, may, by appropriate legal action, protect and enforce any and all rights under the laws of the State or granted under this subchapter, the resolution, the trust agreement or financial document, including the appointment of a receiver, and may enforce and compel the performance of all duties required by this subchapter, the resolution, the trust agreement or financial document to be performed by the municipality, the municipal officers or by any officer, including the collecting of rates, fees and charges for the use of the project. Any suit, action or proceeding shall be brought for the benefit of all the holders of the securities and coupons. [PL 1985, c. 344, §91 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §91 (AMD).

§1068. Revenue refunding securities

The municipal officers may provide by resolution for the issuance of revenue refunding securities of the municipality for the purpose of refunding any outstanding revenue obligation securities issued under this subchapter or under subchapter III or refunding any other obligations or securities of the municipality, including the payment of any redemption premium and any interest accrued or to accrue to the date of redemption, and, if deemed advisable by the municipal officers, construct improvements, extensions, enlargements or additions of the original project. The municipal officers may provide by resolutions for the issuance of revenue obligation securities of the municipality for the combined purpose of refunding any outstanding revenue obligation securities or revenue refunding securities issued under this subchapter or under subchapter III or of refunding any other obligations or securities of the municipality, including the payment of any redemption premiums and any interest accrued or to accrue to the date of redemption, and paying all or any part of the cost of acquiring or constructing any additional project or part or any improvements, extensions, enlargements or additions of any project. The issuance of the securities, the maturities and other details, the rights and remedies of the holders and the rights, powers, privileges, duties and obligations of the municipality and the municipal officers are governed by the provisions of this subchapter insofar as applicable; provided that any action or proceeding in any court to set aside a resolution authorizing the issuance of revenue refunding securities under this subchapter or to obtain any relief on the ground the resolution was improperly adopted, was adopted for unauthorized purposes or is otherwise invalid for any reason, must be commenced within 30 days after publication by the clerk of the municipality in the state newspaper and in a newspaper of general circulation in the municipality of a notice stating that the resolution has been adopted, the principal amount of revenue refunding securities authorized to be issued and the purpose of that issuance. After the expiration of the period of limitations, no right of action or defense founded upon the invalidity of that resolution or any of its provisions shall be asserted nor shall the validity of that resolution or any of its provisions be open to question in any court upon any ground whatever. The authority is authorized and empowered to approve or disapprove the issuance of revenue refunding securities of a municipality for the purpose of refunding any outstanding revenue obligation securities issued by a municipality under this subchapter without any notice of the issuance being given by the authority, by the applicant or otherwise, without any requirement that voter approval of the general purpose and maximum principal amount of securities as set forth in section 1064, subsection 1 be obtained, and without having to hold any public hearing if the authority determines that no expansion of the original project is involved and there will be no increase in the original amount of the revenue obligation securities issued for the project. Once the authority has made the determinations, it is authorized and empowered to approve the issuance of revenue refunding securities by issuing an amended certificate of approval. [PL 1989, c. 765, §3 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §92 (AMD). PL 1985, c. 593, §6 (AMD). PL 1989, c. 765, §3 (AMD).

§1069. Authorizing resolution

Notwithstanding any other law, either general, special or local, or any charter or charter amendment adopted by the municipality, or any ordinance, resolution, bylaw, rule or regulation of the municipality, it shall not be necessary to publish any resolution adopted under this chapter, either before or after its final passage. [PL 1981, c. 476, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW).

§1070. Leasehold or other interests of lessee taxable

The interest of the lessee of any project is subject to taxation in the manner provided for fee interests in real estate and personal property in Title 36, sections 551 and 602, subject to the provisions of Title 36, sections 655 and 656. [PL 1983, c. 480, Pt. B, §14 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 480, §B14 (AMD).

§1071. Tax exemption

Revenue obligation securities issued under this subchapter shall constitute a proper public purpose and the securities, their transfer and the income from them, including any profit made on their sale, shall at all times be exempt from taxation within the State, whether or not those securities, their transfer or the income from them, including any profits made on their sale, are subject to taxation under the United States Internal Revenue Code, as amended. [PL 1987, c. 393, §14 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1987, c. 393, §14 (AMD).

§1072. Bonds as legal investments

The revenue obligation securities of the municipality and any loan or extension of credit issued under this subchapter, shall be legal investments in which all public officers and public bodies of the State, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking associations, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may later be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital, in their control or belonging to them. The revenue obligation securities and any loan or extension of credit which is issued under this subchapter are also made securities which may properly and legally be deposited with and received by all public officers and bodies of the State or any agency or political subdivisions and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the State is now or may later be authorized by law. [PL 1985, c. 344, §93 (AMD).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §93 (AMD).

§1073. Successor to program

The Municipal Securities Approval Program is the successor to the program formerly administered by the Maine Guarantee Authority under Title 30, chapter 242, and all resolutions and actions taken by the Maine Guarantee Authority, without exception, relative to such program shall be a resolution or action taken by the Finance Authority of Maine. [PL 1985, c. 714, §38 (AMD).]

SECTION HISTORY

PL 1983, c. 519, §19 (NEW). PL 1985, c. 714, §38 (AMD).

§1074. Taxable bond option

With respect to all or any portion of any issue of bonds or any series of bonds which any municipality may issue in accordance with the limitations and restrictions of this subchapter, the municipality may covenant and consent that the interest on the bonds shall be includable, under the United States Internal Revenue Code of 1954 or any subsequent corresponding internal revenue law of the United States, in the gross income of the holders of the bonds to the same extent and in the same

manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code or any subsequent law. Bonds issued pursuant to this section shall not be subject to any limitations or restrictions of any law which may limit the municipality's power to issue those bonds or to the procedures set forth in section 1063 or in section 1064, subsection 1. Any bonds or issue or series of bonds with respect to which the municipality covenants and consents that the interest on the bonds shall be includable, under the United States Internal Revenue Code of 1954 or any subsequent corresponding internal revenue law of the United States in the gross income of the holders of the bonds to the same extent and in the same manner that interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the United States Internal Revenue Code or any subsequent law shall be a properly authorized, legal, valid, binding and enforceable obligation of the municipality, regardless of whether the bonds were authorized, executed, delivered or issued prior to or after the effective date of this section. The foregoing grant of power shall not be construed as limiting the inherent power of municipalities under any other provision of law to issue debt, the interest on which is includable in the gross income of the holders of the interest under the United States Internal Revenue Code or any subsequent law. [RR 2009, c. 2, §10 (COR).]

SECTION HISTORY

PL 1985, c. 593, §7 (NEW). PL 1987, c. 393, §15 (AMD). RR 2009, c. 2, §10 (COR).

§1074-A. Recovery zone facility bonds

1. Recovery zones; statewide designation. The Legislature finds that the entire State is experiencing significant poverty, unemployment, increasing rate of home foreclosures and general distress and, as a result, to the extent permitted by federal law, designates the entire State as a recovery zone as defined under 26 United States Code, Section 1400U-1, as amended.
[PL 2009, c. 517, §11 (NEW).]

2. Reallocation. To the extent permitted by federal law, the entire allocation to the counties of the State of the national recovery zone facility bond limitation established pursuant to 26 United States Code, Section 1400U-1, as amended, and as described in Internal Revenue Service Notice 2009-50, Section 6.03 is reallocated to the authority, as long as one half of each such allocation is further reallocated by the authority to projects located within and identified by the county commissioners of the county to which such allocation was originally made, if so identified on or before June 1, 2010. The remaining one half of such allocations, together with any portion of an allocation initially subject to reallocation at the direction of the applicable county before June 1, 2010, but not so reallocated, may be reallocated by the authority for any project in any county of the State. Reallocations pursuant to this subsection are considered voluntary and affirmative waivers by the affected counties for the purposes of 26 United States Code, Section 1400U-1 et seq. and any regulations or guidance provided by the United States Department of the Treasury, Internal Revenue Service thereunder.
[PL 2009, c. 517, §11 (NEW).]

SECTION HISTORY

PL 2009, c. 517, §11 (NEW).

§1074-B. Qualified energy conservation bonds

1. Reallocation. To the extent permitted by federal law, 30% of the allocation to the State and to the counties of the State of the national qualified energy conservation bond volume limitation established pursuant to 26 United States Code, Section 54D(e), as amended, and as described in Internal Revenue Service Notice 2009-29, Section 4 is reallocated to the authority as the issuer of qualified energy conservation bonds, for further reallocation by the authority for any project in any county of the State. Reallocations pursuant to this subsection are considered voluntary and affirmative waivers by the affected counties for the purposes of 26 United States Code, Section 54D et seq. and any regulations

or guidance provided by the United States Department of the Treasury, Internal Revenue Service thereunder.
[PL 2009, c. 517, §12 (NEW).]

SECTION HISTORY

PL 2009, c. 517, §12 (NEW).

§1074-C. Allocation of certain national bond limitations

To the extent permitted by federal law, the Governor may establish by executive order a procedure for the reallocation of any allocation of a portion of a national bond limitation to the State or to any issuer or governmental entity within the State pursuant to 26 United States Code, Sections 54D, 54E, 54F and 1400U-1 and for the reallocation of any portion of a national bond limitation that is not used within the applicable time period specified in federal law or that has been waived by an issuer or governmental entity within the State, except that allocation of the national recovery zone facility bond limitation established pursuant to 26 United States Code, Section 1400U-1, as amended, and as described in Internal Revenue Service Notice 2009-50, Section 6.03, must be carried out pursuant to section 1074-A, and the allocation of the national qualified energy conservation bond volume limitation established pursuant to 26 United States Code, Section 54D, as amended, and as described in Internal Revenue Service Notice 2009-29, Section 4 must be carried out pursuant to section 1074-B and Title 30-A, section 5953-F. [PL 2009, c. 517, §13 (NEW).]

SECTION HISTORY

PL 2009, c. 517, §13 (NEW).

SUBCHAPTER 4-A

FAMILY DEVELOPMENT ACCOUNT PROGRAM

(REPEALED)

§1075. Definitions

(REPEALED)

SECTION HISTORY

PL 1997, c. 518, §2 (NEW). PL 2019, c. 239, §3 (RP).

§1076. Family development account program

(REPEALED)

SECTION HISTORY

PL 1997, c. 518, §2 (NEW). PL 2001, c. 417, §16 (AMD). PL 2019, c. 239, §3 (RP).

§1077. Withdrawal of funds

(REPEALED)

SECTION HISTORY

PL 1997, c. 518, §2 (NEW). PL 2019, c. 239, §3 (RP).

§1078. No reduction in benefits

(REPEALED)

SECTION HISTORY

PL 1997, c. 518, §2 (NEW). PL 2019, c. 239, §3 (RP).

§1079. Advisory committee

(REPEALED)

SECTION HISTORY

PL 1997, c. 518, §2 (NEW). PL 1999, c. 475, §1 (AMD). PL 1999, c. 475, §7 (AFF). PL 1999, c. 628, §1 (AMD). PL 2001, c. 417, §17 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 4, §§1,2 (AMD). PL 2019, c. 239, §3 (RP).

SUBCHAPTER 5

COMMUNITY INDUSTRIAL BUILDINGS PROGRAM

§1081. Powers of the authority under this program

(REPEALED)

SECTION HISTORY

PL 1981, c. 168, §24 (AMD). PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §20 (RP).

§1082. Community Industrial Building Fund

(REPEALED)

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1983, c. 519, §20 (RP).

§1083. Assistance to development corporations

(REPEALED)

SECTION HISTORY

PL 1981, c. 168, §24 (AMD). PL 1981, c. 476, §2 (NEW). PL 1981, c. 698, §68 (AMD). PL 1983, c. 519, §20 (RP).

SUBCHAPTER 5

MAINE SMALL BUSINESS LOAN PROGRAM

§1091. Credit of State pledged

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §20 (NEW). PL 1985, c. 344, §94 (RP).

§1092. Loan insurance fund

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §20 (NEW). PL 1985, c. 344, §94 (RP).

§1093. Additions to

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §20 (NEW). PL 1985, c. 344, §94 (RP).

§1094. Issuance of loans

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §20 (NEW). PL 1985, c. 198, §2 (AMD). PL 1985, c. 344, §94 (RP). PL 1987, c. 402, §A90 (RP).

§1095. Loan insurance premiums

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §20 (NEW). PL 1985, c. 344, §94 (RP).

§1096. Acquisition and disposal of property

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §20 (NEW). PL 1985, c. 344, §94 (RP).

§1097. Loans eligible for investment

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §20 (NEW). PL 1985, c. 344, §94 (RP).

§1098. Less than full collateral for loans

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §20 (NEW). PL 1985, c. 344, §94 (RP).

§1099. Safeguarding the fund

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §20 (NEW). PL 1985, c. 344, §94 (RP).

SUBCHAPTER 5-A

WASTE OIL FURNACE LOAN PROGRAM

§1099-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 774, §4 (NEW).]

1. Authority. "Authority" means the Finance Authority of Maine.
[PL 1989, c. 774, §4 (NEW).]

2. Effective interest rate. "Effective interest rate" means an annual percentage interest rate paid by the borrower.

[PL 1989, c. 774, §4 (NEW).]

3. Eligible entity. "Eligible entity" means any person, business, corporation, association, firm, partnership, municipality or other organization located in the State but does not include any agency of the State.
[PL 1991, c. 255, §1 (RPR).]

4. Fund. "Fund" means the Waste Oil Furnace Loan Fund established by this subchapter.
[PL 1989, c. 774, §4 (NEW).]

5. NFPA. "NFPA" means the National Fire Protection Association.
[PL 1989, c. 774, §4 (NEW).]

6. Program. "Program" means the Waste Oil Furnace Loan Program established by this subchapter.
[PL 1989, c. 774, §4 (NEW).]

7. Properly installed. "Properly installed" means a boiler or furnace installed in accordance with NFPA Standard 31 or subsequent NFPA installation standards adopted by the Maine Fuel Board.
[PL 2013, c. 300, §3 (AMD).]

8. Qualified boiler or furnace. "Qualified boiler or furnace" means any new or replacement boiler or furnace fueled wholly or in part by waste oil that produces energy for space heating or cooling or for use in a manufacturing process and is listed by the Maine Fuel Board as a waste oil boiler or furnace.
[PL 2013, c. 300, §4 (AMD).]

9. Waste oil. "Waste oil" means a petroleum-based oil that, through use or handling, has become unsuitable for its original purpose due to the presence of impurities or the loss of original properties. Waste oil includes, but is not limited to, the following:

A. Automotive crankcase and lubricating oils; [PL 1989, c. 774, §4 (NEW).]

B. Industrial lubricating oils including metal working oils, railroad and marine oils and turbine lubricating oils; [PL 1989, c. 774, §4 (NEW).]

C. Industrial nonlubricating oils including hydraulic, transmission, and quenching oils, and transformer oils with polychlorinated biphenyl concentrations less than 50 parts per million; [PL 1989, c. 774, §4 (NEW).]

D. Oil recovered from oil tank cleaning operations and deballasting operations; and [PL 1989, c. 774, §4 (NEW).]

E. Oil spilled on land or water. [PL 1989, c. 774, §4 (NEW).]

Waste oil does not include oily waste debris generated during the cleanup of oil spills, water residue generated from oil and water separation processes at waste oil facilities or mineral spirits having a flash point less than 140° Fahrenheit.
[PL 1989, c. 774, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 774, §4 (NEW). PL 1991, c. 255, §1 (AMD). PL 2013, c. 300, §§3, 4 (AMD).

§1099-B. Waste Oil Furnace Loan Program

1. Program established. There is established the Waste Oil Furnace Loan Program to be administered by the authority through approved lenders. The program subsidizes interest costs of loans made to eligible entities purchasing and properly installing qualified waste oil boilers and furnaces. The program subsidizes loan interest rates made by approved lenders to achieve an effective interest rate to borrowers of 3%. Loan amounts are limited to the purchase price of the boiler or furnace but

may not exceed $5,000 for any boiler or furnace. The term of loans made under this subchapter may not exceed 5 years.
[PL 1991, c. 255, §2 (AMD).]

2. Fund established. There is established the Waste Oil Furnace Loan Fund which is managed by the authority but held separate from other funds of the authority and used by the authority to carry out this subchapter. Payments to approved lenders equal to the present value of the difference between the total interest costs charged by the lenders over the terms of the loans and the interest costs paid by the borrowers at the program effective interest rate of 3% are charged to the fund.
[PL 1989, c. 774, §4 (NEW).]

3. Lenders. Lenders may not participate in the program without the authority's approval. As a condition of approval by the authority, the lender must agree to originate and administer all loans made under the program and to receive the interest payment for loans made under the program from the authority in an amount equal to the present value of the interest due over the term of the loan. The lender shall determine the interest rate of the loan.
[PL 1989, c. 774, §4 (NEW).]

4. Entities. Entities participating in the program are responsible for repayment of the principal borrowed plus 3% interest, subject to conditions established by the authority and the lenders. As a condition of the loan, entities must:

A. Properly install the boiler or furnace and consent to post-installation inspection procedures established by the authority; and [PL 1989, c. 774, §4 (NEW).]

B. Agree to burn only self-generated waste oil or waste oil that has the characteristics of specification waste oil as defined by rule of the Department of Environmental Protection. [PL 1989, c. 774, §4 (NEW).]
[PL 1991, c. 255, §2 (AMD).]

5. Rulemaking. The authority shall adopt rules to carry out this subchapter no later than January 1, 1991. The rules must be adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, and must include:

A. A list of approved lenders; [PL 1989, c. 774, §4 (NEW).]

B. Procedures governing the transfer of money from the fund to the lenders; [PL 1989, c. 774, §4 (NEW).]

C. Procedures to determine the amount charged to the fund for each loan; and [PL 1989, c. 774, §4 (NEW).]

D. Loan applications, program evaluation or program administration forms and procedures that the authority considers necessary to implement this subchapter. [PL 1989, c. 774, §4 (NEW).]
[PL 1989, c. 774, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 774, §4 (NEW). PL 1991, c. 255, §2 (AMD).

SUBCHAPTER 6

MAINE VETERANS' SMALL BUSINESS LOAN PROGRAM

§1100-A. Organization of loan board

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1983, c. 812, §66 (AMD). PL 1985, c. 344, §95 (RP).

§1100-B. Powers

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-C. Credit of the State pledged

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-D. Loan insurance fund

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-E. Additions to

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-F. Insurance of loans

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-G. Loan insurance premiums

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-H. Acquisition and disposal of property

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-I. Loans eligible for investment

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-J. Less than full collateral for loans

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-K. Safeguarding the fund

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

§1100-L. Accounts

(REPEALED)

SECTION HISTORY

PL 1983, c. 519, §21 (NEW). PL 1985, c. 344, §95 (RP).

SUBCHAPTER 7

MAINE JOB-START PROGRAM

§1100-M. Authorization

The Finance Authority of Maine may administer a statewide program to make low interest loans to stimulate the development and expansion of small business in this State pursuant to contracts between the authority and local community action agencies designated under Title 22, chapter 1477. This program is known as the Maine Job-start Program or the Maine Job-start Micro Enterprise Loan Program. [PL 1993, c. 214, §1 (AMD).]

SECTION HISTORY

PL 1983, c. 856, §4 (NEW). PL 1993, c. 214, §1 (AMD).

§1100-N. Administration and procedures

1. Contracts. The authority may contract with any community action agency that seeks to organize a job-start program. The authority shall first contract with community action agencies that have current contracts with the authority to administer the Maine Job-start Program. The authority may then contract with any community action agency that seeks to organize a job-start program. A participating agency shall accept applications from eligible participants, regardless of whether an applicant resides in the region normally served by that agency, unless the applicant resides in a region served by another participating agency. The contract must provide as a minimum the following.

A. Each community action agency shall designate a coordinator who shall be responsible for the job-start program in that region. [PL 1989, c. 857, §49 (AMD).]

B. The board of directors of a community action agency shall appoint a job-start advisory board, which may consist of a subcommittee of the board of directors, to review and make recommendations concerning loan applications and offer other advice to small businesses. The advisory board must consist of 5 members who represent low-income people and representatives knowledgeable of business and financial matters. Members of the job-start advisory board serve for a 2-year term and may be reappointed to successive terms. [PL 1989, c. 857, §49 (AMD).]

C. The community action agency is responsible for up to 30% of the administrative costs of implementing the job-start program, which costs may be derived from direct financial support or in-kind services, or both. [PL 1989, c. 857, §49 (AMD).]

D. The community action agency shall involve existing small business technical assistance and counseling programs in their implementation of the job-start program and shall, to the maximum

extent feasible, contract or arrange for the in-kind donation of technical and counseling services to assist job-start loan applicants. [PL 1989, c. 857, §49 (AMD).]

E. A majority vote of the local job-start advisory board is necessary to recommend approval of a loan. Upon approval, the loan is then transmitted to the authority for final disposition in accordance with the policies adopted by the authority. [PL 1993, c. 214, §3 (NEW).]

F. Loan applications must be reviewed by both the local job-start advisory board and the authority to determine the feasibility and reasonableness of the business proposal, whether the applicant has sufficient capital, whether an adequate market analysis or other counseling requirement has been completed, whether the applicant is creditworthy within the scope of this program and whether adequate collateral is offered to secure the loan. [PL 1993, c. 214, §3 (NEW).]

G. Loan applications must be on forms and accompanied by additional information required by the authority. Loan applicants may be required to submit personal or business-related financial information considered necessary to determine eligibility for the job-start program. [PL 1993, c. 214, §3 (NEW).]

[PL 1993, c. 214, §3 (AMD).]

1-A. Contracts for local agency control of funds. The authority may contract with a community action agency to administer the Maine Job-start Program and may provide for agency control of a portion of the Job-start Revolving Loan Fund for a specified period of time. A contract entered into with an agency pursuant to this section may provide that the agency is responsible for the administration of all existing loans made by the authority upon the recommendation of the agency's advisory committee. A contract may be renewed upon a showing of continued compliance with all requirements. The authority may enter into a contract with a community action agency upon a showing by the local agency that it complies with each of the following requirements.

A. The agency must have a job-start loan board to review and make recommendations concerning loan applications. The loan board must consist of 5 members and include representatives of persons of low income and members experienced in business, lending and financial matters. [PL 1993, c. 214, §4 (NEW).]

B. The agency must prove its capacity to originate prudent loans and to service those loans through:

(1) The ability to solicit and screen potential applicants and provide necessary technical assistance to help applicants prepare a business plan and determine the viability of the business, repayment ability and the amount of loan funds needed;

(2) The ability to properly document each loan transaction, including the perfection of the interest of the agency in all collateral;

(3) The ability to access appropriate legal guidance to ensure adherence to all applicable laws concerning lending, loan administration and collection;

(4) The ability to accurately account for all loan repayments;

(5) The ability to pursue collection actions;

(6) The ability to invest and administer the Job-start Revolving Loan Fund; and

(7) Such other criteria as the authority determines necessary to ensure the efficient administration of the program. [PL 1993, c. 214, §4 (NEW).]

C. The community action agency must agree to follow each of the following mechanisms for loan review and approval.

(1) Loan applications must be reviewed by the job-start loan board to determine the feasibility and general reasonableness of the business proposal, whether the applicant has sufficient capital for the intended purpose, whether an adequate market analysis or other counseling

requirement has been completed, whether the applicant is creditworthy within the scope of this program and whether adequate collateral is offered to secure the loan.

(2) A majority vote of the full job-start loan board is necessary to approve a loan in accordance with the policies adopted by the agency and approved by the authority. The decision of the loan board is final.

(3) Loan applications must be on forms and accompanied by additional information required by the agency. Loan applicants may be required to submit personal or business-related financial information considered necessary to determine eligibility for the job-start program. [PL 1993, c. 214, §4 (NEW).]

D. The community action agency must provide the authority with an annual report detailing the loan fund activity in the form and containing the information required by the contract between the agency and the authority. [PL 1993, c. 214, §4 (NEW).]

E. The community action agency must allow the authority or an agent of the authority to perform an audit of the loan fund and the administration of the program at the times and in the manner provided in the contract between the agency and the authority. [PL 1993, c. 214, §4 (NEW).]
[PL 1993, c. 214, §4 (NEW).]

2. Loan criteria and procedures. The authority may adopt rules to implement the Maine Job-start Program, which must include, but are not limited to, the following loan criteria:

A. The purpose of the loan shall be to establish, strengthen or expand a business of any person or business organization, except any nonprofit corporation, which in the case of:

(1) An existing business, at the time application is made for financing assistance, employs 20 persons or less or has gross sales not exceeding $2,500,000 per year; or

(2) A new business, at the time application is made for financing assistance, projects that, during the first 12 months of operation, it will employ 20 persons or less or will have gross sales not exceeding $2,500,000; [PL 1985, c. 344, §96 (AMD).]

B. Loans may be made to applicants with insufficient access to conventional sources of credit and whose gross annual household income is at or below income limits established by the authority by rulemaking pursuant to Title 5, chapter 375, subchapter II; [PL 1985, c. 344, §96 (AMD).]

C. No loan may be made in an amount in excess of $10,000 to any single applicant, nor at an interest rate in excess of rate limits established by the authority by rulemaking pursuant to Title 5, chapter 375, subchapter II; [PL 1985, c. 344, §96 (AMD).]

D. [PL 1993, c. 214, §5 (RP).]

E. [PL 1993, c. 214, §5 (RP).]

F. Loans may not be insured or guaranteed by the State, but the authority shall require collateral in the form of security for the loan, if available, and may, in appropriate cases, take a mortgage on real estate; and [PL 1993, c. 214, §6 (AMD).]

G. Loan funds must be made available by the authority for loan recommendations by community action agencies on the basis of a formula that takes into consideration both the population served by the agency and the economic conditions of the region, as evidenced by unemployment statistics and per capita income. [PL 1993, c. 214, §6 (AMD).]

H. [PL 1993, c. 214, §7 (RP).]
[PL 1993, c. 214, §§5-7 (AMD).]

3. Business support group initiative. Notwithstanding anything in this section to the contrary, the authority and any contracting community action agency may delegate application review, loan

approval and servicing decisions to one or more designated business support groups in the area served by the contracting community action agencies, subject to the following requirements.

A. Each group shall be composed of not less than 5 individuals, corporations or partnerships which meet the eligibility criteria for job-start program applicants, are hopeful of starting or expanding separate businesses eligible for job-start financing and have community or other ties demonstrating a common mission or purpose. [PL 1987, c. 697, §14 (NEW).]

B. Each group must agree to undergo a business management training program established by the authority and each group member must agree to provide business support to other members of the group. [PL 1987, c. 697, §14 (NEW).]

C. The authority, in consultation with contracting community action agencies, may set aside by rule not more than $75,000 in the aggregate for purposes of this initiative, which will be available for loans to business support group members. [PL 1987, c. 697, §14 (NEW).]

D. The authority shall establish by rule limitations on the amount of loans which may be approved by each business support group and shall establish incentives which condition release of loan funds to each group on successful compliance with loan conditions and payment obligations on prior loans made to group members. [PL 1987, c. 697, §14 (NEW).]

[PL 1987, c. 697, §14 (NEW).]

SECTION HISTORY

PL 1983, c. 856, §4 (NEW). PL 1985, c. 344, §96 (AMD). PL 1985, c. 714, §39 (AMD). PL 1987, c. 697, §14 (AMD). PL 1989, c. 857, §49 (AMD). RR 1991, c. 2, §31 (COR). PL 1991, c. 622, §J19 (AMD). PL 1991, c. 622, §J25 (AFF). PL 1993, c. 214, §§2-7 (AMD).

§1100-O. Revolving loan fund

1. Creation of fund. A Job-start Revolving Loan Fund is established by the authority for the job-start program. The fund contains appropriations provided for that purpose and all repayments of principal and interest of loans under this subchapter and interest earned by the fund prior to its allocation for individual loans. The fund may be divided into separate revolving loan funds to be administered by community action agencies upon approval by the authority. Each separate fund must contain all repayments of principal and interest for loans made from that fund and interest earned by the fund. Interest and principal payments required by loan defaults are charged to the fund to which repayments are applied. The authority has sole responsibility for the allocation and distribution of the original fund and for appropriations and repayments applied to the original fund. Each community action agency has responsibility for the allocation and distribution of the portion of the fund allocated to its separate revolving loan fund. Any funds appropriated for this purpose may not lapse, but must remain available for the purposes set forth in this subchapter.

[PL 1993, c. 214, §8 (AMD).]

2. Administrative expenses. All interest earned by the fund, either by means of investment or loan payments, is available to the authority or the community action agency administering that separate revolving loan fund to which the interest is attributable. The authority or the community action agency shall allocate these funds primarily for administrative and counseling services. Beginning in fiscal year 1990-91, the authority may allocate up to $10,000 of administrative program funds for each agency with which it contracts under section 1100-N for expenses incurred by the authority under this program.

[PL 1993, c. 214, §8 (AMD).]

3. Deposited with authority or invested. Moneys in the fund, not needed currently to meet the obligations of the authority, as provided for in this subchapter, shall be deposited with the authority to the credit of the fund or may be invested in such manner as is provided for by statute.

[PL 1983, c. 856, §4 (NEW).]

SECTION HISTORY

PL 1983, c. 856, §4 (NEW). PL 1989, c. 857, §50 (AMD). PL 1993, c. 214, §8 (AMD).

§1100-P. Reports

1. Regional. Each community action agency job-start program shall file the reports as required by the authority.
[PL 1983, c. 856, §4 (NEW).]

2. Authority. The authority shall file a report showing the balance of each Job-start Revolving Loan Fund, the status of all outstanding loans and a report on all other program activities as part of the annual report required by section 974.
[PL 1993, c. 214, §9 (AMD).]

SECTION HISTORY

PL 1983, c. 856, §4 (NEW). PL 1993, c. 214, §9 (AMD).

SUBCHAPTER 8

MAINE OPPORTUNITY ZONE JOB GRANTS PROGRAM

§1100-S. Job grants program

(REPEALED)

SECTION HISTORY

PL 1987, c. 542, §§I4,I6 (NEW). PL 1987, c. 769, §A46 (AMD). PL 1989, c. 915, §9 (RP).

SUBCHAPTER 9

MAINE SEED CAPITAL TAX CREDIT PROGRAM

§1100-T. Tax credit certificates

1. Legislative findings; authorization. The Legislature finds that the growth of new and existing small businesses in the State results in increased job opportunities for Maine residents, produces more spending in the State and increases municipal tax bases. Businesses that export their products or services out of the State bring capital into the State and help to develop export markets for Maine products. Small new and existing businesses can provide significant economic benefits to the State if they can obtain sufficient seed equity financing to carry them from start-up through the initial development phases of a business. The jobs created by such businesses tend to pay higher wages and offer more benefits than other businesses; however, the per capita level of private venture capital investment in businesses located in the State is substantially below the national average and the average of the other New England states. In order to encourage the increased availability of risk equity capital to enterprises that have the potential for rapid growth and that bring capital into the State, the authority is authorized to issue certificates of eligibility for the seed capital investment tax credit permitted by Title 36, section 5216-B, subject to the requirements of this section. This program is known as the Maine Seed Capital Tax Credit Program.
[PL 2011, c. 454, §1 (AMD).]

1-A. Private venture capital fund. As used in this section, "private venture capital fund" means a professionally managed pool of capital organized to make equity or equity-like investments in unrelated private companies using capital derived from multiple limited partners or members at least

half of which, measured in dollar commitments, are unaffiliated and unrelated, and includes any venture capital fund licensed by the United States Small Business Administration. The authority may require such information as may be necessary or desirable for determining whether an entity qualifies as a private venture capital fund. An entity that otherwise qualifies as a private venture capital fund may elect not to be treated as a private venture capital fund for purposes of this section with respect to any investment.
[PL 2013, c. 438, §2 (AMD).]

2. Eligibility for tax credit certificate for individuals and entities other than venture capital funds. The authority shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to implement the program. Without limitation, the requirements for eligibility for a tax credit certificate include the following.

A. For investments made in tax years beginning before January 1, 2012, a tax credit certificate may be issued in an amount not more than 40% of the amount of cash actually invested in an eligible Maine business in any calendar year or in an amount not more than 60% of the amount of cash actually invested in any one calendar year in an eligible Maine business located in a high-unemployment area, as determined by rule by the authority. For investments made in tax years beginning on or after January 1, 2012, a tax credit certificate may be issued to an investor other than a private venture capital fund in an amount not more than 60% of the amount of cash actually invested in an eligible Maine business in any calendar year. For investments made in tax years beginning on or after January 1, 2014, a tax credit certificate may be issued to an investor other than a private venture capital fund in an amount not more than 50% of the amount of cash actually invested in an eligible Maine business in any calendar year. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2013, c. 438, §3 (AMD).]

B. The Maine business must be determined by the authority to be a manufacturer or a value-added natural resource enterprise; must provide a product or service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; must be engaged in the development or application of advanced technologies; or must be certified as a visual media production company under Title 5, section 13090-L. The business must certify that the amount of the investment is necessary to allow the business to create or retain jobs in the State. [PL 2013, c. 438, §3 (AMD).]

C. Aggregate investment eligible for tax credits may not be more than $5,000,000 for any one business as of the date of issuance of a tax credit certificate. [PL 2003, c. 451, Pt. E, §2 (AMD).]

D. The investment with respect to which any individual is applying for a tax credit certificate may not be more than an aggregate of $500,000 in any one business in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate and except that, if the entity applying for a tax credit certificate is a partnership, limited liability company, S corporation, nontaxable trust or any other entity that is treated as a flow-through entity for tax purposes under the federal Internal Revenue Code but not as a private venture capital fund, the aggregate limit of $500,000 applies to each individual partner, member, stockholder, beneficiary or equity owner of the entity and not to the entity itself. [PL 2013, c. 438, §3 (AMD).]

E. For investments made in tax years beginning before January 1, 2014, the business receiving the investment must have annual gross sales of $3,000,000 or less . For investments made in tax years beginning on or after January 1, 2014, the business receiving the investment must have annual gross sales of $5,000,000 or less. The operation of the business must be a substantial professional activity of at least one of the principal owners, as determined by the authority. The principal owner and the principal owner's spouse are not eligible for a credit for investment in that business. A tax credit certificate may not be issued to a parent, brother, sister or child of a principal owner if

the parent, brother, sister or child has any existing ownership interest in the business. [PL 2013, c. 438, §3 (AMD).]

F. The investment must be expended on plant, equipment, research and development, or working capital for the business or such other business activity as may be approved by the authority. [PL 1987, c. 854, §§2, 5 (NEW).]

G. The authority shall establish limits on repayment of the investment. The investment must be at risk in the business. [PL 1991, c. 854, Pt. A, §10 (AMD).]

H. The investors qualifying for the credit must each own less than 1/2 of the business. [PL 2011, c. 454, §4 (AMD).]

I. The business receiving the investment may not be in violation of the requirements of subsection 6. [PL 2001, c. 642, §7 (NEW); PL 2001, c. 642, §12 (AFF).]

[PL 2013, c. 438, §3 (AMD).]

2-A. Eligibility of private venture capital funds for tax credit certificate. The authority shall adopt rules in accordance with the Maine Administrative Procedure Act to implement application of the program to investment in a private venture capital fund. This subsection does not apply to credits claimed for tax years beginning on or after January 1, 2012. The requirements for eligibility for a tax credit certificate for investment in a private venture capital fund include the following.

A. For investments made in tax years beginning before January 1, 2012, a tax credit certificate may be issued to an individual who invests in a private venture capital fund in an amount that:

(1) Is not more than 40% of the amount of cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year by the individual or entity, except that with respect to fund investments that are made in eligible businesses that are located in a high unemployment area, as determined by rule of the authority under subsection 2, the tax credit certificate may not be more than 60% of the cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year by the individual or entity; and

(2) Does not exceed 40% of the amount of cash invested by the fund in eligible businesses, except that with respect to fund investments that are made in eligible businesses that are located in a high unemployment area, as determined by rule of the authority under subsection 2, a tax credit certificate may not be more than 60% of the cash invested by the fund in any calendar year in such businesses; provided that the authority may issue tax credit certificates in an amount not to exceed 20% of the amount of cash actually invested in or unconditionally committed to a private venture capital fund in any calendar year if the authority determines that the private venture capital fund is located in this State, is owned and controlled primarily by residents of this State and has designated investing in eligible businesses of this State as a major investment objective. The credit may be revoked to the extent that the private venture capital fund does not make investments eligible for the tax credit in an amount sufficient to qualify for the credits within 3 years after the date of the tax credit certificates. Notwithstanding any revocation pursuant to this subparagraph, each investor remains eligible for tax credit certificates for eligible investments as and when made by the private venture capital fund.

The aggregate amount of credits issued to investors in a fund may not exceed 40% of the amount of cash invested by the fund in eligible businesses, except that with respect to fund investments in eligible businesses that are located in a high unemployment area, the aggregate amount of tax credits issued to investors in a fund may not exceed 60% of the cash invested by the fund in eligible businesses. [PL 2011, c. 454, §5 (AMD).]

B. As used in this subsection, unless the context otherwise indicates, an "eligible business" means a business located in the State that:

(1) Is a manufacturer;

(2) Is engaged in the development or application of advanced technologies;

(3) Provides a service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State;

(4) Brings capital into the State, as determined by the authority; or

(5) Is certified as a visual media production company under Title 5, section 13090-L. [PL 2009, c. 470, §3 (AMD).]

C. Aggregate investment eligible for tax credits may not be more than $5,000,000 for any one business for any one private venture capital fund as of the date of issuance of a tax credit certificate. [PL 2003, c. 451, Pt. E, §4 (AMD).]

D. The investment with respect to which any individual or entity is applying for a tax credit certificate may not be more than an aggregate of $500,000 in any one eligible business invested in by a private venture capital fund in any 3 consecutive calendar years, except that this paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate and except that, if the entity applying for a tax credit certificate is a partnership, limited liability company, S corporation, nontaxable trust or any other entity that is treated as a flow-through entity for tax purposes under the federal Internal Revenue Code, the aggregate limit of $500,000 or $200,000, as applicable, applies to each individual partner, member, stockholder, beneficiary or equity owner of the entity and not to the entity itself. This paragraph does not limit other investment by any applicant for which that applicant is not applying for a tax credit certificate. [PL 2003, c. 451, Pt. E, §4 (AMD).]

E. Each business receiving an investment from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, must have annual gross sales of $3,000,000 or less and the operation of the business must be the full-time professional activity of the principal owner, as determined by the authority. The principal owner and principal owner's spouse, if any, are not eligible for a credit for investment in that business or for an investment by the private venture capital fund in that business. A tax credit certificate may not be issued to a parent, brother, sister or child of a principal owner if the parent, brother, sister or child has any existing ownership interest in that business or for an investment by the private venture capital fund in that business. [PL 2001, c. 446, §2 (AMD); PL 2001, c. 446, §6 (AFF).]

F. Each investment received by a business from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, must be expended on plant maintenance and construction, equipment, research and development or working capital for the business or on such other business activity as may be approved by the authority. [PL 1997, c. 774, §1 (AMD).]

G. The authority shall establish limits on repayment of the investment by an individual in and the investments made by a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate. The investments must be at risk in the private venture capital fund and the business, respectively. [PL 1997, c. 774, §1 (AMD).]

H. The investors in a private venture capital fund are not entitled to the credit for collective ownership in excess of 50% of any business. An investor in a private venture capital fund determined by the authority to be a principal owner of a business and the principal owner's spouse, if any, are not entitled to a credit with respect to investment in that business, nor are the principal owner's parents, siblings or children entitled to a credit if they have any existing ownership interest in the business. [PL 2001, c. 446, §2 (AMD); PL 2001, c. 446, §6 (AFF).]

[PL 2011, c. 454, §5 (AMD).]

2-B. Eligibility of private venture capital funds for tax credit certificate until July 1, 2001. [MRSA T. 10 §1100-T, sub-§2-B (RP); PL 1999, c. 752, §2 (NEW); PL 1999, c. 752, §6 (AFF).]

2-C. Eligibility of private venture capital funds for refundable tax credit certificate. This subsection applies to investments by private venture capital funds in eligible businesses made in tax years beginning on or after January 1, 2012. The authority shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement application of the program to investments in eligible businesses by private venture capital funds. The requirements for eligibility for a tax credit certificate for an investment by a private venture capital fund include the following.

A. For investments made in tax years beginning on or after January 1, 2012, a tax credit certificate may be issued to a private venture capital fund in an amount that is not more than 50% of the amount of cash actually invested in an eligible business. The tax credit certificate may be revoked and the credit recaptured pursuant to Title 36, section 5216-B, subsection 5 to the extent that the authority determines that the eligible business for which the tax credit certificate was issued moves substantially all of its operations and assets outside of the State during the period ending 4 years after an investment, except in the case of an arm's length, fair value acquisition approved by the authority. A private venture capital fund that received the 20% credit certificate under subsection 2-A, paragraph A, subparagraph (2) for an investment is not eligible for a tax credit certificate under this subsection for that investment. [PL 2011, c. 454, §6 (NEW).]

B. As used in this subsection, unless the context otherwise indicates, "eligible business" means a business located in the State that has certified that the amount of the investment is necessary to allow the business to create or retain jobs in the State and that, as determined by the authority:

(1) Is a manufacturer or a value-added natural resource enterprise;

(2) Is engaged in the development or application of advanced technologies;

(3) Provides a service that is sold or rendered, or is projected to be sold or rendered, predominantly outside of the State; or

(5) Is certified as a visual media production company under Title 5, section 13090-L. [PL 2013, c. 438, §4 (AMD).]

C. Aggregate investment eligible for tax credit certificates, including investments under this subsection and under subsection 2, may not be more than $5,000,000 for any one eligible business. [PL 2011, c. 454, §6 (NEW).]

D. The investment with respect to which any private venture capital fund is applying for a tax credit certificate may not be more than the lesser of an amount equal to $500,000 times the number of investors in the private venture capital fund and an aggregate of $4,000,000 in any one eligible business invested in by a private venture capital fund in any 3 consecutive calendar years, except that this paragraph does not limit other investment by an applicant for which that applicant is not applying for a tax credit certificate. A private venture capital fund must certify to the authority that it will be in compliance with these limitations. The tax credit certificate issued to a private venture capital fund may be revoked and any credit taken recaptured pursuant to Title 36, section 5216-B, subsection 5 if the fund is not in compliance with this paragraph. [PL 2013, c. 438, §4 (AMD).]

E. For investments made in tax years beginning before January 1, 2014, an eligible business receiving an investment from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, may not have annual gross sales of more than $3,000,000 . For investments made in tax years beginning on or after January 1, 2014, an eligible business receiving an investment from a private venture capital fund, which investment is used as the basis for the issuance of a tax credit certificate, may not have annual gross sales of more than $5,000,000. The operation of the business must be a substantial professional activity of one or more individuals who are not managers of the private venture capital fund, as determined by the authority. A tax

credit certificate may not be issued to a private venture capital fund if a manager of the fund is a principal owner of the eligible business or a spouse, parent, sibling or child of a principal owner and if the spouse, parent, sibling or child has any existing ownership interest in the business. A private venture capital fund must certify to the authority that it will be in compliance with these limitations. The tax credit certificate issued to a private venture capital fund may be revoked and any credit taken recaptured pursuant to Title 36, section 5216-B, subsection 5 if the fund is not in compliance with this paragraph. [PL 2013, c. 438, §4 (AMD).]

F. An investment received by an eligible business from a private venture capital fund for which the investment is used as the basis for the issuance of a tax credit certificate must be expended on plant maintenance and construction, equipment, research and development or working capital for the business or on such other business activity as may be approved by the authority. [PL 2011, c. 454, §6 (NEW).]

G. The authority shall establish limits on repayment of the investments made by a private venture capital fund for which the investments are used as the basis for the issuance of tax credit certificates. The investments must be at risk in the private venture capital fund and the eligible business, respectively. [PL 2011, c. 454, §6 (NEW).]

H. A private venture capital fund is not entitled to the credit if it owns in excess of 50% of the eligible business, except that, if the private venture capital fund is issued a tax credit certificate and later makes an additional investment that increases its ownership to more than 50%, the existing tax credit certificate remains valid and is not subject to revocation due to the ownership percentage as long as there was no intent to take controlling ownership at the time of the initial qualified investment. [PL 2011, c. 454, §6 (NEW).]

[PL 2013, c. 438, §4 (AMD).]

3. Priority. The authority may reserve $500,000 in tax credit authorization for "natural resource enterprises," as defined in section 963-A, subsection 41.

[PL 1995, c. 462, Pt. A, §19 (AMD).]

4. Total of credits authorized. The authority may issue tax credit certificates to investors eligible pursuant to subsections 2, 2-A and 2-C in an aggregate amount not to exceed $2,000,000 up to and including calendar year 1996, $3,000,000 up to and including calendar year 1997, $5,500,000 up to and including calendar year 1998, $8,000,000 up to and including calendar year 2001, $11,000,000 up to and including calendar year 2002, $14,000,000 up to and including calendar year 2003, $17,000,000 up to and including calendar year 2004, $20,000,000 up to and including calendar year 2005, $23,000,000 up to and including calendar year 2006, $26,000,000 up to and including calendar year 2007 and $30,000,000 up to and including calendar year 2013, in addition to which, the authority may issue tax credit certificates to investors eligible pursuant to subsections 2, 2-A and 2-C in an annual amount not to exceed $675,000 for investments made between January 1, 2014 and December 31, 2014, $4,000,000 for investments made in calendar year 2015 and $5,000,000 each year for investments made in calendar years beginning with 2016. The authority may provide that investors eligible for a tax credit under this section in a year when there is insufficient credit available are entitled to take the credit when it becomes available subject to limitations established by the authority by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2013, c. 438, §5 (AMD).]

5. Revocation of tax credit certificate. The authority may revoke a tax credit certificate if any representation to the authority in connection with the application for the certificate proves to have been false when made or if the applicant violates any conditions established by the authority and stated in the tax credit certificate. The revocation may be in full or in part as the authority may determine. The authority shall specify the amount of credit being revoked and shall send notice of the revocation to the investor and to the State Tax Assessor.

[PL 1987, c. 854, §§2, 5 (NEW).]

6. Reports. Any business eligible to have investors receive a tax credit under this section must report to the authority, in a manner to be determined by the authority, the following information regarding its activities in the State over the calendar year in which the investment occurred and for such additional years as may be required by the authority:

A. The total amount of private investment received; [PL 2001, c. 642, §10 (NEW); PL 2001, c. 642, §12 (AFF).]

B. The total number of persons employed as of December 31st; [PL 2001, c. 642, §10 (NEW); PL 2001, c. 642, §12 (AFF).]

C. The total numbers of jobs created and retained; [PL 2001, c. 642, §10 (NEW); PL 2001, c. 642, §12 (AFF).]

D. Total annual payroll; and [PL 2001, c. 642, §10 (NEW); PL 2001, c. 642, §12 (AFF).]

E. Total sales revenue. [PL 2001, c. 642, §10 (NEW); PL 2001, c. 642, §12 (AFF).]

The authority shall report annually to the joint standing committee of the Legislature having jurisdiction over taxation matters on the activity under this section during the prior calendar year.
[PL 2011, c. 454, §8 (AMD).]

SECTION HISTORY

PL 1987, c. 854, §§2,5 (NEW). PL 1989, c. 502, §A28 (AMD). PL 1989, c. 765, §4 (AMD). PL 1991, c. 854, §§A7-11 (AMD). PL 1995, c. 424, §§2-4 (AMD). PL 1995, c. 462, §A19 (AMD). PL 1995, c. 658, §§3,4 (AMD). PL 1997, c. 774, §1 (AMD). PL 1997, c. 782, §§1-4 (AMD). PL 1999, c. 504, §10 (AMD). PL 1999, c. 752, §§1-3 (AMD). PL 2001, c. 446, §§1-3 (AMD). PL 2001, c. 446, §6 (AFF). PL 2001, c. 642, §§4-10 (AMD). PL 2001, c. 642, §12 (AFF). PL 2003, c. 20, §§X1-5 (AMD). PL 2003, c. 451, §§E1-5 (AMD). PL 2009, c. 470, §§2, 3 (AMD). PL 2011, c. 454, §§1-8 (AMD). PL 2013, c. 438, §§2-5 (AMD).

SUBCHAPTER 10

MEDICAL TRAINING ASSISTANCE

§1100-U. Definitions

(REPEALED)

SECTION HISTORY

PL 1991, c. 545, §2 (NEW). PL 1991, c. 830, §2 (RP).

§1100-V. Authorization; Maine Primary Care Residency Training Assistance Program

(REPEALED)

SECTION HISTORY

PL 1991, c. 545, §2 (NEW). PL 1991, c. 830, §2 (RP).

§1100-W. Administration

(REPEALED)

SECTION HISTORY

PL 1991, c. 545, §2 (NEW). PL 1991, c. 830, §2 (RP).

§1100-X. Advisory committee

(REPEALED)

SECTION HISTORY

PL 1991, c. 545, §2 (NEW). PL 1991, c. 830, §2 (RP).

SUBCHAPTER 11

EDUCATIONAL ATTAINMENT AND RECRUITMENT TAX CREDITS

§1100-Y. Educational attainment and recruitment tax credits

(REPEALED)

SECTION HISTORY

RR 2001, c. 2, §A13 (COR). PL 2001, c. 700, §1 (NEW). PL 2003, c. 20, §§DD1,2 (AMD). PL 2003, c. 20, §DD7 (AFF). PL 2003, c. 451, §§JJ1,2 (AMD). PL 2003, c. 473, §§1-3 (AMD). PL 2005, c. 12, §§Q1,2 (AMD). PL 2007, c. 1, Pt. O, §§1, 2 (AMD). PL 2007, c. 1, Pt. O, §9 (AFF). PL 2009, c. 434, §2 (RP).

SUBCHAPTER 12

MAINE NEW MARKETS CAPITAL INVESTMENT PROGRAM

§1100-Z. Maine New Markets Capital Investment Program

1. Findings and intent. The Legislature finds that encouragement of investment in qualified businesses and developments located in economically distressed areas of the State and the creation and preservation of jobs are in the public interest and promote the general welfare of the State. The Legislature further finds that the enactment of incentives as set forth in this subchapter to promote investments is necessary in order to ensure the long-term economic vitality of this State, to preserve numerous opportunities for jobs for the people of the State and to make this State more competitive in the attraction of investment capital and thus to ensure the preservation and betterment of the economy of the State for the benefit of its people. The Legislature further finds that the foregoing benefits to the State and its people far exceed the costs to the State of providing the incentives set forth in this subchapter. The Legislature further finds that the provisions of this subchapter are necessary to accomplish these objectives.

The Legislature finds that the incentives offered by the State pursuant to this subchapter are intended to induce major investments in qualified businesses and developments located in economically distressed areas of the State and that any party who accepts and reasonably relies upon these inducements in making qualified investments is entitled to the full realization of these incentives without impairment by subsequent changes in law. The Legislature finds that when determining whether a project is financially feasible an investing party must rely in good faith upon the Legislature to ensure that the promised incentives of this subchapter will be available for a period of 7 years following the date of each qualified investment and that a party's confidence in the full realization of these benefits is a critical factor in inducing the party to make the desired investment. It is the intent of this Legislature that all successor Legislatures honor the commitments held out by this subchapter. [PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

2. Program. The Maine New Markets Capital Investment Program, referred to in this section as "the program," is established to encourage new investment in economically distressed areas of the State. For the purposes of this section, unless otherwise defined in this section, all terms have the same

meaning as under Title 36, section 5219-HH and Section 45D of the United States Internal Revenue Code of 1986, as amended.
[PL 2011, c. 548, §3 (AMD).]

3. Application for tax credits; allocation of tax credit authority. Tax credit authority is allocated under the program as described in this subsection.

A. The authority shall provide an application form, which must be available to applicants no later than the date when the final rule implementing this section is adopted. [PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

B. A qualified community development entity that seeks an allocation of tax credit authority shall apply to the authority. The qualified community development entity shall submit an application on a form that the authority provides. The application must include:

(1) The name, address and tax identification number of the entity and evidence of the certification of the entity as a qualified community development entity;

(2) A copy of an allocation agreement executed by the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity and the Community Development Financial Institutions Fund of the United States Department of the Treasury, which includes the State in its service area;

(3) A certificate executed by an executive officer of the qualified community development entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund;

(4) Information regarding the amount of tax credit authority requested and the proposed use of proceeds from the issuance of the qualified equity investment or long-term debt security; and

(5) Responses to the following 5 questions, which must be answered affirmatively or negatively without explanation or elaboration, to determine qualification for participating in the program:

(a) Whether the Community Development Financial Institutions Fund has awarded multiple rounds of federal New Markets Tax Credit allocation to the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity;

(b) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has participated as a qualified community development entity in a state New Markets Tax Credit program or has made an investment in this State that qualifies for federal New Markets Tax Credits;

(c) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has made an investment qualified for tax credits in a business located in a nonmetropolitan census tract;

(d) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has made an investment qualified for tax credits in a state where it did not previously have substantial operations; and

(e) Whether the qualified community development entity, its controlling entity or other entity controlled by the same controlling entity has explored potential investment opportunities in this State that would qualify under this subchapter.

Applicants answering affirmatively to 4 or more of the 5 questions must be determined to be qualified. [PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

C. In the rule implementing this subchapter, the authority shall set a nonrefundable application fee, which must be paid to the authority at the time each application is submitted. The authority shall also set an annual report fee and establish a payment schedule along with requirements for the report pursuant to subsection 5. [PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

D. Within 60 days of receipt of an application for tax credit authority, the authority shall either approve the application and, as part of that approval, indicate the amount of tax credit authority issued to the qualified community development entity or determine that the authority intends to deny the application. If the authority intends to deny the application, it shall inform the qualified community development entity by written notice of the grounds for the intended denial. Upon receipt of the notice of intended denial by the qualified community development entity:

(1) If the qualified community development entity provides any additional information required by the authority or otherwise completes its application within 15 days, the application must be considered complete as of the original date of submission and the authority has an additional 30 days to either approve or deny the application; or

(2) If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application is deemed denied and may be resubmitted in full with a new submission date. [PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

E. The authority shall approve applications for tax credit authority in the order applications are received by the authority. Applications received on the same day are deemed to have been received simultaneously. For applications received on the same day and determined to be complete, the authority shall certify, consistent with remaining tax credit capacity, tax credit authority in proportionate percentages based upon the ratio of the amount of tax credit authority requested in an application to the total amount of tax credit authority requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitations contained in this subchapter, the authority shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit. The authority shall provide written notification to each qualified community development entity of the approval of tax allocation authority and the amount of tax credit authority it was allocated. [PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

F. Within 24 months after receipt of the notice of the allocation of tax credit authority, the qualified community development entity shall issue the qualified equity investments or long-term debt securities and receive cash in the amount of the total amount of tax credit authority that the qualified community development entity was allocated. The qualified community development entity shall provide the authority with evidence of the entity's receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not issue the qualified equity investment or long-term debt security and receive the cash purchase price within 24 months following receipt of the tax credit authority notice for any portion of its allocation, such unused allocation of tax credit authority lapses and the qualified community development entity may not issue the qualified equity investments or long-term debt securities without reapplying to the authority for additional tax credit authority. Any tax credit authority that lapses reverts back to the authority and may be reissued only in accordance with the application process outlined in this section. [PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

G. Upon receipt of notice that a qualified community development entity has issued its qualified equity investments or long-term debt securities, the authority shall certify the entity's qualified equity investments or long-term debt securities as qualified equity investments and eligible for tax credits under Title 36, section 5219-HH. The authority shall provide written notice, sent by

certified mail or any other means considered feasible by the authority, of the certification to the qualified community development entity, the Department of Administrative and Financial Services, Bureau of Revenue Services and the Commissioner of Administrative and Financial Services. The notice must include the names of persons eligible to claim the tax credits and their respective tax credit amounts. If the names of the persons that are eligible to claim the tax credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to this subchapter, the qualified community development entity shall notify the authority and the Department of Administrative and Financial Services, Bureau of Revenue Services of that transfer or change. [PL 2015, c. 300, Pt. A, §1 (AMD).]

H. On the date designated by the authority, the authority shall begin accepting applications for the full $250,000,000 of qualified equity investments under subsection 4. An applicant may not be awarded more than 25% of the total tax credit authority available. [PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

[PL 2015, c. 300, Pt. A, §1 (AMD).]

4. Limit on amount of tax credits authorized. The maximum aggregate amount of qualified equity investments for which the authority may issue tax credit authority under this section is $250,000,000; a tax credit claim may not exceed $20,000,000 in any one state fiscal year over the 7 years of the tax credit allowance dates as described in Title 36, section 5219-HH, subsection 1, paragraph A.

[PL 2011, c. 548, §5 (AMD).]

5. Reporting and disclosure of information. The authority shall require annual reports of a qualified community development entity granted tax credit allocation authority pursuant to subsection 3. Reports must be shared with the Department of Administrative and Financial Services, Bureau of Revenue Services and the Commissioner of Administrative and Financial Services. Notwithstanding section 975-A, the authority may disclose any information to the Department of Administrative and Financial Services, Bureau of Revenue Services and the Commissioner of Administrative and Financial Services that it considers necessary for the administration of the program pursuant to this section, Title 36, section 2533 or Title 36, section 5219-HH.

[PL 2015, c. 300, Pt. A, §2 (AMD).]

6. Report. The authority shall report no later than January 1, 2015 to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters on the activities of the program, including, but not limited to, the amount of private investment received and the total number of jobs created or retained.

[PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

7. Rules. By December 30, 2011, the authority shall adopt rules necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

[PL 2011, c. 380, Pt. Q, §1 (NEW); PL 2011, c. 380, Pt. Q, §7 (AFF).]

SECTION HISTORY

PL 2011, c. 380, Pt. Q, §1 (NEW). PL 2011, c. 380, Pt. Q, §7 (AFF). PL 2011, c. 548, §§3-6 (AMD). PL 2015, c. 300, Pt. A, §§1, 2 (AMD).

SUBCHAPTER 13

FOREIGN CREDENTIALING AND SKILLS RECOGNITION REVOLVING LOAN PROGRAM

§1100-AA. Foreign Credentialing and Skills Recognition Revolving Loan Program

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

A. "Eligible costs" means the following costs incurred by an immigrant prior to the immigrant's obtaining a work permit and incurred for the purpose of improving the immigrant's work-readiness once the immigrant obtains a work permit:

(1) Costs of translating into English any diplomas, transcripts or other documents establishing courses studied or the completion of secondary school or of higher education at either the undergraduate or graduate level;

(2) Fees related to education evaluations establishing the equivalency level of education or experience attained abroad;

(3) Costs of translation into English of documents related to professional licenses or registrations obtained abroad;

(4) Costs of translation into English of letters of reference or recommendations related to education or experience obtained abroad;

(5) Fees related to test preparation courses or registration fees for a standard test of English as a foreign language or other standardized test recognized worldwide that measures English language proficiency, when necessary for an immigrant's work;

(6) Expenses for employment or professional applications, certifications, licensing fees and related requirements for seeking employment, including but not limited to fingerprinting and required tests;

(7) Fees related to obtaining a Maine driver's license, including but not limited to driver's education course fees, learner's permit application fees and driver's license fees; and

(8) Costs to travel to the nearest location of any exam or test needed to establish the applicant's skills or credentials or English language proficiency if there is no location within 60 miles of the Maine town in which the immigrant resides. [PL 2019, c. 447, §1 (NEW).]

B. "Fund" means the Foreign Credentialing and Skills Recognition Revolving Loan Program Fund, established in subsection 3. [PL 2019, c. 447, §1 (NEW).]

C. "Immigrant" means a person who:

(1) Is not a United States citizen;

(2) Has filed applications or petitions with the United States Citizenship and Immigration Services or with the immigration courts of the United States Department of Justice, Executive Office for Immigration Review or with any successor federal immigration authority entitling the person to request a work permit while the person's applications or petitions are pending; and

(3) Has received education, work experience or work training, or any combination, in a foreign country. [PL 2019, c. 447, §1 (NEW).]

D. "Program" means the Foreign Credentialing and Skills Recognition Revolving Loan Program, established in subsection 2. [PL 2019, c. 447, §1 (NEW).]

E. "Work permit" means a federal authorization of a person who is not a United States citizen to work in the United States. [PL 2019, c. 447, §1 (NEW).]

[PL 2019, c. 447, §1 (NEW).]

2. Program established. The Foreign Credentialing and Skills Recognition Revolving Loan Program is established to provide financial assistance to immigrants who need assistance in paying for eligible costs.
[PL 2019, c. 447, §1 (NEW).]

3. Fund established. The Foreign Credentialing and Skills Recognition Revolving Loan Program Fund is established as a nonlapsing revolving fund to be administered by the authority. All amounts appropriated to the program must be deposited into the fund as well as all amounts repaid to the program by persons receiving loans under the program. Amounts in the fund must be used by the authority for purposes authorized in this section.
[PL 2019, c. 447, §1 (NEW).]

4. Eligible applicants. To be eligible to receive assistance from the fund an immigrant:

A. Shall apply to the authority to participate in the program. The application may be filed directly by the immigrant or, at the request of and on behalf of the immigrant, by an adult education program of a school administrative unit that provides English as a second language, job skills or other instruction or assistance to improve the work readiness of the immigrant; [PL 2019, c. 447, §1 (NEW).]

B. Must have filed an application or petition with federal immigration authorities that entitles the immigrant to request a work permit in any of the categories set forth in 8 Code of Federal Regulations, Section 274a.12(c)(2019). The immigrant shall provide electronic or paper evidence establishing that the application or petition was filed with federal immigration authorities and shall state which section of 8 Code of Federal Regulations, Section 274a.12(c)(2019) allows the immigrant to request a work permit. An immigrant is not eligible if the immigrant has been denied a work permit at the time of making the application. In the case of asylum seekers, an immigrant is eligible if the immigrant's request for asylum has been pending for fewer than 150 days since the date of its filing and the immigrant has not yet been able to apply for a work permit pursuant to 8 Code of Federal Regulations, Section 274a.12(c)(8)(2019) or, if more than 150 days have elapsed since the asylum application was filed, the immigrant has a pending application for a work permit at the time of making the application to the program; and [PL 2019, c. 447, §1 (NEW).]

C. Shall submit evidence of incurring or needing to incur eligible costs. [PL 2019, c. 447, §1 (NEW).]
[PL 2019, c. 447, §1 (NEW).]

5. Disbursement from the fund. Upon approval of an immigrant, the authority shall determine the amount to be disbursed from the fund to the immigrant. Funds must be disbursed directly to and used by the immigrant pursuant to a contract entered into between the immigrant and the authority in accordance with subsection 7. Funds must be disbursed by the authority in one lump sum in the form of an interest-free loan. An immigrant may not receive more than the maximum amount established by the authority, regardless of whether the immigrant submits one or multiple applications to the fund.
[PL 2019, c. 447, §1 (NEW).]

6. Treatment of loans. Amounts loaned to an individual under the program are not income for purposes of any municipal general assistance program as defined by Title 22, section 4301, subsection 7.
[PL 2019, c. 447, §1 (NEW).]

7. Contract. An individual who has been approved for participation in the program shall enter into a contract with the authority. The contract governs the administration of the program and the use of funds. The contract must include the following terms and conditions:

A. Agreement by the individual that the individual will use the funds only to pay for eligible costs; [PL 2019, c. 447, §1 (NEW).]

B. Agreement by the individual to repay the loan in compliance with the terms and conditions established by the authority; [PL 2019, c. 447, §1 (NEW).]

C. Agreement by the individual to retain copies of receipts for expenditures on eligible costs incurred and provide these to the authority upon request for auditing or reporting purposes; [PL 2019, c. 447, §1 (NEW).]

D. A provision that, if the individual breaches the contract with the authority, the authority may require immediate repayment of the loan to the authority; and [PL 2019, c. 447, §1 (NEW).]

E. Any other terms and conditions the authority determines appropriate. [PL 2019, c. 447, §1 (NEW).]

[PL 2019, c. 447, §1 (NEW).]

8. Administrative costs. The authority may charge the fund reasonable administrative fees, not to exceed 5%, for its administration of the fund.

[PL 2019, c. 447, §1 (NEW).]

9. Financing terms and conditions. Loans under the program must conform to the following requirements.

A. A loan to any individual for eligible costs may not exceed $700, but this limit may be adjusted upward at least biannually by the authority to reflect inflation or cost of living or other necessary adjustments; [PL 2019, c. 447, §1 (NEW).]

B. Loans are not subject to interest; [PL 2019, c. 447, §1 (NEW).]

C. Loans must be repaid in full by an individual within 18 months of disbursement by the authority, together with any reasonable administrative fee established by the authority not to exceed 5% of the total of the loan funds disbursed to the individual, except that:

(1) In any case of demonstrable hardship, the authority may allow extensions of time for repayment or other flexibility in repayment terms; and

(2) Repayment of a loan may not be required until at least 60 days after the recipient of the loan has obtained a work permit, except that, if the recipient of the loan has obtained a work permit but has not obtained employment, repayment may not be required until at least 30 days after the recipient has obtained employment as long as the recipient is in compliance with the provisions of Title 22, section 4316-A. [PL 2019, c. 447, §1 (NEW).]

[PL 2019, c. 447, §1 (NEW).]

10. Rules. The authority shall adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 447, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 447, §1 (NEW).

PART 3

REGULATION OF TRADE

CHAPTER 201

MONOPOLIES AND PROFITEERING

§1101. Contracts in restraint of trade

Every contract, combination in the form of trusts or otherwise, or conspiracy, in restraint of trade or commerce in this State is declared to be illegal. Whoever makes any such contract or engages in any such combination or conspiracy is guilty of a Class C crime. [PL 2003, c. 46, §1 (AMD).]

SECTION HISTORY

PL 1973, c. 489, §1 (AMD). PL 1977, c. 175, §1 (AMD). PL 2003, c. 46, §1 (AMD).

§1102. Conspiracies to monopolize trade

Whoever shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce of this State shall be guilty of a Class C crime. [PL 1977, c. 175, §2 (RPR).]

SECTION HISTORY

PL 1977, c. 175, §2 (RPR).

§1102-A. Acquisition of assets of person engaged in commerce which tends to create a monopoly

No person engaged in commerce in this State may acquire, directly or indirectly, the whole or any part of the stock or other share capital, or the whole of any part of the assets of another person also engaged in commerce in this State, where in any line of commerce or any activity affecting commerce in any section of this State, the effect of the acquisition or use of that share capital, or the acquisition of those assets, may be substantially to lessen competition or tend to create a monopoly. [PL 1983, c. 340, §1 (NEW).]

This section does not apply to persons purchasing these stocks solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition, nor may anything contained in this section prevent a corporation from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of those subsidiary corporations, if the effect of that formation is not to substantially lessen competition. [PL 1983, c. 340, §1 (NEW).]

This section does not apply to the acquisition of stock, share capital or assets of a public utility when the acquisition has been approved by the Public Utilities Commission. [PL 1983, c. 340, §1 (NEW).]

Any financial institution subject to the provisions of Title 9-B is exempt from this section. [PL 1983, c. 340, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 340, §1 (NEW).

§1103. Immunity of witnesses from prosecution

(REPEALED)

SECTION HISTORY

PL 1991, c. 137, §1 (RP).

§1104. Right of action and damages

1. Right of action and damages. Any person, including the State or any political subdivision of the State, injured directly or indirectly in its business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by section 1101, 1102 or 1102-A, may sue for the injury in a civil action. If the court finds for the plaintiff, the plaintiff shall recover 3 times the amount of the damages sustained and cost of suit, including necessary and reasonable investigative costs, reasonable experts' fees and reasonable attorney's fees.

[PL 1989, c. 367 (AMD).]

2. Injunction. The Attorney General may institute proceedings in equity to prevent and restrain violations of sections 1101, 1102 and 1102-A.

A. These proceedings may be by way of petitions setting forth the case and praying that the violation shall be enjoined or otherwise prohibited. [PL 1987, c. 60, §1 (NEW).]

B. The action may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. [PL 2011, c. 559, Pt. A, §10 (RPR).]

C. Pending the petition and before final decree, the court may at any time make such temporary restraining order or prohibition as considered just under the circumstances. [PL 1987, c. 60, §1 (NEW).]

D. Any person who violates the terms of an injunction issued under this section must forfeit and pay to the State, to be applied in carrying out this chapter, a civil penalty of not more than $50,000 for each violation. [PL 1991, c. 137, §2 (NEW).]

[PL 2011, c. 559, Pt. A, §10 (AMD).]

3. Civil penalty. Each course of conduct that constitutes a violation of section 1101 or 1102 is a civil violation for which a civil penalty of not more than $100,000 for each defendant may be adjudged.

A. In any action initiated by the Attorney General pursuant to this section to prevent and restrain violations of sections 1101 and 1102, the Attorney General may include an action to recover civil penalties by each defendant for each course of conduct alleged. [PL 1987, c. 60, §1 (NEW).]

B. An action to recover a civil penalty from a defendant under this section bars a criminal prosecution pursuant to section 1101 or 1102 against that defendant for the same course of conduct on which the action to recover the civil penalty is based. [PL 1991, c. 137, §3 (AMD).]

C. A criminal prosecution against a defendant pursuant to section 1101 or 1102 bars any action to recover a civil penalty under this section from that defendant for the same course of conduct on which the criminal prosecution is based. [PL 1991, c. 137, §3 (AMD).]

[PL 1991, c. 137, §3 (AMD).]

4. Recovery of damages, costs and fees for antitrust violations from any political subdivision official or employee of a political subdivision acting in an official capacity. No damages, interest on damages, costs or attorneys fees may be recovered under this chapter from any political subdivision, as defined in Title 14, section 8102, subsection 3, or official or employee of a political subdivision acting in an official capacity.

[PL 1987, c. 60, §1 (NEW).]

5. Recovery of damages, costs and fees for antitrust violations on claim against person based on official action directed by political subdivision, or official or employee of a political subdivision acting in an official capacity. No damages, interest on damages, costs or attorneys fees may be recovered under this chapter in any claim against a person based on any official action directed by a political subdivision, as defined in Title 14, section 8102, subsection 3, or official or employee of a political subdivision acting in an official capacity.

[PL 1987, c. 60, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 175, §3 (RPR). PL 1983, c. 340, §2 (AMD). PL 1985, c. 349 (AMD). PL 1987, c. 60, §1 (RPR). PL 1989, c. 367 (AMD). PL 1991, c. 137, §§2,3 (AMD). PL 2011, c. 559, Pt. A, §10 (AMD).

§1105. Profiteering in necessities

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

A. "Abnormal market disruption" means a significant disruption to the production, distribution, supply, sale or availability of a commodity or commodities that:

(1) Is caused by an event such as a natural or man-made emergency or disaster, whether local or remote; and

(2) Causes ordinary competitive market forces to cease to function normally. [PL 2005, c. 580, §1 (NEW).]

B. "Cost" means the expense associated with the acquisition, production, distribution or sale of necessities and may include, among other things, replacement costs, taxes and transportation costs. [PL 2005, c. 580, §1 (NEW).]

C. "Necessities" includes food for human or animal consumption; potable water; pharmaceutical products, including prescription medications; wearing apparel; shoes; building materials; gas and electricity for light, heat and power; ice; fuel of all kinds; and fertilizer and fertilizer ingredients; together with tools, utensils, implements, machinery and equipment required for the actual production or manufacture of the same. "Necessities" includes any other vital or necessary good or service except those:

(1) Subject to continuous maximum price regulation under the provisions of any state or federal law;

(2) As to which the State's authority is preempted; or

(3) Furnished or provided by:

(a) Insurers; or

(b) Nonprofit hospitals, medical service organizations or health maintenance organizations authorized to transact business within the State pursuant to Title 24 and Title 24-A. [PL 2019, c. 126, §1 (AMD).]

D. "Unconscionable price" means a price that is actionable under this section. There is a rebuttable presumption that a price is unconscionable when it exceeds by more than 15% the sum of:

(1) The price at which similar goods or services were offered for sale or sold by that person immediately prior to the beginning date of the abnormal market disruption. If that person did not offer such goods or services immediately prior to the abnormal market disruption, then the price is the price at which similar goods or services were offered for sale or sold by another person similarly situated prior to the abnormal market disruption; and

(2) The increased cost calculated according to the method used by that person prior to the abnormal market disruption. [PL 2005, c. 580, §1 (NEW).]

[PL 2019, c. 126, §1 (AMD).]

2. Declaration. Whenever it appears upon due inquiry and consultation with the Attorney General that an abnormal market disruption exists or that there is a substantial likelihood that an abnormal market disruption is imminent, the Governor may, in the Governor's sole discretion and after considering whether the declaration of an abnormal market disruption itself will disrupt supplies for affected necessities, declare an abnormal market disruption.

A. A declaration made under this subsection must specify:

(1) The beginning date of the abnormal market disruption;

(2) The particular necessity, necessities or categories of necessities that are affected by the abnormal market disruption and made subject to the provisions of subsections 3 and 4; and

(3) The levels of trade or commerce that are affected by the abnormal market disruption and made subject to the provisions of subsections 3 and 4. [PL 2005, c. 580, §1 (NEW).]

B. A declaration of abnormal market disruption under this subsection expires when the Governor declares it expired or 60 days from the date of its issuance, whichever is sooner. The declaration of abnormal market disruption may be modified by the Governor at any time. [PL 2005, c. 580, §1 (NEW).]

C. The Governor shall publish decisions under this subsection in a manner reasonably calculated to give affected persons adequate notice. [PL 2005, c. 580, §1 (NEW).]

D. Any person may petition the Governor regarding the Governor's decisions under this subsection. [PL 2005, c. 580, §1 (NEW).]

[PL 2005, c. 580, §1 (NEW).]

3. Profiteering prohibited. After the Governor has declared an abnormal market disruption and before the declaration of the abnormal market disruption expires, a person may not sell or offer for sale necessities at an unconscionable price.

[PL 2005, c. 580, §1 (NEW).]

4. Civil violation. A violation of subsection 3 is a civil violation that constitutes and may be prosecuted as an unfair act or practice in the conduct of trade or commerce pursuant to Title 5, section 207, except that the provisions of Title 5, section 213 do not apply. The declaration of an abnormal market disruption creates a rebuttable presumption that the disruption occurred and existed from the beginning date in the declaration to the date of its expiration.

[PL 2005, c. 580, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 541, §A91 (AMD). PL 2005, c. 580, §1 (RPR). PL 2019, c. 126, §1 (AMD).

§1106. Profiteering in rents

Whoever demands or collects an unreasonable or unjust rent or charge, taking into due consideration the actual market value of the property at the time, with a fair return thereon, or imposes an unreasonable or unjust term or condition, for the occupancy of a mobile home park lot or of any building or any part thereof, rented or hired for dwelling purposes, shall be punished by a fine of not more than $1,000 or by imprisonment for not more than 11 months, or by both. [PL 1983, c. 148 (AMD).]

SECTION HISTORY

PL 1983, c. 148 (AMD).

§1107. Investigation by Attorney General

The Attorney General upon the Attorney General's own initiative or upon petition of 50 or more citizens of this State, shall investigate all seeming violations of sections 1102-A and 1105 to 1107, all contracts, combinations or conspiracies in restraint of trade or commerce, and all monopolies, and may require, by summons, the attendance and testimony of witnesses and the production of books and papers before the Attorney General relating to any such matter under investigation. The summons must be served in the same manner as summons for witnesses in criminal cases, and all provisions of law relating thereto apply to summonses issued under this section so far as they are applicable. All investigations or hearings thereunder or connected therewith to which witnesses are summoned or called upon to testify or to produce books, records or correspondence are public or private at the choice of the person summoned and must be held in the county where the act to be investigated is alleged to have been committed, or if the investigation is on petition it must be held in the county in which the petitioners reside. The expense of such investigation must be paid from the appropriation provided by Title 5, section 203. [PL 1991, c. 137, §4 (AMD).]

If, upon investigation, it appears to the Attorney General that the laws of this State, including sections 1102-A or 1105 to 1107, have been violated in any respect, the Attorney General shall prosecute the guilty parties and present all available information bearing upon such apparent violation to the proper prosecuting officer of the United States. [PL 1991, c. 137, §4 (AMD).]

Any Justice of the Superior Court may by order, upon application of the Attorney General, compel the attendance of witnesses, the production of books and papers, including correspondence, and the giving of testimony, before the Attorney General in the same manner and to the same extent as before the Superior Court. Any failure to obey such order may be punishable by such court as a contempt. [PL 1991, c. 137, §4 (AMD).]

SECTION HISTORY

PL 1977, c. 175, §4 (AMD). PL 1991, c. 137, §4 (AMD).

§1108. Final judgment or decree as prima facie evidence

A final judgment or decree hereafter rendered in any civil or criminal proceeding brought by or on behalf of the State under the antitrust laws to the effect that a defendant has violated these laws shall be prima facie evidence against the defendant in any action or proceeding brought by any party against that defendant under such laws as to matters respecting which that judgment or decree would be an estoppel as between the parties thereto; provided that this section shall not apply to consent judgments or decrees entered before any testimony has been taken. Nothing contained in this section may be construed to impose any limitation on the application of collateral estoppel. [PL 1983, c. 340, §3 (NEW).]

SECTION HISTORY

PL 1983, c. 340, §3 (NEW).

§1109. Acquisition of gasoline and heating oil assets

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

A. "Gasoline sales" means the retail sale of internal combustion fuel for motor vehicles as defined in Title 29-A, section 101, subsection 42. [PL 1995, c. 65, Pt. A, §13 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

B. "Heating oil sales" means the retail sale of #2 fuel oil used for heating residential, industrial or commercial space or water. [PL 1991, c. 488 (NEW).]

[PL 1995, c. 65, Pt. A, §13 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

2. Prohibition. A person may not acquire, directly or indirectly, from a business engaged in gasoline sales or heating oil sales in this State, without prior notice as required under subsection 3:

A. Controlling stock; or [PL 1989, c. 750 (NEW).]

B. Substantial assets that include those used in gasoline sales or heating oil sales. [PL 1991, c. 488 (AMD).]

[PL 1991, c. 488 (AMD).]

3. Report. The person acquiring stock or assets under subsection 2 shall provide notice of this acquisition to the Department of the Attorney General at least 30 days prior to the date of acquisition. That period may be shortened with the consent of the Attorney General.

[PL 1991, c. 488 (AMD).]

4. Confidentiality. Information received by the Department of the Attorney General as a result of this reporting requirement is confidential.

[PL 1993, c. 719, §2 (AMD); PL 1993, c. 719, §12 (AFF).]

5. Penalty. Violation of this section is a civil violation for which a civil penalty not to exceed $10,000 may be assessed.
[PL 1989, c. 750 (NEW).]

SECTION HISTORY

PL 1989, c. 750 (NEW). PL 1991, c. 488 (AMD). PL 1993, c. 719, §2 (AMD). PL 1993, c. 719, §12 (AFF). PL 1995, c. 65, §A13 (AMD). PL 1995, c. 65, §§A153,C15 (AFF).

§1110. Requirements for price protection and prepaid contracts

1. Contract and solicitation requirements. A contract for the retail sale of home heating oil, kerosene or liquefied petroleum gas that offers a guaranteed price plan, including a prepaid contract and any other similar term, must be in writing and the terms and conditions of the price plan must be disclosed. The disclosure of terms and conditions must be in plain language, must immediately follow the language concerning the price or service that could be affected and must be printed in no less than 12-point boldface type of uniform font. A solicitation for the retail sale of home heating oil, kerosene or liquefied petroleum gas that offers a guaranteed price plan that could become a contract upon a response from a consumer, including a prepaid contract and any other similar term, must be in writing and the terms and conditions of that offer must be disclosed in plain language.
[PL 2005, c. 632, §1 (NEW).]

1-A. Registration. A home heating oil, kerosene or liquefied petroleum gas dealer who offers prepaid contracts under this section shall register the dealer's intent to offer such contracts with the Commissioner of Professional and Financial Regulation by June 30th of each year. Registration must be on a form provided by the commissioner, accompanied by a fee of $100. Fees received under this subsection must be used by the commissioner to administer this section. Any balance of these funds does not lapse but must be carried forward to be expended for the same purpose in the following fiscal year.
[PL 2011, c. 574, §1 (NEW).]

1-B. Report. A home heating oil, kerosene or liquefied petroleum gas dealer who offers prepaid contracts under this section shall file an annual report with the Commissioner of Professional and Financial Regulation by October 31st of each year demonstrating how the dealer has satisfied the requirements of this section, including how the prepaid contracts are secured. The report must be made on a form provided by the commissioner. The form must conspicuously bear the warning that making a false statement on the form is a Class D crime under Title 17-A, section 453. The report must be signed by the dealer. If the dealer is a corporation, the report must be signed by either the president or an officer of the corporation and must include a list of all of the members of the board of directors of the corporation. The commissioner may not charge a fee for the form or for filing the report.
[PL 2011, c. 574, §1 (NEW).]

2. Security for prepaid contracts required; options. A home heating oil, kerosene or liquefied petroleum gas dealer may not enter into a prepaid contract to provide home heating oil, kerosene or liquefied petroleum gas to a consumer unless that dealer has obtained and maintains in accordance with subsection 3 any one of the following:

A. Heating oil, kerosene or liquefied petroleum gas contracts or other similar commitments that allow the dealer to purchase, at a fixed price, heating oil, kerosene or liquefied petroleum gas in an amount not less than 75% of the maximum number of gallons that the dealer is committed to deliver pursuant to all prepaid contracts entered into by the dealer; [PL 2005, c. 632, §1 (NEW).]

B. A surety bond in an amount not less than 50% of the total amount of funds paid to the dealer by consumers pursuant to all prepaid heating oil, kerosene or liquefied petroleum gas contracts entered into by the dealer; or [PL 2005, c. 632, §1 (NEW).]

C. A letter of credit in an amount not less than 100% of the total amount of funds paid to the dealer by consumers pursuant to all prepaid heating oil, kerosene or liquefied petroleum gas contracts entered into by the dealer. [PL 2005, c. 632, §1 (NEW).]

[PL 2005, c. 632, §1 (NEW).]

3. Maintenance of security. A dealer shall maintain the amount of futures contracts or other similar commitments, the amount of the surety bond or the letter of credit required by subsection 2 for the period of time for which the prepaid home heating oil, kerosene or liquefied petroleum gas contracts are effective, except that the amount of the futures contracts or surety bond may be reduced during such period of time to reflect any amount of home heating oil, kerosene or liquefied petroleum gas already delivered to and paid for by the consumer.

[PL 2005, c. 632, §1 (NEW).]

4. Disclosure; additional contract requirements. A prepaid home heating oil, kerosene or liquefied petroleum gas contract must indicate:

A. The amount of funds paid by the consumer to the dealer under the contract; [PL 2005, c. 632, §1 (NEW).]

B. The maximum number of gallons of home heating oil, kerosene or liquefied petroleum gas committed by the dealer for delivery to the consumer pursuant to the contract; and [PL 2005, c. 632, §1 (NEW).]

C. That the performance of the prepaid contract is secured by one of the options set forth in subsection 2. [PL 2005, c. 632, §1 (NEW).]

[PL 2005, c. 632, §1 (NEW).]

5. Reimbursement provision required. A prepaid home heating oil, kerosene or liquefied petroleum gas contract must provide that the contract price of any undelivered home heating oil, kerosene or liquefied petroleum gas owed to the consumer under the contract at the end date of the contract must be reimbursed to the consumer not later than 30 days after the end date of the contract unless the parties to the contract agree otherwise.

[PL 2005, c. 632, §1 (NEW).]

6. Enforcement. The Commissioner of Professional and Financial Regulation shall refer to the Attorney General for investigation any dealer that has filed a registration form under subsection 1-A and has failed to file a report demonstrating how the contracts are secured pursuant to subsection 1-B.

[PL 2011, c. 574, §2 (NEW).]

7. Prosecution. The Attorney General may prosecute a person making a false statement on the report required by subsection 1-B for unsworn falsification under Title 17-A, section 453 and may prosecute failure to file the report required by subsection 1-B as an unfair trade practice.

[PL 2011, c. 574, §2 (NEW).]

8. Unfair trade practice. A violation of any of the requirements of this section is a violation of the Maine Unfair Trade Practices Act.

[PL 2011, c. 574, §2 (NEW).]

9. Rules. The Commissioner of Professional and Financial Regulation may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2011, c. 574, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 632, §1 (NEW). PL 2011, c. 574, §§1, 2 (AMD).

CHAPTER 201-A

CONSTRUCTION CONTRACTS

§1111. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 461, §1 (NEW).]

1. Billing period. "Billing period" means the time period for payment agreed to by 2 parties or, in the absence of an agreement, the calendar month within which work is performed.
[PL 1993, c. 461, §1 (NEW).]

2. Construction contract. "Construction contract" means any agreement, whether written or oral, to perform or to supply materials for work on any real property.
[PL 1993, c. 461, §1 (NEW).]

3. Contractor. "Contractor" means a person or entity that contracts with an owner to perform work on real property.
[PL 1993, c. 461, §1 (NEW).]

4. Delivery. "Delivery" means receipt by addressee, including, but not limited to, by first class, registered or certified mail, or by hand delivery or transmitted by facsimile machine. Properly addressed mail is deemed delivered 3 days from the day it was sent.
[PL 1993, c. 461, §1 (NEW).]

5. Material supplier. "Material supplier" means any person or entity that has furnished or contracted to furnish materials or supplies in connection with a construction contract.
[PL 1993, c. 461, §1 (NEW).]

6. Owner. "Owner" means a person or entity having an interest in real property on which work is performed or to which materials for performing work are delivered, if the person or entity has agreed to or requested that work. "Owner" includes successors in interest of the owner and agents of the owner acting within their authority. "Owner" also includes the State and instrumentalities and subdivisions of the State including municipalities, school districts and school administrative districts having an interest in that real property.
[PL 1993, c. 461, §1 (NEW).]

7. Real property. "Real property" means real estate, including lands, leaseholds, tenements and hereditaments and improvements placed on real estate.
[PL 1993, c. 461, §1 (NEW).]

8. Subcontractor. "Subcontractor" means any person or entity that has contracted to perform work for or provide services to a contractor or another subcontractor in connection with a construction contract.
[PL 1993, c. 461, §1 (NEW).]

9. Work. "Work" means to build, alter, repair or demolish any improvement on, connected with or beneath the surface of any real property, or to excavate, clear, grade, fill or landscape any real property, to construct driveways, private roadways, highways and bridges, drilled wells, septic systems, sewage systems or utilities, to furnish materials for any of those purposes or to perform labor upon real property. "Work" also includes any design or other professional or skilled services rendered by architects, engineers, land surveyors, landscape architects and construction engineers.
[PL 1993, c. 461, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW).

§1112. Application

This chapter does not apply to contracts entered into by the Department of Transportation. [PL 1993, c. 461, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW).

§1113. Owner's payment obligations

Payment to a contractor for work is subject to the following terms. [PL 1993, c. 461, §1 (NEW).]

1. Contractual agreements. The owner shall pay the contractor strictly in accordance with the terms of the construction contract.
[PL 1993, c. 461, §1 (NEW).]

2. Invoices. If the construction contract does not contain a provision governing the terms of payment, the contractor may invoice the owner for progress payments at the end of the billing period. The contractor may submit a final invoice for payment in full upon completion of the agreed upon work.
[PL 1993, c. 461, §1 (NEW).]

3. Invoice payment terms. Except as otherwise agreed, payment of interim and final invoices is due from the owner 20 days after the end of the billing period or 20 days after delivery of the invoice, whichever is later.
[PL 1993, c. 461, §1 (NEW).]

4. Delayed payments. Except as otherwise agreed, if any progress or final payment to a contractor is delayed beyond the due date established in subsection 3, the owner shall pay the contractor interest on any unpaid balance due beginning on the 21st day, at an interest rate equal to that specified in Title 14, section 1602-C.
[PL 2003, c. 460, §1 (AMD).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW). PL 2003, c. 460, §1 (AMD).

§1114. Contractor's and subcontractor's payment obligations

Payment to a subcontractor for work is subject to the following conditions. [PL 1993, c. 461, §1 (NEW).]

1. Contractual agreements. The contractor or subcontractor shall pay a subcontractor or material supplier strictly in accordance with the terms of the subcontractor's or material supplier's contract.
[PL 1993, c. 461, §1 (NEW).]

2. Disclosure. Notwithstanding any contrary agreement, a contractor or subcontractor shall disclose to a subcontractor or material supplier the due date for receipt of payments from the owner before a contract between those parties is entered. Notwithstanding any other provision of this chapter, if a contractor or subcontractor fails to accurately disclose the due date to a subcontractor or material supplier, the contractor or subcontractor is obligated to pay the subcontractor or material supplier as though the 20-day due dates in section 1113, subsection 3 were met.
[PL 2001, c. 471, Pt. A, §13 (AMD).]

3. Invoices. Notwithstanding any contrary agreement, when a subcontractor or material supplier has performed in accordance with the provisions of a contract, a contractor shall pay to the subcontractor or material supplier, and each subcontractor shall in turn pay to its subcontractors or material suppliers, the full or proportional amount received for each subcontractor's work and materials based on work completed or service provided under the subcontract, 7 days after receipt of each progress or final payment or 7 days after receipt of the subcontractor's or material supplier's invoice, whichever is later.

[PL 1993, c. 461, §1 (NEW).]

4. Delayed payments. Notwithstanding any contrary agreement, if any progress or final payment to a subcontractor or material supplier is delayed beyond the due date established in subsection 2 or 3, the contractor or subcontractor shall pay its subcontractor or material supplier interest on any unpaid balance due beginning on the next day, at an interest rate equal to that specified in Title 14, section 1602-C.
[PL 2003, c. 460, §2 (AMD).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW). PL 2001, c. 471, §A13 (AMD). PL 2003, c. 460, §2 (AMD).

§1115. Errors in documentation

1. Invoice errors. If an invoice is filled out incorrectly or incompletely or if there is any defect or impropriety in an invoice submitted, the owner, contractor or subcontractor must contact the person submitting the invoice in writing within 10 working days of receiving the invoice. If the contractor or subcontractor does not notify the person submitting the invoice within 10 days, the documentary errors are deemed waived.
[PL 1993, c. 461, §1 (NEW).]

2. Timely payment requirements. All timely payment requirements of this chapter apply, regardless of the dates invoices are corrected, whenever the person submitting the invoice has completed the work in a timely manner.
[PL 1993, c. 461, §1 (NEW).]

3. New billing period. If an error on the invoice is corrected by the person submitting the invoice, the date on which the corrected invoice is delivered is the end of the billing period.
[PL 1993, c. 461, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW).

§1116. Retainage

1. Payment. If payments under a construction contract are subject to retainage, any amounts retained during the performance of the contract and due to be released to the contractor upon completion must be paid within 30 days after final acceptance of the work.
[PL 1993, c. 461, §1 (NEW).]

2. Retainage for subcontractors. If an owner is not withholding retainage for a subcontractor's work, a contractor may withhold retainage from its subcontractor or material supplier in accordance with their agreement. The retainage must be paid within 30 days of final acceptance of the work.
[PL 1993, c. 461, §1 (NEW).]

3. Payment of retainage to subcontractors. Notwithstanding any contrary agreement, a contractor shall pay to its subcontractors or material suppliers and each subcontractor shall in turn pay to its subcontractors or material suppliers, within 7 days after receipt of the retainage, the full amount due to each subcontractor or material supplier.
[PL 1993, c. 461, §1 (NEW).]

4. Withholding retainage. If a contractor or subcontractor unreasonably withholds acceptance of the work or materials or fails to pay retainage as required by this section, the owner, contractor or subcontractor is subject to the interest, penalty and attorney's fees provisions of this chapter.
[PL 1993, c. 461, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW).

§1117. Prepayment or advance payment

This chapter in no way may be construed to prohibit an owner, contractor or subcontractor from making advance payments, progress payments or from prepaying if agreements or other circumstances make those payments appropriate. All such payments must be made promptly and are subject to the interest, penalty and other provisions of this chapter. [PL 1993, c. 461, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW).

§1118. Disputes; penalties; attorney's fees

1. Withholding payment. Nothing in this chapter prevents an owner, contractor or subcontractor from withholding payment in whole or in part under a construction contract in an amount equalling the value of any good faith claims against an invoicing contractor, subcontractor or material supplier, including claims arising from unsatisfactory job progress, defective construction or materials, disputed work or 3rd-party claims.
[PL 1993, c. 461, §1 (NEW).]

2. Penalty. If arbitration or litigation is commenced to recover payment due under the terms of this chapter and it is determined that an owner, contractor or subcontractor has failed to comply with the payment terms of this chapter, the arbitrator or court shall award an amount equal to 1% per month of all sums for which payment has wrongfully been withheld, in addition to all other damages due and as a penalty.
[PL 1993, c. 461, §1 (NEW).]

3. Wrongful withholding. A payment is not deemed to be wrongfully withheld if it bears a reasonable relation to the value of any claim held in good faith by the owner, contractor or subcontractor against which an invoicing contractor, subcontractor or material supplier is seeking to recover payment.
[PL 1993, c. 461, §1 (NEW).]

4. Attorney's fees. Notwithstanding any contrary agreement, the substantially prevailing party in any proceeding to recover any payment within the scope of this chapter must be awarded reasonable attorney's fees in an amount to be determined by the court or arbitrator, together with expenses.
[PL 1993, c. 461, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW).

§1119. Contracts involving federal funds

Notwithstanding any provision of this chapter, language at variance to the requirements of this chapter may be included in contracts when that variance is required by any law, regulation or grant agreement conditioning the receipt or expenditure of federal aid. [PL 1993, c. 461, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW).

§1120. Owner exclusion

This chapter does not apply to contracts for the purchase of materials by a person performing work on that person's own real property. [PL 1993, c. 461, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 461, §1 (NEW).

CHAPTER 202

CONSUMER LOAN AND LEASE AGREEMENTS

§1121. Purpose

The purpose of this chapter is to enable the average consumer, who makes a reasonable effort under ordinary circumstances, to read and understand the terms of loan and lease documents without having to obtain the assistance of a professional. [PL 1985, c. 763, Pt. A, §66 (AMD).]

SECTION HISTORY

PL 1979, c. 483 (NEW). PL 1985, c. 763, §A66 (AMD).

§1122. Definitions

As used in this chapter unless the context clearly indicates otherwise, the following terms shall have the following meanings. [PL 1979, c. 483 (NEW).]

1. Agreement. "Agreement" means any writing which is substantially prepared in advance of a consumer loan or consumer lease and which a supervised lender or lessor furnishes to a consumer for the consumer to sign in connection with that loan or lease.
[PL 1985, c. 763, Pt. A, §67 (AMD).]

2. Amount financed. "Amount financed" means "amount financed" as defined by Title 9-A, section 1-301, subsection 5.
[PL 1979, c. 483 (NEW).]

3. Consumer. "Consumer" means an individual to whom a consumer loan or consumer lease is made.
[PL 1985, c. 763, Pt. A, §67 (AMD).]

3-A. Consumer lease. "Consumer lease" means a lease of goods to a consumer by a lessor for personal, family or household purposes, which is for a term exceeding 4 months and which is not made pursuant to a lender credit card.
[PL 1985, c. 763, Pt. A, §68 (NEW).]

4. Consumer loan. "Consumer loan" means a loan made to a consumer by a supervised lender for personal, family or household purposes, if the debt is payable in installments or a finance charge is made, including a loan made pursuant to a lender credit card.
[PL 1979, c. 483 (NEW).]

4-A. Lessor. "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease or arranges for the lease of personal property under a consumer lease.
[PL 1985, c. 763, Pt. A, §69 (NEW).]

5. Supervised lender. "Supervised lender" means "supervised lender" as defined under Title 9-A, section 1-301, subsection 39.
[PL 1979, c. 483 (NEW).]

SECTION HISTORY

PL 1979, c. 483 (NEW). PL 1985, c. 763, §§A67-69 (AMD).

§1123. Scope

1. Application. Except as provided in subsection 2, this chapter applies to any agreement signed in connection with a consumer loan or consumer lease entered into in this State between a consumer who is a resident of this State at the time of the loan or lease and a supervised lender or lessor.
[PL 1985, c. 763, Pt. A, §70 (AMD).]

2. Exclusions. This chapter does not apply:

A. To consumer loans or consumer leases in which the amount financed or in the case of consumer leases, the capitalized cost of the leased property, exceeds $100,000; and [PL 1985, c. 763, Pt. A, §70 (AMD).]

B. To language or arrangement which is specifically required by federal or state law, regulation or official agency interpretation; or to agreements, the form or any part of which is required by any governmental instrumentality as a condition of the assignability of the agreement. [PL 1979, c. 483 (NEW).]

[PL 1985, c. 763, Pt. A, §70 (AMD).]

SECTION HISTORY

PL 1979, c. 483 (NEW). PL 1985, c. 763, §A70 (AMD).

§1124. Requirements for agreements

After October 1, 1982, every consumer loan agreement, and after January 1, 1987, every consumer lease agreement, shall be: [PL 1985, c. 763, Pt. A, §71 (AMD).]

1. Plain language. Written in a clear and coherent manner using words with common and everyday meanings; and

[PL 1981, c. 236, §1 (AMD).]

2. Meaningful arrangement. Appropriately divided and captioned by its various sections.

[PL 1979, c. 483 (NEW).]

SECTION HISTORY

PL 1979, c. 483 (NEW). PL 1981, c. 236, §1 (AMD). PL 1981, c. 551, §1 (AMD). PL 1985, c. 763, §A71 (AMD).

§1125. Enforcement

A supervised lender's or lessor's failure to comply with the requirements of section 1124 shall constitute a violation of Title 9-A which shall be enforceable under Title 9-A, section 6-108. [PL 1985, c. 763, Pt. A, §72 (AMD).]

SECTION HISTORY

PL 1979, c. 483 (NEW). PL 1985, c. 763, §A72 (AMD).

§1126. Certification of compliance

1. Certification. A supervised lender or lessor, or any trade organization or association acting on behalf of supervised lenders or lessors, may submit any proposed form of agreement to the Office of Consumer Credit Regulation or, in the case of forms of agreement from supervised financial organizations, the Bureau of Financial Institutions. Within 45 days, the office or bureau shall either certify the form as complying with the requirements of section 1124 or refuse to certify the form as complying, setting forth written reasons for its refusal. Failure by the office or bureau to act under this section within 45 days is considered a certification of the form's compliance. A certification of compliance under this section is an absolute bar to any legal proceeding by the director or superintendent for failure to comply with the requirements of section 1124.

[PL 2001, c. 44, §8 (AMD); PL 2001, c. 44, §14 (AFF).]

2. Fees. Any form of agreement submitted to the office under this section must be accompanied by a fee of $25. The period within which the office must act under this section commences upon receipt of the fee. The fees received under this section are to be used by the director for the purposes of this chapter. The balance of any fees so received does not lapse.

[RR 1995, c. 1, §6 (COR); RR 1995, c. 1, §7 (AFF).]

SECTION HISTORY

PL 1979, c. 483 (NEW). PL 1981, c. 236, §2 (AMD). PL 1981, c. 501, §82 (AMD). PL 1981, c. 551, §2 (AMD). PL 1985, c. 763, §A73 (AMD). RR 1995, c. 1, §6 (COR). RR 1995, c. 1, §7 (AFF). PL 1995, c. 309, §17 (AMD). PL 1995, c. 309, §29 (AFF). PL 2001, c. 44, §8 (AMD). PL 2001, c. 44, §14 (AFF).

CHAPTER 202-A

PAYMENT BY NEGOTIABLE INSTRUMENT

§1131. Limitation on requests for certain types of identification

No person accepting a negotiable instrument as payment in full or in part for goods or services may require the payor to use a bank credit card as a form of identification if the payor does not possess a bank credit card. This section does not limit the other reasonable forms of identification a payee may require before accepting a negotiable instrument. [PL 1987, c. 244 (NEW).]

SECTION HISTORY

PL 1987, c. 244 (NEW).

CHAPTER 202-B

PROHIBITED CREDIT CARD PRACTICES INVOLVING PROVIDERS OF TRAVEL SERVICES

§1141. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 261 (NEW).]

1. Credit card. "Credit card" has the same meaning as "accepted credit card," as defined in the Federal Truth in Lending Act, 15 United States Code, Section 1601 et seq.
[PL 2011, c. 427, Pt. D, §16 (AMD).]

2. Credit card issuer. "Credit card issuer" has the same meaning as "card issuer," as defined in the Federal Truth in Lending Act, 15 United States Code, Section 1601 et seq.
[PL 2011, c. 427, Pt. D, §17 (AMD).]

3. Provider of travel services. "Provider of travel services" means a person, firm or corporation engaged in the business of furnishing travel, transportation or vacation services.
[PL 1991, c. 261 (NEW).]

4. Travel agent. "Travel agent" means a person, firm, corporation, partnership or association, other than a common carrier as defined in Title 12, section 6001, subsection 8 or employee of a common carrier, that:

A. Is an officially appointed agent of a common carrier or is a member of a cruise lines association who operates exclusively as an agent for cruise lines in the sale of cruise travel products or services; and [PL 1991, c. 261 (NEW).]

B. As a legal agent for a provider of travel services:

(1) Sells or offers for sale travel, transportation or vacation arrangements;

(2) Negotiates for travel, transportation or vacation services; or

(3) Professes to be by solicitation, advertisement or other means a seller, contractor or arranger for travel, transportation or vacation services. [PL 1991, c. 261 (NEW).]

[PL 1991, c. 261 (NEW).]

SECTION HISTORY

PL 1991, c. 261 (NEW). PL 2007, c. 273, Pt. C, §10 (AMD). PL 2007, c. 695, Pt. B, §2 (AMD). PL 2011, c. 427, Pt. D, §§16, 17 (AMD).

§1142. Prohibited practice

When a travel agent furnishes travel services to a consumer and the consumer uses a credit card to obtain credit in the transaction, the provider of travel services for which the travel agent is an agent may not as the result of the use of the credit card impose a surcharge on or reduce commissions paid to the travel agent. This prohibition does not apply if the provider of travel services is the issuer of the credit card used in the transaction. [PL 1991, c. 261 (NEW).]

SECTION HISTORY

PL 1991, c. 261 (NEW).

§1143. Remedies

Any person injured as a result of a violation of section 1142 may seek damages and an injunction in a civil action. Any person likely to be injured by a violation of section 1142 may seek an injunction in a civil action. The court may award reasonable attorney's fees to the plaintiff. [PL 1991, c. 261 (NEW).]

SECTION HISTORY

PL 1991, c. 261 (NEW).

CHAPTER 202-C

COMMERCIAL LOAN AGREEMENTS

§1146. Writing required for commercial loans

1. Writing and signature required. A borrower may not maintain an action upon any agreement to lend money, extend credit, forbear from collection of a debt or make any other accommodation for the repayment of a debt for more than $250,000 unless the promise, contract or agreement on which the action is brought, or some memorandum or note of the promise, contract or agreement, is:

A. In writing; and [PL 1991, c. 535 (NEW).]

B. Signed by the party to be charged with the promise, contract or agreement, or by some person lawfully authorized to sign for the party to be charged. [PL 1991, c. 535 (NEW).]

[PL 1991, c. 535 (NEW).]

2. Notice. Subsection 1 does not apply if the person to be charged with the promise, contract or agreement failed to notify the borrower that the promise, contract or agreement must be in writing for an action to be maintained.

[PL 1991, c. 535 (NEW).]

3. Application. This section applies only to promises, contracts and agreements entered into after the effective date of this section.

[PL 1991, c. 535 (NEW).]

SECTION HISTORY

PL 1991, c. 535 (NEW).

CHAPTER 202-D

CREDIT CARD AND DEBIT CARD RECEIPTS

§1149. Electronically printed credit card and debit card receipts

1. Electronically printed receipts. Except as provided in this section, a person, firm, partnership, association, corporation or limited liability company that accepts credit cards or debit cards for the transaction of business may not print more than the last 5 digits of the credit card or debit card account number or the expiration date of the credit card or debit card on a receipt provided to a cardholder at the point of sale of the transaction.
[PL 2003, c. 586, §1 (AMD); PL 2003, c. 586, §3 (AFF).]

2. Exception. This section applies only to receipts that are electronically printed and does not apply to transactions in which the sole means of recording the cardholder's credit card or debit card account number is by handwriting or by an imprint or copy of the credit card or debit card.
[PL 2001, c. 527, §1 (NEW).]

3. Forfeiture; civil penalty. A person, firm, partnership, association, corporation or limited liability company that violates this section is subject to a forfeiture not to exceed $250 for the first violation and a civil penalty of $1,000 for each subsequent violation. A forfeiture or civil penalty may not be assessed for a violation of this section if the person, firm, partnership, association, corporation or limited liability company demonstrates by a preponderance of the evidence that the defendant has adopted procedures reasonably designed to avoid errors and that the violation was unintentional and resulted from a bona fide error.
[PL 2001, c. 527, §1 (NEW).]

3-A. Absolved from forfeiture and civil penalty. Until January 1, 2005, a person who violates this section is absolved from civil prosecution or forfeitures and civil penalties associated with any such violation occurring before that date.
[PL 2003, c. 586, §2 (NEW); PL 2003, c. 586, §3 (AFF).]

4. Effective date. This section takes effect January 1, 2004.
[PL 2001, c. 527, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 527, §1 (NEW). PL 2003, c. 586, §§1,2 (AMD). PL 2003, c. 586, §3 (AFF).

CHAPTER 202-E

TRUTH IN MUSIC ADVERTISING

§1156. Short title

This chapter is known and may be cited as "the Truth in Music Advertising Act." [PL 2007, c. 171, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 171, §1 (NEW).

§1157. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 171, §1 (NEW).]

1. Performing group. "Performing group" means a vocal or instrumental group seeking to use the name of another group that has previously released a commercial sound recording under that name. [PL 2007, c. 171, §1 (NEW).]

2. Person. "Person" means any individual, partnership, corporation or association. [PL 2007, c. 171, §1 (NEW).]

3. Recording group. "Recording group" means a vocal or instrumental group at least one of whose members has previously released a commercial sound recording under that group's name and in which the member has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group. [PL 2007, c. 171, §1 (NEW).]

4. Sound recording. "Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken or other sounds regardless of the nature of the material object, such as a disc, tape or other phonorecord, in which the sounds are embodied. [PL 2007, c. 171, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 171, §1 (NEW).

§1158. Production

A person may not promote, advertise or conduct a live musical performance or production in this State through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group unless: [PL 2007, c. 171, §1 (NEW).]

1. Authorized; federal service mark. The performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States Patent and Trademark Office; [PL 2007, c. 171, §1 (NEW).]

2. Legal right. At least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group; [PL 2007, c. 171, §1 (NEW).]

3. Salute or tribute. The live musical performance or production is identified in all advertising and promotion as a salute or tribute and the name of the performing group is not so closely related or similar to the name used by the recording group that it would tend to confuse or mislead the public; and [PL 2007, c. 171, §1 (NEW).]

4. Expressly authorized. The performance or production is expressly authorized by the recording group. [PL 2007, c. 171, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 171, §1 (NEW).

§1159. Restraining prohibited acts

1. Injunction. Whenever the Attorney General or a district attorney has reason to believe that a person is promoting, advertising or conducting or is preparing to promote, advertise or conduct a live musical performance or production in violation of section 1158 and that proceedings would be in the

public interest, the Attorney General or district attorney may bring an action in the name of the State against the person to restrain that practice by temporary or permanent injunction.
[PL 2007, c. 171, §1 (NEW).]

2. Payment of costs and restitution. Whenever any court issues a permanent injunction to restrain and prevent violations of this chapter as authorized in subsection 1, the court may in its discretion direct that the defendant restore to the recording group any money or property, real or personal, that has been acquired by means of any violation of this chapter, under terms and conditions to be established by the court.
[PL 2007, c. 171, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 171, §1 (NEW).

§1160. Penalty

In addition to any other relief that may be granted under section 1159, a person who violates section 1158 commits a civil violation for which a fine of not less than $500 per violation may be adjudged. Each performance or production advertised or conducted in violation of section 1158 constitutes a separate violation. [PL 2007, c. 171, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 171, §1 (NEW).

§1160-A. Exemption

This chapter does not apply to any nonprofit corporation incorporated under the laws of this State and subject to the provisions of Title 13, chapter 81 or 93 or the Maine Nonprofit Corporation Act. [PL 2007, c. 171, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 171, §1 (NEW).

CHAPTER 203

FAIR TRADE ACT

§1151. Title

(REPEALED)

SECTION HISTORY

PL 1977, c. 127 (RP).

§1152. Certain contracts not invalid

(REPEALED)

SECTION HISTORY

PL 1973, c. 413, §1 (AMD). PL 1977, c. 127 (RP).

§1153. Unfair competition defined

(REPEALED)

SECTION HISTORY

PL 1973, c. 413, §2 (AMD). PL 1977, c. 127 (RP).

§1154. Limitation

(REPEALED)

SECTION HISTORY

PL 1977, c. 127 (RP).

§1155. Injunction and recovery of damages

(REPEALED)

SECTION HISTORY

PL 1977, c. 127 (RP).

CHAPTER 203-A

MANUFACTURER WARRANTIES ON MOTOR VEHICLES

§1161. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1983, c. 145 (NEW).]

1. Consumer. "Consumer" means the purchaser, other than for purposes of resale, or the lessee, of a motor vehicle, any person to whom the motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle and any other person entitled by the terms of the warranty to enforce the obligations of the warranty, except that the term "consumer" shall not include any governmental entity, or any business or commercial enterprise which registers 3 or more motor vehicles.
[PL 1987, c. 359, §1 (AMD).]

2. Manufacturer. "Manufacturer" means manufacturer, importer, distributor or anyone who is named as the warrantor on an express written warranty on a motor vehicle.
[PL 1983, c. 145 (NEW).]

3. Motor vehicle. "Motor vehicle" means any motor driven vehicle, designed for the conveyance of passengers or property on the public highways that is sold or leased in this State, except that the term "motor vehicle" does not include any vehicle used primarily for commercial purposes with a gross vehicle weight of 8,500 pounds or more.
[PL 2003, c. 337, §2 (AMD).]

4. Reasonable allowance for use. "Reasonable allowance for use" means an amount that can not exceed the lesser of 1/3 of that amount allowed per mile by the United States Internal Revenue Service as provided by regulation, revenue procedure or revenue ruling promulgated under the United States Internal Revenue Code, Title 26, Section 162 for the use of a personal vehicle for business purposes based upon the mileage reported for that motor vehicle on the application for state-certified arbitration accepted by the State plus all mileage directly attributable to use by a consumer beyond 20,000 miles or 10% of the purchase price of the vehicle.
[PL 2003, c. 337, §3 (AMD).]

5. State-certified arbitration. "State-certified arbitration" means the informal dispute settlement procedure administered by the Department of the Attorney General which arbitrates consumer complaints dealing with new motor vehicles that may be so defective as to qualify for equitable relief under the Maine lemon laws.
[PL 1989, c. 570, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 145 (NEW). PL 1985, c. 220, §1 (AMD). PL 1987, c. 359, §§1,2 (AMD). PL 1989, c. 570, §1 (AMD). PL 1999, c. 212, §1 (AMD). PL 2003, c. 337, §§2,3 (AMD). PL 2003, c. 337, §3 (AMD).

§1161-A. Short title

This chapter may be known and cited as "the Maine Lemon Law." [PL 2003, c. 337, §4 (NEW).]

SECTION HISTORY

PL 2003, c. 337, §4 (NEW).

§1162. Scope; construction

1. Consumer rights. Nothing in this chapter in any way limits the rights or remedies which are otherwise available to a consumer under any other law.
[PL 1983, c. 145 (NEW).]

2. Manufacturers, distributors, agents and dealers. Nothing in this chapter in any way limits the rights or remedies of franchisees under chapter 204 or other applicable law.
[PL 1983, c. 145 (NEW).]

3. Waivers void. Any agreement entered into by a consumer which waives, limits or disclaims the rights set forth in this chapter shall be void as contrary to public policy.
[PL 1985, c. 220, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 145 (NEW). PL 1985, c. 220, §2 (AMD).

§1163. Rights and duties

1. Repair of nonconformities. If a motor vehicle does not conform to all express warranties, the manufacturer, its agent or authorized dealer shall make those repairs necessary to conform the vehicle to the express warranties if the consumer reports the nonconformity to the manufacturer, its agent or authorized dealer during the term of the express warranties, within a period of 3 years following the date of original delivery of the motor vehicle to a consumer or during the first 18,000 miles of operation of that motor vehicle, whichever occurs earliest. This obligation exists notwithstanding the fact that the repairs are made after the expiration of the appropriate time period.

A. [PL 1989, c. 570, §2 (RP).]

B. [PL 1989, c. 570, §2 (RP).]
[PL 2003, c. 337, §5 (AMD).]

2. Failure to make effective repair. If the manufacturer or its agents or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition, or combination of defects or conditions that substantially impairs the use, safety or value of the motor vehicle after a reasonable number of attempts, the manufacturer shall either replace the motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and make a refund to the consumer and lienholder, if any, as their interests may appear. The consumer may reject any offered replacement and receive instead a refund. The refund must consist of the following items, less a reasonable allowance for use of the vehicle:

A. The full purchase price or, if a leased vehicle, the lease payments made to date, including any paid finance charges on the purchased or leased vehicle; [PL 1991, c. 64 (AMD).]

B. All collateral charges, including, but not limited to, sales tax, registration fees and similar government charges; and [PL 2003, c. 337, §5 (AMD).]

C. Reasonable costs incurred by the consumer for towing and storage of the vehicle and for procuring alternative transportation while the vehicle could not be driven because it did not conform to any applicable express warranty. [PL 1999, c. 212, §2 (AMD).]

The provisions of this section do not affect the obligations of a consumer under a loan or sales contract or the secured interest of any secured party. The secured party shall consent to the replacement of the security interest with a corresponding security interest on a replacement motor vehicle that is accepted by the consumer in exchange for the motor vehicle, if the replacement motor vehicle is comparable in value to the original motor vehicle. If, for any reason, the security interest in the motor vehicle having a defect or condition is not able to be replaced with a corresponding security interest on a motor vehicle accepted by the consumer, the consumer is entitled to a refund. Refunds required under this section must be made to the consumer and the secured party, if any, as their interests exist at the time the refund is to be made. Similarly, refunds to a lessor and lessee must be made as their interests exist at the time the refund is to be made.
[PL 2003, c. 337, §5 (AMD).]

3. Reasonable number of attempts; presumption. There is a presumption that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if:

A. The same nonconformity has been subject to a repair attempt 3 or more times by the manufacturer or its agents or authorized dealers within the express warranty term, during the period of 3 years following the date of original delivery of the motor vehicle to a consumer or during the first 18,000 miles of operation of that motor vehicle, whichever occurs earliest, and the nonconformity continues to exist; [PL 2003, c. 337, §5 (AMD).]

A-1. [PL 1989, c. 570, §3 (RP).]

A-2. The same nonconformity has resulted in a serious failure of either the braking or steering systems in the vehicle and has been subject to a repair attempt one or more times by the manufacturer or its agents or authorized dealers during the warranty term or the appropriate time period, whichever occurs earlier; or [PL 2003, c. 337, §5 (NEW).]

B. The vehicle is out of service by reason of a repair attempt by the manufacturer, its agents or authorized dealer, of any defect or condition or combination of defects for a cumulative total of 15 or more business days during that warranty term or the appropriate time period, whichever occurs earlier. [PL 2003, c. 337, §5 (AMD).]
[PL 2003, c. 337, §5 (AMD).]

3-A. Final opportunity to repair. If the manufacturer or its agents have been unable to make the repairs necessary to conform the vehicle to the express warranties, the consumer shall notify, in writing, the manufacturer or the authorized dealer of the consumer's desire for a refund or replacement. This notice can be given after one repair attempt if the nonconformity has resulted in a serious failure of either the braking or steering systems in the vehicle. For the 7 business days following receipt by the dealer or the manufacturer of this notice, the manufacturer has a final opportunity to correct or repair any nonconformities. This final repair effort must be at a repair facility that is reasonably accessible to the consumer. This repair effort does not stay the time period within which the manufacturer must provide an arbitration hearing pursuant to section 1165.
[PL 2003, c. 337, §5 (AMD).]

4. Time limit; extension. The term of an express warranty, the 18,000 mileage term, the 3-year period following delivery and the 15-day period provided in subsection 3, paragraph B, must be extended by any period of time during which repair services are not available to the consumer because of a war, invasion or strike or fire, flood or other natural disaster.
[PL 2003, c. 337, §5 (AMD).]

5. Dealer liability. Nothing in this chapter may be construed as imposing any liability on a dealer or creating a cause of action by a consumer against a dealer under this section, except regarding any written express warranties made by the dealer apart from the manufacturer's own warranties.
[PL 1983, c. 145 (NEW).]

6. Disclosure of notice requirement. No consumer may be required to notify the manufacturer of a claim under this section, unless the manufacturer has clearly and conspicuously disclosed to the consumer, in the warranty or owner's manual, that written notification of the nonconformity is required before the consumer may be eligible for a refund or replacement of the vehicle. The manufacturer shall include with the warranty or owner's manual the name and address to which the consumer shall send the written notification.
[PL 1987, c. 395, §6 (AMD).]

6-A. Notification of dealer. Consumers may also satisfy a manufacturer's notice requirement by notifying in writing the authorized dealer of a claim under this section. The dealer shall act as the manufacturer's agent and immediately communicate to the manufacturer the consumer's claim.
[PL 1987, c. 359, §7 (NEW).]

7. Disclosure at time of resale for failure to make effective repair. A motor vehicle that is returned to the manufacturer under subsection 2 may not be resold without clear and conspicuous written disclosure to any subsequent purchaser, whether that purchaser is a consumer or a dealer, of the following information:

A. That the motor vehicle was returned to the manufacturer under this chapter; [PL 1985, c. 220, §3 (NEW).]

B. That the motor vehicle did not conform to the manufacturer's express warranties; and [PL 1985, c. 220, §3 (NEW).]

C. The ways in which the motor vehicle did not conform to the manufacturer's express warranties. [PL 1985, c. 220, §3 (NEW).]

The certificate of title of a vehicle subject to the disclosure requirements of this subsection is subject to the branding requirements of Title 29-A, section 670.
[PL 2007, c. 383, §1 (AMD).]

8. Disclosure at time of retail sale under settlement agreement. A motor vehicle that is surrendered to a manufacturer as a result of a settlement of a state-certified arbitration must, at the time that motor vehicle is first offered for retail sale to the public, be affixed with a clear and conspicuous written disclosure stating that the vehicle was the subject of a Maine Lemon Law settlement agreement.
[PL 2003, c. 337, §5 (NEW).]

SECTION HISTORY

PL 1983, c. 145 (NEW). PL 1985, c. 220, §3 (AMD). PL 1987, c. 359, §§3-7 (AMD). PL 1989, c. 570, §§2,3 (AMD). PL 1991, c. 64 (AMD). PL 1999, c. 212, §2 (AMD). PL 2003, c. 337, §5 (AMD). PL 2007, c. 383, §1 (AMD).

§1164. Affirmative defense

It is an affirmative defense to any claim under this chapter that: [PL 1983, c. 145 (NEW).]

1. Lack of impairment. An alleged nonconformity does not substantially impair the use, safety or value of the motor vehicle; or
[PL 1985, c. 220, §4 (AMD).]

2. Abuse. A nonconformity is the result of abuse, neglect or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agents or authorized dealers since delivery to the consumer.

[PL 1983, c. 145 (NEW).]

SECTION HISTORY

PL 1983, c. 145 (NEW). PL 1985, c. 220, §4 (AMD).

§1165. Informal dispute settlement

If a manufacturer has established an informal dispute settlement procedure which complies in all respects with the provisions of 16 Code of Federal Regulations, Part 703, as from time to time amended, the provisions of section 1163, subsection 2, concerning refunds or replacement shall not apply to any consumer who has not first resorted to that procedure or to state-certified arbitration. This requirement shall be satisfied 40 days after notification to the informal dispute settlement procedure of the dispute or when the procedure's duties under 16 Code of Federal Regulations, Part 703.5 (d), are completed, whichever occurs sooner. [PL 1989, c. 570, §4 (AMD).]

SECTION HISTORY

PL 1983, c. 145 (NEW). PL 1985, c. 220, §5 (AMD). PL 1989, c. 570, §4 (AMD).

§1166. Unfair or deceptive trade practice

A violation of any of the provisions of this chapter shall be considered prima facie evidence of an unfair or deceptive trade practice under Title 5, chapter 10. [PL 1985, c. 220, §6 (NEW).]

SECTION HISTORY

PL 1985, c. 220, §6 (NEW).

§1167. Attorney's fees

In the case of a consumer's successful action to enforce any liability under this chapter, a court may award reasonable attorney's fees and costs incurred in connection with the action. [PL 1985, c. 220, §7 (NEW).]

SECTION HISTORY

PL 1985, c. 220, §7 (NEW).

§1168. New car leases

For the purposes of this chapter only, the following apply to leases of new motor vehicles. [PL 1987, c. 359, §8 (NEW).]

1. Warranties. If express warranties are regularly furnished to purchasers of substantially the same kind of motor vehicles:

A. Those warranties are deemed to apply to the leased motor vehicles; and [PL 2003, c. 337, §6 (AMD).]

B. The consumer lessee is deemed to be the first purchaser of the motor vehicle for the purpose of any warranty provisions limiting warranty benefits to the original purchaser. [PL 2003, c. 337, §6 (AMD).]

[PL 2003, c. 337, §6 (AMD).]

2. Lessee's rights. The lessee of a motor vehicle has the same rights under this chapter against the manufacturer and any person making express warranties that the lessee would have under this chapter if the vehicle had been purchased by the lessee. The manufacturer and any person making express warranties have the same duties and obligations under this chapter with respect to the vehicle that the manufacturer and other person would have under this chapter if the goods had been sold to the lessee.

[PL 1987, c. 359, §8 (NEW).]

3. Termination of lease and obligations. The lessee's lease agreement with the motor vehicle lessor and all contractual obligations terminate upon a decision that the vehicle does not conform to the vehicle's express warranty and the return of the vehicle to the lessor. The lessee may not be liable to the manufacturer or motor vehicle lessor for any further costs or charges under the lease agreement. The motor vehicle lessor shall release the motor vehicle title to the manufacturer upon payment by the manufacturer under this chapter.
[PL 1999, c. 212, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 359, §8 (NEW). PL 1999, c. 212, §3 (AMD). PL 2003, c. 337, §6 (AMD).

§1169. State motor vehicle dispute arbitration and mediation

1. Neutral motor vehicle arbitration. All manufacturers shall submit to state-certified motor vehicle arbitration if arbitration is requested by the consumer within 3 years from the date of original delivery to the consumer of a motor vehicle or within the term of the express warranties, whichever comes first, and the State has accepted the application as making proper Maine Lemon Law claims. State-certified arbitration must be performed by one or more neutral arbitrators selected by the Department of the Attorney General operating in accordance with the rules adopted pursuant to this chapter. The Attorney General may contract with an independent entity to provide arbitration or the Attorney General's office may appoint neutral arbitrators. Each party to an arbitration is entitled to one rejection of a proposed arbitrator.
[PL 2003, c. 337, §7 (AMD).]

2. Written findings. Each arbitration results in a written finding of whether the motor vehicle in dispute meets the standards set forth by this chapter for vehicles that are required to be replaced or refunded. This finding must be issued within 45 days of receipt by the Department of the Attorney General of a properly completed written request by a consumer for state-certified arbitration under this section. All findings of fact issuing from a state-certified arbitration must be taken as admissible evidence of whether the standards set forth in this chapter for vehicles required to be refunded or replaced have been met in any subsequent action brought by either party ensuing from the matter considered in the arbitration. The finding reporting date may be extended by 5 days if the arbitrator seeks an independent evaluation of the motor vehicle. In addition to the other remedies provided by this chapter, the arbitrator may award a consumer whose motor vehicle is required to be replaced or refunded reasonable witness fees for a professional motor vehicle mechanic or engineer who prepared a notarized report on the condition of the vehicle or who testified at the arbitration hearing on behalf of the consumer.
[PL 1999, c. 212, §4 (AMD).]

3. Administered by Attorney General. The Department of the Attorney General shall promulgate rules governing the proceedings of state-certified arbitration which shall promote fairness and efficiency. These rules shall include, but are not limited to, a requirement of the personal objectivity of each arbitrator in the results of the dispute that that arbitrator will hear, and the protection of the right of each party to present its case and to be in attendance during any presentation made by the other party.
[PL 1989, c. 570, §5 (NEW).]

4. Consumer arbitration relief. If a motor vehicle is found by state-certified arbitration to have met the standards set forth in section 1163, subsection 2, for vehicles required to be replaced or refunded, and if the manufacturer of the motor vehicle is found to have failed to provide the refund or replacement as required, the manufacturer shall, within 21 days from the receipt of a finding, deliver the refund or replacement, including the costs and collateral charges set forth in section 1163, subsection 2, or appeal the finding in Superior Court. For good cause, a manufacturer may seek from

the Department of the Attorney General an extension of the time within which it must deliver to the consumer a replacement vehicle.
[PL 1989, c. 570, §5 (NEW).]

5. Appeal of arbitration decision. An appeal by a manufacturer or the consumer of the arbitrator's findings may not be heard unless the petition for appeal is filed with the Superior Court of the county in which the sale occurred, within 21 days of issuance of the finding of the state-certified arbitration. The appeal must be a trial de novo. The arbitrator and the Department of the Attorney General may not be parties in any such appeal and may not be called as witnesses. The Department of the Attorney General may submit an amicus curiae brief.

In the event that any state-certified arbitration resulting in an award of a refund or replacement is upheld by the court, recovery by the consumer may include continuing damages up to the amount of $25 per day for each day subsequent to the day the motor vehicle was returned to the manufacturer, pursuant to section 1163, that the vehicle was out of use as a direct result of any nonconformity not issuing from owner negligence, accident, vandalism or any attempt to repair or substantially modify the vehicle by a person other than the manufacturer, its agent or authorized dealer, provided that the manufacturer did not make a comparable vehicle available to the consumer free of charge.

In addition to any other recovery, any prevailing consumer must be awarded reasonable attorney's fees and costs. If the court finds that the manufacturer did not have any reasonable basis for its appeal or that the appeal was frivolous, the court shall double the amount of the total award to the consumer.
[PL 1999, c. 212, §4 (AMD).]

6. Consumer's rights if arbitrator denies relief. The provisions of this chapter shall not be construed to limit or restrict in any way the rights or remedies provided to consumers under this chapter or any other state law. In addition, if any consumer is dissatisfied with any finding of state-certified arbitration, the consumer shall have the right to apply to the manufacturer's informal dispute settlement procedure, if the consumer has not already done so, or may appeal that finding to the Superior Court of the county in which the sale occurred, within 21 days of the decision.
[PL 1989, c. 570, §5 (NEW).]

7. Disclosure of consumer lemon law rights. A clear and conspicuous disclosure of the rights of the consumer under this chapter shall be provided by the manufacturer to the consumer along with ownership manual materials. The form and manner of these notices shall be prescribed by rule of the Department of the Attorney General. The notice disclosures shall not include window stickers.
[PL 1989, c. 570, §5 (NEW).]

8. Manufacturer's failure to abide by arbitrator's decision. The failure of a manufacturer either to abide by the decision of state-certified arbitration or to file a timely appeal shall entitle any prevailing consumer who has brought an action to enforce this chapter to an award of no less than 2 times the actual award, unless the manufacturer can prove that the failure was beyond the manufacturer's control or can show it was the result of a written agreement with the consumer.
[PL 1989, c. 570, §5 (NEW).]

9. Consumer request for information. Upon request from the consumer, the manufacturer or dealer shall provide a copy of all repair records for the consumer's motor vehicle and all reports relating to that motor vehicle, including reports by the dealer or manufacturer concerning inspection, diagnosis or test-drives of that vehicle and any technical reports, bulletins or notices issued by the manufacturer regarding the specific make and model of the consumer's new motor vehicle as it pertains to any material, feature, component or the performance of the motor vehicle.
[PL 1989, c. 570, §5 (NEW).]

10. Penalties. It shall be prima facie evidence of an unfair trade practice under Title 5, chapter 10, for a manufacturer, within 21 days of receipt of any finding in favor of the consumer in state-certified arbitration, to fail to appeal the finding and not deliver a refund or replacement vehicle or not receive

from the Department of the Attorney General an extension of time for delivery of the replacement vehicle.
[PL 1989, c. 570, §5 (NEW).]

11. Arbitration and mediation account. To defray the costs incurred by the Department of the Attorney General in resolving consumer new and used motor vehicle disputes through the lemon law arbitration program and, for vehicles that do not qualify for arbitration, the consumer mediation service, the following fees are imposed.

A. A $1 lemon law arbitration program fee must be collected by the authorized new car dealer from the purchaser as part of each new motor vehicle sale agreement. [PL 1993, c. 415, Pt. K, §2 (NEW).]

B. A $1 consumer mediation service fee must be collected by the used car dealer from the purchaser as part of each used motor vehicle sale agreement. [PL 1993, c. 415, Pt. K, §2 (NEW).]

The Secretary of State shall adopt rules to implement this subsection. The rules must provide that the fees imposed by this subsection must be forwarded annually by the dealer or its successor to the Secretary of State and deposited in the General Fund. At the end of each fiscal year, the Department of the Attorney General shall prepare a report listing the money generated by these fees during the fiscal year and the expenses incurred in administering its consumer dispute resolution programs.
[PL 1993, c. 415, Pt. K, §2 (RPR).]

SECTION HISTORY

PL 1989, c. 570, §5 (NEW). PL 1991, c. 622, §PP1 (AMD). PL 1991, c. 624, §§2,3 (AFF). PL 1993, c. 415, §K1 (AMD). PL 1993, c. 415, §K2 (AMD). PL 1999, c. 212, §4 (AMD). PL 2003, c. 337, §7 (AMD).

CHAPTER 204

BUSINESS PRACTICES BETWEEN MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS AND DEALERS

SUBCHAPTER 1

REGULATION OF BUSINESS PRACTICES BETWEEN MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS AND DEALERS

§1171. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings: [PL 1975, c. 573 (NEW).]

1. Distributor or wholesaler. "Distributor" or "wholesaler" means any person who sells or distributes new or used motor vehicles to motor vehicle dealers or who maintains distributor representatives within this State.
[PL 1975, c. 573 (NEW).]

1-A. Designated family member. "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a new motor vehicle dealer who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealer under the terms of the owner's will, or who, in the case of an incapacitated owner of a new motor vehicle dealer, has been appointed by a court as the legal representative of the new motor vehicle dealer's property.
[PL 1981, c. 331, §1 (NEW).]

1-B. Broker. "Broker" means a person who, for a fee, commission or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle and who is not:

A. A franchised dealer or a bona fide employee of a franchised dealer when acting on behalf of a franchised dealer; [PL 1997, c. 521, §1 (NEW).]

B. A manufacturer or distributor or a bona fide employee of a manufacturer or distributor when acting on behalf of a manufacturer or distributor; or [PL 1997, c. 521, §1 (NEW).]

C. At any point in the transaction the bona fide owner of the vehicle involved in the transaction. [PL 1997, c. 521, §1 (NEW).]

[PL 1997, c. 521, §1 (NEW).]

1-C. Board. "Board" means the Maine Motor Vehicle Franchise Board created pursuant to section 1187.

[PL 2003, c. 356, §3 (NEW).]

2. Distributor branch. "Distributor branch" means a branch office maintained by a distributor or wholesaler who or which sells or distributes new or used motor vehicles to motor vehicle dealers.

[PL 1975, c. 573 (NEW).]

3. Distributor representative. "Distributor representative" means a representative employed by a distributor branch, distributor or wholesaler.

[PL 1975, c. 573 (NEW).]

3-A. Essential tool. "Essential tool" means a tool, implement or other device required by the manufacturer, including but not limited to a tablet, scanner, diagnostic machine, computer, computer program, computer software, website, website portal or similar tool, with respect to which there is no other similar tool or device available from any source other than the manufacturer or the representative of a manufacturer that will perform the function necessary to the diagnosis or repair of a manufacturer's express warranty claim on a new motor vehicle.

[PL 2013, c. 534, §1 (NEW).]

4. Factory branch. "Factory branch" means a branch office maintained by a manufacturer which manufactures or assembles motor vehicles for sale to distributors or motor vehicle dealers or which is maintained for directing and supervising the representatives of the manufacturer.

[PL 1975, c. 573 (NEW).]

5. Factory representative. "Factory representative" means a representative employed by a manufacturer or employed by a factory branch for the purpose of making or promoting the sale of motor vehicles or for supervising, servicing, instructing or contracting motor vehicle dealers or prospective motor vehicle dealers.

[PL 1975, c. 573 (NEW).]

6. Franchise. "Franchise" means an oral or written arrangement for a definite or indefinite period in which a manufacturer, distributor or wholesaler grants to a motor vehicle dealer a license to use a trade name, service mark or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or services related thereto at wholesale, retail, leasing or otherwise.

[PL 1975, c. 573 (NEW).]

7. Franchisee. "Franchisee" means a motor vehicle dealer to whom a franchise is offered or granted.

[PL 1975, c. 573 (NEW).]

8. Franchisor. "Franchisor" means a manufacturer, distributor or wholesaler who grants a franchise to a motor vehicle dealer.

[PL 1975, c. 573 (NEW).]

9. Fraud. "Fraud" includes in addition to its normal legal connotation the following: an intentionally false representation; a promise or representation not made honestly and in good faith; and an intentional failure to disclose a material fact.
[PL 1997, c. 521, §2 (AMD).]

9-A. Good faith. "Good faith" means honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade as is defined and interpreted in the Uniform Commercial Code, Title 11, section 1-1201, subsection (20).
[RR 2013, c. 2, §13 (COR).]

9-B. Line make. "Line make" means motor vehicles that are offered for sale, lease or distribution under a common name, trademark, service mark or brand name.
[PL 2009, c. 367, §1 (NEW).]

10. Manufacturer. "Manufacturer" means a person, partnership, firm, association, corporation or trust, resident or nonresident, who manufactures or assembles new motor vehicles or imports for distribution through distributors of motor vehicles or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, that is controlled by the manufacturer. The term "manufacturer" includes the terms "franchisor," "distributor," "distributor branch," "factory branch" and "factory representative."
[PL 1997, c. 521, §3 (AMD).]

11. Motor vehicle. "Motor vehicle" means any motor-driven vehicle, except motorcycles and recreational vehicles defined under section 1432, subsection 18-A, required to be registered under Title 29-A, chapter 5.
[PL 2009, c. 562, §1 (AMD).]

12. Motor vehicle dealer. "Motor vehicle dealer" means a person other than a manufacturer, distributor, distributor branch, distributor representative, factory branch or factory representative who sells or solicits or advertises the sale of new or used motor vehicles. "Motor vehicle dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court or public officers while performing their duties as public officers.
[PL 1997, c. 521, §4 (AMD).]

13. New motor vehicle. "New motor vehicle" means a motor vehicle that has not been previously sold to any person except a distributor, wholesaler or motor vehicle dealer for resale by a franchise.
[PL 1997, c. 521, §4 (AMD).]

14. Person. "Person" means a natural person, corporation, partnership, trust or other entity, and, in case of an entity, it shall include any other entity in which it has a majority interest or effectively controls as well as the individual officers, directors and other persons in active control of the activities of each such entity.
[PL 1975, c. 573 (NEW).]

15. Sale. "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein or of any franchise related thereto; and any option, subscription or other contract, or solicitation looking to a sale, or offer or attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto with or as a bonus on account of the sale of anything shall be deemed a sale of such motor vehicle or franchise.
[PL 1975, c. 573 (NEW).]

16. Successor manufacturer; predecessor manufacturer. "Successor manufacturer" means any manufacturer that succeeds, or assumes any part of the business of, another manufacturer, referred to as the "predecessor manufacturer," as the result of:

A. A change in ownership, operation or control of the predecessor manufacturer by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, court-approved sale, operation of law or otherwise; [PL 2009, c. 432, §1 (NEW).]

B. The termination, suspension or cessation of a part or all of the business operations of the predecessor manufacturer; [PL 2009, c. 432, §1 (NEW).]

C. The noncontinuation of the sale of the product line; or [PL 2009, c. 432, §1 (NEW).]

D. A change in distribution system by the predecessor manufacturer, whether through a change in distributor or the predecessor manufacturer's decision to cease conducting business through a distributor altogether. [PL 2009, c. 432, §1 (NEW).]

[PL 2009, c. 432, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1981, c. 331, §§1-3 (AMD). PL 1995, c. 65, §A14 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1997, c. 473, §1 (AMD). PL 1997, c. 521, §§1-4 (AMD). PL 2003, c. 356, §3 (AMD). PL 2009, c. 367, §1 (AMD). PL 2009, c. 432, §1 (AMD). PL 2009, c. 562, §1 (AMD). RR 2013, c. 2, §13 (COR). PL 2013, c. 534, §1 (AMD).

§1171-A. Corporate affiliates

A franchisor may not use any subsidiary corporation, affiliated corporation, other corporation in which it owns or controls more than 5% of the stock or other corporation, partnership, association or person to accomplish what would otherwise be prohibited conduct under this chapter on the part of the franchisor. This section does not limit the right of any entity included within the scope of this section to engage in reasonable and appropriate business practices in accordance with the usage of the trade in which it is engaged. [PL 1997, c. 521, §5 (NEW).]

SECTION HISTORY

PL 1997, c. 521, §5 (NEW).

§1171-B. Manufacturer; license

1. License. Effective January 1, 1999, the Secretary of State may grant a manufacturer license under the following conditions.

A. Except as provided by this section, a person may not engage in business or serve in the capacity of or act as a manufacturer or distributor without obtaining a license for each line make maintained in the State as provided in this section. [PL 2003, c. 434, §1 (AMD); PL 2003, c. 434, §37 (AFF).]

B. An application for a license for a manufacturer or distributor must be on a form prescribed by the Secretary of State. The applicant shall file a separate application for each separate line make. The application must contain the manufacturer or distributor's address of its principal place of business, the address where notices should be sent and the address of its registered agent in this State and must be accompanied by its annual report and a list of its franchised new motor vehicle dealers in this State. [PL 2003, c. 434, §1 (AMD); PL 2003, c. 434, §37 (AFF).]

C. All licensees may apply for issuance of a license for each succeeding year by complying with the application process specified by this section and rules of the Secretary of State. A license or renewal of a license is issued subject to provisions of this chapter and rules of the Secretary of State. [PL 1997, c. 521, §5 (NEW).]

D. The annual fee for a license is $1,500. [PL 2003, c. 434, §1 (AMD); PL 2003, c. 434, §37 (AFF).]

E. Manufacturers and distributors of motorcycles and recreational vehicles are exempt from the manufacturer licensing requirements. [PL 1999, c. 470, §2 (NEW).]

[PL 2003, c. 434, §1 (AMD); PL 2003, c. 434, §37 (AFF).]

2. Sanctions, denial, revocation or suspension of license. The Secretary of State shall sanction, deny, revoke or suspend a license under the following conditions.

A. The Secretary of State may deny an application for a license, revoke or suspend an outstanding license, place on probation a person whose license has been suspended or reprimand a licensee for any of the following reasons:

(1) Material misrepresentation in any application or other information filed under this section or rules of the Secretary of State; or

(2) Failure to maintain the qualifications for a license. [PL 1997, c. 521, §5 (NEW).]

B. A license may not be denied, revoked or suspended and disciplinary action may not be taken under this section except after a hearing conducted by the Secretary of State in accordance with the Maine Administrative Procedure Act. [PL 1997, c. 521, §5 (NEW).]

[PL 1997, c. 521, §5 (NEW).]

3. Civil penalty. If the board determines after a proceeding conducted in accordance with this chapter that a manufacturer or distributor is violating or has violated any provision of this chapter or any rule or order of the board issued pursuant to this chapter, the board shall levy a civil penalty of not less than $1,000 nor more than $10,000 for each violation. If the violation involves multiple transactions within a 60-day period, these multiple transactions are deemed a single violation.

In determining the amount of a civil penalty levied under this chapter, the board shall consider:

A. The seriousness of the violation, including but not limited to the nature, circumstances, extent and gravity of the prohibited acts and the harm or potential harm created to the safety of the public; [PL 1997, c. 521, §5 (NEW).]

B. The economic damage to the public caused by the violation; [PL 1997, c. 521, §5 (NEW).]

C. Any previous violations; [PL 1997, c. 521, §5 (NEW).]

D. The amount necessary to deter future violations; [PL 1997, c. 521, §5 (NEW).]

E. Efforts made to correct the violation; and [PL 1997, c. 521, §5 (NEW).]

F. Any other matters that justice may require. [PL 1997, c. 521, §5 (NEW).]

[PL 2003, c. 356, §4 (AMD).]

4. Rules. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

[PL 1997, c. 521, §5 (NEW).]

5. License fees collected. License fees collected under subsection 1, paragraph D and subsection 3 are deposited in the Highway Fund.

[PL 1997, c. 521, §5 (NEW).]

SECTION HISTORY

PL 1997, c. 521, §5 (NEW). PL 1999, c. 470, §2 (AMD). PL 2003, c. 356, §4 (AMD). PL 2003, c. 434, §1 (AMD). PL 2003, c. 434, §37 (AFF).

§1172. Advertisements

Any person who engages directly or indirectly in purposeful contacts within this State in connection with the offering or advertising for sale or has business dealings with respect to a motor vehicle within the State shall be subject to this chapter. [PL 1975, c. 573 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW).

§1173. Attorney General and civil remedies

1. Civil remedies. Any franchisee or motor vehicle dealer who suffers financial loss of money or property, real or personal, or who has been otherwise adversely affected as a result of the use or employment by a franchisor of an unfair method of competition or an unfair or deceptive act or any practice declared unlawful by this chapter may bring an action for damages and equitable relief, including injunctive relief. When the franchisee or dealer prevails, the court shall award attorney's fees to the franchisee or dealer, regardless of the amount in controversy, and assess costs against the opposing party. For the purpose of the award of attorney's fees and costs, whenever the franchisee or dealer is seeking injunctive or other relief, the franchisee or dealer may be considered to have prevailed when a judgment or other final order providing equitable relief is entered in its favor. A final judgment, order or decree rendered against a person in any civil, criminal or administrative proceeding under the United States antitrust laws, under the Federal Trade Commission Act, under the Maine Revised Statutes or under this chapter is regarded as prima facie evidence against the person subject to the conditions set forth in the United States antitrust laws, 15 United States Code, Section 16.
[PL 1997, c. 521, §6 (AMD).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1997, c. 521, §6 (AMD).

§1173-A. Mediation

(REPEALED)

SECTION HISTORY

PL 1997, c. 521, §7 (NEW). PL 2003, c. 356, §5 (RP).

§1174. Prohibited conduct

The following acts shall be deemed unfair methods of competition and unfair and deceptive practices. It shall be unlawful for any: [PL 1975, c. 573 (NEW).]

1. Damage to public. Manufacturer, factory branch, factory representative, distributor or wholesaler, distributor branch, distributor representative or motor vehicle dealer to engage in any action which is arbitrary, in bad faith or unconscionable and which causes damage to any of said parties or to the public;
[RR 2013, c. 1, §13 (COR).]

2. Coercion involving deliveries and orders. Manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or officer, agent or other representative thereof, to coerce or attempt to coerce, any motor vehicle dealer:

A. To order or accept delivery of any motor vehicle or vehicles, appliances, equipment, parts or accessories therefor, or any other commodity or commodities which such motor vehicle dealer has not voluntarily ordered, or to order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of said motor vehicles as publicly advertised by the manufacturer thereof; or [RR 2013, c. 1, §14 (COR).]

B. To order for any person any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever; [RR 2013, c. 1, §14 (COR).]
[RR 2013, c. 1, §14 (COR).]

3. Certain interference in dealer's business. Manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof:

A. To refuse to deliver in reasonable quantities and within a reasonable time after receipt of a dealer's order to any motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new motor vehicles sold or distributed by that manufacturer, distributor, distributor branch or division, factory branch or division any motor vehicles or parts or accessories to motor vehicles covered by that franchise or contract specifically publicly advertised by that manufacturer, distributor, distributor branch or division, factory branch or division or wholesale branch or division to be available for delivery. The allocation of new motor vehicles in this State must be made on a fair and equitable basis and must consider the needs of those dealerships with a relevant market area radius of more than 5 miles as defined in section 1174-A, subsection 1. The manufacturer has the burden of establishing the fairness of its allocation system. A failure by a manufacturer to provide to a dealer a fair and adequate supply and mix of vehicles, including the allocation of vehicles under any separate dealer designation, including but not limited to "premier," "business class or elite" or any other designation not available to all new motor vehicle dealers for that franchise, that results in an effort to terminate a new motor vehicle dealer for, in whole or in part, poor sales performance or market penetration may be evidence that the termination was not for good cause. The failure to deliver any motor vehicle is not considered a violation of this chapter if the failure is due to an act of God, work stoppage or delay due to a strike or labor difficulty, shortage of materials, freight embargo or other cause over which the manufacturer, distributor or any agent of the manufacturer or distributor has no control. A separate dealer agreement is not required of a new motor vehicle dealer already a party to a dealer agreement or franchise agreement for the retail sale of any particular new motor vehicle model made or distributed by a manufacturer, distributor, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof, except that a manufacturer or distributor may require a dealer to purchase special tools or equipment, stock reasonable quantities of certain parts, purchase reasonable quantities of promotional materials or participate in training programs that are reasonably necessary for the dealer to sell or service such a new motor vehicle model. Any special tools, parts or signs not used within 2 years of receipt by the dealer may be returned by the dealer to the manufacturer or distributor for a full refund of cost of those special tools, parts and signs; [PL 2013, c. 534, §2 (AMD).]

B. To coerce, or attempt to coerce, a motor vehicle dealer to enter into an agreement with that manufacturer, distributor, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof, or to do any other act prejudicial to the dealer by threatening to cancel a franchise or a contractual agreement existing between that manufacturer, distributor, distributor branch or division, factory branch or division or wholesale branch or division and that dealer or by threatening or attempting to modify a franchise during the term of the franchise or upon its renewal, if the modification substantially and adversely affects the motor vehicle dealer's rights, obligations, investment or return on investment, without giving 90 days' written notice by certified mail of the proposed modification to the motor vehicle dealer, unless the modification is required by law or board order. Within the 90-day notice period, the motor vehicle dealer may file with the board and serve notice upon the manufacturer a protest requesting a determination of whether there is good cause for permitting the proposed modification. The manufacturer has the burden of proving good cause. The board shall promptly schedule a hearing and decide the matter within 180 days from the date the protest is filed. Multiple protests pertaining to the same proposed modification must be consolidated for hearing. The proposed modification may not take effect pending the determination of the matter. In determining whether there is good cause for permitting a proposed modification, any relevant factors must be considered, including, but not limited to:

(1) The reasons for the proposed modification;

(2) Whether the proposed modification is applied to or affects all motor vehicle dealers in a nondiscriminatory manner;

(3) Whether the proposed modification will have a substantial and adverse effect upon the motor vehicle dealer's investment or return on investment;

(4) Whether the proposed modification is in the public interest;

(5) Whether the proposed modification is necessary to the orderly and profitable distribution; and

(6) Whether the proposed modification is offset by other modifications beneficial to the motor vehicle dealer.

Notice in good faith to a motor vehicle dealer of that dealer's violation of the terms or provisions of the franchise or contractual agreement does not constitute a violation of this chapter; [PL 2003, c. 356, §6 (AMD).]

C. [PL 1981, c. 331, §4 (RP).]

C-1. To discriminate, directly or indirectly, against a dealer or to take any action to terminate a dealer's franchise based solely upon the results of a survey of a dealer's customers conducted on behalf of a manufacturer, distributor, distributor branch or division, factory branch or division, wholesale branch or division or officer or agent thereof that is intended or otherwise purports to measure the performance of a dealer, except a sales contest or other recognition program based on reasonable sales and service criteria; [PL 1997, c. 521, §9 (NEW).]

C-2. To discriminate, directly or indirectly, or to use an unreasonable, arbitrary or unfair sales or other performance standard in determining a franchise motor vehicle dealer's compliance with a franchise agreement. The manufacturer has the burden of proving the reasonableness of its performance standards by clear and convincing evidence; [PL 2017, c. 217, §1 (NEW).]

C-3. To fail to compensate a motor vehicle dealer for the reconditioning expenses and for all labor and parts the manufacturer requires a dealer to use to repair a new or used vehicle subject to a recall, if the dealer holds a franchise of the same line make as the vehicle. The manufacturer shall process and pay the claim in the same manner as for a claim for warranty reimbursement under section 1176; [PL 2017, c. 217, §1 (NEW).]

C-4. To fail to compensate a motor vehicle dealer for a used motor vehicle that is subject to a do not drive order or stop sale order as required by this paragraph, if the dealer holds a franchise of the same line make as the vehicle.

(1) If a used motor vehicle is subject to a do not drive order or stop sale order and a remedy or part necessary to repair the used motor vehicle is not available within 30 days, the manufacturer shall compensate a motor vehicle dealer for each affected used motor vehicle in the inventory of the dealer at a prorated rate of at least 1.5% of the value of the used motor vehicle per month, commencing on the 30th day after the order was issued and ending on the date that the remedy and all parts necessary to repair or service the used motor vehicle are made available to the dealer. A manufacturer is not required by this subparagraph to pay more than the total value of the used motor vehicle to a motor vehicle dealer.

(2) A used motor vehicle is considered to be part of the inventory of the motor vehicle dealer under subparagraph 1 if the used motor vehicle is in the possession of the dealer on the date the do not drive order or stop sale order is issued or if the dealer obtains the used motor vehicle as a result of a trade-in or a lease return after the date that the order is issued but before the remedy and all parts necessary to repair the used motor vehicle are made available to the dealer. The manufacturer may establish the method by which a motor vehicle dealer demonstrates that

an affected motor vehicle is part of the inventory of the dealer as described in this subparagraph. The method may not be unreasonable, be unduly burdensome or require the motor vehicle dealer to provide information to the manufacturer that is not necessary for payment.

(3) A manufacturer may not reduce compensation to a motor vehicle dealer, process a charge back to a dealer, reduce the amount that the manufacturer owes a dealer under an incentive program or remove a dealer from an incentive program in response to the dealer submitting a claim or receiving compensation pursuant to this paragraph. This subparagraph does not prohibit a manufacturer from modifying or discontinuing an incentive program prospectively or from making ordinary business decisions.

(4) As used in this paragraph, the following terms have the following meanings.

(a) "Do not drive order" means a notice issued by the Federal Government or a manufacturer advising a motor vehicle dealer or owner of a motor vehicle not to drive the vehicle until the vehicle has been repaired because the vehicle has a safety defect, fails to comply with a federal motor vehicle safety standard, fails to comply with a federal emissions standard or fails to comply with an emissions standard adopted pursuant to Title 38, chapter 4.

(b) "Stop sale order" means a notice issued by the Federal Government or a manufacturer prohibiting a motor vehicle dealer from leasing or selling and delivering at wholesale or retail a motor vehicle in the inventory of the dealer until the vehicle has been repaired because the vehicle has a safety defect, fails to comply with a federal motor vehicle safety standard, fails to comply with a federal emissions standard or fails to comply with an emissions standard adopted pursuant to Title 38, chapter 4.

(c) "Value of the used motor vehicle" means the average trade-in value indicated in an independent 3rd-party guide for a used motor vehicle of the same year, make, model and mileage; [PL 2017, c. 217, §1 (NEW).]

C-5. To use any data, calculations or statistical determinations of the sales performance of a motor vehicle dealer for any purpose for any period of time during which the dealer has at least 5% of its total new and used motor vehicle inventory subject to a stop sale order or do not drive order. For purposes of this paragraph, "stop sale order" and "do not drive order" have the same meaning as in paragraph C-4; [PL 2017, c. 217, §1 (NEW).]

D. To resort to or use any false or misleading advertisement in connection with the business as a manufacturer, distributor, distributor branch or division, factory branch or division, wholesaler branch or division or officer, agent or other representative thereof or to force any dealer or association of dealers formed to advertise the sale of new motor vehicles to participate in any advertising campaign or contest or to purchase any promotional materials, display devices or display decorations or materials at the expense of the new motor vehicle dealer; [PL 1997, c. 521, §10 (AMD).]

E. To offer to sell or to sell any new motor vehicle at a lower actual price therefor than the actual price offered to any other motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device including, but not limited to, sales promotion plans or programs which result in such lesser actual price; provided, however, this paragraph shall not apply to sales to a motor vehicle dealer for resale to any unit of the United States Government; and provided, further, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer of any motor vehicle ultimately sold, donated or used by said dealer in a driver education program; and provided further, that this paragraph shall not apply so long as a manufacturer, distributor, wholesaler or any agent thereof, offers to sell or sells new motor vehicles to all motor vehicle dealers at an equal price. This paragraph shall not apply to sales by a manufacturer, distributor or wholesaler to the United States Government or any agency thereof; [RR 2013, c. 1, §15 (COR).]

F. To offer to sell or lease or to sell or lease a new motor vehicle to any person except a distributor at a lower actual price than the actual price offered and charged to a motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device that results in a lesser actual price; [PL 1997, c. 521, §11 (AMD).]

F-1. To vary or change the cost or the markup in any fashion or through any device whatsoever to any dealer for any motor vehicle of that line make based on:

(1) The purchase by any dealer of furniture or other fixtures from any particular source; or

(2) The purchase by any dealer of computers or other technology from any particular source.

A manufacturer that designates any tool as special or essential, or who requires the purchase of hardware or software, whether or not designated as an essential tool, may recover from the dealer only the actual costs of providing any such tool, the actual costs of user fees, the actual costs of maintenance fees and other costs of any nature of software for any such tool, as long as the tool is directly available only from the manufacturer or its wholly owned subsidiary; [PL 2013, c. 534, §3 (AMD).]

G. To offer to sell or to sell parts or accessories to any new motor vehicle dealer for use in that dealer's own business for the purpose of replacing or repairing the same or a comparable part or accessory, at a lower actual price therefor than the actual price charged to any other new motor vehicle dealer for similar parts or accessories for use in that dealer's own business; provided, however, in those cases where motor vehicle dealers operate and serve as wholesalers of parts and accessories to retail outlets, nothing contained in this chapter shall be construed to prevent a manufacturer, distributor, wholesaler or any agent thereof from selling to a motor vehicle dealer who operates and services as a wholesaler of parts and accessories, such parts and accessories as may be ordered by such motor vehicle dealer for resale to retail outlets, at a lower price than the actual price charged a motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories; [RR 2013, c. 1, §16 (COR).]

H. To prevent or attempt to prevent by contract or otherwise any motor vehicle dealer from changing the capital structure of that dealer's dealership or the means by or through which that dealer finances the operation of the dealership, provided the dealer at all times meets any reasonable capital standards agreed to between the dealership and the manufacturer, distributor or wholesaler, and provided such change by the dealer does not result in a change in the executive management control of the dealership; [RR 2013, c. 1, §16 (COR).]

I. To prevent or attempt to prevent by contract or otherwise a motor vehicle dealer or an officer, partner or stockholder of a motor vehicle dealer from selling or transferring any part of the interest of any of them to any other person or persons or party or parties, except that a dealer, officer, partner or stockholder does not have the right to sell, transfer or assign the franchise or power of management or control under that franchise without the consent of the manufacturer, distributor or wholesaler, which may not be unreasonably withheld.

A franchisor may not exercise a right of first refusal or other right to acquire a motor vehicle franchise from a franchisee as a means to influence the consideration or other terms offered by a person in connection with the acquisition of the franchise or to influence a person to refrain from entering into, or to withdraw from, negotiations for the acquisition of the franchise.

A franchisor may exercise a right of first refusal or other right to acquire a franchise from a franchisee if all of the following requirements are met:

(1) At the election of the franchisee, the franchisor assumes the lease for or acquires the real property on which the franchise is conducted on the same terms as those on which the real property or lease was to be sold or transferred to the acquiring transferee in connection with the sale of the franchise, unless otherwise agreed to by the franchisee and the franchisor;

(2) The franchisor assumes all of the obligations of the underlying agreement or proposal that entitles the franchisor to exercise the right of first refusal; and

(3) The franchisor reimburses the acquiring transferee of the motor vehicle franchise for the reasonable expenses paid or incurred by the transferee in evaluating and investigating the franchise and negotiating and pursuing the acquisition of the franchise prior to the franchisor's exercise of the right of first refusal or other right to acquire the franchise. For purposes of this subsection, expenses to evaluate and investigate the franchise include, in addition to any other expenses associated with the evaluation and investigation of the franchise, legal and accounting expenses and expenses associated with the evaluation and investigation of any real property on which the franchise is conducted, including, but not limited to, expenses associated with title examinations, environmental assessments and other expenses directly related to the acquisition or lease of the real property by the acquiring transferee. Upon reimbursement, any title reports or other reports or studies received by the acquiring transferee as a result of the evaluation or investigation of the franchise or the real property on which the franchise is conducted must be provided to the franchisor. The acquiring transferee shall submit an itemized list of the expenses to be reimbursed along with supporting documents, if any, to the franchisor no later than 30 days after receipt of a written request for an itemized list of the expenses from the franchisor. The franchisor shall make payment within 30 days after the exercise of the right of first refusal.

For purposes of this paragraph, "acquiring transferee" means the person who made the offer that entitles the franchisor to exercise a right of first refusal.

The right of first refusal does not apply in any right of succession established in section 1174-C unless the franchisor and either the franchisee, if the franchisee is not deceased or incapacitated, or, if the franchisee is deceased or incapacitated, the designated family member or other person authorized to succeed the franchisee pursuant to section 1174-C, subsection 1, paragraphs A to C agree to the exercise of a right of first refusal; [PL 1999, c. 766, §2 (AMD).]

J. To obtain money, goods, services, anything of value, or any other benefit from any other person with whom the motor vehicle dealer does business, on account of or in relation to the transactions between the dealer and said other person, unless such benefit is promptly accounted for and transmitted to the motor vehicle dealer; [RR 2013, c. 1, §17 (COR).]

K. To compete with a motor vehicle dealer by directly or indirectly through any subsidiary or affiliated entity holding any ownership interest in or operating or controlling any motor vehicle dealership of any line make, unless the board determines, after a hearing, that there is no independent motor vehicle dealer available in the relevant market area to own and operate a dealership of the same line make in a manner consistent with the public interest and this chapter. For purposes of this paragraph, the relevant market area must be determined exclusively by equitable principles. A manufacturer or distributor does not violate this paragraph by operating a dealership either temporarily for a reasonable period, in any case not to exceed one year, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions and except that a distributor is not considered to be competing when a wholly owned subsidiary corporation or the distributor sells motor vehicles at retail if, for at least 3 years prior to January 1, 1975, the subsidiary corporation has been a wholly owned subsidiary of the distributor and engaged in the sale of motor vehicles at retail. The provisions of this paragraph apply to a successor manufacturer or a distributor; [PL 2017, c. 217, §2 (AMD).]

L. To require a motor vehicle dealer to assent to a release assignment, novation, waiver or estoppel which would relieve any person from liability imposed by this chapter; [RR 2013, c. 1, §18 (COR).]

M. To require, coerce or attempt to coerce a franchisee to refrain from participation in the management of, investment in or the acquisition of any other line of new motor vehicle or related products as long as the franchisee maintains a reasonable line of credit for each franchise and the franchisee remains in substantial compliance with reasonable facilities requirements of the franchisor. The reasonable facilities requirements may not include any requirement that a franchisee establish or maintain exclusive facilities, personnel or display space; [PL 2003, c. 356, §7 (AMD).]

N. To require any new motor vehicle dealer to change the location of the new motor vehicle dealership or during the course of the agreement or as a condition of renewal of a franchise agreement to make any substantial alterations to the dealership premises when to do so would be unreasonable. A manufacturer may not require any substantial alterations or renovations to the dealership's premises without written assurance of a sufficient supply of new motor vehicles so as to justify an expansion in light of the current market and economic conditions or require any new motor vehicle dealer to use a specific product or service provider in relation to any dealership premises or facilities alterations or renovations unless the manufacturer reimburses the dealer for a substantial portion, which may not be less than 55%, of the cost of the product or service provider. However, a new motor vehicle dealer may elect to use a vendor selected by the dealer if the product or service is substantially similar in quality and design to that required by the manufacturer, subject to the manufacturer's approval, which may not be unreasonably withheld. A manufacturer may not require any substantial renovation or alteration to dealership premises or facilities without providing, upon a dealer's request, a dealer-specific detailed economic analysis of the impact of the alteration or renovation on sales, service and dealer profitability that substantiates the need for the alteration or renovation or require a new motor vehicle dealer to make any substantial alterations or renovations more than once every 10 years. A dealer-specific economic analysis provided by the manufacturer may not be interpreted as a guaranty of a return on investment by the dealer. Nothing in this paragraph creates an exemption from the requirements of state health and safety laws or local zoning laws or restricts the requirement to comply with alterations or renovations that are necessary to adequately sell or service a vehicle due to the technology of the vehicle. Nothing in this paragraph allows a dealer or vendor to infringe upon or impair a manufacturer's intellectual property or trademark and trade dress rights. A manufacturer is not required to reimburse a dealer for the cost of signs or other materials bearing that manufacturer's own trademark; [PL 2013, c. 534, §4 (AMD).]

O. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise and notwithstanding the terms or provisions of any waiver, unless a manufacturer has:

(1) Satisfied the notice requirement of paragraph R;

(2) Acted in good faith as defined in this chapter; and

(3) Has good cause for the cancellation, termination, nonrenewal or noncontinuance.

The manufacturer has the burden of proof for showing that it has acted in good faith, that the notice requirements have been complied with and that there was good cause for the franchise termination, cancellation, nonrenewal or noncontinuance; [PL 1997, c. 521, §15 (AMD).]

P. To terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, unless good cause exists. Good cause may not be shown or based solely on the desire of the manufacturer, distributor, distributor branch or division or officer, agent or other representative thereof for market penetration. Good cause exists for the purposes of a termination, cancellation, nonrenewal or noncontinuance when:

(1) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise, which provision is both reasonable and of material significance to the franchise relationship, as long as compliance on the part of the new motor vehicle dealer is reasonably possible and the manufacturer first acquired actual or constructive knowledge of the failure not more than 180 days prior to the date on which notification is given pursuant to paragraph R.

When the failure by the new motor vehicle dealer relates to the performance of the new motor vehicle dealer in sales or service, the failure of the new motor vehicle dealer to effectively carry out the performance provisions of the franchise is good cause if:

(a) The new motor vehicle dealer was apprised by the manufacturer in writing of that failure; the notification stated that notice was provided of failure of performance pursuant to this section; and the new motor vehicle dealer was afforded a reasonable opportunity for a period of not less than 180 days to exert good faith efforts to carry out the performance provisions;

(b) The failure thereafter continued within the period that began not more than 180 days before the date notification of termination, cancellation, noncontinuance or nonrenewal was given pursuant to paragraph R; and

(c) The new motor vehicle dealer has not substantially complied with reasonable performance criteria established by the manufacturer and communicated to the dealer; or

(3) The dealer and the manufacturer or distributor agree not to renew the franchise, although the dealer is entitled to the protections set forth in paragraph S in any termination, cancellation, nonrenewal or noncontinuance, whether by the manufacturer or the dealer; however, a termination, cancellation, nonrenewal or noncontinuance resulting from a sale of the assets or stock of the dealer or when a franchisee of motor homes, as defined in Title 29-A, section 101, subsection 40, voluntarily terminates a motor home franchise is exempt from the requirements of paragraph S; [PL 2009, c. 367, §3 (AMD).]

Q. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise or notwithstanding the terms or provisions of any waiver, based on any of the following items, which do not constitute good cause:

(1) The change of ownership of the new motor vehicle dealer's dealership. This subparagraph does not authorize any change in ownership that would have the effect of the sale of the franchise without the manufacturer's or distributor's written consent. This consent may not be unreasonably withheld. The burden of establishing the reasonableness is on the manufacturer or distributor;

(2) The fact that the new motor vehicle dealer unreasonably refused to purchase or accept delivery of any new motor vehicle parts, accessories or any other commodity or services not ordered by the new motor vehicle dealer, except that the manufacturer may require that the dealer stock a reasonable supply of parts or accessories as required to perform campaign, recall or warranty work and except that this provision is not intended to modify or supersede any requirement of the franchise that dealers market a representative line of those motor vehicles that the manufacturer is publicly advertising;

(3) The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of or holds a license for the sale of another make or line of new motor vehicle or that the new motor vehicle dealer has established another make or line of new motor vehicle in the same dealership facilities as those of the manufacturer, provided that the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicle and that

the new motor vehicle dealer remains in substantial compliance with reasonable facilities' requirements of the manufacturer;

(4) The fact that the new motor vehicle dealer sells or transfers ownership of the dealership or sells or transfers capital stock in the dealership to the new motor vehicle dealer's spouse, son or daughter and the manufacturer shall give effect to that change in the ownership in the franchise unless the transfer of the new motor vehicle dealer's license is denied or the new owner is unable to license. This paragraph does not authorize any changes in ownership that have the effect of the sale of the franchise without the manufacturer's or distributor's written consent. This consent may not be unreasonably withheld. The burden of establishing the reasonableness is on the manufacturer or distributor; or

(4-A) The fact that there is a survey or surveys of a dealer's customers conducted by or on behalf of the manufacturer, distributor, distributor branch or distributor representative, factory branch or factory representative that is intended or otherwise purports to measure the performance of a dealer; [PL 1997, c. 521, §17 (AMD).]

R. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, without first furnishing notification of the termination to the new motor vehicle dealer as follows:

(1) Notification under this paragraph must be in writing, must be by certified mail or personally delivered to the new motor vehicle dealer and must contain:

(a) A statement of intention to terminate the franchise, cancel the franchise or not to renew the franchise;

(b) A statement of the reasons for the termination, cancellation or nonrenewal; and

(c) The date on which the termination, cancellation or nonrenewal takes effect;

(2) The notice described in this paragraph may not be less than 90 days prior to the effective date of the termination, cancellation or nonrenewal; or

(3) The notice described in this paragraph may not be less than 15 days prior to the effective date of the termination, cancellation or nonrenewal with respect to any of the following:

(a) Insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;

(b) The business operations of the franchised motor vehicle dealer have been abandoned or closed for 7 consecutive business days unless the closing is due to an act of God, strike or labor difficulty;

(c) Conviction of or plea of nolo contendere of a franchised motor vehicle dealer, or one of its principal owners, of any Class A, B or C crime, as defined in the Maine Criminal Code, Title 17-A, in which a sentence of imprisonment of one year or more is imposed under Title 17-A, sections 1603 and 1604; or

(d) Revocation of the franchised motor vehicle dealer's license pursuant to Title 29-A, section 903; [PL 2019, c. 113, Pt. C, §4 (AMD).]

S. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer without providing fair and reasonable compensation to the licensed new motor vehicle dealer for:

(1) All unsold new model motor vehicle inventory of the current and previous model year purchased from the manufacturer;

(2) Supplies and parts purchased from the manufacturer or its approved sources that are listed in the current parts catalog or identical to a part in the current parts catalog except for the number assigned to the part, and that can be used for repairs under the terms of a manufacturer's new motor vehicle warranty;

(3) Equipment and furnishings purchased from the manufacturer or its approved sources less a reasonable allowance for normal wear and tear; and

(4) Special tools and automotive service equipment owned by the dealer that were designated as special tools or equipment and required by and purchased from the manufacturer or its approved sources, if the tools and equipment are in useable and good condition, normal wear and tear excepted.

Except for a termination related to a conviction and imprisonment for a felony involving moral turpitude that is substantially related to the qualifications, functions or duties of a franchisee, if the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to one year's rent or, if the new motor vehicle dealer owns the facilities, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the reasonable rental value of the facilities for one year, prorated for each line make at the facility based on total sales volume of each line make at the facility for the calendar year prior to the involuntary termination, cancellation, noncontinuance or nonrenewal. The manufacturer shall pay the new motor vehicle dealer the sum equivalent to the rent or the reasonable rental value of the facilities when possible within 90 days of the effective date of the termination, cancellation, noncontinuance or nonrenewal if the new motor vehicle dealer has notified the manufacturer of the amount of rent or reasonable rental value to which the dealer is entitled.

The fair and reasonable compensation for the items listed in subparagraphs (1) to (4) may in no instance be less than the acquisition price and must be paid by the manufacturer when possible within 90 days of the effective date of the termination, cancellation, noncontinuance or nonrenewal, provided that the new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer. These items must be paid for by the manufacturer when possible within 90 days of the effective date of the termination, cancellation, noncontinuance or nonrenewal.

In order to be entitled to rental assistance from the manufacturer, the dealer is obligated to mitigate rental assistance by listing the dealership facilities for lease or sublease with a licensed real estate agent within 30 days after the effective date of the termination of the franchise and thereafter by reasonably cooperating with the real estate agent in the performance of the agent's duties and responsibilities. In the event that the dealer is able to lease or sublease the dealership facilities on terms that are consistent with local zoning requirements to preserve the right to sell motor vehicles from the dealership facilities and the terms of the dealer's lease, the dealer is required to pay the manufacturer the net revenue received from such mitigation, but only following receipt of rental assistance payments pursuant to this paragraph and only up to the total amount of rental assistance payments that the dealer has received. If the facility is used for the operations of more than one franchise, the dealer does not have a duty to list the dealership facilities, and the reasonable rental assistance must be paid based upon the portion of the facility used by the franchise being terminated, cancelled, noncontinued or nonrenewed for one year unless the space is filled with another product line, in which case no rental payments are required.

In lieu of any injunctive relief or any other damages, if the manufacturer fails to prove there was good cause for the termination, cancellation, noncontinuance or nonrenewal, or if the manufacturer fails to prove that it acted in good faith, then the manufacturer may pay the new motor vehicle

dealer fair and reasonable compensation for the value of the dealership as an ongoing business; [PL 2009, c. 367, §4 (AMD).]

T. To act as, offer to act as or purport to be a broker; [PL 2013, c. 534, §5 (AMD).]

U. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new motor vehicle dealer not less than 180 days prior to the effective date of such termination, cancellation, noncontinuance or nonrenewal that occurs in whole or in part as a result of any change in ownership, operation or control of all or any part of the business of the manufacturer, whether by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, operation of law or otherwise; or the termination, suspension or cessation of a part or all of the business operations of the manufacturer; or discontinuance of the sale of the product line or a change in distribution system by the manufacturer, whether through a change in distributors or the manufacturer's decision to cease conducting business through a distributor altogether.

In addition to any other payments or requirements in this chapter, if a termination, cancellation, noncontinuance or nonrenewal was premised in whole or in part upon any of the occurrences set forth in this paragraph, the manufacturer is liable to the licensed new motor vehicle dealer in an amount at least equivalent to the fair market value of the franchise arising from the termination, cancellation, noncontinuance or nonrenewal of the franchise.

(1) If liability is based on the fair market value of the franchise, which must include diminution in value of the facilities leased or owned by the dealer as a result of the loss of the franchise to operate in the facilities, the fair market value must be computed on the date in divisions (a) to (c) that yields the highest fair market value:

(a) The date the manufacturer announces the action that results in termination, cancellation, noncontinuance or nonrenewal;

(b) The date the action that results in termination, cancellation, noncontinuance or nonrenewal first becomes general knowledge; or

(c) The date 12 months prior to the date on which the notice of termination, cancellation, noncontinuance or nonrenewal is issued.

If the termination, cancellation, noncontinuance or nonrenewal is due to the manufacturer's change in distributors, the manufacturer may avoid paying fair market value to the licensed new motor vehicle dealer if the new distributor or the manufacturer offers the dealer a franchise agreement with terms acceptable to the dealer.

If an entity other than the original manufacturer of a line make becomes the manufacturer for the line make and intends to distribute motor vehicles of that line make in this State, that entity shall honor the franchise agreements of the original manufacturer and its licensed new motor vehicle dealers or offer those dealers of that line make, or of motor vehicles historically of that line make that are substantially similar in their design and specifications and are manufactured in the same facility or facilities, a new franchise agreement with substantially similar terms and conditions; or [PL 2015, c. 329, Pt. C, §1 (AMD); PL 2015, c. 329, Pt. C, §4 (AFF).]

V. Except as expressly authorized in this paragraph, to require a motor vehicle dealer to provide its customer lists, customer information, consumer contact information, transaction data or service files.

(1) The following definitions apply to this paragraph.

(a) "Dealer management computer system" means a computer hardware and software system that is owned or leased by the dealer, including a dealer's use of web applications, software or hardware, whether located at the dealership or provided at a remote location,

and that provides access to customer records and transactions by a motor vehicle dealer and that allows the motor vehicle dealer timely information in order to sell vehicles, parts or services through that motor vehicle dealership.

(b) "Dealer management computer system vendor" means a seller or reseller of dealer management computer systems, a person that sells computer software for use on dealer management computer systems or a person that services or maintains dealer management computer systems, but only to the extent the seller, reseller or other person listed is engaged in such activities.

(c) "Security breach" means an incident of unauthorized access to and acquisition of records or data containing dealership or dealership customer information through which unauthorized use of the dealership or dealership customer information has occurred or is reasonably likely to occur or that creates material risk of harm to a dealership or a dealership's customer. An incident of unauthorized access to and acquisition of records or data containing dealership or dealership customer information, or an incident of disclosure of dealership customer information to one or more 3rd parties that was not specifically authorized by the dealer or customer, constitutes a security breach.

(2) Any requirement by a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof that a new motor vehicle dealer provide its customer lists, customer information, consumer contact information, transaction data or service files as a condition of the dealer's participation in any incentive program or contest, for a customer or dealer to receive any incentive payments otherwise earned under an incentive program or contest, for the dealer to obtain customers or customer leads or for the dealer to receive any other benefits, rights, merchandise or services that the dealer would otherwise be entitled to obtain under the franchise or any other contract or agreement or that are customarily provided to dealers is voidable at the option of the dealer, unless all of the following conditions are satisfied:

(a) The customer information requested relates solely to the specific program requirements or goals associated with such manufacturers' or distributors' own new vehicle makes or specific vehicles of their own make that are certified preowned vehicles and the dealer is not required to provide general customer information or other information related to the dealer;

(b) The requirement is lawful and would not require the dealer to allow any customer the right to opt out under the federal Gramm-Leach-Bliley Act, 15 United States Code, Chapter 94, Subchapter I; and

(c) The dealer is not required to allow the manufacturer, distributor or a 3rd party to have direct access to the dealer's dealer management computer system, but the dealer is instead permitted to provide the same dealer, consumer or customer data or information specified by the manufacturer or distributor by timely obtaining and pushing or otherwise furnishing the required data in a widely accepted file format in accordance with subparagraph (11).

(3) Nothing contained in this section limits the ability of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof to require that the dealer provide, or use in accordance with law, customer information related solely to that manufacturer's or distributor's own vehicle makes to the extent necessary to:

(a) Satisfy any safety or recall notice obligations;

(b) Complete the sale and delivery of a new motor vehicle to a customer;

(c) Validate and pay customer or dealer incentives; or

(d) Submit to the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof claims under section 1176.

(4) At the request of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof, a dealer may be required to provide customer information related solely to that manufacturer's, distributor's, wholesaler's, distributor branch's or division's, factory branch's or division's or wholesale branch's or division's own vehicle makes for reasonable marketing purposes, market research, consumer surveys, market analysis and dealership performance analysis, except that the dealer is required to provide such customer information only if the provision of the information is lawfully permissible, the requested information relates solely to specific program requirements or goals associated with the manufacturer's or distributor's own vehicle makes and does not require the dealer to provide general customer information or other information related to the dealer and the requested information can be provided without requiring that the dealer allow any customer the right to opt out under the federal Gramm-Leach-Bliley Act, 15 United States Code, Chapter 94, Subchapter I.

(5) A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent, dealer management computer system vendor or other representative thereof, or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agency, dealer management computer system vendor or other representative thereof, may not access or obtain dealer or customer data from or write dealer or customer data to a dealer management computer system used by a motor vehicle dealer or require or coerce a motor vehicle dealer to use a particular dealer management computer system, unless the dealer management computer system allows the dealer to reasonably maintain the security, integrity and confidentiality of the data maintained in the system. A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent, dealer management computer system vendor or other representative thereof, or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agency, dealer management computer system vendor or other representative thereof, may not prohibit a dealer from providing a means to regularly and continually monitor the specific data accessed from or written to the dealer's dealer management computer system or from complying with applicable state and federal laws, rules and regulations. Nothing in this subparagraph imposes an obligation on a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent, dealer management computer system vendor or other representative thereof, or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agency, dealer management computer system vendor or other representative thereof, to provide such capability.

(6) A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor, or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor may not access or use customer or prospect information maintained in a dealer management computer system used by a motor vehicle dealer for purposes of soliciting a customer or prospect on behalf of, or directing a customer or prospect to, any other dealer. The limitations in this subsection do not apply to:

(a) A customer that requests a reference to another dealership;

(b) A customer that moves more than 60 miles away from the dealer whose data were accessed;

(c) Customer or prospect information that was provided to the dealer by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof; or

(d) Customer or prospect information obtained by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof in which the dealer agrees to allow the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor the right to access and use the customer or prospect information maintained in the dealer's dealer management computer system for purposes of soliciting a customer or prospect of the dealer on behalf of or directing a customer or prospect to any other dealer in a separate, stand-alone written instrument dedicated solely to such an authorization.

(7) A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor may not provide access to customer or dealership information maintained in a dealer management computer system used by a motor vehicle dealer without first obtaining the dealer's prior express written consent, revocable by the dealer upon 5 days' written notice, to provide such access. Prior to obtaining such consent and prior to entering into an initial contract or renewal of a contract with a dealer, the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor shall provide to the dealer a written list of all specific 3rd parties to whom any data obtained from the dealer have actually been provided within the 12-month period ending November 1st of the prior year. The list must describe the scope and specific fields of the data provided. In addition to the initial list, a dealer management computer system vendor or a 3rd party acting on behalf of or through a dealer management computer system vendor must provide to the dealer an annual list of 3rd parties to whom such data are actually being provided on November 1st of each year and to whom the data have actually been provided in the preceding 12 months and describe the scope and specific fields of the data provided. Lists required pursuant to this subparagraph must be provided to the dealer by January 1st of each year. A dealer management computer system vendor's contract that directly relates to the transfer or accessing of dealer or dealer customer information must conspicuously state: "NOTICE TO DEALER: THIS AGREEMENT RELATES TO THE TRANSFER AND ACCESSING OF CONFIDENTIAL INFORMATION AND CONSUMER-RELATED DATA." Consent in accordance with this subparagraph does not change any such person's obligations to comply with the terms of this section and any additional state or federal laws,

rules and regulations. A dealer management computer system vendor may not refuse to provide a dealer management computer system to a motor vehicle dealer if the dealer refuses to provide consent under this subparagraph.

(8) A dealer management computer system vendor or 3rd party acting on behalf of or through a dealer management computer system vendor may not access or obtain data from or write data to a dealer management computer system used by a motor vehicle dealer unless the dealer management computer system allows the dealer to reasonably maintain the security, integrity and confidentiality of customer and dealer information maintained in the system. A dealer management computer system vendor or 3rd party acting on behalf of or through a dealer management computer system vendor may not prohibit a dealer from providing a means to regularly and continually monitor the specific data accessed from or written to the dealer management computer system and from complying with applicable state and federal laws, rules and regulations. This subparagraph does not impose on a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor an obligation to provide such capability.

(9) A manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor that has electronic access to customer or motor vehicle dealership data in a dealer management computer system used by a motor vehicle dealer shall provide notice to the dealer of any security breach of dealership or customer data obtained through that access, which at the time of the security breach was in the possession or custody of the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party. The disclosure notification must be made without unreasonable delay by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party following discovery by the person, or notification to the person, of the security breach. The disclosure notification must describe measures reasonably necessary to determine the scope of the security breach and corrective actions that may be taken in an effort to restore the integrity, security and confidentiality of the data; these measures and corrective actions must be implemented as soon as practicable by all persons responsible for the security breach.

(10) Nothing in this section precludes, prohibits or denies the right of the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof to receive customer or dealership information from a motor vehicle dealer for the purposes of complying with federal or state safety requirements or implement any steps related to manufacturer recalls at such times as necessary in order to comply with federal and state requirements or manufacturer recalls as long as receiving this information from the dealer does not impair, alter or reduce the security, integrity and confidentiality of the customer and dealership information collected or generated by the dealer.

(11) Notwithstanding any of the terms or provisions contained in this subparagraph or in any consent, authorization, release, novation, franchise or other contract or agreement, whenever any manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor requires that a new motor vehicle dealer provide any dealer, consumer or customer data or information through direct access to a dealer's dealer management computer system, the dealer is not required to provide, and may not be required to consent to provide in a written agreement, that direct access to its dealer management computer system. The dealer may instead provide the same dealer, consumer or customer data or information specified by the requesting party by timely obtaining and furnishing the requested data to the requesting party in a widely accepted file format except that, when a dealer would otherwise be required to provide direct access to its dealer management computer system under the terms of a consent, authorization, release, novation, franchise or other contract or agreement, a dealer that elects to provide data or information through other means may be charged a reasonable initial setup fee and a reasonable processing fee based on actual incremental costs incurred by the party requesting the data for establishing and implementing the process for the dealer. A term or provision contained in a consent, authorization, release, novation, franchise or other contract or agreement that is inconsistent with this subsection is voidable at the option of the dealer.

(12) Notwithstanding the terms or conditions of any consent, authorization, release, novation, franchise or other contract or agreement, a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor that has electronic access to consumer or customer data or other information in a dealer management computer system used by a new motor vehicle dealer, or who has otherwise been provided consumer or customer data or other information by the dealer, shall fully indemnify and hold harmless a dealer from whom it has acquired that consumer or customer data or other information from all damages, costs and expenses incurred by that dealer, including, but not limited to, judgments, settlements, fines, penalties, litigation costs, defense costs, court costs and attorney's fees arising out of complaints, claims, civil or administrative actions and, to the fullest extent allowable under the law, governmental investigations and prosecutions to the extent caused by the access, storage, maintenance, use, sharing, disclosure or retention of that dealer's consumer or customer data or other information by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor or a 3rd party acting on behalf of or through a manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division or officer, agent or other representative thereof or dealer management computer system vendor. [PL 2015, c. 329, Pt. C, §2 (AMD); PL 2015, c. 329, Pt. C, §4 (AFF).]

W. [PL 2015, c. 329, Pt. C, §3 (RP); PL 2015, c. 329, Pt. C, §4 (AFF).]
[PL 2019, c. 113, Pt. C, §4 (AMD).]

3-A. Successor manufacturer. Successor manufacturer, for a period of 5 years from the date of acquisition of control by that successor manufacturer, to offer a franchise to any person for a line make of a predecessor manufacturer in any franchise market area in which the predecessor manufacturer

previously cancelled, terminated, noncontinued, failed to renew or otherwise ended a franchise agreement with a franchisee who had a franchise facility in that franchise market area without first offering the franchise to the former franchisee at no cost, unless:

A. Within 30 days of the former franchisee's cancellation, termination, noncontinuance or nonrenewal, the predecessor manufacturer had consolidated the line make with another of its line makes for which the predecessor manufacturer had a franchisee with a then-existing franchise facility in that franchise market area; [PL 2009, c. 432, §2 (NEW).]

B. The successor manufacturer has paid the former franchisee the fair market value of the former franchisee's motor vehicle dealership in accordance with this subsection; or [PL 2009, c. 432, §2 (NEW).]

C. The successor manufacturer proves that the former franchisee is not competent to be a franchisee. [PL 2009, c. 432, §2 (NEW).]

For purposes of this subsection, "franchise market area" means the area located within 15 miles of the territorial limits of the municipality in which the former franchisee's franchise facility was located.

For purposes of this subsection, the fair market value of a former franchisee's motor vehicle dealership must be calculated as of the date of the following that yields the highest fair market value: the date the predecessor manufacturer announced the action that resulted in the cancellation, termination, noncontinuance or nonrenewal; the date the action that resulted in cancellation, termination, noncontinuance or nonrenewal became final; or the date 12 months prior to the date that the predecessor manufacturer announced the action that resulted in the cancellation, termination, noncontinuance or nonrenewal;
[PL 2017, c. 217, §3 (AMD).]

4. Dealer violations. Motor vehicle dealer:

A. To require a purchaser of a new motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, equipment, parts or accessories not desired or requested by the purchaser; provided, however, that this prohibition does not apply as to special features, appliances, equipment, parts or accessories that are already installed on the car when received by the dealer; provided further, that the motor vehicle dealer prior to the consummation of the purchase reveals to the purchaser the substance of this paragraph; [PL 1995, c. 269, §1 (AMD).]

B. To represent and sell as a new motor vehicle, without disclosure, any motor vehicle that has been used and operated for demonstration purposes or is otherwise a used motor vehicle; [PL 1997, c. 521, §20 (AMD).]

C. To resort to or use any false or misleading advertisement in connection with business as a motor vehicle dealer; [PL 1997, c. 521, §20 (AMD).]

D. To fail to disclose conspicuously in writing the motor vehicle dealer's policy in relation to the return of deposits received from any person. A dealer shall require that a person making a deposit sign the form on which the disclosure appears; [RR 2009, c. 1, §12 (COR).]

E. To fail to disclose in writing to a purchaser of a new motor vehicle before entering into a sales contract that the new motor vehicle has been damaged and repaired if the dealer has knowledge of the damage or repair and if the damage calculated at the retail cost of repair to the new motor vehicle exceeds 5% of the manufacturer's suggested retail price, except that a new motor vehicle dealer is not required to disclose to a purchaser that any glass, bumpers, audio system, instrument panel, communication system or tires were damaged at any time if the glass, bumpers, audio system, instrument panel, communication system or tires have been replaced with original or comparable equipment; or [RR 2009, c. 1, §13 (COR).]

F. To fail to disclose in writing to a potential purchaser or lessee of a motor vehicle that the motor vehicle had previously been returned to the manufacturer pursuant to either a lemon law arbitration decision or a lemon law settlement agreement in a state other than this State if known to the dealer. If that information is known to the dealer, this disclosure must be clear and conspicuous. For the purpose of this section, "lemon law" refers to any state's certified dispute settlement law that establishes a state-certified arbitration procedure to settle consumer complaints that the consumer had been sold a vehicle that did not conform to all manufacturer express warranties and that the manufacturer had not been able to repair or correct the defect or condition that impaired the vehicle; and [PL 2017, c. 217, §4 (AMD).]

[PL 2017, c. 217, §4 (AMD).]

5. Discovered recall and warranty repairs. Manufacturer to deny a claim by a motor vehicle dealer for performing a covered warranty repair or required recall repair on a vehicle if the dealer discovered the need for the repair during the course of a separate repair request by the customer.

[PL 2017, c. 217, §5 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1979, c. 498, §1 (AMD). PL 1981, c. 331, §§4-6 (AMD). PL 1981, c. 470, §§A23-A25 (AMD). PL 1995, c. 65, §A15 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 269, §1 (AMD). PL 1997, c. 521, §§8-22 (AMD). PL 1999, c. 766, §§1,2 (AMD). PL 2003, c. 356, §§6-8 (AMD). RR 2009, c. 1, §§12, 13 (COR). PL 2009, c. 53, §1 (AMD). PL 2009, c. 367, §§2-6 (AMD). PL 2009, c. 432, §2 (AMD). RR 2013, c. 1, §§13-20 (COR). RR 2013, c. 2, §14 (COR). PL 2013, c. 534, §§2-6 (AMD). PL 2015, c. 329, Pt. C, §§1-3 (AMD). PL 2015, c. 329, Pt. C, §4 (AFF). PL 2017, c. 217, §§1-5 (AMD). PL 2019, c. 113, Pt. C, §4 (AMD).

§1174-A. Limitations on establishing or relocating dealerships

No new motor vehicle dealership may be established and no existing motor vehicle dealership may be relocated, except as follows. [PL 1981, c. 331, §7 (NEW).]

1. Notification. In the event that a manufacturer seeks to enter into a franchise establishing an additional new motor vehicle dealership or relocating an existing new motor vehicle dealership, within or into a relevant market area where the same line make is then represented, the manufacturer shall, in writing, first notify each new motor vehicle dealer in the line make in the relevant market area of the intention to establish an additional dealership or to relocate an existing dealership within or into that market area. The relevant market area shall be a radius of 5 miles around an existing dealership in the following cities: Augusta; Auburn; Bangor; Biddeford; Brewer; Falmouth; Lewiston; Portland; Saco; South Portland; Waterville; and Westbrook. The relevant market area shall be a radius of 10 miles around all other existing dealerships.

Within 30 days of receiving the notice or within 30 days after the end of any appeal procedure provided by the manufacturer, any such new motor vehicle dealership may file a complaint in the Superior Court of the county in which the dealership is located, protesting the establishing or relocating of the new motor vehicle dealership. When such a complaint is filed, the manufacturer may not establish or relocate the proposed new motor vehicle dealership until a hearing has been held on the merits, nor thereafter, if the court has determined that there is good cause for not permitting the new motor vehicle dealership. For the purposes of this section, the reopening in a relevant market area of a new motor vehicle dealership that has not been in operation for one year or more is deemed the establishment of an additional new motor vehicle dealership.

[PL 1981, c. 331, §7 (NEW).]

2. Good cause. In determining whether good cause has been established for not entering into or relocating an additional franchise for the same line make, the court shall take into consideration the existing circumstances, including, but not limited to:

A. Permanency of the investment of both the existing and proposed new motor vehicle dealers; [PL 1981, c. 331, §7 (NEW).]

B. Effect on the retail new motor vehicle business and the consuming public in the relevant market area; [PL 1981, c. 331, §7 (NEW).]

C. Whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established; [PL 1981, c. 331, §7 (NEW).]

D. Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of the line make in the market area which includes the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts and qualified service personnel; [PL 1981, c. 331, §7 (NEW).]

E. Whether the establishment of an additional new motor vehicle dealership would increase competition and therefore be in the public interest; and [PL 1981, c. 331, §7 (NEW).]

F. The effect on the relocating dealer as a result of not being permitted to relocate. [PL 1981, c. 331, §7 (NEW).]

[PL 1981, c. 331, §7 (NEW).]

SECTION HISTORY

PL 1981, c. 331, §7 (NEW).

§1174-B. Transportation damages

1. Liability of a new dealer after acceptance. Notwithstanding the terms, provisions or conditions of any agreement or franchise, the new motor vehicle dealer is solely liable for damages to new motor vehicles after acceptance from the carrier and before delivery to the ultimate purchaser.
[PL 1981, c. 331, §7 (NEW).]

2. Liability of manufacturer. Notwithstanding the terms, provisions or conditions of any agreement or franchise, the manufacturer is liable for all damages to motor vehicles before delivery to a carrier or transporter.
[PL 1981, c. 331, §7 (NEW).]

3. Additional liability of dealer. The new motor vehicle dealer is liable for damages to new motor vehicles after delivery to the carrier only if the dealer selects the method of transportation, mode of transportation and the carrier. In all other instances, the manufacturer is liable for carrier-related new motor vehicle damage, except that the new motor vehicle dealer must annotate the bill of lading or other carrier document indicating damages observed at the time of delivery to the motor vehicle dealer, and that the dealer shall promptly notify the manufacturer of any concealed damage discovered after delivery.
[PL 1981, c. 331, §7 (NEW).]

SECTION HISTORY

PL 1981, c. 331, §7 (NEW).

§1174-C. Survivorship

1. Right of family member. The right of a designated family member to succeed in dealer ownership is governed by the following provisions.

A. A designated family member of a deceased, incapacitated or retiring new motor vehicle dealer, which family member has been designated under the will of the dealer or in writing to the manufacturer, distributor, factory branch, factory representative, wholesaler, distributor branch or distributor representative, may succeed the dealer in the ownership or operation of the dealership

under the existing franchise or distribution agreement if the designated family member gives the manufacturer, distributor, factory branch, factory representative, wholesaler, distributor branch or distributor representative of new motor vehicles written notice of the intention to succeed to the dealership within 120 days of the dealer's death, incapacity or retirement and unless there exists good cause for refusal to honor the succession on the part of the manufacturer, factory branch, factory representative, distributor, wholesaler, distributor branch or distributor representative. The manufacturer has the burden of demonstrating good cause by clear and convincing evidence. [PL 2017, c. 217, §6 (AMD).]

B. The manufacturer, distributor, factory branch, factory representative or importer may request and the designated family member shall provide, upon the request, on forms provided for that purpose, personal and financial data that is reasonably necessary to determine whether the succession shall be honored. [PL 1981, c. 331, §7 (NEW).]

C. In addition to a designated family member, a person who has been a general manager or other employee with significant and varied managerial experience for a dealer for at least 5 years may be designated by that dealer to succeed in dealer ownership, and the designee has the same rights and status as a designated family member. [PL 1997, c. 521, §24 (NEW).]

[PL 2017, c. 217, §6 (AMD).]

2. Refusal to honor; notice required. The refusal to honor the succession to ownership is governed by the following provisions.

A. If a manufacturer, distributor, factory branch, factory representative or importer believes that good cause exists for refusing to honor the succession to the ownership and operation of a dealership by a family member of a deceased or incapacitated new motor vehicle dealer under the existing franchise agreement, the manufacturer, distributor, factory branch, factory representative or importer may, within 60 days of receipt of the information requested in subsection 1, paragraph B, serve upon the designated family member notice of its refusal to honor the succession or its intent to discontinue the existing franchise agreement with the dealership no sooner than 90 days from the date the notice is served. [PL 1981, c. 331, §7 (NEW).]

B. The notice shall state the specific grounds for the refusal to honor the succession and of its intent to discontinue the existing franchise agreement with the dealership no sooner than 90 days from the date the notice is served. [PL 1981, c. 331, §7 (NEW).]

C. If notice of refusal and discontinuance is not timely served upon the family member, the franchise agreement shall continue in effect subject to termination only as otherwise permitted by this section. [PL 1981, c. 331, §7 (NEW).]

[PL 1981, c. 331, §7 (NEW).]

3. Written designation of succession unaffected. This section does not preclude a new motor vehicle dealer from designating any person as his successor by written instrument filed with the manufacturer, distributor, factory branch, factory representative or importer.

[PL 1981, c. 331, §7 (NEW).]

SECTION HISTORY

PL 1981, c. 331, §7 (NEW). PL 1997, c. 521, §§23,24 (AMD). PL 1997, c. 521, §24 (AMD). PL 2003, c. 356, §9 (AMD). PL 2017, c. 217, §6 (AMD).

§1174-D. Compensation for new vehicles with safety defect

1. Compensation required. A manufacturer must compensate a motor vehicle dealer pursuant to 49 United States Code, Section 30116 (2016). A manufacturer is not required by this subsection to pay more than the total value of the affected new motor vehicle to a dealer.

[PL 2017, c. 217, §7 (NEW).]

2. Civil action; statute of limitations. If a manufacturer refuses to comply with subsection 1, the motor vehicle dealer may file a complaint with the board pursuant to section 1188 or bring a civil action to recover damages, court costs and reasonable attorney's fees. Notwithstanding section 1183, the action must be commenced within 3 years after the cause of action accrues.
[PL 2017, c. 217, §7 (NEW).]

SECTION HISTORY

PL 2017, c. 217, §7 (NEW).

§1175. Delivery and preparation obligations; product liability and implied warranty complaints

Every manufacturer shall specify to the dealer the delivery and preparation obligations of its motor vehicle dealers prior to delivery of new motor vehicles to retail buyers. The delivery and preparation obligations of its motor vehicle dealers and a schedule of the compensation to be paid to its motor vehicle dealers for the work and services they shall be required to perform in connection with such delivery and preparation obligations shall constitute any such dealer's only responsibility for product liability as between such dealer and such manufacturer. The compensation as set forth on said schedule shall be reasonable. [PL 1975, c. 573 (NEW).]

In any action or claim brought against the dealer on a product liability complaint in which it is later determined that the manufacturer is liable, the dealer shall be entitled, from the manufacturer, to receive its reasonable costs and attorney's fees incurred in defending the claim or action. [PL 1979, c. 498, §2 (NEW).]

In any action or claim brought against the dealer on a breach of implied warranty complaint in which it is later determined that the manufacturer is liable, the dealer shall be entitled, from the manufacturer, to receive its reasonable costs and attorney's fees incurred in defending the claim or action. In any such implied warranty action, a dealer shall have the rights of a buyer under Title 11, section 2-607, subsection (5). [PL 1985, c. 221 (NEW).]

The court shall consider the dealer's share in the responsibility for the damages in awarding costs and attorney's fees. [PL 1979, c. 498, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1979, c. 498, §2 (AMD). PL 1985, c. 221 (AMD).

§1176. Warranty

If a motor vehicle franchisor requires or permits a motor vehicle franchisee to perform labor or provide parts in satisfaction of a warranty created by the franchisor, the franchisor shall properly and promptly fulfill its warranty obligations, in the case of motor vehicles over 10,000 pounds gross vehicle weight rating, shall adequately and fairly compensate the franchisee for any parts so provided and, in the case of all other motor vehicles, shall reimburse the franchisee for any parts so provided at the retail rate customarily charged by that franchisee for the same parts when not provided in satisfaction of a warranty. A franchisor may not otherwise recover its costs for reimbursing a franchisee for parts and labor pursuant to this section. For purposes of this section, the retail rate customarily charged by the franchisee for parts may be established by submitting to the franchisor 100 sequential nonwarranty customer-paid service repair orders or 60 days of nonwarranty customer-paid service repair orders, whichever is less in terms of total cost, covering repairs made no more than 180 days before the submission and declaring the average percentage markup. The average percentage markup so declared is the retail rate, which goes into effect 30 days following the declaration, subject to audit of the submitted repair orders by the franchisor and adjustment of the average percentage markup based on that audit. Only retail sales not involving warranty repairs, not involving state inspection, not involving routine maintenance such as changing the oil and oil filter and not involving accessories may be considered in calculating the average percentage markup. A franchisor may not require a franchisee to

establish the average percentage markup by an unduly burdensome or time-consuming method or by requiring information that is unduly burdensome or time-consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations. A franchisee may not change the average percentage markup more than 2 times in one calendar year. Further, the franchisor shall reimburse the franchisee for any labor so performed at the retail rate customarily charged by that franchisee for the same labor when not performed in satisfaction of a warranty; as long as the franchisee's rate for labor not performed in satisfaction of a warranty is routinely posted in a place conspicuous to its service customer. A franchisor is not required to pay the price charged by the dealer to retail customers for parts of systems, appliances, furnishings, accessories and fixtures of a motor home as defined in Title 29-A, section 101, subsection 40 that are designed, used and maintained primarily for nonvehicular residential purposes. Any claim made by a franchisee for compensation for parts provided or for reimbursement for labor performed in satisfaction of a warranty must be paid within 60 days of its approval. All the claims must be either approved or disapproved within 60 days of their receipt. A claim may be submitted within 90 days after the performance of services. When a claim is disapproved, the franchisee that submitted the claim must be notified in writing of the claim's disapproval within that period, together with the specific reasons for its disapproval. A franchisor may not, by agreement, by restriction upon reimbursement, or otherwise, restrict the nature or extent of labor performed or parts provided so that such restriction impairs the franchisee's ability to satisfy a warranty created by the franchisor by performing labor in a professional manner or by providing parts required in accordance with generally accepted standards. [PL 2003, c. 356, §10 (AMD).]

In any claim that is disapproved by the manufacturer, and the dealer brings legal action to collect the disapproved claim and is successful in the action, the court shall award the dealer the cost of the action together with reasonable attorney fees. Reasonable attorney fees shall be determined by the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the dealer. [PL 1979, c. 498, §3 (NEW).]

It is unlawful for a franchisor, manufacturer, factory branch, distributor branch or subsidiary to own, operate or control, either directly or indirectly, a motor vehicle warranty or service facility located in the State except on an emergency or interim basis or if no qualified applicant has applied for appointment as a dealer in a market previously served by a new motor vehicle dealer of that manufacturer, factory branch, distributor branch or subsidiary's line make. [PL 1997, c. 521, §25 (NEW).]

A franchisor may not deny those elements of a warranty claim that are based on a dealer’s incidental failure to comply with a claim requirement or a clerical error or other technicality, regardless of whether the franchisor contests any other element of that warranty claim, as long as the dealer corrects any such clerical error or other technicality according to licensee guidelines. [PL 2013, c. 534, §7 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1979, c. 498, §3 (AMD). PL 1979, c. 698, §1 (AMD). PL 1991, c. 328 (AMD). PL 1995, c. 65, §A16 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1997, c. 521, §25 (AMD). PL 2003, c. 356, §10 (AMD). PL 2013, c. 534, §7 (AMD).

§1176-A. Audits

A manufacturer may reasonably and periodically audit a new motor vehicle dealer to determine the validity of paid claims or any charge-backs for customer or dealer incentives. Audits of incentive payments may be only for the 12-month period immediately preceding the date notifying the dealer that an audit is to be conducted. [PL 2013, c. 534, §8 (AMD).]

A franchisor may not deny those elements of a paid claim or customer or dealer incentive that are based on a dealer's incidental failure to comply with a claim requirement or a clerical error or other technicality, regardless of whether the franchisor contests any other element of that claim, as long as

the dealer corrects the clerical error or other technicality according to licensee guidelines. [PL 2017, c. 217, §8 (NEW).]

SECTION HISTORY

PL 1997, c. 521, §26 (NEW). PL 2013, c. 534, §8 (AMD). PL 2017, c. 217, §8 (AMD).

§1177. Unreasonable restrictions

It shall be unlawful directly or indirectly to impose unreasonable restrictions on the motor vehicle dealer or franchisee relative to transfer, sale, right to renew, termination, discipline, noncompetition covenants, site-contract whether by sublease, collateral pledge of lease, or otherwise, right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights. [PL 1975, c. 573 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW).

§1178. Covered under written or oral agreements

1. Agreements subject to this chapter. Written or oral agreements between a manufacturer, wholesaler or distributor with a motor vehicle dealer including, but not limited to, the franchise offering, the franchise agreement, sales agreements, policies and procedures agreements, bulletins or manuals, sales of goods, services or advertising, leases or mortgages of real or personal property, promises to pay, security interests, pledges, insurance contracts, advertising contracts, construction or installation contracts, servicing contracts, and all other such agreements in which the manufacturer, wholesaler or distributor has any direct or indirect interest, are subject to this chapter.
[PL 2003, c. 356, §11 (AMD).]

2. Copy of agreement or amendments. Before any new selling agreement or any amendment thereto between said parties shall become effective, the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, wholesale branch or division, or officer, agent or other representative thereof shall, 90 days prior to the effective date thereof, forward a copy of such agreement or amendment to the dealer.
[PL 1975, c. 573 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 2003, c. 356, §11 (AMD).

§1179. Franchise interest, vested rights

Notwithstanding any other provision of law, it shall be unlawful for the manufacturer, wholesaler, distributor or franchisor without due cause, to fail to renew a franchise on terms then equally available to all its motor vehicle dealers, to terminate a franchise or to restrict the transfer of a franchise unless the franchisee shall receive fair and reasonable compensation for the value of the business. [PL 1975, c. 573 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW).

§1180. Franchisee's right to associate

Any franchisee shall have the right of free association with other franchisees for any lawful purpose. [PL 1975, c. 573 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW).

§1181. Discounts and other inducements

In connection with a sale of a motor vehicle or vehicles to the State or to any political subdivision of the State, a manufacturer, distributor, wholesaler or corporate affiliate may not offer any discounts, refunds or any other similar type of inducement to any dealer without making the same offer or offers to all other of its dealers within the relevant market area, and if such inducements are made, the manufacturer, distributor or wholesaler shall give simultaneous notice of the inducements to all of its dealers within the relevant market area. [PL 1999, c. 766, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1999, c. 766, §3 (AMD).

§1182. Public policy

Any contract or part thereof or practice thereunder in violation of any provision of this chapter shall be deemed against public policy and shall be void and unenforceable. [PL 1975, c. 573 (NEW).]

The Legislature finds that the manufacture, distribution and sale of motor vehicles in the State vitally affects the general economy of the State and the public interest and public welfare; that the manufacturers of motor vehicles whose physical manufacturing facilities are not located within the State and distributors are doing business in the State through their control over and relationship and transactions with their dealers in the State; that the geographical location of the State makes it necessary to ensure the availability of motor vehicles and parts and dependable service for motor vehicles throughout the State to protect and preserve the transportation system, the public safety and welfare and the investments of its residents. The Legislature declares, on the basis of these findings, that it is necessary to regulate and to license motor vehicle manufacturers and distributors and their branches and representatives, motor vehicle dealers and any other person engaged in the business of selling or purchasing vehicles in the State in order to prevent frauds, impositions and other abuses against residents and to protect and preserve the economy, the investments of residents, the public safety and the transportation system of the State. [PL 1997, c. 521, §27 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1997, c. 521, §27 (AMD).

§1182-A. Exemption for installation on previously assembled truck chassis

This chapter does not apply to a person, partnership, firm, association, corporation or trust, resident or nonresident, that manufactures, assembles, distributes, sells, leases, solicits or advertises the sale or lease of a motor vehicle that consists of the installation on a previously assembled truck chassis in excess of 25,000 pounds gross vehicle weight rating, as defined by Title 29-A, section 101, subsection 26-B, special bodies or equipment that, when installed, form an integral part of the motor vehicle and constitute a major manufacturing alteration. This exemption applies only to entities that do not franchise in the State. [PL 2003, c. 166, §1 (AMD).]

SECTION HISTORY

PL 1997, c. 521, §28 (NEW). PL 2003, c. 166, §1 (AMD).

§1183. Statute of limitation

Except for an action arising out of section 1174-D, actions arising out of any provision of this chapter must be commenced within 4 years after the cause of action accrues; if a person liable under this chapter conceals the cause of action from the knowledge of the person entitled to bring it, the period prior to the discovery of the cause of action by the person so entitled is excluded in determining the time limited for commencement of the action. If a cause of action accrues during the pendency of any civil, criminal or administrative proceeding against a person brought by the United States, or any of its agencies under the antitrust laws, the Federal Trade Commission Act, or any other Federal Act, or the laws of the State related to antitrust laws or to franchising, such actions may be commenced within one

year after the final disposition of such civil, criminal or administrative proceeding. [PL 2017, c. 217, §9 (AMD).]

Notwithstanding any provision in a franchise agreement, if a dispute covered by this chapter or any other law is submitted to mediation or arbitration, the time for the dealer to file a complaint, action, petition or protest is tolled until the mediation or arbitration proceeding is completed. [PL 1997, c. 521, §29 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1997, c. 521, §29 (AMD). PL 2017, c. 217, §9 (AMD).

§1184. Construction

In construing this chapter the courts may be guided by the interpretations of the Federal Trade Commission Act(15 U.S.C. 45), as from time to time amended. [PL 1975, c. 573 (NEW).]

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this chapter and the applicability thereof to persons and circumstances shall not be affected thereby. [PL 1981, c. 331, §8 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1981, c. 331, §8 (AMD).

§1185. Jurisdiction

Any person who shall violate any provisions of this chapter shall be subject to the jurisdiction of the courts of this State, upon service of process in accordance with Title 14, chapter 203, and consistent with the maximum limits of due process as decided by the United States Supreme Court. [PL 1975, c. 573 (NEW).]

SECTION HISTORY

PL 1975, c. 573 (NEW).

§1186. Penalty

Any person who violates any provision of this chapter other than section 1174-D commits a Class E crime. [PL 2017, c. 217, §10 (AMD).]

SECTION HISTORY

PL 1975, c. 573 (NEW). PL 1979, c. 127, §58 (AMD). PL 2017, c. 217, §10 (AMD).

SUBCHAPTER 2

MAINE MOTOR VEHICLE FRANCHISE BOARD

§1187. Maine Motor Vehicle Franchise Board; established

The Maine Motor Vehicle Franchise Board, as established in Title 5, section 12004-G, subsection 6-B and referred to in this chapter as "the board," is established for the purpose of enforcing the provisions of this chapter. [PL 2003, c. 356, §12 (NEW).]

1. Membership. The board consists of 7 regular members and 4 alternate members:

A. Ten members appointed by the Governor:

(1) Three regular members and 2 alternate members who are or have been franchised new motor vehicle dealers in the State of Maine;

(2) A regular member and an alternate member who are or have been employees or representatives of franchisors; and

(3) Two regular members and one alternate member who are members of the public; and [PL 2005, c. 61, §2 (AMD).]

B. One regular member appointed by the Secretary of State who is not and has not been either a motor vehicle dealer or manufacturer representative and who is an attorney employed by the Secretary of State and assigned to the Bureau of Motor Vehicles. [PL 2005, c. 61, §2 (AMD).]

[PL 2005, c. 61, §2 (AMD).]

2. Chair. The member appointed by the Secretary of State is the chair of the board. The chair shall:

A. Act as the presiding officer in all matters that come before the board; [PL 2003, c. 356, §12 (NEW).]

B. Make preliminary rulings on discovery and other questions; [PL 2003, c. 356, §12 (NEW).]

C. Participate fully in board deliberations; and [PL 2003, c. 356, §12 (NEW).]

D. Vote on the merits of complaints that come before the board only when necessary to break a tie. [PL 2003, c. 356, §12 (NEW).]

[PL 2003, c. 356, §12 (NEW).]

3. Terms. Regular appointments to the board are for 5-year terms. A member may not serve more than 2 consecutive 5-year terms. The terms of the initial board members must be staggered, with 2 members serving a term of 3 years, 2 members serving a term of 4 years and 2 members serving a term of 5 years. Alternate members are appointed for 5-year terms. The term of the member who serves as chair is without limit.

[PL 2005, c. 61, §3 (AMD).]

4. Vacancy. Any vacancy on the board must be filled by the Governor or the Secretary of State by appointment of a person of the same category as the board member being replaced to hold office for the unexpired term.

[PL 2003, c. 356, §12 (NEW).]

5. Compensation. With the exception of the chair, whose position is funded pursuant to section 1187-A, members of the board are entitled to a per diem of $100 for each day actually engaged in the performance of their duties and may be reimbursed for reasonable and necessary expenses incurred in carrying out their duties.

[PL 2003, c. 356, §12 (NEW).]

6. Rulemaking. The board shall adopt rules to implement the provisions of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2003, c. 356, §12 (NEW).]

7. Affiliation. The board is affiliated with the Department of the Secretary of State, Bureau of Motor Vehicles.

[PL 2003, c. 356, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 356, §12 (NEW). PL 2005, c. 61, §§2,3 (AMD).

§1187-A. Fund

To fund the board and to pay the start-up expenses of administration and enforcement of this chapter, there is established the Maine Motor Vehicle Franchise Fund, referred to in this section as "the

fund." The board shall impose an initial fee upon each new motor vehicle dealer of $200 for each dealer's license held by that dealer and an initial fee of $2,000 for each line make of each manufacturer. The board shall determine on an annual basis whether additional funding is required. If additional funding is required, the board shall meet those funding requirements by adopting rules pursuant to section 1187, subsection 6 to impose additional fees on motor vehicle dealers or manufacturers. In establishing those fees, the board shall ensure that revenues from those fees closely match the costs of the board to administer and enforce this chapter. The board may amend those rules biennially as necessary to ensure that the board has sufficient funds to administer and enforce this chapter. The board shall maintain a fund balance of at least $20,000. [PL 2003, c. 356, §12 (NEW).]

The fund is administered by the Secretary of State. The fund must be used exclusively for the administration and operation of the board for the enforcement of this chapter. Expenses for operation of the board, including the compensation for the chair, must be paid by the board to the Secretary of State on a quarterly basis. [PL 2003, c. 356, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 356, §12 (NEW).

§1188. Duties

The board: [PL 2003, c. 356, §12 (NEW).]

1. Complaints. Shall review written complaints filed with the board by persons complaining of conduct governed by this chapter;
[PL 2003, c. 356, §12 (NEW).]

2. Decision. Shall issue written decisions and may issue orders to a franchisee or franchisor in violation of this chapter;
[PL 2003, c. 356, §12 (NEW).]

3. Penalty. May levy a civil penalty pursuant to section 1171-B, subsection 3;
[PL 2003, c. 356, §12 (NEW).]

4. Award costs. Shall award costs and attorney's fees pursuant to section 1173;
[PL 2003, c. 356, §12 (NEW).]

5. Interim order. Shall levy a civil penalty pursuant to section 1171-B, subsection 3 when a party to a complaint under this subchapter is found to have recklessly or knowingly failed, neglected or refused to comply with an interim order issued by the board;
[PL 2005, c. 61, §4 (AMD).]

6. Procedures. May appoint persons to be present at the deposition of out-of-state witnesses, administer oaths, issue subpoenas to compel the presence of witnesses or documents and authorize stenographic or recorded transcripts of proceedings; and
[PL 2005, c. 61, §4 (AMD).]

7. Alternate members. Alternates are empowered to hear cases and carry out other duties of the board when regular board members from the same category are unable or unwilling to carry out those duties. The chair shall select alternate members to perform duties under this subsection.
[PL 2005, c. 61, §5 (NEW).]

SECTION HISTORY

PL 2003, c. 356, §12 (NEW). PL 2005, c. 61, §§4,5 (AMD).

§1188-A. Prehearing conference

Prior to hearing a complaint, but not later than 45 days after the filing of the complaint, the board shall require the parties to attend a prehearing conference with the chair to discuss the possibility of

settlement. If the matter is not resolved through the conference, the matter must be placed on the board's calendar for hearing. Settlement conference discussions remain confidential and may not be disclosed or used as an admission in any subsequent hearing. [PL 2003, c. 356, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 356, §12 (NEW).

§1189. Hearings

The board shall hold a hearing on the merits of a complaint within 120 days of the filing of the complaint. The hearing must be conducted pursuant to rules established by the board. A decision must be issued within 30 days of the completion of the hearing. The board shall determine the location of hearings. [PL 2003, c. 356, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 356, §12 (NEW).

§1189-A. Discovery

The parties to a hearing conducted pursuant to this subchapter are permitted to conduct and use the same discovery procedures as provided in the Maine Rules of Civil Procedure, subject to any amendments to the rules as the board might adopt to secure that discovery is expedited. [PL 2003, c. 356, §12 (NEW).]

Compliance with discovery procedures authorized by this section and by rule may be enforced by application to the board or on the board's own motion. [PL 2003, c. 356, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 356, §12 (NEW).

§1189-B. Appeal

A party appealing an order of the board to the Superior Court shall indicate in the appeal whether it is an appeal on issues of law or on factual matters. [PL 2003, c. 356, §12 (NEW).]

1. Appeal as matter of law. An order or decision may be appealed solely on the basis that the board made an error of law. An order or decision appealed may not be set aside or vacated except for an error of law. Additional evidence may not be heard or taken by the Superior Court on an appeal made under this section.
[PL 2003, c. 356, §12 (NEW).]

2. Appeal involving factual matters. A party to a decision by the board may appeal to the Superior Court for a hearing on the merits of the dispute. In any such hearing before the Superior Court, all findings of fact of the board are presumed to be correct unless rebutted by clear and convincing evidence.
[PL 2003, c. 356, §12 (NEW).]

A copy of the decision, certified as true and accurate by the chair must be admitted into evidence in any appeal hearing. There is a right to trial by jury in any action brought in Superior Court under this section. An appeal for hearing is subject to the provisions of section 1173. [PL 2003, c. 356, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 356, §12 (NEW).

§1190. Statute of limitations

If a complaint is filed with the board by a person otherwise entitled to bring a complaint in the courts of the State, then the applicable statute of limitations is tolled and a civil action in a court of

competent jurisdiction is barred pending the outcome of proceedings before the board. [PL 2003, c. 356, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 356, §12 (NEW).

§1190-A. Action filed; court

An action, filed in a court of competent jurisdiction, that gives rise or could give rise to a claim or defense under this chapter must be stayed if, within 60 days after the date of filing of the complaint, or service of process, whichever date is later, a party to the action files a complaint with the board asserting the claims or defenses under this chapter. [PL 2003, c. 356, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 356, §12 (NEW).

CHAPTER 204-A

DEALER PRACTICES FOR CERTAIN MOTOR VEHICLES

§1191. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 51 (NEW).]

1. Dealer. "Dealer" means an individual, partnership, corporation, business trust or any other legal entity that is engaged in the business of selling or leasing, offering for sale or lease or negotiating the sale or lease of new motor vehicles, except auctioneers licensed by the Secretary of State.
[PL 1989, c. 51 (NEW).]

2. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed primarily to transport not more than 14 individuals, except motorcycles, snowmobiles, all-terrain vehicles, customized vans and any vehicle operated exclusively on a rail or rails. This definition is intended to include motor trucks that have a gross weight of not more than 8,600 pounds as certified by the vehicle manufacturer or franchise representative pursuant to Title 29-A, section 2364, subsection 5.
[PL 1999, c. 580, §1 (AMD); PL 1999, c. 580, §14 (AFF).]

SECTION HISTORY

PL 1989, c. 51 (NEW). PL 1995, c. 65, §A17 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1999, c. 580, §1 (AMD). PL 1999, c. 580, §14 (AFF).

§1192. Disclosure requirements

No dealer may sell or offer to sell any new motor vehicle unless the dealer affixes to the windshield or side window of the motor vehicle the following written disclosures: [PL 1989, c. 51 (NEW).]

1. Manufacturer's suggested retail price. The manufacturer's suggested retail price;
[PL 1989, c. 51 (NEW).]

2. Manufacturer's suggested price on options. The retail delivered price suggested by the manufacturer for each accessory or item of optional equipment, physically attached to the motor vehicle at the time of its delivery to the dealer, which is not included in the price of the motor vehicle as stated pursuant to subsection 1;
[PL 1989, c. 51 (NEW).]

3. Transportation charges. The amount, if any, charged to the dealer for transportation of the motor vehicle to the location at which it is delivered to the dealer; and

[PL 1989, c. 51 (NEW).]

4. Total amount. The total of the amounts specified pursuant to subsections 1, 2 and 3.
[PL 1989, c. 51 (NEW).]

SECTION HISTORY

PL 1989, c. 51 (NEW).

§1193. Violations

1. Unfair trade practice. Any violation of this chapter shall constitute prima facie evidence of a violation of Title 5, chapter 10, the Maine Unfair Trade Practices Act.
[PL 1989, c. 51 (NEW).]

SECTION HISTORY

PL 1989, c. 51 (NEW).

§1194. Dealer sale practices for new or used motor vehicles

When selling new or used motor vehicles a dealer must adhere to the following sale practices. [PL 2001, c. 256, §2 (NEW).]

1. Dealer revocation of sale. If a dealer sells a new or used motor vehicle and allows the buyer to take possession of it, the dealer can not at a later date inform the buyer of that vehicle that the dealer is canceling the sale unless the dealer has disclosed at the time of the sale and at the time of cancellation that if financing can not be procured according to the terms agreed upon in the contract, the consumer shall receive:

A. Reimbursement of the entire vehicle purchase price or, if a leased vehicle, the lease payments made to date, including any paid finance charges on the purchased or leased vehicle; [PL 2001, c. 256, §2 (NEW).]

B. Reimbursement of all charges pertinent to the contract, including, but not limited to, sales tax, license and registration fees and similar government charges; and [PL 2001, c. 256, §2 (NEW).]

C. The vehicle traded in or, if the vehicle is not available, the trade-in value of the vehicle established in the contract. [PL 2001, c. 256, §2 (NEW).]

This subsection does not apply to any sale canceled by the dealer due to material misrepresentation made by the buyer.
[PL 2001, c. 256, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 256, §2 (NEW).

CHAPTER 204-B

WATERCRAFT MANUFACTURERS, DISTRIBUTORS AND DEALERS

§1196. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 631 (NEW).]

1. Distributor or wholesaler. "Distributor" or "wholesaler" means any person who sells or distributes new or used watercraft or engines for watercraft to watercraft dealers or who maintains distributor representatives within this State.
[PL 1991, c. 631 (NEW).]

2. Franchise. "Franchise" means an oral or written arrangement for a definite or indefinite period in which a manufacturer, distributor or wholesaler grants to a watercraft dealer a license to use a trade name, service mark or related characteristic, and in which there is a community of interest in the marketing of watercraft or engines for watercraft or services related to watercraft at wholesale, retail, leasing or otherwise.
[PL 1991, c. 631 (NEW).]

3. Franchisee. "Franchisee" means a watercraft dealer to whom a franchise is offered or granted.
[PL 1991, c. 631 (NEW).]

4. Franchisor. "Franchisor" means a manufacturer, distributor or wholesaler who grants a franchise to a watercraft dealer.
[PL 1991, c. 631 (NEW).]

5. Manufacturer. "Manufacturer" means any person, partnership, firm, association, corporation or trust, resident or nonresident, that manufactures or assembles new watercraft or engines for watercraft, or imports for distribution through distributors of watercraft, or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, that is controlled by the manufacturer. The term "manufacturer" includes the term "distributor" or "wholesaler."
[PL 1991, c. 631 (NEW).]

6. Watercraft. "Watercraft" means any type of vessel, boat or craft used or capable of being used as a means of transportation on water. "Watercraft" does not include a seaplane or a personal sports mobile as defined in section 1242, subsection 15.
[PL 1997, c. 473, §2 (AMD).]

7. Watercraft dealer. "Watercraft dealer" means any person who sells or solicits or advertises the sale of new or used watercraft or engines for watercraft. "Watercraft dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court or public officers while performing their duties as such officers.
[PL 1991, c. 631 (NEW).]

SECTION HISTORY

PL 1991, c. 631 (NEW). PL 1997, c. 473, §2 (AMD).

§1197. Warranty

1. Parts or labor; satisfaction of warranty. If a franchisor requires or permits a franchisee to perform labor or provide parts to satisfy a warranty created by the franchisor, the franchisor shall properly and promptly fulfill its warranty obligations and:

A. Reimburse the franchisee at the retail rate customarily charged for any parts provided by the franchisee to satisfy the warranty; and [PL 1991, c. 631 (NEW).]

B. Reimburse the franchisee for any labor performed by the franchisee to satisfy the warranty. Reimbursement for labor may not be less than the retail rate customarily charged by that franchisee for the same labor when not performed to satisfy a warranty. To be entitled to reimbursement under this section, a franchisee must post in a place conspicuous to service customers the rate for labor not performed to satisfy a warranty. [PL 1991, c. 631 (NEW).]
[PL 1991, c. 631 (NEW).]

2. Restrictions prohibited. A franchisor may not, by agreement, by restriction upon reimbursement or otherwise, restrict the nature or extent of labor performed or parts provided if such a restriction impairs the franchisee's ability to satisfy a warranty created by the franchisor by performing labor competently or by providing parts in accordance with generally accepted standards.
[PL 1991, c. 631 (NEW).]

3. Claim. A claim by a franchisee for compensation for parts provided or for reimbursement for labor performed to satisfy a warranty must be approved or disapproved within 30 days of receipt by the franchisor. A claim that is approved must be paid within 30 days of its approval. If a franchisor disapproves a claim, it shall notify the franchisee that submitted the claim within 30 days of disapproval of the specific reasons for disapproval.
[PL 1991, c. 631 (NEW).]

4. Costs; fees. If a franchisee brings a legal action to collect a disapproved claim and is successful in that action, the court shall award the franchisee the cost of the action and reasonable attorney's fees. Reasonable attorney's fees must be determined by the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the franchisee.
[PL 1991, c. 631 (NEW).]

SECTION HISTORY

PL 1991, c. 631 (NEW).

CHAPTER 205

UNFAIR SALES ACT

§1201. Short title

This chapter shall be known and may be cited as the "Unfair Sales Act."

§1202. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 541, Pt. A, §92 (NEW).]

1. Cost to the retailer. "Cost to the retailer" shall mean the invoice cost of the merchandise to the retailer within 30 days prior to the date of sale, or the replacement cost of the merchandise to the retailer within 30 days prior to the date of sale, in the quantity last purchased, whichever is lower; less all trade discounts except customary discounts for cash; to which shall be added:

A. Freight charges not otherwise included in the cost of the merchandise,

B. Cartage to the retail outlet if performed or paid for by the retailer, which cartage cost shall be deemed to be 3/4 of 1% of the cost of the merchandise to the retailer, unless said retailer claims and proves a lower cartage cost, and

C. A markup to cover in part the cost of doing business, which markup in the absence of proof of a lesser cost shall be 6% of the total cost at the retail outlet.

2. Cost to the wholesaler. "Cost to the wholesaler" shall mean the invoice cost of the merchandise to the wholesaler within 30 days prior to the date of sale, or the replacement cost of the merchandise to the wholesaler within 30 days prior to the date of sale, in the quantity last purchased, whichever is lower; less all trade discounts except customary discounts for cash; to which shall be added:

A. Freight charges not otherwise included in the cost of the merchandise,

B. Cartage to the retail outlet if performed or paid for by the wholesaler, which cartage cost shall be deemed to be 3/4 of 1% of the cost of the merchandise to the wholesaler, unless said wholesaler claims and proves a lower cartage cost,

C. A markup to cover in part the cost of doing business, which markup in the absence of proof of a lesser cost shall be 2% of the total cost at the wholesale establishment, and

D. Sales made by a cigarette distributor to a licensed wholesale dealer or to the operator of 15 or more vending machines shall not be subject to a markup of 2% as stated in paragraph C, but such sales shall be subject to full trade discount only.

3. Combined price of 2 or more items. Where 2 or more items are advertised, offered for sale or sold at a combined price, the price of each such item shall be determined in the manner set forth in subsections 1 and 2.

4. Bona fide costs. "Cost to the retailer" and "cost to the wholesaler" as defined in said subsections 1 and 2 shall mean bona fide costs. Sales to consumers, retailers and wholesalers at prices which cannot be justified by existing market conditions within this State shall not be used as a basis for computing replacement costs with respect to sales by retailers and wholesalers.

5. Retail sale; wholesale sale. "Sell at retail," "sales at retail" and "retail sale" shall mean and include any transfer of title to tangible personal property for a valuable consideration made, in the ordinary course of trade or in the usual prosecution of the seller's business, to the purchaser for consumption or use other than resale or further processing or manufacturing. The terms "sell at wholesale," "sales at wholesale" and "wholesale sale" shall mean and include any such transfer of title to tangible personal property for the purpose of resale or further processing or manufacturing. In this and in subsection 4 the above terms shall include any such transfer of property where title is retained by the seller as security for the payment of the purchase price.

6. Retailer. "Retailer" shall mean and include every person, copartnership, corporation or association engaged in the business of making sales at retail within this State. In the case of a retailer engaged in the business of making sales both at retail and at wholesale, such term shall be applied only to the retail portion of such business.

7. Wholesaler. "Wholesaler" shall mean and include every person, copartnership, corporation or association engaged in the business of making sales at wholesale within this State. In the case of a wholesaler engaged in the business of making sales both at wholesale and at retail, such term shall be applied only to the wholesale portion of such business.

8. Costs to be added. Where a retailer sells at retail any merchandise which is the product of his or its own manufacture or which has been purchased by him or it at the purchase price or prices available to wholesalers, in the absence of proof of a lesser cost, both the wholesale markup of 2% and the retail markup of 6% to cover in part the cost of doing business, as provided in subsections 1 and 2, shall be added in determining the "cost to the retailer" of such merchandise.

9. Sub-jobber. "Sub-jobber" shall mean and include a wholesaler who purchases cigarettes at wholesale for the purpose of resale to retail dealers, and who maintains a regularly established place of business where stocks of cigarettes are kept for sale and whose sales are chiefly to other persons for resale.

SECTION HISTORY

PL 1979, c. 541, §A92 (AMD).

§1203. Exceptions

This chapter shall not apply with respect to advertising or offering to sell, or selling, at retail or at wholesale, as the case may be, if done:

1. Isolated transaction. In an isolated transaction and not in the usual course of business;

2. Clearance sales. Where merchandise is sold in bona fide clearance sales, if advertised or offered for sale as such or marked and sold as such, or where merchandise is marked down in an effort to sell the same after bona fide efforts to sell the same prior to such markdown;

3. Perishable merchandise. Where perishable merchandise must be sold promptly in order to forestall loss;

4. Imperfect or damaged merchandise. Where merchandise is imperfect or damaged or its sale is being discontinued, if advertised or offered for sale as such or marked and sold as such;

5. Final liquidation of business. Where merchandise is advertised or offered for sale or sold upon the final liquidation of any business;

6. Charitable purposes. Where merchandise is advertised or offered for sale or sold for charitable purposes or to relief agencies;

7. Sold to State, political subdivisions. Where merchandise is sold on contract to any department, board or commission of the State or of any political subdivision thereof, or to any institution maintained thereby;

8. Price in good faith to meet competition. Where the price of merchandise is made in good faith to meet legal competition;

9. Order of court. Where merchandise is advertised or offered for sale or sold by any fiduciary or other officer acting under the order or direction of any court.

§1204. Applicability of provisions

This chapter shall prevail whenever the application of any provision of any other law of this State, other than Title 7, chapter 603-A, conflicts with the application of any provision of this chapter. [PL 1983, c. 484, §3 (AMD).]

SECTION HISTORY

PL 1983, c. 484, §3 (AMD).

§1204-A. Unlawful practices

It is unlawful for any person engaged in the distribution or sale of merchandise of general use or consumption to sell such merchandise at less than the cost thereof to such vendor with the purpose or intent to injure competitors or destroy competition. Any merchandise offered for sale at a price below cost shall be prominently displayed in the outlet offering the same in sufficient quantities to meet the usual and reasonable expected demand therefor. [PL 1965, c. 305 (NEW).]

SECTION HISTORY

PL 1965, c. 305 (NEW).

§1205. Bill in equity by injured person

1. Injunctive relief; damages and costs. Any person damaged or who is threatened with loss or injury by reason of a violation or threatened violation of this chapter may bring a civil action in the Superior Court in the county where he resides, to prevent, restrain or enjoin such violation or threatened violation. If in such action a violation or threatened violation of this chapter shall be established, the court may enjoin and restrain or otherwise prohibit such violation or threatened violation. In such action it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in said action shall be entitled to recover from the defendant 3 times the amount of actual damages by him sustained and the costs of the action including reasonable attorneys' fees.

2. Damages only. In the event no injunctive relief is sought or required, any person injured by a violation of this chapter may maintain an action for damages alone in the Superior Court in the county where he resides and the measure of damages in such action shall be the same as prescribed in subsection 1.

3. Evidence of intent to injure. In all proceedings under this section, proof of consistent and repeated advertisements, offers to sell or sales of any items of merchandise by any retailer or wholesaler at less than cost to them as defined in this chapter, said advertisements, offers to sell and sales thereby forming a pattern of sales below cost, shall be prima facie evidence of intent to injure competitors and destroy competition.

§1206. Sale of cigarettes

(REPEALED)

SECTION HISTORY

PL 1979, c. 407, §1 (RP).

§1207. Penalties

Any retailer who, with intent to injure competitors or destroy competition, advertises, offers to sell or sells at retail any item of merchandise at less than cost to the retailer, or any wholesaler who, with intent as aforesaid, advertises, offers to sell or sells at wholesale any item of merchandise at less than cost to the wholesaler shall be punished by a fine of not more than $500. In all prosecutions under this section, proof of consistent and repeated advertisements, offers to sell or sales of any items of merchandise by any retailer or wholesaler at less than cost to them as defined in this chapter, said advertisements, offers to sell and sales thereby forming a pattern of sales below cost, shall be prima facie evidence of intent to injure competitors and destroy competition.

§1208. Summons

1. Authority. Whenever the Attorney General reasonably believes that a violation of section 1204-A may be occurring in the sale of motor fuel, he may require by summons the attendance and testimony of witnesses and the production of books and papers before him relating to any and all costs of operation of any motor fuel retailer or wholesaler.
[PL 1981, c. 423, §1 (NEW).]

2. Penalty. Any person who fails to comply with a summons issued under this section is subject to a civil penalty of not more than $5,000, payable to the State to be recovered in a civil action.
[PL 1981, c. 423, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 423, §1 (NEW).

§1209. Reports

1. Requirement. Whenever the price of motor fuel sold at a retail outlet operated or controlled by a wholesaler of motor fuel is less than the dealer tankwagon price charged for the same motor fuel to any independent retail outlet supplied by the wholesaler and located within one mile of the wholesaler's outlet, the wholesaler shall file a written report with the Attorney General setting forth the information specified in subsection 2. This section shall apply only when the price at the wholesaler's outlet is less, for one full business day, than the most recent dealer tankwagon price to the independent outlet, provided that such sale was made to the independent retail outlet within 30 days prior to the date the lower price was posted by the wholesaler. "Dealer tankwagon price" means the wholesaler's price for motor fuel delivered to the independent retail outlet.
[PL 1981, c. 423, §2 (NEW).]

2. Contents. The report required from the wholesaler shall contain the following information:

A. The date on which the underpricing occurred; [PL 1981, c. 423, §2 (NEW).]

B. The name and location of the wholesaler's retail outlet; [PL 1981, c. 423, §2 (NEW).]

C. The wholesale cost of the motor fuel sold at that outlet; [PL 1981, c. 423, §2 (NEW).]

D. The retail price the wholesaler charged on the date the underpricing occurred; [PL 1981, c. 423, §2 (NEW).]

E. The name and location of the independent outlet which the wholesaler has underpriced; [PL 1981, c. 423, §2 (NEW).]

F. The most recent dealer tankwagon price and date of sale to the independent retail outlet; and [PL 1981, c. 423, §2 (NEW).]

G. The retail price of the independent on the date the underpricing occurred. [PL 1981, c. 423, §2 (NEW).]

The report shall be filed by postmarking it within 5 business days of the date on which the underpricing occurred.
[PL 1981, c. 423, §2 (NEW).]

3. Penalty. Any person who fails to file a report as required by this section shall be subject to a penalty of not more than $500 a day for each day after the first 5 business days on which he fails to file a report by postmarking it. The penalty shall be payable to the State and recoverable in a civil action.
[PL 1981, c. 423, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 423, §2 (NEW).

CHAPTER 205-A

REQUIRED DISCLOSURES TO CONSUMERS

§1210. Charges after free trial period

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

A. "Established business relationship" means a prior or existing relationship formed by a voluntary 2-way communication between a seller and a consumer with an exchange of consideration on the basis of the consumer's purchase from or transaction with the seller within the 18 months immediately preceding the date of a free offer. [PL 2009, c. 502, §1 (NEW).]

B. "Free offer" means an offer of a rebate or of products or services without cost to a consumer by a seller under which, as a result of accepting the rebate, products or services, the consumer is required to contact the seller to avoid incurring a financial obligation for receiving additional products or services. [PL 2009, c. 502, §1 (NEW).]
[PL 2009, c. 502, §1 (NEW).]

2. Prohibition. A seller may not make a free offer to a consumer in the State unless, at the time the consumer agrees to the free offer:

A. The seller obtains directly from the consumer information necessary for billing the consumer; and [PL 2009, c. 502, §1 (NEW).]

B. The seller provides the consumer with clear and conspicuous information regarding the terms of the free offer, including any additional financial obligations that may be incurred as a result of accepting the free offer. [PL 2009, c. 502, §1 (NEW).]
[PL 2009, c. 502, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 210, §1 (NEW). PL 2001, c. 471, §E1 (AMD). PL 2009, c. 502, §1 (RPR).

§1210-A. Violation

A seller that violates this chapter commits an unfair and deceptive act and a violation of Title 5, section 207. [PL 2009, c. 502, §2 (AMD).]

SECTION HISTORY

PL 2001, c. 210, §1 (NEW). PL 2009, c. 502, §2 (AMD).

§1210-B. Limitation

This chapter does not apply to the following: [PL 2001, c. 471, Pt. E, §2 (NEW).]

1. Sales under $25.
[PL 2009, c. 502, §3 (RP).]

1-A. Established business relationships. A free offer when the seller and the consumer have an established business relationship. The consumer's established business relationship with the seller does not extend to affiliates of the seller, unless the consumer would reasonably expect an affiliate to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate;
[PL 2009, c. 502, §4 (NEW).]

2. Home solicitation sales. A transaction regulated under Title 9-A, section 3-501 to 3-507;
[PL 2001, c. 471, Pt. E, §2 (NEW).]

3. Securities. A sale by a dealer or agent or salesman of a dealer registered pursuant to Title 32, chapter 135 of stocks, bonds, debentures or securities representing stocks, bonds or debentures registered pursuant to Title 32, chapter 135 or expressly exempt from registration pursuant to Title 32, chapter 135;
[PL 2005, c. 65, Pt. C, §6 (AMD).]

4. Insurance policies. A sale of insurance regulated under Title 24-A, sections 2515-A and 2717; or
[PL 2001, c. 471, Pt. E, §2 (NEW).]

5. Credit services. A sale of credit services by a supervised lender, as defined in Title 9-A, section 1-301, subsection 39, or an agent or affiliate of a supervised lender to the extent the affiliate or agent is selling or offering to sell the credit services of the supervised lender. For purposes of this paragraph, "credit services" includes any extension of credit and any product or service that a supervised lender is authorized by law or regulation to sell in connection with or relating to an extension of credit, such as credit insurance and a debt cancellation policy. For the purposes of this paragraph, "affiliate" has the same meaning as in Title 9-B, section 131, subsection 1-A. Transactions covered by this exemption are limited to those that become effective only after the consumer has affirmed the terms and conditions of the agreement by an acceptance initiated by the consumer.
[PL 2001, c. 471, Pt. E, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 471, §E2 (NEW). PL 2005, c. 65, §C6 (AMD). PL 2009, c. 502, §§3, 4 (AMD).

CHAPTER 205-B

AUTOMATIC SUBSCRIPTION RENEWAL

§1210-C. Cancellation of subscriptions

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

A. "Automatic subscription renewal" means an agreement to provide any of the following goods or services for a specified time and price that is automatically renewed at the end of a definite term for a subsequent term unless the consumer cancels the agreement:

(1) Online magazines, journals and periodicals;

(2) Online media players;

(3) Mobile apps;

(4) Social networking services;

(5) Internet game services; and

(6) Online software. [PL 2019, c. 175, §1 (NEW).]

B. "Extended automatic subscription renewal" means an automatic subscription renewal with a specified subscription term of 12 months or more, in which the subscription automatically renews for a specified term of more than one month unless the consumer cancels the subscription. [PL 2019, c. 175, §1 (NEW).]

C. "Internet game service" means an online service that provides information, software, data, text, photographs, graphics, audio or video that may be accessed by a consumer on a paid subscription basis for the purpose of allowing that consumer to play a single-player or multiplayer game through the Internet or to download a game for that consumer to play offline. "Internet game service" does not include online gambling or other gaming in which a person participates to win money. [PL 2019, c. 175, §1 (NEW).]

D. "Mobile app" means a software application designed to be operated on a mobile device such as a smartphone. [PL 2019, c. 175, §1 (NEW).]

E. "Online media player" means an online service that delivers audio or video content. [PL 2019, c. 175, §1 (NEW).]

F. "Online software" means software provided by an online application. [PL 2019, c. 175, §1 (NEW).]

G. "Seller" means a person who sells, leases or offers to sell or lease automatic subscription renewals or extended automatic subscription renewals and does not include an entity providing only the host platform on the website of an Internet game service. [PL 2019, c. 175, §1 (NEW).]

H. "Social networking service" means an online service that facilitates the building of social relations and the sharing of information among specified groups of people. [PL 2019, c. 175, §1 (NEW).]

[PL 2019, c. 175, §1 (NEW).]

2. Method of cancellation of automatic subscription renewal. A seller may not make an automatic subscription renewal offer to a consumer in this State unless the seller presents that consumer with an easily accessible disclosure of the methods that the consumer may use to cancel the subscription. The seller must provide for online cancellation of the subscription by any means of communicating information over a computer network. If a phone number is also provided for the purposes of cancellation of the subscription, the number must be toll-free and must be prominently displayed in the disclosure.

[PL 2019, c. 175, §1 (NEW).]

3. Extended automatic subscriptions. A seller may not make an extended automatic subscription renewal offer to a consumer in this State unless the seller notifies the consumer of the automatic renewal. Notice must be provided to the consumer no less than 30 days and no more than 60 days before the cancellation deadline pursuant to the automatic subscription renewal. The seller must

provide for online cancellation of the subscription by any means of communicating information over a computer network. The notice must disclose clearly and conspicuously:

A. That unless the consumer cancels the subscription it will automatically renew; and [PL 2019, c. 175, §1 (NEW).]

B. Where the consumer can obtain details regarding the automatic subscription renewal and cancellation procedure. [PL 2019, c. 175, §1 (NEW).]

[PL 2019, c. 175, §1 (NEW).]

4. Application. This chapter applies only to an agreement entered into or renewed after January 1, 2020 under which a seller makes an automatic subscription renewal or extended automatic subscription renewal offer to a consumer in this State.

[PL 2019, c. 175, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 175, §1 (NEW).

§1210-D. Violation

1. Violations. A violation of this section is a violation of the Maine Unfair Trade Practices Act.

[PL 2019, c. 175, §1 (NEW).]

2. Exceptions. An action may not be brought under the Maine Unfair Trade Practices Act if a seller violates this chapter as the result of an error and provides a full refund or credit for all amounts billed to or paid by the consumer from the date of the subscription renewal until the date of the termination of the subscription or the date of the subsequent notice of renewal, whichever occurs first.

[PL 2019, c. 175, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 175, §1 (NEW).

CHAPTER 206

UNIFORM DECEPTIVE TRADE PRACTICES ACT

§1211. Definitions

As used in this chapter, unless the context otherwise requires: [PL 1969, c. 503 (NEW).]

1. Article. "Article" means a product as distinguished from its trademark, label or distinctive dress in packaging;

[PL 1969, c. 503 (NEW).]

2. Certification mark. "Certification mark" means a mark used in connection with the goods or services of a person other than the certifier to indicate geographic origin, material, mode of manufacture, quality, accuracy or other characteristics of the goods or services or to indicate that the work or labor on the goods or services was performed by members of a union or other organization;

[PL 1969, c. 503 (NEW).]

3. Collective mark. "Collective mark" means a mark used by members of a cooperative, association or other collective group or organization to identify goods or services and distinguish them from those of others, or to indicate membership in the collective group or organization;

[PL 1969, c. 503 (NEW).]

4. Mark. "Mark" means a word, name, symbol, device or any combination of the foregoing in any form or arrangement;

[PL 1969, c. 503 (NEW).]

5. Person. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, 2 or more of the foregoing having a joint or common interest, or any other legal or commercial entity;
[PL 1969, c. 503 (NEW).]

6. Service mark. "Service mark" means a mark used by a person to identify services and to distinguish them from the services of others;
[PL 1969, c. 503 (NEW).]

7. Trademark. "Trademark" means a mark used by a person to identify goods and to distinguish them from the goods of others;
[PL 1969, c. 503 (NEW).]

8. Trade name. "Trade name" means a work, name, symbol, device or any combination of the foregoing in any form or arrangement used by a person to identify his business, vocation or occupation and distinguish it from the business, vocation or occupation of others.
[PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW).

§1212. Deceptive trade practices

1. Lists. A person engages in a deceptive trade practice when, in the course of his business, vocation or occupation, he

A. Passes off goods or services as those of another; [PL 1969, c. 503 (NEW).]

B. Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services; [PL 1969, c. 503 (NEW).]

C. Causes likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another; [PL 1969, c. 503 (NEW).]

D. Uses deceptive representations or designations of geographic origin in connection with goods or services; [PL 1969, c. 503 (NEW).]

E. Represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have, or that a person has a sponsorship, approval, status, affiliation or connection that he does not have; [PL 1969, c. 503 (NEW).]

F. Represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand; [PL 1973, c. 625, §53 (AMD).]

G. Represents that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another; [PL 1969, c. 503 (NEW).]

H. Disparages the goods, services or business of another by false or misleading representation of fact; [PL 1969, c. 503 (NEW).]

I. Advertises goods or services with intent not to sell them as advertised; [PL 1969, c. 503 (NEW).]

J. Advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity; [PL 1969, c. 503 (NEW).]

K. Makes false or misleading statements of fact concerning the reasons for, existence of or amounts of, price reductions; or [PL 1969, c. 503 (NEW).]

L. Engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding. [PL 1969, c. 503 (NEW).]

[PL 1973, c. 625, §53 (AMD).]

2. Complaint. In order to prevail in an action under this chapter, a complainant need not prove competition between the parties or actual confusion or misunderstanding.

[PL 1969, c. 503 (NEW).]

3. Application. This section does not affect unfair trade practices otherwise actionable at common law or under other statutes of this State.

[PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW). PL 1973, c. 625, §53 (AMD).

§1213. Remedies

A person likely to be damaged by a deceptive trade practice of another may be granted an injunction against it under the principles of equity and on terms that the court considers reasonable. Proof of monetary damage, loss of profits or intent to deceive is not required. Relief granted for the copying of an article shall be limited to the prevention of confusion or misunderstanding as to source. [PL 1969, c. 503 (NEW).]

The court in exceptional cases may award reasonable attorneys' fees to the prevailing party. Costs or attorneys' fees may be assessed against a defendant only if the court finds that he has willfully engaged in a deceptive trade practice. [PL 1969, c. 503 (NEW).]

The relief provided in this section is in addition to remedies otherwise available against the same conduct under the common law or other statutes of this State. [PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW).

§1214. Application

1. Application. This chapter does not apply to:

A. Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency; [PL 1969, c. 503 (AMD).]

B. Publishers, broadcasters, printers or other persons engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character; or [PL 1969, c. 503 (NEW).]

C. Actions or appeals pending on October 1, 1969. [PL 1973, c. 625, §54 (AMD).]

[PL 1973, c. 625, §54 (AMD).]

2. Limitation. Section 1212, subsection 1, paragraphs B and C do not apply to the use of a service mark, trademark, certification mark, collective mark, trade name or other trade identification that was used and not abandoned before October 1, 1969, if the use was in good faith and is otherwise lawful except for this chapter.

[PL 1973, c. 625, §55 (AMD).]

SECTION HISTORY

PL 1969, c. 503 (NEW). PL 1973, c. 625, §§54,55 (AMD).

§1215. Uniformity of interpretation

This chapter shall be construed to effectuate its general purpose to make uniform the law of those states which enact it. [PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW).

§1216. Short title

This chapter may be cited as the Uniform Deceptive Trade Practices Act. [PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW).

CHAPTER 206-A

MANUFACTURERS' REBATES

§1231. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 204 (NEW).]

1. Consumer. "Consumer" means a natural person who purchases or contracts to purchase consumer goods.
[PL 1987, c. 204 (NEW).]

2. Consumer goods. "Consumer goods" means any objects, wares, commodities or services offered for sale and intended to be used by consumers for personal, family or household purposes.
[PL 1987, c. 204 (NEW).]

3. Manufacturer rebate. "Manufacturer rebate" means any offer or promise that a manufacturer or distributor will refund to a consumer all or a portion of the price paid by the consumer for the purchase of consumer goods.
[PL 1987, c. 204 (NEW).]

SECTION HISTORY

PL 1987, c. 204 (NEW).

§1232. Availability of rebate forms

Any persons, firm, partnership, corporation or association which causes to be advertised by means of a newspaper advertisement, circular, television or radio announcement, in-store promotion or otherwise, the availability of a manufacturer's rebate form shall have available to the consumer at the time of advertising and promotion and make available to the purchaser at the time of sale the appropriate manufacturer's rebate form. This form, or a notice as to its location, shall be located with the merchandise to which it pertains. Forms which have expired shall be removed from consumer availability in a timely fashion. [PL 1987, c. 204 (NEW).]

SECTION HISTORY

PL 1987, c. 204 (NEW).

§1233. Violations

1. Private remedy. If the court finds in any action commenced under this chapter that the manufacturer or distributor or its agents violated section 1232, it shall award to the petitioner an amount not less than $100.
[PL 1987, c. 204 (NEW).]

2. Unfair trade practice. A violation of this chapter constitutes a violation of Title 5, chapter 10.

[PL 1987, c. 204 (NEW).]

SECTION HISTORY

PL 1987, c. 204 (NEW).

CHAPTER 206-B

PERSONAL SPORTS MOBILE MANUFACTURERS, DISTRIBUTORS AND DEALERS

§1241. Short title

This chapter may be known and cited as the "Personal Sports Mobile Business Practices Act." [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1242. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 473, §3 (NEW).]

1. Designated family member. "Designated family member" means the spouse, child, grandchild, parent or sibling of the owner of a new personal sports mobile dealership who in the case of the owner's death is entitled to inherit the ownership interest in the new personal sports mobile dealership under the terms of the owner's will or who in the case of an incapacitated owner of a new personal sports mobile dealership has been appointed by a court as the legal representative of the new personal sports mobile dealer's property.
[PL 1997, c. 473, §3 (NEW).]

2. Distributor branch. "Distributor branch" means a branch office maintained by a distributor or wholesaler that sells or distributes new or used personal sports mobiles to personal sports mobile dealers.
[PL 1997, c. 473, §3 (NEW).]

3. Distributor representative. "Distributor representative" means a representative employed by a distributor branch, distributor or wholesaler.
[PL 1997, c. 473, §3 (NEW).]

4. Distributor or wholesaler. "Distributor" or "wholesaler" means any person that sells or distributes new or used personal sports mobiles to personal sports mobile dealers or that maintains distributor representatives within this State.
[PL 1997, c. 473, §3 (NEW).]

5. Factory branch. "Factory branch" means a branch maintained by a manufacturer that manufactures or assembles personal sports mobiles for sale to distributors or personal sports mobile dealers or that is maintained for directing and supervising the representatives of the manufacturer.
[PL 1997, c. 473, §3 (NEW).]

6. Factory representative. "Factory representative" means a representative employed by a manufacturer or employed by a factory branch for the purpose of making or promoting the sale of personal sports mobiles or for contracting with, supervising, servicing or instructing personal sports mobile dealers or prospective personal sports mobile dealers.
[PL 1997, c. 473, §3 (NEW).]

7. Franchise. "Franchise" means an oral or written arrangement in which there is a community of interest in the marketing of personal sports mobiles or services related to personal sports mobiles at

wholesale, retail, leasing or otherwise. The franchise may be for a definite or indefinite time period in which a manufacturer, distributor or wholesaler grants to a personal sports mobile dealer a license to use a trade name, service mark or related characteristic.
[PL 1997, c. 473, §3 (NEW).]

8. Franchisee. "Franchisee" means a personal sports mobile dealer to whom a franchise is offered or granted.
[PL 1997, c. 473, §3 (NEW).]

9. Franchisor. "Franchisor" means a manufacturer, distributor or wholesaler who grants a franchise to a personal sports mobile dealer.
[PL 1997, c. 473, §3 (NEW).]

10. Fraud. "Fraud" includes, in addition to its normal legal connotation, a misrepresentation in any manner, whether intentionally false or due to gross negligence of a material fact, a promise or representation not made honestly and in good faith and an intentional failure to disclose a material fact.
[PL 1997, c. 473, §3 (NEW).]

11. Good faith. "Good faith" means honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade as defined in Title 11, section 2103, subsection (1), paragraph (b).
[PL 1997, c. 473, §3 (NEW).]

12. Manufacturer. "Manufacturer" means any person, resident or nonresident, that manufactures or assembles new personal sports mobiles or imports for distribution through distributors or any person, resident or nonresident, that is controlled by the manufacturer. The term "manufacturer" includes the terms "franchisor," "distributor," "distributor branch," "wholesaler," "factory branch" and "factory representative."
[PL 1997, c. 473, §3 (NEW).]

13. New personal sports mobile. "New personal sports mobile" means a personal sports mobile that has not been sold previously to any person except a distributor or wholesaler or personal sports mobile dealer for resale. "New personal sports mobile" also means a personal sports mobile that has not been registered in this State or any other state or for which sales tax has not been paid in this State or any other state if that other state taxes the purchase of a new personal sports mobile.
[PL 2001, c. 616, §1 (AMD).]

14. Person. "Person" means a natural person, corporation, partnership, trust or other entity. In case of an entity, "person" includes any other entity in which the person has a majority interest or effectively controls, as well as the individual officers, directors and other persons in active control of the activities of each such entity.
[PL 1997, c. 473, §3 (NEW).]

15. Personal sports mobile. "Personal sports mobile" means any snowmobile as defined in Title 12, section 13001, subsection 25; any all-terrain vehicle as defined in Title 12, section 13001, subsection 3; any motorcycle as defined in Title 29-A, section 101, subsection 38; and any personal watercraft as defined in Title 12, section 13001, subsection 23. "Personal sports mobile" does not include a motor vehicle as defined in section 1171, subsection 11.
[PL 2003, c. 414, Pt. B, §19 (AMD); PL 2003, c. 614, §9 (AFF).]

16. Personal sports mobile dealer. "Personal sports mobile dealer" means any person who sells or solicits or advertises the sale of new or used personal sports mobiles. "Personal sports mobile dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court, or public officers while performing their duties as those officers.
[PL 1997, c. 473, §3 (NEW).]

17. Sale. "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation or mortgage in any form, whether by transfer in trust or otherwise, of any personal sports mobile or interest in a personal sports mobile or of any franchise related to a personal sports mobile; and any option, subscription or other contract or solicitation looking to a sale, or any offer or attempt to sell in any form, whether spoken or written. A gift or delivery of any personal sports mobile or franchise with or as a bonus on account of the sale of anything is deemed a sale of that personal sports mobile or franchise.
[PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW). PL 2001, c. 616, §1 (AMD). PL 2003, c. 414, §B19 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF).

§1243. Prohibited acts

The following acts are unfair methods of competition and unfair and deceptive practices. It is unlawful for any: [PL 1997, c. 473, §3 (NEW).]

1. Damage to public. Manufacturer or personal sports mobile dealer to engage in any action that is arbitrary, in bad faith or unconscionable and that causes damage to any of the parties or to the public; [PL 1997, c. 473, §3 (NEW).]

2. Coercion involving deliveries and orders. Manufacturer or an officer, agent or other representative of a manufacturer to coerce or attempt to coerce any personal sports mobile dealer:

A. To order or accept delivery of any personal sports mobile or appliances, equipment, parts or accessories for a personal sports mobile or any other commodity or commodities that the personal sports mobile dealer has not voluntarily ordered, or to order or accept delivery of any personal sports mobile with special features, appliances, accessories or equipment not included in the list price of the personal sports mobile as publicly advertised by the manufacturer; or [PL 1997, c. 473, §3 (NEW).]

B. To order for any person any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever; [PL 1997, c. 473, §3 (NEW).]

[PL 1997, c. 473, §3 (NEW).]

3. Certain interference in dealer's business. Manufacturer or an officer, agent or other representative of a manufacturer:

A. To refuse to deliver in reasonable quantities and within a reasonable time after receipt of a dealer's order to any personal sports mobile dealer having a franchise or contractual arrangement for the retail sale of new personal sports mobiles sold or distributed by a manufacturer any personal sports mobiles that are covered by that franchise or contract and specifically publicly advertised by that manufacturer to be available for immediate delivery; however, the failure to deliver any personal sports mobile is not a violation of this chapter if that failure is due to an act of God, or work stoppage or delay due to a strike or labor difficulty, shortage of materials, freight embargo or other cause over which the manufacturer or any of its agents has no control; [PL 1997, c. 473, §3 (NEW).]

B. To coerce or attempt to coerce any personal sports mobile dealer to enter into any agreement with a manufacturer or an officer, agent or other representative of a manufacturer, or to do any other act prejudicial to that dealer by threatening to cancel any franchise or any contractual agreement existing between the manufacturer and that dealer; however, notice in good faith to any personal sports mobile dealer of that dealer's violation of any terms or provisions of the franchise or contractual agreement, or any good faith attempt by the manufacturer to enforce the terms or

provisions of the franchise or contractual agreement, does not constitute a violation of this chapter; [PL 1997, c. 717, §1 (AMD).]

C. To resort to or use any false or misleading advertisement in connection with the manufacturer's business as a manufacturer or an officer, agent or other representative of the manufacturer; or to force any dealer to participate in any advertising campaign or contest, or to purchase any promotional materials, display devices or display decorations or materials at the expense of the new personal sports mobile dealer; [PL 1997, c. 473, §3 (NEW).]

D. To offer to sell or to sell any new personal sports mobile at a lower price than the price offered to any other personal sports mobile dealer for the same model vehicle similarly equipped, or to utilize any device, including, but not limited to, sales promotion plans or programs that result in that lower price. This paragraph does not apply to the following:

(1) Sales to a personal sports mobile dealer for resale to any unit of the Federal Government;

(2) Any manufacturer or any of its agents offering to sell or selling new personal sports mobiles to all personal sports mobile dealers at an equal price; and

(3) Sales by a manufacturer or any of its agents to any unit of the Federal Government; [PL 1997, c. 473, §3 (NEW).]

E. To offer to sell or lease or to sell or lease any new personal sports mobile to any person, except a manufacturer, at a lower price than the price offered and charged to a personal sports mobile dealer for the same model vehicle similarly equipped or to utilize any device that results in that lower price; [PL 1997, c. 473, §3 (NEW).]

F. To offer to sell or to sell parts or accessories to any new personal sports mobile dealer for use in that dealer's own business for the purpose of replacing or repairing the same or a comparable part or accessory at a lower price than the price charged for that part or accessory to any other new personal sports mobile dealer for similar parts or accessories for use in the dealer's own business; [PL 1997, c. 473, §3 (NEW).]

G. To prevent or attempt to prevent by contract or otherwise any personal sports mobile dealer from changing the capital structure of that dealer's dealership or the means by or through which the dealer finances the operation of that dealership, if the dealer at all times meets any reasonable capital standards agreed to between the dealership and the manufacturer and if that change by the dealer does not result in a change in the executive management control of the dealership; [PL 1997, c. 473, §3 (NEW).]

H. To prevent or attempt to prevent by contract or otherwise any personal sports mobile dealer or any officer, partner or stockholder of any personal sports mobile dealer from selling or transferring any part of the interest of any of them to any other person or party. However, a dealer, officer, partner or stockholder may not sell, transfer or assign the franchise or power of management or control under the franchise without the consent of the manufacturer. That consent may not be unreasonably withheld; [PL 1997, c. 473, §3 (NEW).]

I. To obtain money, goods, services, anything of value or any other benefit from any other person with whom the personal sports mobile dealer does business, on account of or in relation to the transactions between the dealer and the other person, unless that benefit is promptly accounted for and transmitted to the personal sports mobile dealer; [PL 1997, c. 473, §3 (NEW).]

J. To compete with a personal sports mobile dealer operating under an agreement or franchise from a manufacturer in a relevant market area that has been determined exclusively by equitable principles. A manufacturer is not considered to be competing when operating a dealership either temporarily for a reasonable period not to exceed one year or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can

reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions; [PL 1997, c. 473, §3 (NEW).]

K. To require a personal sports mobile dealer to assent to a release assignment, novation, waiver or estoppel that would relieve any person from liability imposed by this chapter; [PL 1997, c. 473, §3 (NEW).]

L. To require any new personal sports mobile dealer to refrain from participation in the management or acquisition of or investment in any other line of new personal sports mobiles or related products; [PL 1997, c. 473, §3 (NEW).]

M. To require any new personal sports mobile dealer to change the location of the new personal sports mobile dealership or during the course of the agreement or franchise to make any substantial alterations to the dealership premises when to do so would be unreasonable; [PL 1997, c. 473, §3 (NEW).]

N. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new personal sports mobile dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, unless a manufacturer has:

(1) Satisfied the notice requirement of paragraph Q;

(2) Acted in good faith as defined in section 1242, subsection 11; and

(3) Good cause for the cancellation, termination, nonrenewal or noncontinuance; [PL 1997, c. 473, §3 (NEW).]

O. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new personal sports mobile dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, unless good cause exists. Good cause exists for the purposes of a termination, cancellation, nonrenewal or noncontinuance:

(1) When there is a failure by the new personal sports mobile dealer to comply with a provision of the franchise that is both reasonable and of material significance to the franchise relationship so long as compliance on the part of the new personal sports mobile dealer is reasonably possible and the manufacturer first acquired actual or constructive knowledge of the failure not more than 180 days prior to the date on which notification is given pursuant to paragraph Q;

(2) If the failure by the new personal sports mobile dealer, as described in subparagraph (1), relates to the performance of the new personal sports mobile dealer in sales or service. In this case, good cause is the failure of the new personal sports mobile dealer to effectively carry out the performance provisions of the franchise if:

(a) The new personal sports mobile dealer was apprised by the manufacturer in writing of that failure; the notification stated that notice was provided of failure of performance pursuant to this subsection; and the new personal sports mobile dealer was afforded a reasonable opportunity for a period of not less than 4 months to exert good faith efforts to carry out the performance provisions;

(b) The failure continued within the period that began not more than 120 days before the date notification of termination, cancellation or nonrenewal was given pursuant to paragraph Q; and

(c) The new personal sports mobile dealer has not substantially complied with reasonable performance criteria established by the manufacturer and communicated to that dealer;

(3) When the dealer and the manufacturer agree not to renew the franchise; or

(4) When the manufacturer discontinues production or distribution of any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever; [PL 1997, c. 717, §2 (AMD).]

P. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new personal sports mobile dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, based on any of the following items, which do not constitute good cause:

(1) The change of ownership of the new personal sports mobile dealer's dealership. This subparagraph does not authorize any change in ownership that would have the effect of the sale of the dealership without the manufacturer's written consent. This consent may not be unreasonably withheld. The burden of establishing the reasonableness is on the manufacturer;

(2) The fact that the new personal sports mobile dealer unreasonably refused to purchase or accept delivery of any new personal sports mobile, parts, accessories or any other commodity or services not ordered by the new personal sports mobile dealer, except that the manufacturer may require that the dealer stock a reasonable supply of parts or accessories required to perform campaign, recall or warranty work, and except that this provision is not intended to modify or supersede any requirement of the franchise that dealers market a representative line of those personal sports mobiles that the manufacturer is publicly advertising;

(3) The fact that the new personal sports mobile dealer owns, has an investment in, participates in the management of or holds a license for the sale of another make or line of new personal sports mobiles or that the new personal sports mobile dealer has another make or line of new personal sports mobiles in the same dealership facilities as those of the manufacturer, as long as the new personal sports mobile dealer maintains a reasonable line of credit for each make or line of new personal sports mobiles and that the new personal sports mobile dealer remains in substantial compliance with reasonable facilities' requirements of the manufacturer; or

(4) The fact that the new personal sports mobile dealer sells or transfers ownership of the dealership or sells or transfers capital stock in the dealership to the new personal sports mobile dealer's designated family member. The manufacturer shall give effect to such change in the ownership in the franchise. This subparagraph does not authorize any changes in ownership that would have the effect of the sale of the dealership without the manufacturer's written consent. This consent may not be unreasonably withheld. The burden of establishing the reasonableness is on the manufacturer.

The manufacturer has the burden of proof under paragraph N for showing that it has acted in good faith, that the notice requirements have been complied with and that there was good cause for the franchise termination, cancellation, nonrenewal or noncontinuance; [PL 1997, c. 473, §3 (NEW).]

Q. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new personal sports mobile dealer, notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, without first providing notification of the termination, cancellation, nonrenewal or noncontinuance to the new personal sports mobile dealer as follows:

(1) Notification under this paragraph must be in writing and must be delivered personally or by certified mail to the new personal sports mobile dealer and must contain:

(a) A statement of intention to terminate, cancel, not continue or not renew the franchise;

(b) A statement of the reasons for the termination, cancellation, noncontinuance or nonrenewal; and

(c) The date on which the termination, cancellation, noncontinuance or nonrenewal takes effect;

(2) The notice required in this paragraph may not be given less than 90 days prior to the effective date of the termination, cancellation, noncontinuance or nonrenewal, except as provided in subparagraph (3); or

(3) The notice required in this paragraph may not be given less than 15 days prior to the effective date of the termination, cancellation, noncontinuance or nonrenewal with respect to any of the following:

(a) Insolvency of the new personal sports mobile dealer or filing of any petition by or against the new personal sports mobile dealer under any bankruptcy or receivership law;

(b) The business operations of the personal sports mobile dealer have been abandoned or closed for 14 consecutive business days unless the closing is due to an act of God, strike or labor difficulty; or

(c) Conviction of or plea of nolo contendere of a personal sports mobile dealer or one of its principal owners of any Class A, Class B or Class C crime, as defined in Title 17-A, in which a sentence of imprisonment of one year or more is imposed under Title 17-A, sections 1603 and 1604; or [PL 2019, c. 113, Pt. C, §5 (AMD).]

R. To cancel, terminate, fail to renew or refuse to continue any franchise relationship with a licensed new personal sports mobile dealer without providing fair and reasonable compensation to the licensed new personal sports mobile dealer for:

(1) All unsold new model personal sports mobile inventory of the current and previous 2 model years purchased from the manufacturer;

(2) Unused supplies and parts purchased from the manufacturer or its approved sources; however, if the termination, cancellation, nonrenewal or noncontinuance was for good cause, the following conditions apply:

(a) The rate of reimbursement is the dealer net price at the time of reimbursement, less a 15% restocking fee;

(b) Each part to be repurchased must be new, undamaged, in its original packaging, if applicable, currently listed in the distributor's parts list and directly purchased by the dealer seeking repurchase from the distributor;

(c) The dealer must comply with reasonable procedures established by the distributor for parts repurchased, as long as these procedures do not reduce the price and are necessary for the orderly return of parts; and

(d) The dealer must possess, and transfer to the distributor, right title to the parts;

(3) Equipment and furnishings purchased from the manufacturer or its approved sources;

(4) Special tools purchased from the manufacturer or its approved sources; and

(5) Facilities, if the involuntary termination, cancellation, noncontinuance or nonrenewal is due to a failure of performance of the new personal sports mobile dealer in sales or service. The amount of compensation due to the dealer from the manufacturer must be determined as follows:

(a) If the new personal sports mobile dealer is leasing the facilities from a lessor other than the manufacturer, the manufacturer shall pay the new personal sports mobile dealer a sum equivalent to the pro rata portion of the rent for the unexpired term or one year's rent, whichever is less, that represents the aggregate percentage of the sales dollar volume and

service dollar volume derived from the sale and service of that manufacturer's products for the 12 months immediately preceding termination, cancellation, noncontinuance or nonrenewal; or

(b) If the new personal sports mobile dealer owns the facilities, the manufacturer shall pay the new personal sports mobile dealer a sum equivalent to the pro rata portion of the reasonable rental value of the facilities for one year that represents the aggregate percentage of the sales dollar volume and service dollar volume derived from the sale and service of that manufacturer's products for the 12 months immediately preceding the termination, cancellation, noncontinuance or nonrenewal.

Such fair and reasonable compensation for the items listed in subparagraphs (1), (3) and (4) may not be less than the acquisition price. Compensation for the items listed in subparagraphs (1), (3), (4) and (5) must be paid by the manufacturer, when possible, within 90 days of the effective date of the termination, cancellation, noncontinuance or nonrenewal. Compensation for the items listed in subparagraph (2) must be paid by the manufacturer, when possible, within 90 days of the date on which the parts are received by the manufacturer from the dealer.

In lieu of any injunctive relief or any other damages, if the manufacturer fails to prove there was good cause for the termination, cancellation, noncontinuance or nonrenewal, or if the manufacturer fails to prove that it acted in good faith, then the manufacturer may pay the new personal sports mobile dealer fair and reasonable compensation for the value of the dealership as an ongoing business; and [PL 1997, c. 717, §3 (AMD).]

[PL 2019, c. 113, Pt. C, §5 (AMD).]

4. Dealer violations. Personal sports mobile dealer:

A. To require a purchaser of a new personal sports mobile, as a condition of sale and delivery of the new personal sports mobile, to also purchase special features, appliances, equipment, parts or accessories not desired or requested by the purchaser. The substance of this paragraph must be conveyed by the personal sports mobile dealer to the purchaser prior to the consummation of the purchase; [PL 1997, c. 473, §3 (NEW).]

B. To represent and sell as a new personal sports mobile any personal sports mobile that has been used and operated for demonstration purposes or is otherwise a used personal sports mobile; [PL 1997, c. 473, §3 (NEW).]

C. To resort to or use any false or misleading advertisement in connection with that dealer's business as a personal sports mobile dealer; [PL 2001, c. 616, §2 (AMD).]

D. To fail to disclose conspicuously in writing the personal sports mobile dealer's policy in relation to the return of deposits received from any person. A dealer shall require that a person making a deposit sign the form on which the disclosure appears; or [PL 2001, c. 616, §2 (AMD).]

E. To sell, directly or indirectly, a new personal sports mobile without holding a current and valid franchise with the manufacturer of the brand of new personal sports mobile being sold. [PL 2001, c. 616, §3 (NEW).]

[PL 2001, c. 616, §§2, 3 (AMD).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW). PL 1997, c. 717, §§1-3 (AMD). PL 2001, c. 616, §§2,3 (AMD). PL 2019, c. 113, Pt. C, §5 (AMD).

§1243-A. Unlawful sale of new personal sports mobile

A person is guilty of unlawful sale of a new personal sports mobile if that person sells a new personal sports mobile and does not possess a current and valid franchise with the personal sports mobile manufacturer of the brand of new personal sports mobile being sold. If, upon demand by a law

enforcement officer, a person fails to produce evidence of a franchise required by this section, this failure is prima facie evidence that the person does not possess that franchise. [PL 2001, c. 616, §4 (NEW).]

A person who violates this section commits a Class E crime and additionally is liable in any action brought for unfair methods of competition or unfair and deceptive trade practices for treble damages, which include, but are not limited to, damages related to warranty coverage. [PL 2001, c. 616, §4 (NEW).]

This section may be enforced by any law enforcement officer. [PL 2001, c. 616, §4 (NEW).]

SECTION HISTORY

PL 2001, c. 616, §4 (NEW).

§1244. Limitations on establishing or relocating dealerships

A new personal sports mobile dealership may not be established nor may a personal sports mobile dealership be relocated, except as follows. [PL 1997, c. 473, §3 (NEW).]

1. Notification. If a manufacturer seeks to enter into a franchise establishing an additional new personal sports mobile dealership or relocating an existing new personal sports mobile dealership, within or into a relevant market area where the same line make is already represented, the manufacturer shall, in writing, first notify each new personal sports mobile dealer in the line make in the relevant market area of the intention to establish an additional dealership or to relocate an existing dealership within or into that market area. The relevant market area is a radius of 15 miles around an existing dealership in the following cities: Augusta, Auburn, Bangor, Biddeford, Brewer, Falmouth, Lewiston, Portland, Saco, South Portland, Waterville and Westbrook. The relevant market area is a radius of 30 miles around all other existing dealerships.

Within 30 days of receiving the notice or within 30 days after the end of any appeal procedure provided by the manufacturer, any such new personal sports mobile dealership may file a complaint in the Superior Court of the county in which the dealership is located, protesting the establishment or relocation of the proposed new personal sports mobile dealership. When such a complaint is filed, the manufacturer may not establish or relocate the proposed new personal sports mobile dealership until a hearing has been held on the merits, nor thereafter if the court determines that there is good cause for not permitting the proposed new personal sports mobile dealership.
[PL 1997, c. 473, §3 (NEW).]

2. Good cause. In determining whether good cause has been established for not entering into or relocating an additional dealership for the same line make, the court shall take into consideration the existing circumstances, including, but not limited to:

A. The permanency of the investment of both the existing and proposed new personal sports mobile dealers; [PL 1997, c. 473, §3 (NEW).]

B. The effect on the retail new personal sports mobile business and the consuming public in the relevant market area; [PL 1997, c. 473, §3 (NEW).]

C. Whether it is injurious or beneficial to the public welfare for an additional new personal sports mobile dealership to be established; [PL 1997, c. 473, §3 (NEW).]

D. Whether the new personal sports mobile dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the personal sports mobiles of the line make in the market area, including the adequacy of personal sports mobile sales and service facilities, equipment, supply of personal sports mobile parts and qualified service personnel; [PL 1997, c. 473, §3 (NEW).]

E. Whether the establishment of an additional new personal sports mobile dealership would increase competition and therefore be in the public interest; and [PL 1997, c. 473, §3 (NEW).]

F. The effect on the establishing or relocating dealer as a result of not being permitted to establish or relocate. [PL 1997, c. 473, §3 (NEW).]

[PL 1997, c. 473, §3 (NEW).]

3. Mediation. A franchisee may not bring an action for recovery of damages or for equitable relief under this section until a franchisee has served upon the franchisor a written demand for nonbinding mediation and either the parties have engaged in such mediation in this State with an independent mediator or 60 days have passed from the franchisor's receipt of notice of mediation, whichever occurs sooner. The service of the written notice of mediation tolls the running of any applicable statute of limitations for the subsequent 60-day period. A franchisor may not establish a new personal sports mobile dealership or relocate an existing sports mobile dealership within or into the relevant market area during this 60-day period. Notwithstanding any agreement or requirement to engage in nonbinding mediation, at the conclusion of the proceedings, the franchisee is entitled to file an action in any court in this State in accordance with section 1250-I. The results of nonbinding mediation are not admissible in the action.

[PL 2001, c. 246, §1 (NEW).]

For the purposes of this section, the reopening in a relevant market area of a new personal sports mobile dealership that has not been in operation for one year or more is deemed the establishment of an additional new personal sports mobile dealership. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW). PL 2001, c. 246, §1 (AMD).

§1245. Transportation damages

1. Liability of new dealer after acceptance. Notwithstanding the terms, provisions or conditions of any agreement or franchise, the new personal sports mobile dealer is solely liable for damages to new personal sports mobiles after acceptance from the carrier and before delivery to the ultimate purchaser.

[PL 1997, c. 473, §3 (NEW).]

2. Liability of manufacturer. Notwithstanding the terms, provisions or conditions of any agreement or franchise, the manufacturer is liable for all damages to personal sports mobiles before delivery to a carrier or transporter.

[PL 1997, c. 473, §3 (NEW).]

3. Additional liability of dealer. Notwithstanding the provisions of subsections 1 and 2, the new personal sports mobile dealer is liable for damages to new personal sports mobiles after delivery to the carrier if the dealer selects the mode of transportation and the carrier. In all other instances, the manufacturer is liable for carrier-related new personal sports mobile damage as long as the new personal sports mobile dealer annotates the bill of lading or other carrier document indicating damages observed at the time of delivery to the new personal sports mobile dealer and promptly notifies the manufacturer of any concealed damage discovered after delivery.

[PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1246. Survivorship

1. Right of family member. The right of a designated family member to succeed in dealer ownership is governed by the following provisions.

A. Any designated family member of a deceased or incapacitated new personal sports mobile dealer who has been designated as successor to that dealer in writing to the manufacturer may succeed the dealer in the ownership or operation of the dealership under the existing franchise or distribution agreement, if the designated family member gives the manufacturer of new personal sports mobiles a written notice of the intention to succeed to the dealership within 120 days of the dealer's death or incapacity. The designated family member may not succeed the dealer if there exists good cause for refusal to honor the succession on the part of the manufacturer. [PL 1997, c. 473, §3 (NEW).]

B. The manufacturer may request and the designated family member shall provide, upon the request, on forms provided for that purpose, personal and financial data that is reasonably necessary to determine whether the succession may be honored. [PL 1997, c. 473, §3 (NEW).]

[PL 1997, c. 473, §3 (NEW).]

2. Refusal to honor; notice required. The refusal to honor the right of a designated family member to succeed in dealer ownership is governed by the following provisions.

A. If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership and operation of a dealership by a designated family member of a deceased or incapacitated new personal sports mobile dealer under the existing franchise agreement, the manufacturer may, within 60 days of receipt of the information requested in subsection 1, paragraph B, serve upon the designated family member notice of its refusal to honor the succession or its intent to discontinue the existing franchise agreement with the dealership. Such discontinuance may not take place sooner than 90 days from the date the notice is served. [PL 1997, c. 473, §3 (NEW).]

B. The notice must state the specific grounds for the refusal to honor the succession and the intent to discontinue the existing franchise agreement with the dealership no sooner than 90 days from the date the notice is served. [PL 1997, c. 473, §3 (NEW).]

C. If notice of refusal and discontinuance is not timely served upon the designated family member, the franchise agreement continues in effect subject to termination only as otherwise permitted by this section. [PL 1997, c. 473, §3 (NEW).]

[PL 1997, c. 473, §3 (NEW).]

3. Written designation of succession unaffected. This section does not preclude a new personal sports mobile dealer from designating any person as that new personal sports mobile dealer's successor by written instrument filed with the manufacturer.

[PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1247. Delivery and preparation obligations; product liability and implied warranty complaints

Every manufacturer shall specify to the dealer the delivery and preparation obligations of its personal sports mobile dealers prior to delivery of new personal sports mobiles to retail buyers. The delivery and preparation obligations of its personal sports mobile dealers and a schedule of the compensation to be paid to its personal sports mobile dealers for the work and services they are required to perform in connection with the delivery and preparation are the dealer's only responsibility for product liability between that dealer and that manufacturer. The compensation set forth on the schedule must be reasonable. [PL 1997, c. 473, §3 (NEW).]

In any action or claim brought against the personal sports mobile dealer on a product liability complaint in which it is later determined that the manufacturer is liable, the dealer is entitled to receive

from the manufacturer that dealer's reasonable costs and attorney's fees incurred in defending the claim or action. [PL 1997, c. 473, §3 (NEW).]

In any action or claim brought against the personal sports mobile dealer on a breach of implied warranty complaint in which it is later determined that the manufacturer is liable, the dealer is entitled to receive from the manufacturer the dealer's reasonable costs and attorney's fees incurred in defending the claim or action. In any such implied warranty action, a dealer has the rights of a buyer under Title 11, section 2607, subsection 5. [PL 1997, c. 473, §3 (NEW).]

The court shall consider the personal sports mobile dealer's share in the responsibility for the damages in awarding costs and attorney's fees. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1248. Warranty

1. Parts or labor; satisfaction of warranty. If a personal sports mobile franchisor requires or permits a personal sports mobile franchisee to perform labor or provide parts in satisfaction of a warranty created by the franchisor, the franchisor shall properly and promptly fulfill its warranty obligations and shall:

A. Reimburse the franchisee for any parts provided at the published manufacturer's suggested retail price at the time of retail sale; and [PL 1997, c. 717, §4 (AMD).]

B. Reimburse the franchisee for any labor performed at the retail rate customarily charged by that franchisee for the same labor when not performed in satisfaction of a warranty. The franchisee's rate for labor not performed in satisfaction of a warranty must be posted in a place conspicuous to its service customers. [PL 1997, c. 473, §3 (NEW).]

[PL 1997, c. 717, §4 (AMD).]

2. Claim. Any claim made by a franchisee for compensation for parts provided or for reimbursement for labor performed in satisfaction of a warranty must be paid within 30 days of its approval from the franchisor. All the claims must be either approved or disapproved within 30 days of their receipt. When any such claim is disapproved, the franchisee that submitted it must be notified in writing from the franchisor of its disapproval within that period, together with the specific reasons for its disapproval.

[PL 1997, c. 473, §3 (NEW).]

3. Restrictions prohibited. A franchisor may not restrict by agreement, restriction upon reimbursement or otherwise the nature or extent of labor performed or parts provided so that the restriction impairs the franchisee's ability to satisfy a warranty created by the franchisor by performing labor in a professional manner or by providing parts required in accordance with generally accepted standards.

[PL 1997, c. 473, §3 (NEW).]

4. Costs; fees. In any claim that is disapproved by the manufacturer and in which the dealer brings legal action to collect the disapproved claim and is successful in the action, the court shall award the dealer the cost of the action together with reasonable attorney's fees. Reasonable attorney's fees must be determined by the value of the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the dealer.

[PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW). PL 1997, c. 717, §4 (AMD).

§1249. Unreasonable restrictions

It is unlawful directly or indirectly to impose unreasonable restrictions on a personal sports mobile dealer or franchisee relative to transfer; sale; right to renew; termination; discipline; noncompetition covenants; site-contracts whether by sublease, collateral pledge of lot purchase or option to purchase; compliance with subjective standards; or assertion of legal or equitable rights. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250. Covered under written or oral agreements

1. Agreements subject to this chapter. Written or oral agreements between a manufacturer, wholesaler or distributor with a personal sports mobile dealer, including, but not limited to, the franchise offering, the franchise agreement, sales of goods, services or advertising, leases or mortgages of real or personal property, promises to pay, security interests, pledges, insurance contracts, advertising contracts, construction or installation contracts, servicing contracts and all other such agreements in which the manufacturer, wholesaler or distributor has any direct or indirect interest, are subject to this chapter.
[PL 1997, c. 473, §3 (NEW).]

2. Copy of agreement or amendments. Before any new selling agreement or any amendment to that selling agreement between the parties becomes effective, the manufacturer or an officer, agent or other representative of that manufacturer shall, 90 days prior to the effective date of the agreement or amendment, forward a copy of the agreement or amendment to the dealer.
[PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250-A. Franchise interest; vested rights

Notwithstanding any other provision of law, it is unlawful for the manufacturer, wholesaler, distributor or franchisor without due cause to fail to renew a franchise on terms then equally available to all its personal sports mobile dealers, to terminate a franchise or to restrict the transfer of a franchise unless the franchisee receives fair and reasonable compensation for the value of the business. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250-B. Franchisee's right to associate

Any franchisee has the right of free association with other franchisees for any lawful purpose. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250-C. Discounts and other inducements

In connection with a sale of a personal sports mobile or mobiles to the State or to any political subdivision of the State, a manufacturer may not offer any discounts, refunds or any other similar type of inducement to any dealer without making the same offer or offers to all its dealers within the relevant market area. If such inducements are made, the manufacturer, distributor or wholesaler shall give simultaneous notice of those inducements to all of its dealers within the relevant market area. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250-D. Public policy

Any contract or part of a contract or practice under a contract in violation of any provision of this chapter is against public policy and is void and unenforceable. Any existing contract or part of a contract or practice under a contract in violation of any provision of this chapter is against public policy and is void and unenforceable to the extent that it is in conflict with this chapter. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250-E. Advertisements

Any person who engages directly or indirectly in purposeful contacts within this State in connection with the offering or advertising for sale or has business dealings with respect to a personal sports mobile within the State is subject to this chapter. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250-F. Civil remedies

1. Civil remedies. A franchisee or personal sports mobile dealer who suffers financial loss of money or property, real or personal, or who has otherwise been adversely affected as a result of an unfair method of competition, an unfair or deceptive act or a violation of a provision of this chapter may bring an action for damages and equitable relief, including injunctive relief. When the franchisee or dealer prevails, the court shall award attorney's fees to the franchisee or dealer regardless of the amount in controversy and assess costs against the opposing party. A final judgment, order or decree rendered against a person in a civil or administrative proceeding under this chapter or in a civil, criminal or administrative proceeding under the federal antitrust laws, the Federal Trade Commission Act, or any other part of the Maine Revised Statutes is prima facie evidence against that person subject to the conditions set forth in the federal antitrust laws, 15 United States Code, Section 16.
[PL 2001, c. 246, §2 (AMD).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW). PL 1997, c. 717, §5 (AMD). PL 2001, c. 246, §2 (AMD).

§1250-G. Statute of limitation

Actions arising out of any provision of this chapter must be commenced within 4 years after the cause of action accrues; however, if a person liable under this chapter conceals the cause of action from the knowledge of the person entitled to bring it, the period prior to the discovery of the cause of action by the person so entitled is excluded in determining the time limited for commencement of the action. If a cause of action accrues during the pendency of any civil, criminal or administrative proceeding against a person brought by the United States or any of its agencies under the antitrust laws, the Federal Trade Commission Act or any other federal Act or the laws of Maine related to antitrust laws or to franchising, that action may be commenced within one year after the final disposition of that civil, criminal or administrative proceeding. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250-H. Construction

In construing this chapter the courts may be guided by the interpretations of the Federal Trade Commission Act, 15 United States Code, Section 45, as amended. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250-I. Jurisdiction

Any person who violates any provision of this chapter is subject to the jurisdiction of the courts of this State upon service of process in accordance with Title 14, chapter 203 and consistent with the maximum limits of due process as decided by the United States Supreme Court. [PL 1997, c. 473, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 473, §3 (NEW).

§1250-J. Penalty

(REPEALED)

SECTION HISTORY

PL 1997, c. 473, §3 (NEW). PL 1997, c. 717, §6 (RP).

§1250-K. Unlawful sale of new snowmobile and new all-terrain vehicle

(REPEALED)

SECTION HISTORY

PL 2001, c. 387, §1 (NEW). PL 2001, c. 616, §5 (RP).

CHAPTER 206-C

MISREPRESENTATION OF BUSINESS NAMES

§1250-L. Locale misrepresentation

1. General prohibition. Except as provided in subsection 2, a business offering consumer goods for sale in this State may not advertise or cause to be listed in a telephone directory a business name that:

A. Is intentionally designed to misrepresent where the business is located or operating; or [PL 2003, c. 647, §1 (NEW).]

B. Falsely identifies the business as being located or operating in the area covered by the telephone directory. [PL 2003, c. 647, §1 (NEW).]

Each day a violation continues constitutes a separate offense until all numbers listed in the directory or advertisement in association with the prohibited business name are disabled so that calls to the numbers do not in any way connect callers to the business.
[PL 2003, c. 647, §1 (NEW).]

2. Exceptions. Subsection 1 does not apply to:

A. A telephone service provider or the publisher or distributor of a telephone service directory, unless the conduct proscribed by subsection 1 is on behalf of that telephone service provider, publisher or distributor; or [PL 2003, c. 647, §1 (NEW).]

B. Any foreign corporation, the stock of which is traded on a national stock exchange and that has gross annual revenues in excess of $100,000,000. [PL 2003, c. 647, §1 (NEW).]
[PL 2003, c. 647, §1 (NEW).]

3. Violation. A person who violates this section commits a civil violation for which a fine of not less than $500 nor more than $1,000 may be adjudged.
[PL 2003, c. 647, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 647, §1 (NEW).

CHAPTER 207

TRADING STAMPS

§1251. Definitions

(REPEALED)

SECTION HISTORY

PL 1979, c. 541, §A93 (AMD). PL 1991, c. 837, §A23 (RP).

§1252. Prohibitions

(REPEALED)

SECTION HISTORY

PL 1991, c. 837, §A23 (RP).

§1253. Cash value

(REPEALED)

SECTION HISTORY

PL 1991, c. 837, §A23 (RP).

§1254. Statement of registration; fee

(REPEALED)

SECTION HISTORY

PL 1981, c. 470, §§A26-A28 (AMD). PL 1991, c. 837, §A23 (RP).

§1255. Filing notice to suspend redemption

(REPEALED)

SECTION HISTORY

PL 1991, c. 837, §A23 (RP).

§1256. Penalties

(REPEALED)

SECTION HISTORY

PL 1991, c. 837, §A23 (RP).

CHAPTER 208

UNLAWFUL COPYING

§1261. Transfer of recorded sounds for unlawful use; sale

1. Transfers. Every person who knowingly and willfully transfers or causes to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, such article on which such sounds are so transferred, without the consent of the owner, shall be punished by a fine of not less than $500 nor more than $5,000 for each such offense.
[PL 1975, c. 88 (NEW).]

2. Advertising and sale. Every person who advertises, offers for sale or sells any article described in subsection 1 with the knowledge that the sounds thereon have been so transferred without the consent of the owner shall be punished by a fine of not less than $50 nor more than $500 for each such offense.
[PL 1975, c. 88 (NEW).]

3. Definition of person and owner. As used in this section, "person" means any individual, partnership, corporation or association; and "owner" means the person who owns the master phonograph record, master disc, master tape, master file or other device used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is recorded, and from which the transferred recorded sounds are directly or indirectly derived.
[PL 1975, c. 88 (NEW).]

4. Civil remedies unaffected. This section shall neither enlarge nor diminish civil remedies of the State or of parties injured by practices prohibited by this section.
[PL 1975, c. 88 (NEW).]

5. Application. This section does not apply to any person engaged in radio or television broadcasting who transfers or causes to be transferred any recorded sounds as described in subsection 1, other than from the sound track of a motion picture, intended for, or in connection with, broadcast transmission or related uses or for archival purposes. This section does not apply to any person who transfers or causes to be transferred any recorded sounds as described in subsection 1 for private use and with no purpose of capitalizing commercially on such reproduction.
[PL 1975, c. 88 (NEW).]

SECTION HISTORY

PL 1975, c. 88 (NEW).

CHAPTER 208-A

PROTECTION OF SOCIAL SECURITY NUMBERS

§1271. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 115, §1 (NEW).]

1. Credit card. "Credit card" means a card, plate, coupon book or other single credit device that may be used to obtain credit.
[PL 1993, c. 115, §1 (NEW).]

2. Customer service card. "Customer service card" means a card, plate, code or other device used by a business as a means of identifying customers who receive membership, purchasing or check-cashing privileges, or other rights or privileges by possession and use of that device.
[PL 1993, c. 115, §1 (NEW).]

3. Debit card. "Debit card" means a card, code or other device, other than a check, draft or similar paper instrument, by the use of which a person may institute an electronic fund transfer.
[PL 1993, c. 115, §1 (NEW).]

REVISOR'S NOTE: §1271. Definitions (As enacted by PL 1993, c. 683, Pt. B, §1 was REPEALED by PL 1995, c. 462, Pt. A, §21)

SECTION HISTORY

PL 1993, c. 115, §1 (NEW). PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1272. Prohibition

A business operating in this State may not display a social security number on a credit card, customer service card or debit card issued or distributed by that business on or after January 1, 1994. [PL 1993, c. 115, §1 (NEW).]

Notwithstanding this section, social security numbers may be used as identification for medical insurance, including health insurance, dental insurance or prescription drug coverage, except that a number other than a social security number must be used for insurance-related identification purposes upon the written request of an individual. [PL 1995, c. 134, §1 (NEW).]

REVISOR'S NOTE: §1272. Usage of trade (As enacted by PL 1993, c. 683, Pt. B, §1 was REPEALED BY by PL 1995, c. 462, Pt. A, §21)

SECTION HISTORY

PL 1993, c. 115, §1 (NEW). PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 134, §1 (AMD). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1272-A. Exemptions from prohibition

(REPEALED)

SECTION HISTORY

PL 1993, c. 533, §1 (NEW). PL 1995, c. 134, §2 (RP).

§1272-B. Refusal to provide social security number

1. No denial of goods or services. Except as otherwise provided in federal or state law, a person, corporation or other entity may not deny goods or services to an individual because the individual refuses to provide a social security number.
[PL 2003, c. 512, §1 (NEW).]

2. Exemptions. This section does not apply to:

A. A person, corporation or other entity requesting disclosure of the social security number to obtain a consumer report for any purpose permitted under the Fair Credit Reporting Act or the United States Fair Credit Reporting Act; [PL 2003, c. 512, §1 (NEW).]

B. A supervised lender as defined in Title 9-A, section 1-301; [PL 2003, c. 512, §1 (NEW).]

C. A supervised financial organization as defined in Title 9-A, section 1-301; [PL 2003, c. 512, §1 (NEW).]

D. An affiliate or subsidiary of a supervised lender as defined in Title 9-A, section 1-301 or of a supervised financial organization as defined in Title 9-A, section 1-301; [PL 2003, c. 512, §1 (NEW).]

E. A person, corporation or other entity that provides goods or services to the individual on behalf of or in conjunction with a supervised financial organization as defined in Title 9-A, section 1-301; [PL 2003, c. 512, §1 (NEW).]

F. A person, corporation or other entity engaged in the business of insurance and all acts necessary or incidental to that business including insurance applications, enrollment, coverage and claims; [PL 2003, c. 512, §1 (NEW).]

G. A person, corporation or other entity if the social security number is used in conjunction with the provision of and billing for health care or pharmaceutical-related services, including the issuance of identification cards and account numbers for users of health care or pharmaceutical-related services; [PL 2003, c. 512, §1 (NEW).]

H. A person, corporation or other entity if the social security number is used in conjunction with a background check of the individual conducted by a landlord, lessor, employer or volunteer service organization; or [PL 2003, c. 512, §1 (NEW).]

I. A person, corporation or other entity if the social security number is necessary to verify the identity of the individual to effect, administer or enforce a specific transaction requested or authorized by the individual or to prevent fraud. [PL 2003, c. 512, §1 (NEW).]

[PL 2003, c. 512, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 512, §1 (NEW).

§1273. Administrative enforcement

The Director of Consumer Credit Regulation may take appropriate action to ensure compliance with this chapter, including without limitation: to receive and act on complaints; negotiate an assurance in writing that a violator will not engage in the same or similar conduct in the future; conduct hearings in accordance with the Maine Administrative Procedure Act and issue a cease and desist order for violation of this chapter; refer cases to the Attorney General, who may bring a civil action against a person for knowingly violating a written assurance of discontinuance. If a court finds a violation of this chapter it may assess a civil forfeiture of not more than $1,000. [PL 1993, c. 115, §1 (NEW); PL 1995, c. 309, §27 (AMD).]

REVISOR'S NOTE: §1273. Notice of termination of dealer agreements (As enacted by PL 1993, c. 683, Pt. B, §1 was REPEALED by PL 1995, c. 462, Pt. A, §21)

SECTION HISTORY

PL 1993, c. 115, §1 (NEW). PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 309, §27 (AMD). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1274. Supplier's duty to repurchase

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1275. Repurchase terms

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1276. Exceptions to repurchase requirement

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1277. Transfer of business

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1278. Uniform commercial practice

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1279. Warranty obligations

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1280. Remedies

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1281. Management

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1282. Waiver of chapter void

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1283. Applicability

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

§1284. Reasonableness and good faith

(REPEALED)

SECTION HISTORY

PL 1993, c. 683, §B1 (NEW). PL 1993, c. 683, §B5 (AFF). PL 1995, c. 462, §A21 (RP). PL 1995, c. 462, §A23 (AFF).

CHAPTER 208-B

FARM MACHINERY, FORESTRY EQUIPMENT, CONSTRUCTION EQUIPMENT AND INDUSTRIAL EQUIPMENT DEALERSHIPS

§1285. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

1. Current net price. "Current net price" means the price listed in the supplier's price list or catalog in effect at the time the dealer agreement is terminated, less any applicable discounts allowed. [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

2. Dealer. "Dealer" means a person, corporation or partnership primarily engaged in the business of retail sales of farm and utility tractors, forestry equipment, industrial equipment, construction equipment, farm implements, farm machinery, yard and garden equipment, attachments, accessories and repair parts. "Dealer" does not include a person, corporation or partnership primarily engaged in the retail sale of all-terrain vehicles or motorcycles. "Dealer" does not include a single-line dealer as defined in subsection 5-A.
[PL 2011, c. 236, §1 (AMD); PL 2011, c. 236, §18 (AFF).]

3. Dealer agreement. "Dealer agreement" means a written or oral contract or agreement between a dealer and a wholesaler, manufacturer or distributor by which the dealer is granted the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype or advertising or other commercial symbol.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

4. Inventory. "Inventory" means farm, forestry, utility or industrial equipment, construction equipment, implements, machinery, yard and garden equipment, attachments or repair parts.
[PL 2011, c. 236, §2 (AMD); PL 2011, c. 236, §18 (AFF).]

5. Net cost. "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus reasonable cost of assembly or disassembly performed by the dealer.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

5-A. Single-line dealer. "Single-line dealer" means a person, corporation or partnership engaged in retail sales that:

A. Has purchased 75% or more of total new product inventory from a single supplier; and [PL 2011, c. 236, §3 (NEW); PL 2011, c. 236, §18 (AFF).]

B. Has a total annual average sales volume for the previous 3 years in excess of $100,000,000 for the entire territory subject to the agreement with the supplier. [PL 2011, c. 236, §3 (NEW); PL 2011, c. 236, §18 (AFF).]
[PL 2011, c. 236, §3 (NEW); PL 2011, c. 236, §18 (AFF).]

6. Supplier. "Supplier" means a wholesaler, manufacturer or distributor of inventory as defined in this chapter who enters into a dealer agreement with a dealer.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

7. Termination. "Termination" of a dealer agreement means the cancellation, nonrenewal or noncontinuance of the agreement.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF). PL 2011, c. 236, §§1-3 (AMD). PL 2011, c. 236, §18 (AFF).

§1286. Usage of trade

The terms "utility," "forestry," "construction" and "industrial," when used to refer to equipment, machinery, attachments, yard and garden equipment or repair parts, have the meanings commonly used and understood among dealers and suppliers of farm equipment as usage of trade in accordance with Title 11, section 1-1303, subsection (3). [PL 2011, c. 236, §4 (AMD); PL 2011, c. 236, §18 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF). PL 2009, c. 325, Pt. B, §1 (AMD). PL 2009, c. 325, Pt. B, §27 (AFF). PL 2011, c. 236, §4 (AMD). PL 2011, c. 236, §18 (AFF).

§1287. Notice of termination of dealer agreements

1. Notice of termination. Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not less than 120 days prior to the effective date of the termination. The supplier may immediately terminate the agreement at any time upon the occurrence of any of the following events:

A. The filing of a petition for bankruptcy or for receivership either by or against the dealer; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

B. The making by the dealer of an intentional and material misrepresentation as to the dealer's financial status; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

C. Any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

D. [PL 2011, c. 236, §5 (RP); PL 2011, c. 236, §18 (AFF).]

E. The commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

F. A change in location of the dealer's principal place of business as provided in the agreement without the prior written approval of the supplier; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

G. Withdrawal of an individual proprietor, partner or major shareholder or the involuntary termination of the manager of the dealership or a substantial reduction in the interest of a partner or major shareholder without the prior written consent of the supplier; or [PL 2011, c. 236, §5 (AMD); PL 2011, c. 236, §18 (AFF).]

H. Breach by the dealer of a written obligation contained in the agreement. [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

[PL 2011, c. 236, §5 (AMD); PL 2011, c. 236, §18 (AFF).]

2. Time of notice. Unless there is an agreement to the contrary, a dealer who intends to terminate a dealer agreement with a supplier shall notify the supplier of that intent not less than 120 days prior to the effective date of the termination.
[PL 2011, c. 236, §6 (AMD); PL 2011, c. 236, §18 (AFF).]

3. Notice in writing. Notification required by this section must be in writing and be made by certified mail or by personal delivery and must contain:

A. A statement of intention to terminate the dealer agreement; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

B. A statement of the reasons for the termination; and [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

C. The date on which the termination is effective. [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF). PL 2011, c. 236, §§5, 6 (AMD). PL 2011, c. 236, §18 (AFF).

§1288. Supplier's duty to repurchase

1. Repurchase. Whenever a dealer enters into a dealer agreement under which the dealer agrees to maintain an inventory, and the agreement is terminated by either party as provided in this chapter, the supplier, upon written request of the dealer filed within 30 days of the effective date of the termination, shall repurchase the dealer's inventory as provided in this chapter. There is no requirement for the supplier to repurchase inventory pursuant to this section if:

A. [PL 2011, c. 236, §7 (RP); PL 2011, c. 236, §18 (AFF).]

B. The dealer has made an intentional and material misrepresentation as to the dealer's financial status; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

C. The dealer has defaulted under a chattel mortgage or other security agreement between the dealer and supplier; or [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

D. The dealer has filed a voluntary petition in bankruptcy. [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]
[PL 2011, c. 236, §7 (AMD); PL 2011, c. 236, §18 (AFF).]

2. Death of dealer. Whenever a dealer enters into a dealer agreement in which the dealer agrees to maintain an inventory and the dealer or the majority stockholder of the dealer, if the dealer is a corporation, dies or becomes incompetent, the supplier shall, at the option of the heir, personal representative, or guardian of the dealer, or the person who succeeds to the stock of the majority stockholder, repurchase the inventory as if the agreement had been terminated. The heir, personal representative, guardian or succeeding stockholder has one year from the date of the death of the dealer or majority stockholder to exercise the option under this chapter.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF). PL 2011, c. 236, §7 (AMD). PL 2011, c. 236, §18 (AFF).

§1289. Repurchase terms

1. Examination of records. Within 90 days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to section 1288 may examine any books or records of the dealer to verify the eligibility of any item for repurchase. Except as otherwise provided in this chapter, the supplier shall repurchase from the dealer all inventory, required signs, specialized repair tools, books, supplies, data processing equipment and software previously purchased from the supplier and in the possession of the dealer on the date of termination of the dealer agreement.
[PL 2011, c. 236, §8 (AMD); PL 2011, c. 236, §18 (AFF).]

2. Payment terms. The supplier shall pay the dealer:

A. One hundred percent of the net cost of all new and undamaged and complete farm, utility, forestry, industrial and construction equipment, implements, machinery, yard and garden equipment and attachments purchased within the past 36 months from the supplier, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location; [PL 2011, c. 236, §8 (AMD); PL 2011, c. 236, §18 (AFF).]

B. Ninety percent of the current net prices of all new and undamaged repair parts; [PL 2011, c. 236, §8 (AMD); PL 2011, c. 236, §18 (AFF).]

C. Eighty-five percent of the current net prices of all new and undamaged superseded repair parts; [PL 2011, c. 236, §8 (AMD); PL 2011, c. 236, §18 (AFF).]

D. Eighty-five percent of the latest available published net price of all new and undamaged noncurrent repair parts; [PL 2011, c. 236, §8 (NEW); PL 2011, c. 236, §18 (AFF).]

E. The fair market value of, or assume the lease responsibilities for, any specific data processing equipment and software that the supplier required the dealer to purchase to satisfy the reasonable requirements of the dealer agreement, including computer systems equipment required or approved by the supplier to communicate with the supplier; [PL 2011, c. 236, §8 (NEW); PL 2011, c. 236, §18 (AFF).]

F. Seventy-five percent of the net cost of specialized repair tools, signs, books and supplies previously purchased, pursuant to requirements of the supplier and held by the dealer on the date of termination. Only specialized repair tools that are unique to the supplier product line, complete and in usable condition are required to be repurchased under this paragraph; and [PL 2011, c. 236, §8 (NEW); PL 2011, c. 236, §18 (AFF).]

G. Average as-is value shown in current industry guides for a dealer-owned rental fleet financed by the supplier or its finance subsidiary. [PL 2011, c. 236, §8 (NEW); PL 2011, c. 236, §18 (AFF).]

[PL 2011, c. 236, §8 (AMD); PL 2011, c. 236, §18 (AFF).]

3. Return costs. The party that initiates the termination of the dealer agreement shall pay the cost of the return, handling, packing and loading of the inventory.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

4. Payment date. Payment to the dealer required under this section must be made by the supplier not later than 45 days after receipt of the inventory by the supplier. The supplier shall pay to the dealer a penalty of 1 1/2% per day on any outstanding balance over the 45 days. The supplier is entitled to apply any payment required under this section to be made to the dealer as a setoff against any amount owed by the dealer to the supplier.
[PL 2011, c. 236, §8 (AMD); PL 2011, c. 236, §18 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF). PL 2011, c. 236, §8 (AMD). PL 2011, c. 236, §18 (AFF).

§1290. Exceptions to repurchase requirement

1. Exceptions. The provisions of this chapter do not require the repurchase from a dealer of:

A. A repair part with a limited storage life or otherwise subject to physical or structural deterioration including, but not limited to, gaskets or batteries, but excluding industrial "press on" or industrial pneumatic tires; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

B. A single repair part normally priced and sold in a set of 2 or more items; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

C. A repair part that, because of its condition, can not be marketed as a new part without repackaging or reconditioning by the supplier or manufacturer; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

D. [PL 2011, c. 236, §9 (RP); PL 2011, c. 236, §18 (AFF).]

E. Any inventory that the dealer elects to retain; [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

F. Any inventory ordered by the dealer after receipt of notice of termination of the dealer agreement by either the dealer or supplier; or [PL 2011, c. 236, §10 (AMD); PL 2011, c. 236, §18 (AFF).]

G. Any inventory that was acquired by the dealer from a source other than the supplier. [PL 2011, c. 236, §11 (AMD); PL 2011, c. 236, §18 (AFF).]

H. [PL 2011, c. 236, §12 (RP); PL 2011, c. 236, §18 (AFF).]

[PL 2011, c. 236, §§9-12 (AMD); PL 2011, c. 236, §18 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF). PL 2011, c. 236, §§9-12 (AMD). PL 2011, c. 236, §18 (AFF).

§1291. Transfer of business

1. Transfer. A supplier may not unreasonably withhold or delay consent to any transfer of the dealer's business or transfer of the stock or other interest in the dealership, whenever the dealer to be substituted meets the material and reasonable qualifications and standards required of its dealers. If a supplier determines that a proposed transferee does not meet its qualifications and standards, it shall give the dealer written notice thereof, stating the specific reasons for withholding consent. A prospective transferee may not be disqualified from being a dealer because it is a publicly held corporation. A supplier has 90 days to consider a dealer's request to make a transfer under this subsection.

[PL 2011, c. 236, §13 (AMD); PL 2011, c. 236, §18 (AFF).]

2. Transfer to family member or principal owner. Notwithstanding subsection 1, a supplier may not withhold consent to, or in any manner retain a right of prior approval of, the transfer of the dealer's business to a member or members of the family of the dealer or the principal owner of the dealership. As used in this subsection, "family" means and includes the spouse, parent, siblings, children, stepchildren and lineal descendants, including those by adoption, of the dealer or principal owner of the dealership.

[PL 2011, c. 236, §14 (AMD); PL 2011, c. 236, §18 (AFF).]

3. Assume obligations. Whenever a transfer of a dealer's business occurs, the transferee shall assume all the obligations imposed on and succeed to all the rights held by the selling dealer by virtue of any agreement, consistent with this chapter, entered into prior to the transfer between the selling dealer and one or more suppliers.

[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

4. Burden of proof. In any dispute as to whether a supplier has denied consent in violation of this section, the supplier has the burden of proving a substantial and reasonable justification for the denial of consent.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF). PL 2011, c. 236, §§13, 14 (AMD). PL 2011, c. 236, §18 (AFF).

§1292. Uniform commercial practice

1. Security interest. Nothing contained in this chapter may be construed to release or terminate a perfected security interest of the supplier in the inventory of the dealer.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF).

§1293. Warranty obligations

1. Payment of warranty claim. Whenever a supplier and a dealer enter into an agreement providing consumer warranties, the supplier shall pay any warranty claim made by the dealer for warranty parts or service within 30 days after its receipt and approval. The supplier shall approve or disapprove a warranty claim within 30 days after its receipt. If a claim is not specifically disapproved in writing within 30 days after its receipt, it is deemed to be approved and payment must be made by the supplier within 30 days.

A. A dealer that performs warranty work as provided for in this section must be compensated for the dealer's labor in an amount that is not less than the reasonable and customary amount of time required to complete such work, expressed in hours and fractions of hours, multiplied by the dealer's established hourly labor rate. Prior to filing a claim for warranty work, the dealer shall notify the supplier of the dealer's hourly retail labor rate. [PL 2005, c. 317, §1 (NEW).]

B. A dealer that performs warranty work as provided for in this section must be compensated for parts used in fulfilling such warranty work in an amount that is not less than the dealer's costs for such parts plus 20% or the supplier's suggested retail price for such parts, whichever is greater, plus all freight and handling charges applicable to such parts, to reimburse the dealer's reasonable costs of doing business and providing such warranty service on behalf of the supplier. If the warranty work is provided on behalf of the supplier on a product sold by a nonservicing dealer, the compensation for parts used in fulfilling such warranty work must be at an amount that is not less than the supplier's suggested list price or dealer's cost plus 30%, whichever is greater, plus freight and handling charges applicable to such parts. [PL 2011, c. 236, §15 (AMD); PL 2011, c. 236, §18 (AFF).]

[PL 2011, c. 236, §15 (AMD); PL 2011, c. 236, §18 (AFF).]

2. Indemnity. Whenever a supplier and a dealer enter into a dealer agreement, the supplier shall indemnify and hold harmless the dealer against any judgment for damages arising from breach of warranty or rescission of the sale by the supplier.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF). PL 2005, c. 317, §1 (AMD). PL 2011, c. 236, §15 (AMD). PL 2011, c. 236, §18 (AFF).

§1293-A. Prohibited acts

A supplier may not: [PL 2011, c. 236, §16 (NEW); PL 2011, c. 236, §18 (AFF).]

1. Coercion involving deliveries and orders. Mandate, coerce or attempt to coerce any dealer to order or accept delivery of equipment or repair parts not required by law that have not been voluntarily ordered by the dealer, unless the equipment or repair parts are comprised of safety features required by the supplier;
[PL 2011, c. 236, §16 (NEW); PL 2011, c. 236, §18 (AFF).]

2. Interference in dealer's business. Require any dealer to refrain from participation in the management or acquisition of, or investment in, any other business;
[PL 2013, c. 41, §1 (AMD).]

3. Coercion involving sale of equipment. Prevent, coerce or attempt to coerce a dealer from having an investment in or holding a dealership contract for the sale of competing product lines or makes of equipment or require the dealer to provide separate facilities for competing product lines or makes of equipment; or
[PL 2013, c. 41, §1 (AMD).]

4. Recover costs for reimbursement. If the supplier has reimbursed a dealer for equipment, repair parts or labor to avoid a violation of this section, recover the supplier's costs of that reimbursement.
[PL 2013, c. 41, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 236, §16 (NEW). PL 2011, c. 236, §18 (AFF). PL 2013, c. 41, §1 (AMD).

§1294. Remedies

1. Jurisdiction. Concurrent jurisdiction under this chapter is in the District Court or Superior Court of the city or county where the dealer has its principal place of business. The court may grant equitable relief as is necessary to remedy the effects of conduct that it finds to exist and is prohibited under this chapter, including, but not limited to, declaratory judgment and injunctive relief.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

2. Recovery. In addition to any other remedies available at law or in equity, if a supplier has attempted or accomplished an annulment, cancellation or termination, or refused to continue or renew an agreement without good cause or withheld or delayed consent in violation of section 1287 or 1291, then the dealer is entitled to recover losses and damages, together with the cost of the action and reasonable legal fees. These damages include compensation for the value of the agreement and the good will of the dealer's business.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

3. Arbitration. Nothing contained in this section may bar the right of an agreement to provide for binding arbitration of disputes. Any arbitration must be consistent with the provisions of this chapter and Title 14, chapter 706, and the place of any arbitration must be in the city or county in which the dealer maintains the dealer's principal place of business in the State.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

4. Renewal of agreement. No supplier may cancel, terminate or refuse to continue to renew an agreement during the 90-day period set forth in section 1287 or during the pendency of litigation or arbitration, except under the conditions set forth in section 1287, subsection 1.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF).

§1295. Management

A supplier may not require or prohibit any change in management or personnel of any dealer unless the current or potential management or personnel fails to meet reasonable qualifications and standards required by the supplier for its dealers. [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF).

§1296. Waiver of chapter void

The provisions of this chapter are deemed to be incorporated in every agreement and supersede and control all other provisions of the agreement. A supplier may not require any dealer to waive compliance with any provision of this chapter. Any contract or agreement purporting to do so is void and unenforceable to the extent of the waiver or variance. Nothing in this chapter may be construed to limit or prohibit good faith settlements of disputes voluntarily entered into between the parties. [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF).

§1297. Applicability

This chapter applies to agreements in effect as of October 1, 1989. In addition, this chapter applies to any agreements entered into after October 1, 1989. The provisions of this chapter are also applicable to any renewal or amendment of the agreements. [PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF).

§1298. Reasonableness and good faith

1. Good faith. Every agreement entered into under this chapter imposes on the parties the obligation to act in good faith.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

2. Reasonableness. This chapter imposes on every term and provision of any agreement a requirement of reasonableness. Every term or provision of any agreement must be interpreted so that the requirements or obligations imposed are reasonable.
[PL 1995, c. 462, Pt. A, §22 (NEW); PL 1995, c. 462, Pt. A, §23 (AFF).]

SECTION HISTORY

PL 1995, c. 462, §A22 (NEW). PL 1995, c. 462, §A23 (AFF).

CHAPTER 209

BULK SALES

§1301. Payment of tax

(REPEALED)

SECTION HISTORY

PL 1979, c. 666, §1 (RP).

§1302. Applicability of provisions

(REPEALED)

SECTION HISTORY

PL 1979, c. 666, §1 (RP).

CHAPTER 209-A

VEHICLE LEASES THAT ARE NOT SALES OR SECURITY INTERESTS

§1305. Terminal rental adjustment clauses; vehicle leases that are not sales or security interests

Notwithstanding any other provision of law, in the case of motor vehicles or trailers, a transaction does not create a sale or security interest merely because the agreement provides that the rental price is permitted or required to be adjusted upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer. A transaction may be considered a sale for purposes of Title 36. [PL 1997, c. 668, §1 (AMD).]

SECTION HISTORY

PL 1997, c. 352, §1 (NEW). PL 1997, c. 668, §1 (AMD).

CHAPTER 209-B

FAIR CREDIT REPORTING ACT

§1306. Short title

This chapter may be known and cited as "the Fair Credit Reporting Act." [PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1307. Statement of purpose

1. Findings. The Legislature makes the following findings.

A. Creditors, insurers and prospective employers are dependent upon fair and accurate consumer reporting. Inaccurate consumer reports directly impair the efficiency of economic decisions, and unfair consumer reporting methods undermine the public confidence that is essential to our economic system. [PL 2013, c. 228, §1 (NEW).]

B. An elaborate mechanism has been developed for investigating and evaluating the creditworthiness, credit standing, credit capacity, character and general reputation of consumers. [PL 2013, c. 228, §1 (NEW).]

C. Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers. [PL 2013, c. 228, §1 (NEW).]

D. There is a need to ensure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality and a respect for the consumer's right to privacy. [PL 2013, c. 228, §1 (NEW).]

[PL 2013, c. 228, §1 (NEW).]

2. Purposes. The purposes of this chapter are to:

A. Require consumer reporting agencies to adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance and other information in a manner that is fair and equitable to the consumer, with regard for confidentiality, accuracy, relevancy and proper use of this information in accordance with the requirements of this chapter; and [PL 2013, c. 228, §1 (NEW).]

B. Supplement the provisions of the United States Fair Credit Reporting Act of the United States Consumer Credit Protection Act, 15 United States Code, Section 1681 et seq. [PL 2013, c. 228, §1 (NEW).]

[PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1308. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. Unless the context otherwise indicates, any word or phrase that is not defined in this chapter but that is defined in the federal Fair Credit Reporting Act has the meaning set forth in the federal Fair Credit Reporting Act. [PL 2013, c. 228, §1 (NEW).]

1. Administrator. "Administrator" means the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation.
[PL 2013, c. 228, §1 (NEW).]

2. Consumer. "Consumer" means an individual about whom a consumer report or an investigative consumer report has been prepared by a consumer reporting agency or an office of a consumer reporting agency.
[PL 2013, c. 228, §1 (NEW).]

3. Consumer reporting agency. "Consumer reporting agency" means a person that, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports or investigative consumer reports to 3rd parties.
[PL 2013, c. 228, §1 (NEW).]

4. Federal Fair Credit Reporting Act. "Federal Fair Credit Reporting Act" means the Fair Credit Reporting Act, 15 United States Code, Section 1681 et seq., as amended.
[PL 2013, c. 228, §1 (NEW).]

5. Person subject to this chapter. "Person subject to this chapter" means a person subject to the provisions of the federal Fair Credit Reporting Act and a consumer reporting agency.
[PL 2013, c. 228, §1 (NEW).]

6. Proper identification. "Proper identification" means that information generally considered sufficient to identify a person.
[PL 2013, c. 228, §1 (NEW).]

6-A. Protected consumer. "Protected consumer" means an individual who has not attained 16 years of age at the time a request for the placement of a security freeze is made.
[PL 2015, c. 139, §1 (NEW).]

6-B. Representative. "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.
[PL 2015, c. 139, §1 (NEW).]

7. Security freeze. "Security freeze" means a notice placed in a consumer report at the request of the consumer pursuant to section 1310 that prohibits a consumer reporting agency from releasing the consumer report or any information in the report without that consumer's express authorization.
[PL 2013, c. 228, §1 (NEW).]

7-A. Security freeze for a protected consumer. "Security freeze for a protected consumer" means:

A. If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that:

(1) Is placed on the protected consumer's record in accordance with section 1310, subsection 1-A; and

(2) Prohibits the consumer reporting agency from releasing the protected consumer's record except as provided in this section; or [PL 2015, c. 139, §1 (NEW).]

B. If a consumer reporting agency has a file pertaining to the protected consumer, a restriction that:

(1) Is placed on the protected consumer's consumer report in accordance with section 1310, subsection 1-A; and

(2) Prohibits the consumer reporting agency from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report except as provided in section 1310, subsection 1-A. [PL 2015, c. 139, §1 (NEW).]
[PL 2015, c. 139, §1 (NEW).]

7-B. Sufficient proof of authority. "Sufficient proof of authority" means documentation that shows a representative has authority to act on behalf of a protected consumer. "Sufficient proof of authority" includes, but is not limited to:

A. An order issued by a court of law; or [PL 2015, c. 139, §1 (NEW).]

B. A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer. [PL 2015, c. 139, §1 (NEW).]
[PL 2015, c. 139, §1 (NEW).]

7-C. Sufficient proof of identification. "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative of a protected consumer. "Sufficient proof of identification" includes, but is not limited to:

A. A social security number or a copy of a social security card issued by the federal Social Security Administration; [PL 2015, c. 139, §1 (NEW).]

B. A certified or official copy of a birth certificate; or [PL 2015, c. 139, §1 (NEW).]

C. A copy of a driver's license, an identification card issued by the Secretary of State pursuant to Title 29-A, section 1410 or any other government-issued photo identification. [PL 2015, c. 139, §1 (NEW).]
[PL 2015, c. 139, §1 (NEW).]

8. Supervised financial organization. "Supervised financial organization" has the same meaning as in Title 9-A, section 1-301, subsection 38-A.
[PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW). PL 2015, c. 139, §1 (AMD).

§1309. Incorporation by reference of federal law and rulemaking

1. Federal law and regulation. A person subject to this chapter shall comply with the federal Fair Credit Reporting Act and the provisions of 12 Code of Federal Regulations, Section 1022.1 et seq., as amended.
[PL 2013, c. 228, §1 (NEW).]

2. Rules. Subject to the limitations in 15 United States Code, Section 1681t, the administrator may adopt rules not inconsistent with the provisions of 12 Code of Federal Regulations, Section 1022.1 et seq., as amended; 16 Code of Federal Regulations, Section 681.1 et seq.; and 16 Code of Federal Regulations, Section 682.1 et seq. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1310. Additional requirements for persons subject to this chapter

In addition to the compliance requirements of section 1309, subsection 1, a person subject to this chapter shall comply with this section. [PL 2013, c. 228, §1 (NEW).]

1. Security freeze by consumer reporting agency; time in effect. A person subject to this chapter shall comply with the following provisions regarding security freezes.

A. A consumer may place a security freeze on the consumer's consumer report as follows.

(1)

(2) Prior to October 1, 2015, a consumer who has not been the victim of identity theft may place a security freeze on the consumer's consumer report by making a request in writing by certified mail to a consumer reporting agency. A consumer reporting agency may charge a fee of no more than $10 to a consumer for each security freeze, removal of a security freeze or temporary suspension of a security freeze for a period of time or for reissuing the same or a new personal identification number if the consumer fails to retain the original personal identification number provided by the agency under paragraph D. A consumer reporting agency may charge a fee of not more than $12 for a temporary suspension of a security freeze for a specific party. Beginning October 1, 2015, a consumer reporting agency may not charge a fee for placing, removing or suspending for a specific party or period of time a security freeze on a consumer report. [PL 2015, c. 139, §2 (AMD).]

B. Subject to the exceptions in paragraph M, when a security freeze has been placed on an account the consumer reporting agency may not:

(1) Release the consumer report or any information from it without the express authorization of the consumer; or

(2) Release information from a consumer report to a 3rd party without express authorization of the consumer. This subparagraph does not prevent a consumer reporting agency from advising a 3rd party that a security freeze is in effect with respect to the consumer report. [PL 2013, c. 228, §1 (NEW).]

C. A consumer reporting agency shall place a security freeze on a consumer report no later than 5 business days after receiving a written request from the consumer. [PL 2013, c. 228, §1 (NEW).]

D. The consumer reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days after receiving a written request from the consumer and shall provide the consumer with a personal identification number or password, other than the consumer's social security number, to be used by the consumer when providing authorization for the release of the consumer report to a specific party or for a period of time. [PL 2013, c. 228, §1 (NEW).]

E. If a consumer wishes to allow access to a consumer report by a specific party or for a period of time while a security freeze is in place, the consumer may contact the consumer reporting agency, request that the security freeze be temporarily suspended and provide the following:

(1) Proper identification;

(2) The personal identification number or password provided by the consumer reporting agency pursuant to paragraph D; and

(3) The proper information regarding the specific party granted access or the time period for which the consumer report is to be available to users. [PL 2013, c. 228, §1 (NEW).]

F. A consumer reporting agency may develop procedures involving the use of telephone, facsimile transmission, the Internet or other medium of electronic communications to receive and process a request from a consumer to temporarily suspend a security freeze on a consumer report pursuant to paragraph E in an expedited manner. A consumer reporting agency may not charge a fee to a consumer for use of these procedures in excess of those fees otherwise permitted under this section. [PL 2013, c. 228, §1 (NEW).]

G. A consumer reporting agency that receives a request from a consumer to temporarily suspend a security freeze on a consumer report pursuant to paragraph E shall comply with the request no later than 3 business days after receiving the request. [PL 2013, c. 228, §1 (NEW).]

H. A consumer reporting agency shall remove or temporarily suspend a security freeze placed on a consumer report only:

(1) Upon consumer request pursuant to paragraph E or K; or

(2) If the security freeze was due to a material misrepresentation of fact by the consumer. If a consumer reporting agency intends to remove a security freeze from a consumer report pursuant to this subparagraph, the consumer reporting agency shall notify the consumer in writing prior to removing the security freeze. [PL 2013, c. 228, §1 (NEW).]

I. If a 3rd party requests access to a consumer report on which a security freeze is in effect and this request is in connection with an application for credit or any other use and the consumer does not allow access to the consumer report for that specific party or period of time, the 3rd party may treat the application as incomplete. [PL 2013, c. 228, §1 (NEW).]

J. If a consumer requests a security freeze pursuant to this subsection, the consumer reporting agency shall disclose to the consumer the processes of placing and temporarily lifting a security freeze and the process for allowing access to information from the consumer report for a specific party or period of time while the security freeze is in place. A consumer reporting agency shall provide a sample copy of the agency's disclosure form to the administrator at the annual registration or reregistration under section 1310-A and any time there is a material change in the disclosure form required by this paragraph. [PL 2013, c. 228, §1 (NEW).]

K. A security freeze must remain in place until the consumer requests that the security freeze be removed. A consumer reporting agency shall remove a security freeze within 3 business days of receiving a request for removal from a consumer who provides:

(1) Proper identification; and

(2) The personal identification number or password provided by the consumer reporting agency pursuant to paragraph D. [PL 2013, c. 228, §1 (NEW).]

L. A consumer reporting agency shall require proper identification of the person making a request to place or remove a security freeze. [PL 2013, c. 228, §1 (NEW).]

M. The provisions of this subsection, including the security freeze, do not apply to the use of a consumer report by:

(1) A person or person's subsidiary, affiliate, agent or assignee with which the consumer has or, prior to assignment, had an account, contract or debtor-creditor relationship for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract or debt or extending credit to a consumer with a prior or existing account, contract or debtor-creditor relationship, subject to the requirements of 15 United States Code, Section 1681b. For purposes of this subparagraph, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases and account upgrades and enhancements;

(2) A subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom access has been granted under paragraph E for purposes of facilitating the extension of credit or another permissible use;

(3) A person acting pursuant to a court order, warrant or subpoena;

(4) Child support enforcement officials when investigating a child support case pursuant to Title 19-A or the federal Social Security Act, Title IV-D;

(5) The Department of Health and Human Services or its agents or assignees acting to investigate Medicaid fraud;

(6) The Department of Administrative and Financial Services, Maine Revenue Services; municipal taxing authorities; the Secretary of State, Bureau of Motor Vehicles; or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties and unpaid court orders, or to fulfill any of their other statutory or charter responsibilities;

(7) A person's use of credit information for prescreening as provided by the federal Fair Credit Reporting Act or this chapter;

(8) A person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed;

(9) A consumer reporting agency for the sole purpose of providing a consumer with a copy of that consumer's report upon the consumer's request; and

(10) The administrator pursuant to section 1310-A. [PL 2013, c. 228, §1 (NEW).]
[PL 2015, c. 139, §2 (AMD).]

1-A. Security freeze for a protected consumer. Beginning October 1, 2015, a person subject to this chapter shall comply with the following provisions regarding a security freeze for a protected consumer.

A. A consumer reporting agency shall place a security freeze for a protected consumer if:

(1) The consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this subsection; and

(2) The protected consumer's representative:

(a) Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(b) Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;

(c) Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

(d) Pays to the consumer reporting agency any fee, as provided in paragraph H. [PL 2015, c. 139, §3 (NEW).]

B. If a consumer reporting agency does not have a file pertaining to a protected consumer when the consumer reporting agency receives a request under this subsection, the consumer reporting agency shall create a record for the protected consumer.

This record may not be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living for any purpose listed in 15 United States Code, Section 1681b. [RR 2015, c. 1, §4 (COR).]

C. Within 30 days after receiving a request that meets the requirements of this subsection, a consumer reporting agency shall place a security freeze for the protected consumer on the record created for the protected consumer or on the file pertaining to the protected consumer in the event that the consumer reporting agency already has a file pertaining to the protected consumer. [PL 2015, c. 139, §3 (NEW).]

D. Unless a security freeze for a protected consumer is removed in accordance with this subsection, a consumer reporting agency may not release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer. [PL 2015, c. 139, §3 (NEW).]

E. A security freeze for a protected consumer placed under this subsection remains in effect until:

(1) The protected consumer or the protected consumer's representative requests the consumer reporting agency to remove the security freeze in accordance with this subsection; or

(2) The security freeze is removed in accordance with paragraph F or I. [PL 2015, c. 139, §3 (NEW).]

F. If a protected consumer or a protected consumer's representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer's representative shall:

(1) Submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(2) Provide to the consumer reporting agency:

(a) In the case of a request by the protected consumer:

(i) Proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid or that the protected consumer has attained the age of 16; and

(ii) Sufficient proof of identification of the protected consumer; or

(b) In the case of a request by the representative of a protected consumer:

(i) Sufficient proof of identification of the protected consumer and the representative; and

(ii) Sufficient proof of authority to act on behalf of the protected consumer; and

(3) Pay to the consumer reporting agency any fee authorized in paragraph H. [PL 2015, c. 139, §3 (NEW).]

G. Within 30 days after receiving a request that meets the requirements for removing a security freeze for a protected consumer, the consumer reporting agency shall remove the security freeze. [PL 2015, c. 139, §3 (NEW).]

H. A consumer reporting agency may charge a reasonable fee, not exceeding $10 for each placement or removal of a security freeze for a protected consumer, except that a consumer

reporting agency may not charge a fee for placement or removal of a security freeze for a protected consumer if:

(1) The protected consumer or the protected consumer's representative:

(a) Has obtained a report of alleged identity theft or fraud against the protected consumer; and

(b) The representative provides a copy of the report to the consumer reporting agency;

(2) The consumer reporting agency has a consumer report pertaining to the protected consumer; or

(3) The protected consumer or the protected consumer's representative:

(a) Receives a notice from an information broker or other person of a security breach as required by section 1348; and

(b) Provides a copy of that notice to the consumer reporting agency. [PL 2015, c. 139, §3 (NEW).]

I. A consumer reporting agency shall remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer's representative. [PL 2015, c. 139, §3 (NEW).]

J. The provisions of this subsection do not apply to the use of a consumer report by:

(1) A person administering a credit file monitoring subscription service to which the protected consumer has subscribed or to which a representative has subscribed on behalf of a protected consumer;

(2) A consumer reporting agency for the sole purpose of providing the protected consumer or the protected consumer's representative a copy of the protected consumer's consumer report upon the request of the protected consumer or the protected consumer's representative;

(3) An entity described in subsection 1, paragraph M, subparagraphs (3), (4), (5) and (10); or

(4) A consumer reporting agency's database or file that consists of information concerning, and used for, one or more of the following: criminal record information, fraud prevention or detection, personal loss history information, and employment, tenant or background screening. [PL 2015, c. 139, §3 (NEW).]

K. A person may not be held liable for any violation of this subsection if the person shows by a preponderance of the evidence that at the time of the alleged violation the person maintained reasonable procedures to ensure compliance with the provisions of this subsection. [PL 2015, c. 139, §3 (NEW).]

For the purposes of this subsection, "record" means a compilation of information that identifies a protected consumer and is created by a consumer reporting agency solely for the purpose of complying with this subsection.
[RR 2015, c. 1, §4 (COR).]

2. Duties of consumer reporting agency if security freeze is in place. If a security freeze is in place, a consumer reporting agency may not change any of the following official information in a consumer report without sending written confirmation of the change to the consumer within 30 days after the change is posted to the consumer's file: name, date of birth, social security number and address. Written confirmation is not required for technical modifications of a consumer's official information, including name and street abbreviations, complete spellings and transposition of numbers or letters. In

the case of an address change, the written confirmation must be sent to the new address and the former address.
[PL 2013, c. 228, §1 (NEW).]

3. Persons not required to place security freeze. The following persons are not required to place a security freeze pursuant to subsection 1 or 1-A, except that any person that is not required to place a security freeze under the provisions of subsection 1 or 1-A is subject to a security freeze placed by another consumer reporting agency from which it obtains information:

A. A check services or fraud prevention services company that reports on incidents of fraud or issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers or similar methods of payment; [PL 2013, c. 228, §1 (NEW).]

B. A deposit account information services company that issues reports regarding account closures due to fraud, overdrafts, automated teller machine abuse or similar negative information regarding a consumer to inquiring financial institutions for use only in reviewing that consumer's request for a deposit account at the inquiring financial institution; and [PL 2013, c. 228, §1 (NEW).]

C. A consumer reporting agency that:

(1) Acts only to resell credit information by assembling and merging information contained in a database of one or more consumer reporting agencies; and

(2) Does not maintain a permanent database of credit information from which new consumer reports are produced. [PL 2013, c. 228, §1 (NEW).]

[PL 2015, c. 139, §4 (AMD).]

4. Reporting of child support debts. Information regarding child support debt must be provided as required under this subsection.

A. The Department of Health and Human Services, upon request of a consumer reporting agency, shall make available information regarding the amount of overdue child support owed by any parent. [PL 2013, c. 228, §1 (NEW).]

B. Prior to making the information available to a requesting agency, the department shall provide the obligor parent with notice of the proposed action. The parent must be given 20 days in which to contest the accuracy of the information before the information may be made available. [PL 2013, c. 228, §1 (NEW).]

C. The department may impose a fee upon the requesting agency in an amount not exceeding the actual cost of providing the information. [PL 2013, c. 228, §1 (NEW).]

Nothing in this section prevents the department from voluntarily providing information to a consumer reporting agency regarding any individual who is indebted to the department for failure to pay child support.
[PL 2013, c. 228, §1 (NEW).]

5. Solicitation of loans using prescreened trigger lead information from consumer report. Solicitation of loans using prescreened trigger lead information from consumer reports is subject to the requirements of this subsection. For the purposes of this subsection, "prescreened trigger lead information" means information in a consumer report provided to a nonaffiliated 3rd party by a consumer reporting agency that the agency has reason to believe will be used to solicit a loan or extension of credit.

A. When using prescreened trigger lead information derived from a consumer report to solicit a consumer who has applied for a loan with another lender or loan broker, a lender or loan broker may not use unfair or deceptive practices described in paragraph B. [PL 2013, c. 228, §1 (NEW).]

B. Without limitation, it is an unfair or deceptive practice to:

(1) Fail to state in the initial phase of the solicitation from a lender or loan broker that the solicitor is not affiliated with the lender or loan broker with which the consumer initially applied;

(2) Fail in the initial solicitation to conform to state and federal law relating to prescreened solicitations using consumer reports, including the requirement to make a firm offer of credit to the consumer;

(3) Knowingly or negligently use information regarding consumers who have opted out of prescreened offers of credit or who have placed their contact information on the most current federal do-not-call registry; or

(4) Solicit a consumer with offers of certain rates, terms and costs with intent to subsequently raise the rates or change the terms to the consumer's detriment. [PL 2013, c. 228, §1 (NEW).]

[PL 2013, c. 228, §1 (NEW).]

6. Consumer mortgage reports. In any consumer credit transaction involving a consumer report relating to a loan to be secured by a first mortgage on an owner-occupied dwelling, whenever a user has requested such a report and because or partly because of information contained in the report adverse action is taken, the user shall provide a copy of the report to the consumer. This requirement does not apply if the consumer reporting agency provides a copy of the report to the consumer.
[PL 2013, c. 228, §1 (NEW).]

7. Dissemination of consumer report information prohibited. Every user of a consumer report or an investigative consumer report is prohibited from disseminating to any other person, other than the consumer who is the subject of the report, any such report other than information contained in its own files as a result of its direct experience with the consumer. Except for information or records obtained directly or indirectly and with the consent of the individual to whom it relates, from a licensed physician, medical practitioner, hospital, clinic or other medical or medically related facility, a consumer reporting agency may not by contract or otherwise prohibit a user of any consumer report or investigative consumer report from disclosing the contents of the report to the consumer to whom it relates. A contractual provision in violation of this section is unenforceable.
[PL 2013, c. 228, §1 (NEW).]

8. Medical expenses debts; court or administrative orders. A debt collector may report overdue medical expenses for a minor child to a consumer reporting agency, but only in the name of the responsible party identified in a court order or administrative order and only if the debt collector is notified orally or in writing of the existence of the order. In addition, a report may not be made until after the debt collector has notified, or made a good faith effort to notify, the responsible party of that party's obligation to pay the overdue medical expenses. Existing information regarding overdue medical expenses for a minor child in the name of a person other than the responsible party identified in a court order or administrative order is considered inaccurate information and is subject to correction. A debt collector or consumer reporting agency may request reasonable verification of the order, including a certified copy of the order.
[PL 2013, c. 228, §1 (NEW).]

9. Nonliability. A person may not be held liable for any violation of this section if the person shows by a preponderance of the evidence that at the time of the alleged violation the person maintained reasonable procedures to ensure compliance with the provisions of this section.
[PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW). RR 2015, c. 1, §4 (COR). PL 2015, c. 139, §§2-4 (AMD).

§1310-A. Administrative enforcement

1. Authority. The administrator, within the limits provided by law, may:

A. Receive and act on complaints, take action designed to obtain voluntary compliance with this chapter, refer complaints to the Department of Professional and Financial Regulation, Bureau of Financial Institutions pursuant to subsection 9 or refer cases to the Attorney General, who shall appear for and represent the administrator in court; [PL 2013, c. 228, §1 (NEW).]

B. Counsel groups and persons on their rights and duties under this chapter; [PL 2013, c. 228, §1 (NEW).]

C. Establish programs for the education of consumers with respect to the provisions of this chapter; [PL 2013, c. 228, §1 (NEW).]

D. Make studies appropriate to effectuate the purposes and policies of this chapter and make the results available to the public; [PL 2013, c. 228, §1 (NEW).]

E. Issue advisory rulings designed to clarify the applicability of any statutory provision of this chapter necessary or proper to effectuate its purposes; [PL 2013, c. 228, §1 (NEW).]

F. Maintain a public file of all enforcement proceedings instituted and of their disposition, including all assurances of voluntary compliance accepted and their terms and the pleadings and briefs in all actions in which the administrator is a party; and [PL 2013, c. 228, §1 (NEW).]

G. Request registration and annual reregistration of consumer reporting agencies located in this State or serving users within this State and set an annual registration fee not to exceed $100, the aggregate of which must be used by the administrator to enforce this chapter. [PL 2013, c. 228, §1 (NEW).]

[PL 2013, c. 228, §1 (NEW).]

2. Investigatory powers. The administrator has the following investigatory powers except in cases in which the Department of Professional and Financial Regulation, Bureau of Financial Institutions or the Attorney General has exclusive authority pursuant to subsection 9.

A. The administrator may annually investigate any person whom the administrator believes has engaged in conduct governed by this chapter, except that the administrator may, at any time, investigate any person the administrator believes to be a consumer reporting agency. If the administrator has reasonable cause to believe that any person has violated this chapter, the administrator may investigate that person at any time. During any investigation, the administrator may administer oaths or affirmations and, upon the administrator's own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence. If the administrator finds a violation of this chapter, the administrator shall so notify all parties to the transactions involved. [PL 2013, c. 228, §1 (NEW).]

B. If the records of a person under investigation are located outside this State, the person, at the administrator's option, may either make the original records or facsimiles of the record available to the administrator at a convenient location within this State or pay the reasonable and necessary expenses for the administrator or the administrator's representative to examine them at the place where the records are maintained. The administrator may designate representatives, including comparable officials of the state in which the records are located or federal officials, to inspect the records on the administrator's behalf. [PL 2013, c. 228, §1 (NEW).]

C. The expenses of the administrator necessarily incurred in the examination of persons subject to this chapter must be chargeable to that person in the same manner and for the same expenses set

forth in Title 9-A, section 6-106, subsection 6, except that users of consumer reports may not be charged examination expenses unless the administrator finds a violation of this chapter. [PL 2013, c. 228, §1 (NEW).]

[PL 2013, c. 228, §1 (NEW).]

3. Administrative enforcement orders. After notice and hearing, the administrator may order a person to cease and desist from engaging in violations of this chapter. The administrator may also order affirmative action designed to correct past or future violations of this chapter. Any hearing held under this subsection must be conducted in accordance with the procedures of Title 5, chapter 375, subchapter 4. A respondent aggrieved by an order of the administrator may obtain judicial review of the order and the administrator may, through the Attorney General, obtain an order of the court for enforcement of its order in the Superior Court. The proceedings for review or enforcement must be initiated and conducted in accordance with Title 5, chapter 375, subchapter 7.

[PL 2013, c. 228, §1 (NEW).]

4. Assurance of discontinuance. If it is claimed that a person has engaged in conduct that could be subject to any order by the administrator, the administrator shall first attempt to negotiate an assurance in writing that the person will not engage in the same or similar conduct in the future, prior to initiating an enforcement order under subsection 3. The assurance may include, but is not limited to, admissions of past specific acts by the person or that such acts violated this chapter or other statutes. A violation of an assurance of discontinuance is a violation of this chapter.

[PL 2013, c. 228, §1 (NEW).]

5. Civil action. The administrator, through the Attorney General, may bring a civil action against a person to recover a civil penalty for knowingly violating this chapter or violating an assurance of discontinuance, and if the court finds that the defendant has engaged in a knowing violation of this chapter or a violation of an assurance of discontinuance, it may assess a civil penalty of not more than $5,000.

If the defendant establishes by a preponderance of evidence that repeated violations were the result of a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation or error, a penalty may not be imposed under this subsection.

[PL 2013, c. 228, §1 (NEW).]

6. Remedies not affected. The grant of powers to the administrator in this section does not affect remedies available to the Attorney General or to consumers under this chapter or under other principles of law or equity.

[PL 2013, c. 228, §1 (NEW).]

7. Venue. The administrator, through the Attorney General, may bring actions or proceedings in a court in a county or division in which an act on which the action or proceeding is based occurred or in a county or division in which a respondent resides or transacts business.

[PL 2013, c. 228, §1 (NEW).]

8. Bureau of Insurance. With respect to those examinations authorized by subsection 2, paragraph A, the administrator shall, where applicable, coordinate examinations for compliance with this chapter with examinations conducted by the Department of Professional and Financial Regulation, Bureau of Insurance for compliance with Title 24-A.

[PL 2013, c. 228, §1 (NEW).]

9. Bureau of Financial Institutions. When a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A is a person subject to this chapter and the Department of Professional and Financial Regulation, Bureau of Financial Institutions charters or regulates the supervised financial organization, the Bureau of Financial Institutions has exclusive authority pursuant to this chapter over the supervised financial organization. This authority is in addition to the authority of the Bureau of Financial Institutions in Title 9-B. The Attorney General has authority to enforce the

provisions of this chapter for any other supervised financial organization that is a person subject to this chapter.
[PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1310-B. Criminal violations

1. Obtaining information under false pretenses. A person who knowingly and intentionally obtains information on a consumer from a consumer reporting agency under false pretenses commits a Class D crime.
[PL 2013, c. 228, §1 (NEW).]

2. Unauthorized provision of information. An officer or employee of a consumer reporting agency who knowingly and intentionally provides information concerning an individual from the agency's files to a person not authorized to receive that information commits a Class D crime.
[PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1310-C. Civil liability for willful noncompliance

A consumer reporting agency or user of information that willfully and knowingly fails to comply with a requirement imposed under this chapter with respect to a consumer is liable to that consumer for and the court may award an amount equal to the sum of: [PL 2013, c. 228, §1 (NEW).]

1. Actual damages. Actual damages sustained by the consumer as a result of the failure;
[PL 2013, c. 228, §1 (NEW).]

2. Treble damages. An amount equal to 3 times the actual damages according to subsection 1; and
[PL 2013, c. 228, §1 (NEW).]

3. Costs and attorney's fees. In the case of a successful action to enforce a liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.
[PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1310-D. Civil liability for negligent noncompliance

A consumer reporting agency or user of information that is negligent in failing to comply with a requirement imposed under this chapter with respect to a consumer is liable to that consumer in an amount equal to the sum of: [PL 2013, c. 228, §1 (NEW).]

1. Actual damages. Actual damages sustained by the consumer as a result of the failure;
[PL 2013, c. 228, §1 (NEW).]

2. Additional damages. Such amount of additional damages as the court may allow, but not less than $100 for each violation of this chapter involving negligence, and for each consumer report containing any item of information that was inaccurate and that contributed in whole or in part to the decision to take adverse action against the consumer; and
[PL 2013, c. 228, §1 (NEW).]

3. Costs and attorney's fees. In the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

[PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1310-E. Jurisdiction of courts; limitation of actions

An action to enforce liability created under this chapter may be brought in any court of competent jurisdiction within 2 years from the date on which the liability arises, except that when a defendant has materially and willfully misrepresented any information required under this chapter to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this chapter, the action may be brought at any time within 2 years after the discovery by the individual of the misrepresentation. [PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1310-F. Relation to other laws and the powers of the Superintendent of Financial Institutions

This chapter does not limit the obligations of a supervised financial organization to comply with other state and federal laws to which the supervised financial organization is subject, or the authority of the Superintendent of Financial Institutions conferred by Title 9-B, including the authority to examine and supervise a supervised financial organization to ensure compliance with state and federal laws and regulations as set forth in Title 9-B, section 211, subsection 3. [PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1310-G. Enforcement powers in addition to those in federal law

The enforcement powers of the administrator under this chapter are in addition to the State's enforcement powers authorized under federal law. [PL 2013, c. 228, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW).

§1310-H. Additional state-specific provisions

(CONFLICT)

1. Fee for disclosure. In addition to any rights to which a consumer is entitled under federal law, a consumer reporting agency may not impose a fee for a consumer report provided to a consumer upon request once during any 12-month period. For a 2nd or subsequent report provided during a 12-month period, a consumer reporting agency may charge a consumer a fee not to exceed $5.
[PL 2013, c. 228, §1 (NEW).]

2. Time to reinvestigate. Notwithstanding any provision of federal law, if a consumer disputes any item of information contained in the consumer's file on the grounds that it is inaccurate and the dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall reinvestigate and record the current status of the information within 21 calendar days of notification of the dispute by the consumer, unless it has reasonable grounds to believe that the dispute by the consumer is frivolous.
[PL 2013, c. 228, §1 (NEW).]

2-A. Economic abuse. Except as prohibited by federal law, if a consumer provides documentation to the consumer reporting agency as set forth in Title 14, section 6001, subsection 6, paragraph H that the debt or any portion of the debt is the result of economic abuse as defined in Title 19-A, section 4002, subsection 3-B, the consumer reporting agency shall reinvestigate the debt. If after the

investigation it is determined that the debt is the result of economic abuse, the consumer reporting agency shall remove any reference to the debt or any portion of the debt determined to be the result of economic abuse from the consumer's credit report.
[PL 2019, c. 407, §1 (NEW).]

3. (CONFLICT: Text as amended by PL 2019, c. 77, §1) Nonliability. A person may not be held liable for any violation of this section if the person shows by a preponderance of the evidence that at the time of the alleged violation the person maintained reasonable procedures to ensure compliance with the provisions of subsections 1, 2 and 4.
[PL 2019, c. 77, §1 (AMD).]

3. (CONFLICT: Text as amended by PL 2019, c. 407, §2) Nonliability. A person may not be held liable for any violation of this section if the person shows by a preponderance of the evidence that at the time of the alleged violation the person maintained reasonable procedures to ensure compliance with the provisions of subsections 1, 2 and 2-A.
[PL 2019, c. 407, §2 (AMD).]

4. Reporting of medical expenses on a consumer report. Notwithstanding any provision of federal law, a consumer reporting agency shall comply with the following provisions with respect to the reporting of medical expenses on a consumer report.

A. A consumer reporting agency may not report debt from medical expenses on a consumer's consumer report when the date of the first delinquency on the debt is less than 180 days prior to the date that the debt is reported. [PL 2019, c. 77, §2 (NEW).]

B. Upon the receipt of reasonable evidence from the consumer, creditor or debt collector that a debt from medical expenses has been settled in full or paid in full, a consumer reporting agency:

(1) May not report that debt from medical expenses; and

(2) Shall remove or suppress the report of that debt from medical expenses on the consumer's consumer report. [PL 2019, c. 77, §2 (NEW).]

C. As long as the consumer is making regular, scheduled periodic payments toward the debt from medical expenses reported to the consumer reporting agency as agreed upon by the consumer and medical provider, the consumer reporting agency shall report that debt from medical expenses on the consumer's consumer report in the same manner as debt related to a consumer credit transaction is reported. [PL 2019, c. 77, §2 (NEW).]
[PL 2019, c. 77, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 228, §1 (NEW). PL 2019, c. 77, §§1, 2 (AMD). PL 2019, c. 407, §§1, 2 (AMD).

CHAPTER 210

FAIR CREDIT REPORTING ACT

§1311. Short title

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 2013, c. 228, §2 (RP).

§1311-A. Statement of purpose

(REPEALED)

SECTION HISTORY

PL 1981, c. 610, §1 (NEW). PL 2013, c. 228, §2 (RP).

§1312. Definitions

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §§1-3 (AMD). PL 1979, c. 541, §B10 (AMD). PL 1979, c. 636, §1 (AMD). PL 1981, c. 501, §82 (AMD). PL 1981, c. 610, §§2-4 (AMD). PL 1995, c. 309, §§18, 19 (AMD). PL 1995, c. 309, §29 (AFF). PL 1997, c. 66, §7 (AMD). PL 1997, c. 155, Pt. B, §§1-4 (AMD). PL 1997, c. 155, Pt. B, §13 (AFF). PL 1999, c. 184, §10 (AMD). PL 2005, c. 243, §§1, 2 (AMD). PL 2005, c. 243, §4 (AFF). PL 2007, c. 273, Pt. B, §6 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF). PL 2013, c. 228, §2 (RP).

§1313. Permissible purposes of consumer reports

(REPEALED)

SECTION HISTORY

PL 1977, c. 514, §14 (NEW). PL 1981, c. 610, §5 (RPR). PL 1997, c. 155, §B5 (RP). PL 1997, c. 155, §B13 (AFF).

§1313-A. Permissible purposes of credit reports

(REPEALED)

SECTION HISTORY

PL 1997, c. 155, §B6 (NEW). PL 1997, c. 155, §B13 (AFF). PL 2001, c. 371, §§7-11 (AMD). PL 2013, c. 228, §2 (RP).

§1313-B. Requirements relating to information contained in consumer reports

(REPEALED)

SECTION HISTORY

PL 2001, c. 371, §12 (NEW). PL 2013, c. 228, §2 (RP).

§1313-C. Security freeze by consumer reporting agency; time in effect

(REPEALED)

SECTION HISTORY

PL 2005, c. 243, §3 (NEW). PL 2005, c. 243, §4 (AFF). PL 2013, c. 228, §2 (RP).

§1313-D. Duties of consumer reporting agency if security freeze is in place

(REPEALED)

SECTION HISTORY

PL 2005, c. 243, §3 (NEW). PL 2005, c. 243, §4 (AFF). PL 2013, c. 228, §2 (RP).

§1313-E. Persons not required to place security freeze

(REPEALED)

SECTION HISTORY

PL 2005, c. 243, §3 (NEW). PL 2005, c. 243, §4 (AFF). PL 2013, c. 228, §2 (RP).

§1314. Preparation and procurement of investigative consumer reports

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §4 (RPR). PL 1981, c. 610, §§6,7 (AMD). RR 2009, c. 2, §11 (COR). PL 2013, c. 228, §2 (RP).

§1315. Disclosures to consumers

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §5 (AMD). PL 1979, c. 127, §59 (AMD). PL 2003, c. 118, §1 (AMD). PL 2013, c. 228, §2 (RP).

§1316. Methods and conditions of disclosure to consumers

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §6 (AMD). PL 1985, c. 140, §§1,2 (AMD). PL 1987, c. 306, §1 (AMD). PL 1991, c. 453, §1 (AMD). PL 1991, c. 453, §10 (AFF). PL 1997, c. 155, §B7 (AMD). PL 1997, c. 155, §B13 (AFF). PL 2003, c. 118, §§2,3 (AMD). PL 2013, c. 228, §2 (RP).

§1317. Procedure for correcting inaccurate information

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §7 (AMD). PL 1979, c. 127, §§60,61 (AMD). PL 1981, c. 610, §8 (AMD). PL 1987, c. 306, §2 (AMD). PL 1991, c. 453, §10 (AFF). PL 1991, c. 453, §§2,3 (AMD). PL 2005, c. 494, §1 (AMD). RR 2009, c. 2, §12 (COR). PL 2013, c. 228, §2 (RP).

§1318. Public record information for employment purposes

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §8 (AMD). PL 2013, c. 228, §2 (RP).

§1319. Restrictions on investigative consumer reports

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §9 (AMD). PL 2013, c. 228, §2 (RP).

§1320. Requirements on users of consumer reports

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §10 (AMD). PL 1981, c. 610, §§9-11 (AMD). PL 1985, c. 79 (AMD). PL 1991, c. 453, §§4,5 (AMD). PL 1991, c. 453, §10 (AFF). PL 1993, c. 365, §1 (AMD). PL 1993, c. 505, §1 (AMD). PL 1997, c. 155, §§B8,9 (AMD). PL 1997, c. 155, §B13 (AFF). RR 1999, c. 2, §§11,12 (COR). PL 1999, c. 150, §9 (AMD). PL 1999, c. 184, §11 (AMD). PL 1999, c. 510, §2 (AMD). PL 2013, c. 228, §2 (RP).

§1320-A. Responsibilities of persons who furnish information to consumer reporting agencies

(REPEALED)

SECTION HISTORY

PL 1997, c. 155, §B10 (NEW). PL 1997, c. 155, §B13 (AFF). PL 2013, c. 228, §2 (RP).

§1321. Prohibited information, accuracy of information in reports

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §§11,12 (AMD). PL 1981, c. 610, §12 (RPR). PL 1997, c. 155, §B11 (AMD). PL 1997, c. 155, §B13 (AFF). PL 2013, c. 228, §2 (RP).

§1322. Civil liability for willful noncompliance

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). RR 2009, c. 2, §13 (COR). PL 2013, c. 228, §2 (RP).

§1323. Civil liability for negligent noncompliance

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §13 (AMD). PL 1981, c. 610, §13 (AMD). PL 2013, c. 228, §2 (RP).

§1324. Jurisdiction of courts; limitation of actions

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 2013, c. 228, §2 (RP).

§1325. Obtaining information under false pretenses

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 2013, c. 228, §2 (RP).

§1326. Unauthorized disclosures by officers or employees

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1977, c. 677, §14 (AMD). PL 1997, c. 155, §B12 (AMD). PL 1997, c. 155, §B13 (AFF). PL 2013, c. 228, §2 (RP).

§1327. Merchant harassment

(REPEALED)

SECTION HISTORY

PL 1977, c. 514 (NEW). PL 1979, c. 541, §B11 (RP).

§1328. Administrative enforcement

(REPEALED)

SECTION HISTORY

PL 1979, c. 636, §2 (NEW). PL 1989, c. 502, §A29 (AMD). PL 1991, c. 453, §§6,7 (AMD). PL 1991, c. 453, §10 (AFF). PL 2013, c. 228, §2 (RP).

§1328-A. Enforcement; financial institutions

(REPEALED)

SECTION HISTORY

PL 1995, c. 309, §20 (NEW). PL 1995, c. 309, §29 (AFF). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2013, c. 228, §2 (RP).

§1329. Reporting of child support debts

(REPEALED)

SECTION HISTORY

PL 1985, c. 652, §1 (NEW). PL 2003, c. 689, §B6 (REV). PL 2013, c. 228, §2 (RP).

§1330. Solicitation using prescreened trigger lead information from consumer report

(REPEALED)

SECTION HISTORY

PL 2007, c. 273, Pt. A, §34 (NEW). PL 2007, c. 273, Pt. A, §41 (AFF). PL 2013, c. 228, §2 (RP).

CHAPTER 210-A

SALES REPRESENTATIVE COMMISSION CONTRACTS

§1341. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 296 (NEW).]

1. Commissions. "Commissions" means compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the amount of orders or sales. [PL 1991, c. 296 (NEW).]

2. Principal. "Principal" means a person, partnership, corporation or other business entity that does not have a permanent or fixed place of business in this State and that:

A. Manufactures, produces, imports or distributes a product for wholesale; [PL 1991, c. 296 (NEW).]

B. Contracts with sales representatives to solicit orders for the product; and [PL 1991, c. 296 (NEW).]

C. Compensates the sales representative, in whole or in part, by commission. [PL 1991, c. 296 (NEW).]

[PL 1991, c. 296 (NEW).]

3. Sales representative. "Sales representative" means a person who:

A. Contracts with a principal to solicit orders for the purchase at wholesale of the principal's product; [PL 1991, c. 296 (NEW).]

B. Is compensated, in whole or in part, by commission; and [PL 1991, c. 296 (NEW).]

C. Does not place orders or purchase for that person's own account or for resale. [PL 1991, c. 296 (NEW).]

[PL 1991, c. 296 (NEW).]

SECTION HISTORY

PL 1991, c. 296 (NEW).

§1342. Notice of termination

Unless a contract between a sales representative and a principal provides otherwise, a party terminating the contract must give the other party 14 days' written notice of the termination. [PL 1991, c. 296 (NEW).]

SECTION HISTORY

PL 1991, c. 296 (NEW).

§1343. Contract

If a contract between a sales representative and a principal is terminated, the principal shall pay to the sales representative all commissions accrued under the contract within 30 days after the effective date of that termination. Any provision of any contract between a sales representative and a principal that purports to waive any provision of this chapter is void. [PL 1991, c. 296 (NEW).]

SECTION HISTORY

PL 1991, c. 296 (NEW).

§1344. Civil liability

1. Principal liability. A principal who fails to comply with the provisions of section 1343 is liable to the sales representative in a civil action for exemplary damages in an amount that does not exceed 3 times the amount of commissions due the sales representative, plus reasonable attorney's fees and costs. [PL 1991, c. 296 (NEW).]

2. Frivolous action. When the court determines that an action brought by a sales representative against a principal under this chapter is frivolous, the sales representative is liable to the principal for attorney's fees actually and reasonably incurred by the principal in defending the action and court costs. [PL 1991, c. 296 (NEW).]

3. Other remedies. Nothing in this chapter invalidates or restricts any other right or remedy available to a sales representative, or precludes a sales representative from seeking to recover in one action on all claims against a principal.
[PL 1991, c. 296 (NEW).]

4. Jurisdiction. A principal who is not a resident of this State that contracts with a sales representative to solicit orders in this State is declared to be transacting business in this State for purposes of the exercise of personal jurisdiction over nonresidents under Title 14, section 704-A.
[PL 2001, c. 667, Pt. A, §6 (AMD).]

SECTION HISTORY

PL 1991, c. 296 (NEW). PL 2001, c. 667, §A6 (AMD).

CHAPTER 210-B

NOTICE OF RISK TO PERSONAL DATA

§1346. Short title

This chapter may be known and cited as "the Notice of Risk to Personal Data Act." [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

SECTION HISTORY

PL 2005, c. 379, §1 (NEW). PL 2005, c. 379, §4 (AFF).

§1347. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

1. Breach of the security of the system. "Breach of the security of the system" or "security breach" means unauthorized acquisition, release or use of an individual's computerized data that includes personal information that compromises the security, confidentiality or integrity of personal information of the individual maintained by a person. Good faith acquisition, release or use of personal information by an employee or agent of a person on behalf of the person is not a breach of the security of the system if the personal information is not used for or subject to further unauthorized disclosure to another person.
[PL 2009, c. 161, §1 (AMD); PL 2009, c. 161, §5 (AFF).]

2. Encryption. "Encryption" means the disguising of data using generally accepted practices.
[PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

3. Information broker. "Information broker" means a person who, for monetary fees or dues, engages in whole or in part in the business of collecting, assembling, evaluating, compiling, reporting, transmitting, transferring or communicating information concerning individuals for the primary purpose of furnishing personal information to nonaffiliated 3rd parties. "Information broker" does not include a governmental agency whose records are maintained primarily for traffic safety, law enforcement or licensing purposes.
[PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

4. Notice. "Notice" means:

A. Written notice; [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

B. Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 United States Code, Section 7001; or [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

C. Substitute notice, if the person maintaining personal information demonstrates that the cost of providing notice would exceed $5,000, that the affected class of individuals to be notified exceeds 1,000 or that the person maintaining personal information does not have sufficient contact information to provide written or electronic notice to those individuals. Substitute notice must consist of all of the following:

(1) E-mail notice, if the person has e-mail addresses for the individuals to be notified;

(2) Conspicuous posting of the notice on the person's publicly accessible website, if the person maintains one; and

(3) Notification to major statewide media. [PL 2005, c. 583, §2 (AMD); PL 2005, c. 583, §14 (AFF).]

[PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF); PL 2005, c. 583, §2 (AMD); PL 2005, c. 583, §14 (AFF).]

5. Person. "Person" means an individual, partnership, corporation, limited liability company, trust, estate, cooperative, association or other entity, including agencies of State Government, municipalities, school administrative units, the University of Maine System, the Maine Community College System, Maine Maritime Academy and private colleges and universities. "Person" as used in this chapter may

not be construed to require duplicative notice by more than one individual, corporation, trust, estate, cooperative, association or other entity involved in the same transaction.
[PL 2019, c. 512, §1 (AMD).]

6. Personal information. "Personal information" means an individual's first name, or first initial, and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:

A. Social security number; [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

B. Driver's license number or state identification card number; [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

C. Account number, credit card number or debit card number, if circumstances exist wherein such a number could be used without additional identifying information, access codes or passwords; [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

D. Account passwords or personal identification numbers or other access codes; or [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

E. Any of the data elements contained in paragraphs A to D when not in connection with the individual's first name, or first initial, and last name, if the information if compromised would be sufficient to permit a person to fraudulently assume or attempt to assume the identity of the person whose information was compromised. [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

"Personal information" does not include information from 3rd-party claims databases maintained by property and casualty insurers or publicly available information that is lawfully made available to the general public from federal, state or local government records or widely distributed media.
[PL 2005, c. 583, §4 (AMD); PL 2005, c. 583, §14 (AFF).]

7. System. "System" means a computerized data storage system containing personal information.
[PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

8. Unauthorized person. "Unauthorized person" means a person who does not have authority or permission of a person maintaining personal information to access personal information maintained by the person or who obtains access to such information by fraud, misrepresentation, subterfuge or similar deceptive practices.
[PL 2005, c. 583, §5 (AMD); PL 2005, c. 583, §14 (AFF).]

SECTION HISTORY

PL 2005, c. 379, §1 (NEW). PL 2005, c. 379, §4 (AFF). PL 2005, c. 583, §§1-5 (AMD). PL 2005, c. 583, §14 (AFF). PL 2009, c. 161, §1 (AMD). PL 2009, c. 161, §5 (AFF). PL 2019, c. 512, §1 (AMD).

§1347-A. Release or use of personal information prohibited

It is a violation of this chapter for an unauthorized person to release or use an individual's personal information acquired through a security breach. [PL 2009, c. 161, §2 (NEW); PL 2009, c. 161, §5 (AFF).]

SECTION HISTORY

PL 2009, c. 161, §2 (NEW). PL 2009, c. 161, §5 (AFF).

§1348. Security breach notice requirements

1. Notification to residents. The following provisions apply to notification to residents by information brokers and other persons.

A. If an information broker that maintains computerized data that includes personal information becomes aware of a breach of the security of the system, the information broker shall conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused and shall give notice of a breach of the security of the system following discovery or notification of the security breach to a resident of this State whose personal information has been, or is reasonably believed to have been, acquired by an unauthorized person. [PL 2005, c. 583, §6 (NEW); PL 2005, c. 583, §14 (AFF).]

B. If any other person who maintains computerized data that includes personal information becomes aware of a breach of the security of the system, the person shall conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused and shall give notice of a breach of the security of the system following discovery or notification of the security breach to a resident of this State if misuse of the personal information has occurred or if it is reasonably possible that misuse will occur. [PL 2005, c. 583, §6 (NEW); PL 2005, c. 583, §14 (AFF).]

The notices required under paragraphs A and B must be made as expediently as possible and without unreasonable delay, consistent with the legitimate needs of law enforcement pursuant to subsection 3 or with measures necessary to determine the scope of the security breach and restore the reasonable integrity, security and confidentiality of the data in the system. If there is no delay of notification due to law enforcement investigation pursuant to subsection 3, the notices must be made no more than 30 days after the person identified in paragraph A or B becomes aware of a breach of security and identifies its scope.
[PL 2019, c. 512, §2 (AMD).]

2. Notification to person maintaining personal information. A 3rd-party entity that maintains, on behalf of a person, computerized data that includes personal information that the 3rd-party entity does not own shall notify the person maintaining personal information of a breach of the security of the system immediately following discovery if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.
[PL 2005, c. 583, §7 (AMD); PL 2005, c. 583, §14 (AFF).]

3. Delay of notification; criminal investigation by law enforcement. If, after the completion of an investigation required by subsection 1, notification is required under this section, the notification required by this section may be delayed for no longer than 7 business days after a law enforcement agency determines that the notification will not compromise a criminal investigation.
[PL 2009, c. 161, §3 (AMD); PL 2009, c. 161, §5 (AFF).]

4. Notification to consumer reporting agencies. If a person discovers a breach of the security of the system that requires notification to more than 1,000 persons at a single time, the person shall also notify, without unreasonable delay, consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 United States Code, Section 1681a(p). Notification must include the date of the breach, an estimate of the number of persons affected by the breach, if known, and the actual or anticipated date that persons were or will be notified of the breach.
[PL 2005, c. 583, §8 (AMD); PL 2005, c. 583, §14 (AFF).]

5. Notification to state regulators. When notice of a breach of the security of the system is required under subsection 1, the person shall notify the appropriate state regulators within the Department of Professional and Financial Regulation, or if the person is not regulated by the department, the Attorney General.
[PL 2005, c. 583, §9 (AMD); PL 2005, c. 583, §14 (AFF).]

SECTION HISTORY

PL 2005, c. 379, §1 (NEW). PL 2005, c. 379, §4 (AFF). PL 2005, c. 583, §§6-9 (AMD). PL 2005, c. 583, §14 (AFF). PL 2009, c. 161, §3 (AMD). PL 2009, c. 161, §5 (AFF). PL 2019, c. 512, §2 (AMD).

§1349. Enforcement; penalties

1. Enforcement. The appropriate state regulators within the Department of Professional and Financial Regulation shall enforce this chapter for any person that is licensed or regulated by those regulators. The Attorney General shall enforce this chapter for all other persons.
[PL 2005, c. 583, §10 (AMD); PL 2005, c. 583, §14 (AFF).]

2. Civil violation. A person that violates this chapter commits a civil violation and is subject to one or more of the following:

A. A fine of not more than $500 per violation, up to a maximum of $2,500 for each day the person is in violation of this chapter, except that this paragraph does not apply to State Government, municipalities, school administrative units, the University of Maine System, the Maine Community College System or Maine Maritime Academy; [PL 2019, c. 512, §3 (AMD).]

B. Equitable relief; or [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

C. Enjoinment from further violations of this chapter. [PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]
[PL 2019, c. 512, §3 (AMD).]

3. Cumulative effect. The rights and remedies available under this section are cumulative and do not affect or prevent rights and remedies available under federal or state law.
[PL 2005, c. 379, §1 (NEW); PL 2005, c. 379, §4 (AFF).]

4. Exceptions. A person that complies with the security breach notification requirements of rules, regulations, procedures or guidelines established pursuant to federal law or the law of this State is deemed to be in compliance with the requirements of section 1348 as long as the law, rules, regulations or guidelines provide for notification procedures at least as protective as the notification requirements of section 1348.
[PL 2009, c. 161, §4 (AMD); PL 2009, c. 161, §5 (AFF).]

SECTION HISTORY

PL 2005, c. 379, §1 (NEW). PL 2005, c. 379, §4 (AFF). PL 2005, c. 583, §§10-12 (AMD). PL 2005, c. 583, §14 (AFF). PL 2009, c. 161, §4 (AMD). PL 2009, c. 161, §5 (AFF). PL 2019, c. 512, §3 (AMD).

§1350-A. Rules; education and compliance

The following provisions govern rules and education and compliance. [PL 2005, c. 583, §13 (NEW); PL 2005, c. 583, §14 (AFF).]

1. Rules. With respect to persons under the jurisdiction of the regulatory agencies of the Department of Professional and Financial Regulation, the appropriate state regulators within that department may adopt rules as necessary for the administration and implementation of this chapter. With respect to all other persons, the Attorney General may adopt rules as necessary for the administration and implementation of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2005, c. 583, §13 (NEW); PL 2005, c. 583, §14 (AFF).]

2. Education and compliance. The appropriate state regulators within the Department of Professional and Financial Regulation shall undertake reasonable efforts to inform persons under the department's jurisdiction of their responsibilities under this chapter. With respect to all other persons,

the Attorney General shall undertake reasonable efforts to inform such persons of their responsibilities under this chapter.
[PL 2005, c. 583, §13 (NEW); PL 2005, c. 583, §14 (AFF).]

SECTION HISTORY

PL 2005, c. 583, §13 (NEW). PL 2005, c. 583, §14 (AFF).

§1350-B. Reporting of identity theft; mandatory police report and possible investigation

A person who knows or reasonably believes that the person's personal information has been misused in violation of Title 17-A, section 905-A may report the misuse and obtain a police report by contacting the local law enforcement agency that has jurisdiction over the person's actual residence or place of business. That law enforcement agency shall make a police report of the matter and provide the complainant with a copy of that report. At its discretion, the law enforcement agency may undertake an investigation of the matter or refer it to another law enforcement agency. If the suspected crime was committed in a jurisdiction outside of the State, the local law enforcement agency shall refer the report to the law enforcement agency where the suspected crime was committed. [PL 2007, c. 634, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 634, §1 (NEW).

CHAPTER 211

INSOLVENT LAW

§1351. Insolvent law

REVISOR'S NOTE: In accordance with the provisions of chapter 181 of the resolves of 1953 for the revision of statutes, chapter 162 of the Revised Statutes of 1954, entitled "The Insolvent Law", was incorporated and printed by title only. It is similarly incorporated herein and may be cited as 10 MRSA 1351. The laws relating to insolvency may be found in chapter 72 of the Revised Statutes of 1903, as amended by chapter 90 of the Public Laws of 1923, chapter 76 of the Public Laws of 1927 and chapter 149 of the Revised Statutes of 1944.

CHAPTER 211-A

FRANCHISE LAWS FOR POWER EQUIPMENT, MACHINERY AND APPLIANCES

§1361. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 195, §1 (NEW).]

1. Dealer. "Dealer" means a person located within this State who sells goods or solicits or advertises the sale of goods to the public. "Dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court nor does it include public officers performing their duties as officers.
[PL 2011, c. 75, §1 (AMD); PL 2011, c. 75, §3 (AFF).]

2. Distributor. "Distributor" means a person who sells or distributes goods to dealers of those goods.
[PL 1993, c. 195, §1 (NEW).]

3. Franchise. "Franchise" means an oral or written arrangement for a definite or indefinite period pursuant to which a manufacturer grants to a dealer or distributor of goods a license to use a trade name, trademark, service mark or related characteristic and in which there is a community of interest in the marketing of goods and related services at wholesale, retail, by leasing or otherwise.
[PL 1993, c. 195, §1 (NEW).]

4. Franchisee. "Franchisee" means a person, dealer or distributor of goods located within this State to whom a franchise is offered or granted.
[PL 2011, c. 75, §2 (AMD); PL 2011, c. 75, §3 (AFF).]

5. Franchisor. "Franchisor" means a manufacturer who grants a franchise to a distributor or dealer of goods.
[PL 1993, c. 195, §1 (NEW).]

6. Fraud. "Fraud" includes, in addition to its normal legal connotation, a misrepresentation, whether intentionally false or due to gross negligence, of a material fact, a promise or a representation not made honestly and in good faith and an intentional failure to disclose a material fact.
[PL 1993, c. 195, §1 (NEW).]

7. Good faith. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade as defined and interpreted in the Uniform Commercial Code, Title 11, section 1-1201, subsection (20).
[RR 2013, c. 2, §15 (COR).]

8. Goods. "Goods" means residential, recreational, agricultural, farm, commercial or business equipment, machinery or appliances that use electricity, gas, wood, a petroleum product or a derivative of a petroleum product for operation. "Goods" does not include motor vehicles as defined in section 1171, subsection 11 and recreational vehicles as defined in section 1432, subsection 18-A.
[PL 2009, c. 562, §2 (AMD).]

9. Manufacturer. "Manufacturer" means a person, partnership, firm, association, corporation or trust, resident or nonresident, who manufactures, assembles or imports goods for distribution through distributors or a partnership, firm, association, joint venture, corporation or trust, resident or nonresident, that is controlled by such an entity.
[PL 1993, c. 195, §1 (NEW).]

10. Person. "Person" means a natural person, corporation, partnership, trust or other entity and, in the case of an entity, includes any other entity in which it has a majority interest or effective control as well as the individual officers, directors and other persons in active control of the activities of each entity.
[PL 1993, c. 195, §1 (NEW).]

11. Sale. "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation or mortgage in any form, whether by transfer in trust or otherwise, of goods or interest in goods or of any franchise related to those goods and any option, subscription or other contract, solicitation looking to a sale or offer or attempt to sell in any form, whether spoken or written. A gift or delivery of goods or equipment or a franchise with respect to those goods or equipment, with or as a bonus on account of a sale, is deemed a sale of the goods, equipment or franchise.
[PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW). PL 1997, c. 427, §1 (AMD). PL 2009, c. 562, §2 (AMD). PL 2011, c. 75, §§1, 2 (AMD). PL 2011, c. 75, §3 (AFF). RR 2013, c. 2, §15 (COR).

§1362. Civil remedies

A dealer, distributor or franchisee who has been damaged by violation of this chapter may bring an action to enjoin the violation and to recover damages arising from the violation. A final judgment, order or decree rendered against a person in a civil, criminal or administrative proceeding under the federal antitrust laws, the Federal Trade Commission Act, this chapter or any other state law is regarded as prima facie evidence against that person, subject to the conditions under the federal antitrust laws, 15 United States Code, Section 16. [PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

§1363. Prohibited conduct

The following are unfair methods of competition and unfair and deceptive practices. [PL 1993, c. 195, §1 (NEW).]

1. Damage to public. It is unlawful for a manufacturer, distributor or dealer to engage in an action that is arbitrary, in bad faith or unconscionable and that causes damage to another manufacturer, distributor or dealer or to the public.
[PL 1993, c. 195, §1 (NEW).]

2. Coercion involving deliveries and orders. It is unlawful for a manufacturer or an officer, agent or other representative of a manufacturer to coerce or attempt to coerce a dealer or distributor:

A. To order or accept delivery of goods or parts or accessories for goods or other commodities that the distributor or dealer has not voluntarily ordered; or [PL 1993, c. 195, §1 (NEW).]

B. To order goods or a commodity for a person. [PL 1993, c. 195, §1 (NEW).]
[PL 1993, c. 195, §1 (NEW).]

3. Certain interference in business. It is unlawful for a manufacturer or an officer, agent or other representative of a manufacturer:

A. To coerce or attempt to coerce a distributor or dealer to enter into an agreement with that manufacturer or officer, agent or other representative or to act in a manner that is prejudicial to a distributor or dealer by threatening to cancel a franchise or a contractual agreement between the manufacturer and the distributor or dealer. However, notice in good faith to a distributor or dealer of violation of any terms or provisions of a franchise or contractual agreement does not constitute a violation of this chapter; [PL 1993, c. 195, §1 (NEW).]

B. To cancel, terminate, fail to renew or refuse to continue a franchise relationship with a distributor or dealer, notwithstanding the terms, provisions or conditions of an agreement or franchise or the terms or provisions of a waiver, unless a manufacturer:

(1) Has satisfied the notice requirement of section 1366;

(2) Has acted in good faith as defined in this chapter; and

(3) Has good cause for the cancellation, termination, nonrenewal or noncontinuance; or [PL 1993, c. 195, §1 (NEW).]

C. To terminate, fail to renew or refuse to continue any franchise relationship with a distributor or dealer, notwithstanding the terms, provisions or conditions of an agreement or franchise or the terms or provisions of a waiver, without good cause. The manufacturer has good cause for a termination, cancellation, nonrenewal or noncontinuance as follows.

(1) Failure by the distributor or dealer to comply with a provision of the franchise agreement that is reasonable and of material significance to the franchise relationship when the manufacturer first acquired actual or constructive knowledge of the failure not more than 180

days before the date on which written notification is given pursuant to section 1366 is good cause.

(2) If the failure by the distributor or dealer, as set forth in subparagraph (1), relates to the performance by the distributor or dealer in sales or service, then good cause is the failure of the distributor or dealer to carry out effectively the performance provisions of the franchise when:

(a) The distributor or dealer was notified by the manufacturer in writing of that failure, the notification stated that notice was provided of failure of performance pursuant to this section and the distributor or dealer was given a reasonable opportunity for a period of not less than 6 months to make good-faith efforts to carry out the performance provisions;

(b) The failure continued within the period that began not more than 180 days before the date on which notification of termination, cancellation or nonrenewal was given pursuant to section 1366; and

(c) The distributor or dealer has not substantially complied with reasonable performance criteria established by the manufacturer and communicated to the distributor or dealer.

(3) There is good cause when the manufacturer and the dealer or distributor agree not to renew the franchise.

(4) There is good cause when the manufacturer discontinues production or distribution of the franchise goods. [PL 1993, c. 195, §1 (NEW).]

[PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

§1364. Agreements subject to this chapter

Written or oral agreements between a manufacturer and a distributor or dealer, including but not limited to franchise offerings, franchise agreements, agreements for sales of goods, advertising, leases or mortgages of goods, promises to pay, security interests, pledges, insurance contracts, advertising contracts, construction or installation contracts, servicing contracts and all other agreements in which the manufacturer has a direct or indirect interest, are subject to this chapter. [PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

§1365. Franchise interest; vested rights

Notwithstanding any other provision of law, it is unlawful for the manufacturer or franchisor, without due cause, to terminate a franchise or to fail to renew a franchise on terms then equally available to all its distributors or dealers. [PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

§1366. Notice form, delivery and content

All notices of termination or nonrenewal required by this chapter must: [PL 1993, c. 195, §1 (NEW).]

1. Delivery. Be sent by registered, certified or other receipted mail, delivered by telegram or personally delivered to the distributor or dealer; and

[PL 1993, c. 195, §1 (NEW).]

2. Statement of intent. Contain a statement of intent to terminate or not renew the franchise together with the reasons for termination or nonrenewal and the effective date of the termination, nonrenewal or expiration.
[PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

§1367. Manufacturer's warranty obligations

A manufacturer shall honor, in a timely fashion, an obligation to dealers or distributors to replace goods, reimburse or pay costs and expenses or provide services arising as a result of a warranty, franchise agreement or other agreement subject to this chapter. [PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

§1368. Public policy

A contract or part of a contract or activity undertaken pursuant to a contract in violation of this chapter is deemed against public policy and is void and unenforceable. [PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

§1369. Statute of limitation

Actions arising out of any provision of this chapter must be commenced within 2 years after the cause of action accrues; however, if a person liable under this chapter conceals the cause of action from the person entitled to bring that action, the period prior to the discovery of that cause of action is excluded in determining the time allowed for commencement of the action. If a cause of action accrues during the pendency of a civil, criminal or administrative proceeding against a person brought by the Federal Government or any of its agencies under the antitrust laws, the Federal Trade Commission Act or any other federal act, or the laws of the State related to antitrust laws or to franchising, that action may be commenced within one year after the final disposition of the civil, criminal or administrative proceeding. [PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

§1370. Penalty

Violation of this chapter constitutes an unfair trade practice under the Maine Unfair Trade Practices Act, Title 5, chapter 10. [PL 1993, c. 195, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 195, §1 (NEW).

CHAPTER 212

SELF-SERVICE STORAGE ACT

§1371. Short title

This Act shall be known and may be cited as the "Maine Self-service Storage Act." [PL 1989, c. 62 (NEW).]

SECTION HISTORY

PL 1989, c. 62 (NEW).

§1372. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 62 (NEW).]

1. Default. "Default" means the failure to perform on time any obligation or duty set forth in the rental agreement.
[PL 1989, c. 62 (NEW).]

1-A. Abandoned leased space. "Abandoned lease space" means a leased space that the operator finds unlocked and empty or unlocked and containing personal property with a value less than $750 or a leased space possession of and all rights to which and any personal property within which have been surrendered to the operator by the occupant.
[PL 2011, c. 376, §1 (NEW).]

1-B. Electronic mail. "Electronic mail" means electronic mail sent or delivered by transmission over the Internet.
[PL 2011, c. 376, §2 (NEW).]

2. Last known address. "Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.
[PL 1989, c. 62 (NEW).]

2-A. Late fee. "Late fee" means any fee or charge assessed for an occupant's failure to pay rent when due. "Late fee" does not include interest on a debt, reasonable expenses incurred in the collection of unpaid rent or costs associated with the enforcement of any other remedy provided by statute or contract.
[PL 2003, c. 274, §1 (NEW).]

3. Leased space. "Leased space" means the individual storage space at the self-service facility which is rented to an occupant under a rental agreement.
[PL 1989, c. 62 (NEW).]

4. Occupant. "Occupant" means a person, a sublessee, successor or assignee, entitled to the use of a leased space at a self-service storage facility under a rental agreement.
[PL 1989, c. 62 (NEW).]

5. Operator. "Operator" means the owner, operator, lessor or sublessor of a self-service storage facility, an agent or any other person authorized to manage the facility. Operator does not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading or other document of title for the personal property stored.
[PL 1989, c. 62 (NEW).]

5-A. Personal information. "Personal information" means information about a person that readily identifies that person or is closely associated with that person. "Personal information" includes, but is not limited to, social security numbers, credit or debit card information, bank account numbers, medical information or passport information.
[PL 2009, c. 525, §1 (NEW).]

6. Personal property. "Personal property" means movable property, not affixed to land. Personal property includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft, all-terrain vehicles, off-road vehicles, recreational vehicles and household items and furnishings.
[PL 2011, c. 376, §3 (AMD).]

6-A. Reasonable belief. "Reasonable belief" is the actual knowledge or belief a prudent person would have without making an investigation that a leased space contains personal information relating to clients, customers or others with whom the occupant does business.
[PL 2009, c. 525, §2 (NEW).]

7. Rental agreement. "Rental agreement" means any written agreement that establishes or modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage facility.
[PL 1989, c. 62 (NEW).]

8. Self-service storage facility. "Self-service storage facility" means any real property used for renting or leasing individual storage spaces under a written rental agreement in which the occupants themselves customarily store and remove their own personal property on a self-service basis.
[PL 1989, c. 62 (NEW).]

9. Verified mail. "Verified mail" means any method of mailing that is offered by the United States Postal Service and provides evidence of mailing.
[PL 2011, c. 376, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 62 (NEW). PL 2003, c. 274, §1 (AMD). PL 2009, c. 525, §§1, 2 (AMD). PL 2011, c. 376, §§1-4 (AMD).

§1373. Restrictions of use

1. Operator not to permit use for residential purposes. An operator may not knowingly permit a leased space at a self-service storage facility to be used for residential purposes.
[PL 1989, c. 62 (NEW).]

2. Occupant not to use for residential purposes. An occupant may not use a leased space for residential purposes.
[PL 1989, c. 62 (NEW).]

3. Occupant not to store certain goods. An occupant is prohibited from storing goods that have a dangerous, harmful, offensive or noxious impact on the self-service storage facility or its surroundings or are a nuisance to self-service storage facility occupants, the operator or operator's employees.

A. If the operator has reason to believe that an occupant is storing goods that have resulted in a condition described in this subsection, the operator may remove and dispose of the goods thus causing that condition. [PL 1989, c. 62 (NEW).]

B. Before disposing of goods under this subsection, the operator shall:

(1) Notify the occupant of the condition by regular mail at the occupant's last known address or other address set forth by the occupant in the rental agreement;

(2) Inspect the leased space at least 7 days following the notice to the occupant; and

(3) Determine whether a condition described in this subsection exists. [PL 1989, c. 62 (NEW).]

C. Notwithstanding paragraph B, an operator may immediately dispose of goods under this section if they constitute a threat to health, safety or welfare. The operator shall immediately notify the occupant of this action following the procedures of paragraph B, subparagraph (1). [PL 1989, c. 62 (NEW).]

[PL 1989, c. 62 (NEW).]

SECTION HISTORY

PL 1989, c. 62 (NEW).

§1374. Lien

1. Lien created. The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor or other charges, and for expenses reasonably incurred in its sale, as provided in this Act. The lien attaches as of the date the occupant leases the space.
[PL 2011, c. 376, §5 (AMD).]

2. Statement in rental agreement. The rental agreement must contain a statement, in bold type, advising the occupant:

A. Of the existence of the lien; [PL 1989, c. 62 (NEW).]

B. That property stored in the leased space may be sold to satisfy the lien if the occupant is in default; and [PL 1989, c. 62 (NEW).]

C. That a sale shall be held at the self-service storage facility where the personal property is stored or at the nearest suitable location. [PL 1989, c. 62 (NEW).]

[PL 1989, c. 62 (NEW).]

SECTION HISTORY

PL 1989, c. 62 (NEW). PL 2011, c. 376, §5 (AMD).

§1375. Enforcement of lien

1. Sale; use of proceeds. Except as provided in subsection 1-A, if the occupant is in default for a period of more than 45 days, the operator may enforce a lien by selling the property stored in the leased space at a public or private sale for cash. Proceeds must then be applied to satisfy the lien, with any surplus disbursed as provided in subsection 5. The sale must take place at least 15 days after the provision of notice under subsection 2.
[PL 2011, c. 376, §6 (AMD).]

1-A. Leased space containing personal information. When the operator has a reasonable belief that the leased space contains personal information relating to clients, customers or others with whom the occupant does business, the operator may not hold a lien sale of the personal information and may destroy the personal information without liability to any person.
[PL 2009, c. 525, §4 (NEW).]

1-B. Operator may inspect contents of leased space. After an occupant is in default pursuant to subsection 1, an operator may inspect the contents of a leased space to investigate the presence of personal information without liability to any person.
[PL 2009, c. 525, §5 (NEW).]

1-C. Personal property with value less than $750. If the occupant is in default for a period of more than 45 days, the operator may remove the occupant's lock to verify that the personal property in the leased space has a value greater than or equal to $750. If the personal property has a value greater than or equal to $750, the operator may enforce a lien pursuant to subsection 1. If the personal property has a value less than $750, the personal property and leased space may be considered an abandoned leased space and the personal property may be disposed of pursuant to section 1378.
[PL 2011, c. 376, §7 (NEW).]

1-D. Motor vehicles. If the personal property in the leased space is a motor vehicle, the operator may have the motor vehicle towed with no liability to any party.
[PL 2011, c. 376, §7 (NEW).]

2. Notice. As soon as the occupant is in default and before conducting a sale under subsection 1, the operator shall:

A. Send a notice of default by verified mail and by either first-class mail or electronic mail to the occupant at the occupant's last known address or other address set forth by the occupant in the rental agreement that includes:

(1) A statement that the contents of the occupant's leased space are subject to the operator's lien. The sale must take place at least 15 days after the provision of notice under subsection 2;

(2) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges that become due before the date of sale and the date those additional charges become due;

(3) A demand for payment of the charges due within a specified time, not less than 14 days after the date of the notice;

(4) A statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold, specifying the time and place; and

(5) The name, street address and telephone number of the operator, or the operator's designated agent, whom the occupant may contact to respond to the notice. [PL 2011, c. 376, §8 (AMD).]

B. [PL 2011, c. 376, §8 (RP).]

[PL 2011, c. 376, §8 (AMD).]

3. Redemption of property. At any time before a sale under this section or before property is disposed of or destroyed under section 1373, subsection 3, paragraph C or under subsection 1-A, whichever occurs first, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

[PL 2009, c. 525, §6 (AMD).]

4. Location of sale. A sale under this section shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is stored.

[PL 1989, c. 62 (NEW).]

5. Distribution of proceeds. If a sale is held under this section, the operator shall:

A. Satisfy the lien from the proceeds of the sale; and [PL 1989, c. 62 (NEW).]

B. Hold the balance, if any, for 90 days from the date of sale for delivery on demand to the occupant or any other recorded lienholders. If the balance is not claimed after 90 days, it becomes the property of the operator. [PL 2011, c. 376, §9 (AMD).]

[PL 2011, c. 376, §9 (AMD).]

6. Insufficient process. If proceeds of the sale are not sufficient to satisfy the occupant's outstanding obligations to the operator, the occupant remains liable to the operator for such deficiency.

[RR 2009, c. 2, §14 (COR).]

7. Purchasers. Except as provided in subsection 7-A, a purchaser in good faith of any personal property sold under this Act takes the property free and clear of any rights of:

A. Persons against whom the lien was valid; and [PL 1989, c. 62 (NEW).]

B. Other lienholders. [PL 1989, c. 62 (NEW).]

[PL 2009, c. 525, §7 (AMD).]

7-A. Purchaser to sign contract. Before taking possession of any personal property sold under this Act, a purchaser must sign a contract provided by the operator that contains provisions including, but not limited to, an agreement by the purchaser to return to the operator any personal information relating to clients, customers or others with whom the occupant does business.

[PL 2009, c. 525, §8 (NEW).]

8. Operator liability. If the operator complies with the provisions of this Act, the operator's liability:

A. To the occupant shall be limited to the net proceeds received from the sale of the personal property; and [PL 1989, c. 62 (NEW).]

B. To other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by that other lien. [PL 1989, c. 62 (NEW).]

[PL 1989, c. 62 (NEW).]

9. Denying occupant access to leased space. If an occupant is in default, the operator, by making provision in the written rental agreement, may deny the occupant access to the leased space, provided that the occupant may arrange to have access solely to view and verify the contents of the leased space. Such access must be arranged with the facility office during normal business hours.

[PL 1989, c. 62 (NEW).]

10. Notices; mail. Unless otherwise specifically provided, all notices required by this Act must be sent as described in subsection 2, paragraph A.

A. Notices sent to the operator must be sent to the self-service storage facility where the occupant's property is stored. Notices to the occupant must be sent to the occupant at the occupant's last known address. Notices are deemed delivered when deposited with the United States Postal Service, properly addressed as provided in subsection 2, with postage paid. [PL 2011, c. 376, §10 (AMD).]

[PL 2011, c. 376, §10 (AMD).]

11. Control of property in leased space. Unless the rental agreement of this Act specifically provides otherwise, until a lien sale under this Act, the exclusive care, custody and control of all personal property stored in the leased self-service storage space remains vested in the occupant.

[PL 1989, c. 62 (NEW).]

12. Savings clause. All rental agreements, entered into before the effective date of this Act which have not been extended or renewed after that date, shall remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other law of this State.

[PL 1989, c. 62 (NEW).]

13. Value of stored property. If a rental agreement contains a limit on the value of personal property that may be stored in the occupant's leased space, the limit is deemed to be the maximum value of the stored personal property and the maximum liability of the operator for any claim.

[PL 2011, c. 376, §11 (NEW).]

SECTION HISTORY

PL 1989, c. 62 (NEW). RR 2009, c. 2, §14 (COR). PL 2009, c. 525, §§3-8 (AMD). PL 2011, c. 376, §§6-11 (AMD).

§1376. Late fees

1. Imposition of late fee. An operator may impose a reasonable late fee in accordance with this section for each service period that an occupant does not pay rent when due, as long as the due date for the rental payment is not earlier than the day before the first day of the service period to which the rental payment applies. A late fee may not be imposed if the occupant makes a rental payment in full by the 3rd day after the due date.

[PL 2003, c. 274, §2 (NEW).]

2. Conditions in writing. An operator may not impose a late fee unless the amount of that fee and the conditions for imposing that fee are stated in 12-point type in a written rental agreement or an addendum to that agreement.

[PL 2003, c. 274, §2 (NEW).]

3. Permissible late fees. A late fee of $20 for each late rental payment or 20% of the amount of each rental payment, whichever is greater, is reasonable and does not constitute a penalty.
[PL 2003, c. 274, §2 (NEW).]

4. Recovery of reasonable expenses. An operator may recover from the occupant any reasonable expense incurred in rent collection or lien enforcement in addition to the late fee permitted by subsection 1.
[PL 2003, c. 274, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 274, §2 (NEW).

§1377. Effects of violations

It is a violation of the Maine Unfair Trade Practices Act if: [PL 2009, c. 525, §9 (NEW).]

1. Occupant fails to take measures to protect personal information. An occupant fails to take appropriate measures to protect personal information of clients, customers or others with whom the occupant does business;
[PL 2009, c. 525, §9 (NEW).]

2. Purchaser fails to return personal information. A purchaser of any personal property under this Act intentionally fails to return to the operator any personal information of clients, customers or others with whom the occupant does business; and
[PL 2009, c. 525, §9 (NEW).]

3. Operator conducts lien sale of personal information. An operator has a reasonable belief that a leased space contains personal information relating to clients, customers or others with whom the occupant does business and nonetheless intentionally conducts a lien sale of personal information relating to clients, customers or others with whom the occupant does business.
[PL 2009, c. 525, §9 (NEW).]

SECTION HISTORY

PL 2009, c. 525, §9 (NEW).

§1378. Abandonment

In the case of an abandoned leased space, the operator has the right to immediately take possession of the leased space and dispose of any personal property in the leased space by any means at the operator's discretion. [PL 2011, c. 376, §12 (NEW).]

SECTION HISTORY

PL 2011, c. 376, §12 (NEW).

CHAPTER 212-A

MAINE MARINA AND BOATYARD STORAGE ACT

§1381. Short title

This Act may be known and cited as the "Maine Marina and Boatyard Storage Act." [PL 1993, c. 263, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

§1382. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 263, §1 (NEW).]

1. Default. "Default" means the failure to pay obligations incurred by the storage of a boat, boat motor or boat trailer.
[PL 1993, c. 263, §1 (NEW).]

2. Facility. "Facility" means a marina, boatyard or marine repair facility that provides, as part of its commercial operation, the storage of boats, boat motors or boat trailers.
[PL 1993, c. 263, §1 (NEW).]

3. Lienholder. "Lienholder" or "lienholder of record" means a person who claims an interest in or lien on the property pursuant to a financing statement filed with the Secretary of State or other public filing.
[PL 1993, c. 263, §1 (NEW).]

4. Property. "Property" means a boat, boat motor or boat trailer in storage at a facility.
[PL 1993, c. 263, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

§1383. Lien

1. Lien created. A facility owner has a lien on property stored at that facility for rent, labor or other charges and for expenses reasonably incurred in the sale of that property under the provisions of this chapter.
[PL 1993, c. 263, §1 (NEW).]

2. Exclusion. This chapter does not create a lien on a documented vessel subject to a preferred ship mortgage or other preferred maritime lien pursuant to 46 United States Code, Chapter 313.
[PL 2011, c. 691, Pt. A, §2 (AMD).]

SECTION HISTORY

PL 1993, c. 263, §1 (NEW). PL 2011, c. 691, Pt. A, §2 (AMD).

§1384. Notice of lien

A property owner must be notified of the lien created by this chapter before enforcement of the lien by a facility owner. Notification of the lien created by this chapter is satisfied by: [PL 1993, c. 263, §1 (NEW).]

1. Written storage agreement. A written storage agreement signed by the property owner that includes a notice of the lien created by this chapter; or
[PL 1993, c. 263, §1 (NEW).]

2. Written notice of lien. Written notification of the lien sent by the facility owner to the property owner.
[PL 1993, c. 263, §1 (NEW).]

A facility owner who does not have a written storage agreement that includes a notice of the lien created by this chapter may not initiate an enforcement action under section 1385 until 30 days after the written notice of a lien required by subsection 2 is delivered to the property owner. [PL 1993, c. 263, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

§1385. Enforcement of lien

A facility owner may enforce a lien created by this chapter only if the property owner has been notified of the lien as required by section 1384. [PL 1993, c. 263, §1 (NEW).]

1. Sale; use of proceeds. If a property owner is in default for a period of more than 90 days, a facility owner may enforce a lien by selling the stored property at a commercially reasonable public sale for cash. As used in this section, "commercially reasonable" has the same meaning as in the Uniform Commercial Code. The proceeds of the sale must be applied in the following order:

A. To the reasonable expenses of the sale incurred by the facility owner including, to the extent not prohibited by law, reasonable attorney's fees and legal expenses; [PL 1993, c. 263, §1 (NEW).]

B. To the satisfaction of the lien created by this chapter; [PL 1993, c. 263, §1 (NEW).]

C. To the satisfaction of all other liens on the property held by all lienholders of record to be paid in the order of priority; and [PL 1993, c. 263, §1 (NEW).]

D. To the extent that the proceeds of sale exceed the sum of the foregoing, the surplus must be paid by the facility owner to the property owner. [PL 1993, c. 263, §1 (NEW).]

If proceeds of the sale are not sufficient to satisfy the property owner's outstanding obligations to the facility owner or any lienholder of record, the property owner remains liable to the facility owner or lienholder for the deficiency.
[PL 1993, c. 263, §1 (NEW).]

2. Advertisement; notice of default. Before conducting a sale under this section, the facility owner shall:

A. Send a notice of default to the property owner. The facility owner shall provide a copy of the notice to each lienholder of record. The notice must include:

(1) A statement that the property is subject to a lien held by the facility owner;

(2) A statement of the facility owner's claim indicating the charges due on the date of the notice, the amount of any additional charges that will become due before the date of sale and the date those additional charges will become due;

(3) A demand for payment of the charges due within a specified time not less than 30 days after the date the notice is delivered to the property owner and all lienholders of record;

(4) A statement that unless the claim is paid within the time stated the property will be sold, specifying the time and place of the sale; and

(5) The name, street address and telephone number of the facility owner, or the facility owner's designated agent, whom the property owner may contact to respond to the notice; and [PL 1993, c. 263, §1 (NEW).]

B. After the expiration of the 30-day period set forth in paragraph A, publish an advertisement of the sale once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the sale is to be held. The advertisement must include a general description of the property, the name of the property owner and the time and place of the sale. The date of the sale must be more than 15 days after the date the first advertisement of the sale is published. [PL 1993, c. 263, §1 (NEW).]
[PL 1993, c. 263, §1 (NEW).]

3. Location of sale. A sale under this chapter must be held at the facility or at the nearest suitable location.
[PL 1993, c. 263, §1 (NEW).]

4. Purchasers. A purchaser of property sold at a commercially reasonable sale pursuant to this chapter takes the property free and clear of any rights of persons against whom the lien was valid and all other lienholders of record.
[PL 1993, c. 263, §1 (NEW).]

5. Facility owner liability. If the facility owner complies with the provisions of this chapter, the facility owner's liability is as follows.

A. To a lienholder of record, the facility owner's liability is limited to payment from the net proceeds received from the sale of the property. [PL 1993, c. 263, §1 (NEW).]

B. To the property owner, the facility owner's liability is limited to the net proceeds received from the sale of the property after payment in full of all lienholders of record. [PL 1993, c. 263, §1 (NEW).]

[PL 1993, c. 263, §1 (NEW).]

6. Denying access to storage facility. A facility owner may deny a property owner who has been notified under subsection 2 access to the storage facility, except that the property owner is entitled to access to the facility during normal business hours for the purpose of satisfying the lien or viewing and verifying the condition of the property.
[PL 1993, c. 263, §1 (NEW).]

7. Notices. Except as otherwise provided, all notices required by this chapter must be sent by registered or certified mail, return receipt requested. Notices sent to a facility owner must be sent to the owner's business address or to the address of the owner's designated representative. Notices to a property owner must be sent to the property owner at the property owner's last known address. Notices to a lienholder of record must be sent to the address of the lienholder as provided in the public filings that serve to perfect the lienholder's interest in the property. Notices are considered delivered on the date the recipient of the notice signs the return receipt or, if the notice is undeliverable, the date the post office last attempts to deliver the notice.
[PL 1993, c. 263, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

§1386. Cessation of enforcement actions

A facility owner shall cease enforcement actions immediately if: [PL 1993, c. 263, §1 (NEW).]

1. Payment by owner. The property owner pays the facility owner the full amount necessary to satisfy the lien. At any time before the conclusion of a sale conducted under this chapter, the property owner may redeem the property by paying the full amount necessary to satisfy the lien; or
[PL 1993, c. 263, §1 (NEW).]

2. Payment by other lienholders. A person other than the facility owner who has a lien on the property pays the facility owner the full amount necessary to satisfy the lien held by the facility owner. Upon payment by a lienholder of record, the facility owner shall hold the property for the benefit of and at the direction of that lienholder and may not deliver possession of the property to the property owner. Unless the facility owner and the lienholder enter into a new storage agreement, the lienholder shall arrange removal of the property from the facility.
[PL 1993, c. 263, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 263, §1 (NEW).

CHAPTER 212-B

CONSUMER ARBITRATION AGREEMENTS

§1391. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 250, §1 (NEW).]

1. Administrator.
[PL 2009, c. 572, §1 (RP).]

2. Consumer. "Consumer" means an individual who uses, purchases, acquires, attempts to purchase or acquire or is offered or furnished goods or services, other than insurance, for personal, family or household purposes.
[PL 2009, c. 572, §2 (AMD).]

3. Consumer arbitration. "Consumer arbitration" means binding arbitration under a consumer arbitration agreement in which a party to the arbitration is a consumer.
[PL 2007, c. 250, §1 (NEW).]

4. Consumer arbitration agreement. "Consumer arbitration agreement" means a standard contract with a consumer concerning the use of, purchase of, acquisition of, attempt to purchase or acquire, offer of or furnishing of goods or services, other than insurance, for personal, family or household purposes.
[PL 2009, c. 572, §3 (AMD).]

4-A. Financial interest. "Financial interest" means holding a position in a business as an officer, director, trustee, member or partner or any position in management or ownership of more than 5% interest in the business.
[PL 2009, c. 572, §4 (NEW).]

5. Provider. "Provider" means a person that provides consumer arbitration or services related to consumer arbitration.
[PL 2007, c. 250, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 250, §1 (NEW). PL 2007, c. 273, Pt. B, §6 (REV). PL 2009, c. 572, §§1-4 (AMD).

§1392. Reporting by arbitration service providers

(REPEALED)

SECTION HISTORY

PL 2007, c. 250, §1 (NEW). PL 2009, c. 572, §5 (RP).

§1393. Consumer arbitration agreements

1. Limitation on agreements. A consumer arbitration agreement not allowed under federal law is void and unenforceable.
[PL 2009, c. 572, §6 (NEW).]

2. Costs and fees. In a provider's initial notice or communication to a consumer, the provider must clearly and conspicuously disclose the estimated expenses of any arbitration, including:

A. The filing fee; [PL 2009, c. 572, §6 (NEW).]

B. The average daily cost for an arbitrator and hearing room; [PL 2009, c. 572, §6 (NEW).]

C. Any other charge that an arbitrator or provider may assess; and [PL 2009, c. 572, §6 (NEW).]

D. The proportion of expenses listed under this subsection borne by each party if the consumer prevails and if the consumer does not prevail. [PL 2009, c. 572, §6 (NEW).]

An expense required to be disclosed under this subsection does not include attorney's fees. A person required to disclose an expense under this subsection does not violate this subsection when an actual expense exceeds an estimate if the estimate was reasonable and made in good faith.
[PL 2009, c. 572, §6 (NEW).]

3. Violation. A violation of subsection 2 does not render the consumer arbitration agreement unenforceable but may be considered by a court in a determination of whether the agreement is unconscionable or otherwise unenforceable under another law. If a provider violates subsection 2, a person or the Attorney General may request a court of competent jurisdiction to enjoin the provider in violation from violating subsection 2 in a subsequent consumer arbitration. A provider found to be in violation of this section or that conforms to this section after an action is commenced is liable for the court costs and reasonable attorney's fees of the party bringing the action.
[PL 2009, c. 572, §6 (NEW).]

SECTION HISTORY

PL 2009, c. 572, §6 (NEW).

§1394. Arbitration service providers

1. Providers of consumer arbitrations. Beginning January 1, 2011, a provider shall collect, publish at least quarterly and make available to the public in a computer-searchable format, which must be available on the publicly accessible website of the provider, if any, and on paper upon request, all of the following information for each consumer arbitration with which the provider was involved:

A. The name of the nonconsumer party, if the nonconsumer party is a corporation or other business entity; [PL 2009, c. 572, §7 (NEW).]

B. The type of dispute involved, such as goods, banking, wireless communications, health care, debt collection and employment; [PL 2009, c. 572, §7 (NEW).]

C. If the dispute involved employment, the amount of the employee's annual wage divided into the following ranges:

(1) Less than $100,000;

(2) From $100,000 to $250,000; or

(3) More than $250,000; [PL 2009, c. 572, §7 (NEW).]

D. Whether the consumer was the prevailing party; [PL 2009, c. 572, §7 (NEW).]

E. The number of times a business that is a party to the consumer arbitration had previously been a party to a mediation or arbitration in which the provider was involved; [PL 2009, c. 572, §7 (NEW).]

F. Whether the consumer was represented by an attorney; [PL 2009, c. 572, §7 (NEW).]

G. The dates the provider received the demand for arbitration, the arbitrator was appointed and the disposition of the arbitration was rendered; [PL 2009, c. 572, §7 (NEW).]

H. The type of disposition of the arbitration, including withdrawal, abandonment, settlement, award after hearing, award without hearing, default and dismissal without hearing; [PL 2009, c. 572, §7 (NEW).]

I. The amount of the claim and the amount of any award or relief granted; [PL 2009, c. 572, §7 (NEW).]

J. The name of the arbitrator, the amount of the arbitrator's fee for the arbitration and the percentage of the arbitrator's fee allocated to each party; and [PL 2009, c. 572, §7 (NEW).]

K. Whether the provider has or within the preceding year had a financial interest in a party or the legal representation of a party in the arbitration or a party or legal representative of a party in the arbitration has or within the preceding year had a financial interest in the provider. [PL 2009, c. 572, §7 (NEW).]

Once the information is published and made available, it must remain available for at least 5 years. If the information required by this subsection is available in a computer-searchable format and downloadable for free on the provider's publicly accessible website, the provider may charge a requestor for the cost of copying the information on paper. If the information required by this subsection is not available for free on the provider's publicly accessible website, the provider may not charge a requestor for the information in paper form.
[PL 2009, c. 572, §7 (NEW).]

2. Notice to Attorney General; links on website. A provider that provides arbitration services in this State shall notify the consumer protection division of the Office of the Attorney General in writing of any website upon which the information required under subsection 1 is posted. The provider shall inform the consumer protection division of the Office of the Attorney General if it discontinues the use of any website previously reported. The Attorney General shall include the links to the providers on the Attorney General's publicly accessible website.
[PL 2009, c. 572, §7 (NEW).]

3. Liability in providing information. A provider has no liability for collecting, publishing or distributing the information required under subsection 1.
[PL 2009, c. 572, §7 (NEW).]

SECTION HISTORY

PL 2009, c. 572, §7 (NEW).

CHAPTER 212-C

REGULATION OF EXCHANGE FACILITATORS

§1395. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2009, c. 61, §1 (NEW).]

1. Administrator. "Administrator" means the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation.
[PL 2009, c. 61, §1 (NEW).]

2. Affiliated. "Affiliated" means a person, directly or indirectly through one or more intermediaries, who controls, is controlled by or is under common control of, another person.
[PL 2009, c. 61, §1 (NEW).]

3. Client. "Client" means the taxpayer with whom the exchange facilitator enters into an agreement described in subsection 4, paragraph A.
[PL 2009, c. 61, §1 (NEW).]

4. Exchange facilitator. "Exchange facilitator" means a person that does any of the following:

A. Facilitates, for a fee, an exchange of like-kind property by entering into an agreement with a taxpayer by which the exchange facilitator acquires from the taxpayer the contractual rights to sell the taxpayer's relinquished property located in this State and transfers a replacement property to the taxpayer as a qualified intermediary as that term is defined under United States Treasury Regulation Section 1.1031(k)-1(g)(4) or enters into an agreement with the taxpayer to take title to a property

in this State as an exchange accommodation titleholder as that term is defined in United States Internal Revenue Service Revenue Procedure 2000-37 or enters into an agreement with a taxpayer to act as a qualified trustee or qualified escrow holder as those terms are defined under United States Treasury Regulation Section 1.1031(k)-1(g)(3), except as provided in section 1396; [PL 2009, c. 61, §1 (NEW).]

B. Maintains an office in this State for the purpose of soliciting business as an exchange facilitator; or [PL 2009, c. 61, §1 (NEW).]

C. Purports to be an exchange facilitator by advertising any of the services listed in paragraph A or soliciting clients in printed publications, direct mail, television or radio advertisements, telephone calls, facsimile transmissions or other electronic communications directed to the general public in this State for purposes of providing any of those services. [PL 2009, c. 61, §1 (NEW).]
[PL 2009, c. 61, §1 (NEW).]

5. Fee. "Fee" means compensation of any nature, direct or indirect, monetary or in-kind, that is received by a person or related person as defined in the United States Internal Revenue Code, Section 267(b) or 707(b) for any services relating to or incidental to the exchange of like-kind property.
[PL 2009, c. 61, §1 (NEW).]

6. Financial institution. "Financial institution" means a bank, credit union, savings and loan association, savings bank or trust company or other similar depository or nondepository financial institution including an institution whose accounts are insured by the full faith and credit of the United States, the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or other similar or successor programs as well as an affiliate or subsidiary of such institution.
[PL 2009, c. 61, §1 (NEW).]

7. Person. "Person" means an individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust or any other form of legal entity, including agents and employees of a person.
[PL 2009, c. 61, §1 (NEW).]

8. Prudent investor standard. "Prudent investor standard" means the prudent investor standard referenced in Title 18-B, Part 1, section 901, subsection 1.
[PL 2009, c. 61, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §1 (NEW).

§1396. License; requirements

1. License. A person may not directly or indirectly engage in or carry on, or purport to engage in or carry on, the business of, or act in the capacity of, an exchange facilitator in this State without first obtaining a license from the administrator in accordance with this chapter.
[PL 2009, c. 61, §1 (NEW).]

2. Issuance of license. An application for a license as an exchange facilitator must be in writing and filed with the administrator in the manner and form prescribed by the administrator. The administrator shall set an application fee for a primary office not to exceed $350 and for any branch offices not to exceed $200. All funds received by the administrator under this chapter are appropriated for the use of the administrator.
[PL 2009, c. 61, §1 (NEW).]

3. Renewal. On or before April 30th of each year, an exchange facilitator licensed under this chapter shall pay an annual license renewal fee of $150 and shall file with the administrator a renewal form containing such information as the administrator may require.
[PL 2009, c. 61, §1 (NEW).]

4. Place of business; name. An exchange facilitator licensed under this chapter shall maintain a home office as its principal location for the transaction of exchange facilitator business. The administrator may issue additional branch licenses to the same exchange facilitator licensee upon compliance with all the provisions of this chapter governing the issuance of a single exchange facilitator license. An exchange facilitator may not engage in the exchange facilitator business at any place of business for which it does not hold a license or engage in business under any other name than that on the license.
[PL 2009, c. 61, §1 (NEW).]

5. Exemptions. The following persons described in this subsection are exempt from the requirements of this chapter:

A. A taxpayer or a disqualified person, as that term is defined under United States Treasury Regulation Section 1.1031(k)-1(k), seeking to qualify for the nonrecognition provisions of Section 1031 of the United States Internal Revenue Code of 1986, as amended; [PL 2009, c. 61, §1 (NEW).]

B. A financial institution; [PL 2009, c. 61, §1 (NEW).]

C. A title insurance company, underwritten title company or escrow company that is acting solely as a qualified escrow holder or qualified trustee, as those terms are defined under United States Treasury Regulation Section 1.1031(k)-1(g)(3), and that is not facilitating exchanges; [PL 2009, c. 61, §1 (NEW).]

D. A person that advertises for and teaches seminars or classes or otherwise makes a presentation to attorneys, accountants, real estate professionals, tax professionals or other professionals, when the primary purpose is to teach the professionals about tax-deferred exchanges or to train them to act as exchange facilitators; [PL 2009, c. 61, §1 (NEW).]

E. A qualified intermediary, as that term is defined under United States Treasury Regulation Section 1.1031(k)-1(g)(4), who holds exchange funds from the disposition of relinquished property located outside this State; [PL 2009, c. 61, §1 (NEW).]

F. An entity in which an exchange accommodation titleholder has a 100% interest and that is used by the exchange accommodation titleholder as defined in United States Internal Revenue Service Revenue Procedure 2003-37 to take title to property in this State; [PL 2009, c. 61, §1 (NEW).]

G. A person licensed to practice law in this State while engaged in the performance of the person's professional duties, except an attorney or law firm actively engaging in a separate business as an exchange facilitator; [PL 2009, c. 61, §1 (NEW).]

H. A real estate company, broker or salesperson licensed by and subject to the jurisdiction of this State while performing acts in the course of or incidental to sales or purchases of real or personal property handled or negotiated by the real estate company, broker or salesperson; [PL 2009, c. 61, §1 (NEW).]

I. A receiver, trustee in bankruptcy, executor, administrator, guardian or other person acting under the supervision or order of a court of this State or of a federal court; [PL 2009, c. 61, §1 (NEW).]

J. A person licensed in this State as a certified public accountant while engaged in the performance of the person's professional duties who is not actively engaged in a separate business as an exchange facilitator; [PL 2009, c. 61, §1 (NEW).]

K. A regulated lender subject to the licensing requirements of Title 9-A to the extent the lender is not engaged in a separate business as an exchange facilitator; [PL 2009, c. 61, §1 (NEW).]

L. Any federal or state agency and its political subdivisions; and [PL 2009, c. 61, §1 (NEW).]

M. A loan broker subject to the licensing requirements of Title 9-A, Article 10 to the extent the loan broker is not engaged in a separate business as an exchange facilitator. [PL 2009, c. 61, §1 (NEW).]

[PL 2009, c. 61, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §1 (NEW).

§1397. Financial responsibility and insurance coverage requirements

1. Financial responsibility. An exchange facilitator shall at all times comply with one or more of the following:

A. Maintain a fidelity bond or bonds in an amount not less than $250,000, executed by an insurer authorized to do business in this State; [PL 2009, c. 61, §1 (NEW).]

B. Deposit an amount of cash or securities or irrevocable letters of credit in an amount not less than $250,000 in an interest-bearing deposit account or a money market account with a financial institution. Interest on that amount must accrue to the exchange facilitator; or [PL 2009, c. 61, §1 (NEW).]

C. Deposit all exchange funds in a qualified escrow account or qualified trust, as those terms are defined under United States Treasury Regulation Section 1.1031(k)-1(g)(3), with a financial institution and provide that any withdrawals from that escrow account or trust require that person's and the client's written authorization. [PL 2009, c. 61, §1 (NEW).]

An exchange facilitator may maintain a bond or bonds or deposit an amount of cash or securities or irrevocable letters of credit in excess of the minimum required amounts. If an exchange facilitator is listed as a named insured on one or more fidelity bonds totaling at least $250,000, the requirements of this subsection are deemed satisfied.

[PL 2009, c. 61, §1 (NEW).]

2. Insurance or alternative coverage. An exchange facilitator shall at all times comply with either of the following:

A. Maintain an errors and omissions insurance policy in an amount not less than $100,000, executed by an insurer authorized to do business in this State; or [PL 2009, c. 61, §1 (NEW).]

B. Deposit an amount of cash, securities or irrevocable letters of credit in an amount not less than $100,000 in an interest-bearing deposit account or a money market account with a financial institution. Interest on that amount must accrue to the exchange facilitator. [PL 2009, c. 61, §1 (NEW).]

An exchange facilitator may maintain insurance or deposit an amount of cash or securities or irrevocable letters of credit in excess of the minimum required amounts. If an exchange facilitator is listed as a named insured on an errors and omissions policy of at least $100,000, the requirements of this section are deemed satisfied.

[PL 2009, c. 61, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §1 (NEW).

§1398. Duties of exchange facilitators; prohibited activities

1. Duty to client. An exchange facilitator shall act as a custodian for all exchange funds, including, but not limited to, money, property, other consideration or instruments received by the person from, or on behalf of, a client, except funds received as the person's compensation. An exchange facilitator shall invest those exchange funds in investments that meet a prudent investor standard and that satisfy the

investment goals of liquidity and preservation of principal. For purposes of this subsection, a prudent investor standard is violated if any of the following occurs:

A. Exchange funds are knowingly commingled by the exchange facilitator with the operating accounts of the exchange facilitator; [PL 2009, c. 61, §1 (NEW).]

B. Exchange funds are loaned or otherwise transferred to any person or entity, other than a financial institution, that is affiliated with or related to the exchange facilitator. This paragraph does not apply to the transfer of funds from an exchange facilitator to an exchange accommodation titleholder as defined in United States Internal Revenue Service Revenue Procedure 2003-37 in accordance with an exchange contract; or [PL 2009, c. 61, §1 (NEW).]

C. Exchange funds are invested in a manner that does not provide sufficient liquidity to meet the exchange facilitator's contractual obligations to its clients and does not preserve the principal of the exchange funds. [PL 2009, c. 61, §1 (NEW).]

Exchange funds are not subject to execution or attachment on any claim against the exchange facilitator. An exchange facilitator may not knowingly keep, or cause to be kept, any money in any bank, credit union, or other financial institution under a name designating the money as belonging to the client of any exchange facilitator, unless that money belongs to that client and was actually entrusted to the exchange facilitator by that client.
[PL 2009, c. 61, §1 (NEW).]

2. Notice of change in control. An exchange facilitator shall notify all existing exchange clients whose relinquished property is located in this State, or whose replacement property held under a qualified exchange accommodation agreement is located in this State, of any change in control of the exchange facilitator. The notice must be provided within 10 business days of the effective date of the change in control by hand delivery, facsimile transmission, e-mail, overnight mail or first-class mail, and must be posted on the exchange facilitator's publicly accessible website for at least 90 days following the change in control. The notice must include the name, address and other contact information of the transferees. For purposes of this subsection, "change in control" means any transfer of more than 50% of the assets or ownership interests, directly or indirectly, of the exchange facilitator.
[PL 2009, c. 61, §1 (NEW).]

3. Prohibitions. A person engaged in business as an exchange facilitator may not do any of the following:

A. Make any material misrepresentations concerning any like-kind exchange transaction that are intended to mislead; [PL 2009, c. 61, §1 (NEW).]

B. Pursue a continued or flagrant course of misrepresentation, or make false statements through advertising or otherwise; [PL 2009, c. 61, §1 (NEW).]

C. Fail, within a reasonable time, to account for any money or property belonging to others that may be in the possession of, or under control of, the person; [PL 2009, c. 61, §1 (NEW).]

D. Engage in any conduct constituting fraudulent or dishonest dealings; [PL 2009, c. 61, §1 (NEW).]

E. Commit any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of funds, robbery or theft; or [PL 2009, c. 61, §1 (NEW).]

F. Materially fail to fulfill its contractual duties to a client to deliver property or funds to the client, unless that failure is due to circumstances beyond the control of the person engaging in business as an exchange facilitator. [PL 2009, c. 61, §1 (NEW).]

[PL 2009, c. 61, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §1 (NEW).

§1399. Civil liability

1. Claim on bonds, deposits or letters of credit. The administrator may file a claim on behalf of any client or clients on the bonds, deposits or letters of credit described in section 1397, subsection 1 to recover the damages as a result of financial loss or damages by reason of the failure of an exchange facilitator to comply with this chapter.
[PL 2009, c. 61, §1 (NEW).]

2. Civil action. A person may bring a civil action in a court of competent jurisdiction against an exchange facilitator for any violation of this chapter.
[PL 2009, c. 61, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §1 (NEW).

§1400. Powers and duties of the administrator

1. Rules. In addition to any other powers and duties of the administrator authorized by law, the administrator may adopt rules as necessary to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2009, c. 61, §1 (NEW).]

2. Examinations and investigations. The administrator may examine or investigate the books, records and accounts of each exchange facilitator, within or without the State, at intervals the administrator considers necessary. The administrator may assess the exchange facilitator for the actual costs of the examination pursuant to Title 9-A, Article 6.
[PL 2009, c. 61, §1 (NEW).]

3. Enforcement. The administrator may undertake any action authorized pursuant to Title 9-A, Article 6 to ensure compliance with this chapter.
[PL 2009, c. 61, §1 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §1 (NEW).

CHAPTER 212-D

REGULATION OF RESIDENTIAL REAL ESTATE SETTLEMENT AGENCIES

§1400-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2009, c. 61, §2 (NEW).]

1. Administrator. "Administrator" means the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation.
[PL 2009, c. 61, §2 (NEW).]

2. Financial institution. "Financial institution" means a bank, credit union, savings and loan association, savings bank, trust company or other similar depository or nondepository financial institution, including an institution whose accounts are insured by the full faith and credit of the United States, the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or other similar or successor programs as well as an affiliate or subsidiary of such financial institution.
[PL 2009, c. 61, §2 (NEW).]

3. Settlement agency. "Settlement agency" means the person responsible for conducting the settlement or disbursement of settlement proceeds in a residential real estate transaction effecting the sale, transfer, encumbrance or lease to another person of real or personal property located in this State. "Settlement agency" includes an individual, corporation, limited liability company, partnership or other entity conducting the settlement and disbursement of settlement proceeds.
[PL 2009, c. 61, §2 (NEW).]

4. Settlement agent. "Settlement agent" means a person engaged in the business of settlements on behalf of a settlement agency.
[PL 2009, c. 61, §2 (NEW).]

5. Settlement. "Settlement" means the receipt of loan funds, loan documents or other documents or funds to carry out the contractual terms of a residential real estate transaction.
[PL 2009, c. 61, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §2 (NEW).

§1400-B. Registration; requirements

1. Registration. A person may not directly or indirectly engage in or carry on, or purport to engage in or carry on, the business of, or act in the capacity of, a settlement agency in this State without first registering with the administrator in accordance with this chapter. The registration must be in a manner and form prescribed by the administrator. The administrator shall set a registration fee for a primary office or a branch office not to exceed $25. All funds received by the administrator under this chapter are appropriated for the use of the administrator.
[PL 2009, c. 61, §2 (NEW).]

2. Exemptions. This chapter does not apply to:

A. A person licensed to practice law in this State while engaged in the performance of the person's professional duties, except an attorney or law firm actively engaging in a separate business as a settlement agency; [PL 2009, c. 61, §2 (NEW).]

B. Individual settlement agents, working on behalf of a settlement agency registered or exempt under this section; [PL 2009, c. 61, §2 (NEW).]

C. A real estate company, broker or salesperson licensed by and subject to the jurisdiction of this State while performing acts in the course of or incidental to sales or purchases of real or personal property handled or negotiated by the real estate company, broker or salesperson; [PL 2009, c. 61, §2 (NEW).]

D. A receiver, trustee in bankruptcy, executor, administrator, guardian or other person acting under the supervision or order of a court of this State or of a federal court; [PL 2009, c. 61, §2 (NEW).]

E. A person licensed in this State as a certified public accountant while engaged in the performance of the person's professional duties who is not actively engaged in a separate business as a settlement agency; [PL 2009, c. 61, §2 (NEW).]

F. A financial institution; [PL 2009, c. 61, §2 (NEW).]

G. A regulated lender subject to the licensing requirements of Title 9-A to the extent the lender is not engaged in a separate business as a settlement agency; [PL 2009, c. 61, §2 (NEW).]

H. Any federal or state agency and its political subdivisions; and [PL 2009, c. 61, §2 (NEW).]

I. A loan broker subject to the requirements of Title 9-A, Article 10 to the extent the loan broker is not engaged in a separate business as a settlement agency. [PL 2009, c. 61, §2 (NEW).]
[PL 2009, c. 61, §2 (NEW).]

3. Renewal. On or before April 30th of each year, a settlement agency registered under this chapter shall pay an annual renewal fee of $25 and shall file with the administrator a renewal form containing such information as the administrator may require.
[PL 2009, c. 61, §2 (NEW).]

4. Place of business; name. A settlement agency registered under this chapter shall maintain a home office as its principal location for the transaction of settlement business. The administrator may issue additional branch registrations to the same settlement agency upon compliance with all the provisions of this chapter governing the issuance of a single settlement agency registration. For purposes of this subsection, the conducting of a settlement by mail or at a remote location for the convenience of the parties by a settlement agent based out of the settlement agency's registered principal office or registered branch office is not considered the transaction of settlement business at a place of business other than the registered location of the settlement agency.
[PL 2009, c. 61, §2 (NEW).]

5. Examinations and investigations. Upon any complaint alleging a violation of law, including the Funded Settlement Act, the federal Real Estate Settlement Procedures Act of 1974, 12 United States Code, Section 2601 et seq. or the Maine Consumer Credit Code, the administrator may examine or investigate the books, records and accounts of a settlement agency.
[PL 2009, c. 61, §2 (NEW).]

6. Enforcement. The administrator may undertake any action authorized pursuant to Title 9-A, Article 6 to ensure compliance with this chapter. Nothing in this subsection may be construed to affect the ability of a settlement company to assert the attorney-client privilege. With respect to a settlement company that is owned or operated by an attorney licensed in this State, the administrator shall notify the Board of Overseers of the Bar of any enforcement action taken by the administrator pursuant to this chapter.
[PL 2009, c. 61, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 61, §2 (NEW).

CHAPTER 213

MANUFACTURED HOUSING WARRANTIES

§1401. Scope

All new manufactured homes sold by a dealer are covered by the warranties established by this chapter. [PL 1993, c. 642, §2 (AMD).]

SECTION HISTORY

PL 1973, c. 435 (NEW). PL 1973, c. 788, §42 (AMD). PL 1989, c. 805, §1 (RPR). PL 1993, c. 642, §2 (AMD).

§1402. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [PL 1973, c. 435 (NEW).]

1. Dealer. "Dealer" includes a person who customarily sells manufactured housing to consumers and is subject to the jurisdiction of this State under Title 14, section 704-A.
[PL 1993, c. 642, §3 (AMD).]

2. Mobile home.

[PL 1993, c. 642, §4 (RP).]

3. Installer. "Installer" means any person, including but not limited to a dealer or mechanic, who installs or sets up manufactured housing for a buyer.
[PL 1993, c. 642, §5 (NEW).]

4. Manufactured housing. "Manufactured housing" has the same meaning as set forth in section 9002, subsection 7, paragraphs A and B.
[PL 1993, c. 642, §5 (NEW).]

SECTION HISTORY

PL 1973, c. 435 (NEW). PL 1975, c. 252, §1 (AMD). PL 1989, c. 805, §2 (AMD). PL 1989, c. 878, §§H1,2 (AMD). PL 1993, c. 642, §§3-5 (AMD).

§1403. Application

1. Warranty on housing. The warranty established in section 1404 applies to:

A. The manufacturer of manufactured housing; [PL 1993, c. 642, §6 (NEW).]

B. The dealer who sells manufactured housing to the buyer; and [PL 1993, c. 642, §6 (NEW).]

C. A person who, in the ordinary course of business and under contract with or as an employee or agent of a dealer located in another state, transports manufactured housing into the State or installs manufactured housing transported into the State. [PL 1993, c. 642, §6 (NEW).]

[PL 1993, c. 642, §6 (RPR).]

2. Warranty on installation. The warranty established in section 1404-A applies to the installer of manufactured housing. When the dealer subcontracts with an installer for the installation of manufactured housing in the State, the dealer and the installer are jointly and severally liable for the warranty established in section 1404-A.
[PL 1993, c. 642, §6 (RPR).]

3. Carrier; installer.

[PL 1993, c. 642, §6 (RP).]

SECTION HISTORY

PL 1973, c. 435 (NEW). PL 1989, c. 805, §3 (RPR). PL 1993, c. 642, §6 (RPR).

§1404. Written warranty; contents

A statutory warranty is hereby established under which both the manufacturer and the dealer certify that to the best of their knowledge, the new manufactured home is free from any substantial defects in the approved building systems, materials and workmanship. The dealer shall deliver the written warranty to the buyer at the time of sale, and the warranty must contain the following terms: [PL 2017, c. 210, Pt. A, §1 (AMD).]

1. Defects. That the manufactured home is free from any substantial defects in materials or workmanship;
[PL 2017, c. 210, Pt. A, §2 (AMD).]

2. Corrective action. That the manufacturer or dealer or both shall take appropriate corrective action at the site of the manufactured home in instances of substantial defects in materials or workmanship, which become evident within one year from the date of the delivery of the manufactured home to the consumer, provided the consumer or the consumer's transferee gives written notice of such defects to the manufacturer or dealer at the manufacturer's or dealer's business address not later than one year and 10 days after date of delivery;
[PL 2007, c. 402, Pt. B, §1 (AMD).]

3. Liability. That the manufacturer and dealer are jointly and severally liable to the consumer for the fulfillment of the terms of warranty, and the consumer may notify either one or both of the need for appropriate corrective action in instances of substantial defects in the approved building systems, materials or workmanship;
[PL 2017, c. 210, Pt. A, §3 (AMD).]

4. Name, address and phone number of manufacturer. That the name, address and phone number of the manufacturer and the dealer where the consumer must mail or deliver written notice of defects to either the dealer or the manufacturer, or both, shall be set forth in the document;
[PL 1973, c. 754, §2 (NEW).]

5. Responsibility. That, while the manufacturers of any appliances may also issue their own express warranties, the primary responsibility for appropriate corrective action under the warranty rests with the dealer and manufacturer, and the consumer should report all complaints to the dealer and manufacturer initially; and
[PL 2017, c. 210, Pt. A, §4 (AMD).]

6. Warranty supplemental. That this statutory warranty is in addition to any express warranty provided by the manufacturer or dealer and any warranty created by state or federal law, including the implied warranties of merchantability and fitness for a specific purpose. The Manufactured Housing Board, in consultation with the Department of the Attorney General, shall prepare a written warranty form that contains the terms of subsections 1 to 5 and shall ensure that this warranty form is distributed to all dealers and manufacturers doing business in this State.
[PL 1989, c. 717, §3 (NEW).]

SECTION HISTORY

PL 1973, c. 435 (NEW). PL 1973, c. 754, §§1,2 (AMD). PL 1989, c. 717, §§1-3 (AMD). PL 2007, c. 402, Pt. B, §1 (AMD). PL 2017, c. 210, Pt. A, §§1-4 (AMD).

§1404-A. Installation warranty

The installer or the installer and the dealer, when the dealer is responsible for the installation, shall provide a written warranty with each new manufactured housing unit installed for a buyer. The installer shall deliver the written warranty to the buyer at the time of the installation. The warranty must contain the following: [PL 1993, c. 642, §7 (NEW).]

1. Approved building systems, materials and workmanship. That the installation is free from any substantial defects in the approved building systems, materials or workmanship;
[PL 2017, c. 210, Pt. A, §5 (AMD).]

2. Corrective action. That the installer or the installer and the dealer, when the dealer is responsible for the installation, shall take appropriate corrective action at the site of the manufactured housing in instances of substantial defects in the approved building systems, materials or workmanship that become evident within one year from the date of the installation of the manufactured housing if the buyer or the buyer's transferee gives written notice of the defects to the installer or the installer and the dealer, when the dealer is responsible for installation, at the installer's or the installer's and the dealer's business addresses no later than one year and 10 days after the date of installation;
[PL 2017, c. 210, Pt. A, §5 (AMD).]

3. Liability. That the installer or the installer and the dealer, when the dealer is responsible for the installation, are liable to the buyer for the fulfillment of the terms of the warranty; and
[PL 1993, c. 642, §7 (NEW).]

4. Name, address and phone number of installer. The name, address and phone number of the installer or the installer and the dealer, when the dealer is responsible for the installation, to whom written notice of defects must be mailed or delivered by the buyer.

[PL 1993, c. 642, §7 (NEW).]

SECTION HISTORY

PL 1993, c. 642, §7 (NEW). PL 2017, c. 210, Pt. A, §5 (AMD).

§1405. Cumulative remedies; prohibition against waiver

The warranty under this chapter shall be in addition to and not in derogation of all other rights and privileges which such consumer may have under any other law or instrument. The manufacturer or dealer shall not require the buyer to waive his rights under this chapter and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void. [PL 1973, c. 435 (NEW).]

SECTION HISTORY

PL 1973, c. 435 (NEW).

§1406. Violation as unfair trade practice

Any violation of this chapter shall constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act. [PL 1973, c. 435 (NEW).]

SECTION HISTORY

PL 1973, c. 435 (NEW).

CHAPTER 214

ENERGY EFFICIENCY BUILDING PERFORMANCE STANDARDS

§1411. Title

This chapter shall be known as the "Energy Efficiency Building Performance Standards Act." [PL 1979, c. 503, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 503, §2 (NEW).

§1412. Legislative findings and purpose

(REPEALED)

SECTION HISTORY

PL 1979, c. 503, §2 (NEW). PL 1985, c. 370, §1 (AMD). PL 2013, c. 120, §1 (RP).

§1413. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [PL 1979, c. 503, §2 (NEW).]

1. ASHRAE. "ASHRAE" means the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.
[PL 2003, c. 151, §1 (AMD).]

1-A. ASHRAE Standard 62-2001.
[PL 2013, c. 120, §2 (RP).]

1-B. ASHRAE Standard 90.1, 2001.
[PL 2013, c. 120, §3 (RP).]

2. BTU. "BTU" means British Thermal Unit which is the amount of thermal energy required to raise one pound of water one degree Fahrenheit.

[PL 1979, c. 503, §2 (NEW).]

3. Change of use.
[PL 2013, c. 120, §4 (RP).]

4. Commission. "Commission" means the Public Utilities Commission.
[PL 2005, c. 350, §1 (AMD).]

5. Conditioned floor area. "Conditioned floor area" means the floor area within the building which is actively heated or cooled by a heating, ventilating or air conditioning system.
[PL 1979, c. 503, §2 (NEW).]

6. Conditioned space. "Conditioned space" means space within the building which is actively heated or cooled by a heating, ventilating or air conditioning system.
[PL 1979, c. 503, §2 (NEW).]

7. Commissioner.

[PL 2005, c. 350, §2 (RP).]

7-A. Geothermal heat pump. "Geothermal heat pump" means a central heating or central cooling system that pumps heat to or from the ground.
[PL 2011, c. 300, §1 (NEW).]

8. Gross floor area. "Gross floor area" means the total area of all floors within the conditioned space, including the floor area of heated basements, measured from exterior faces of exterior walls or the centerline of walls separating buildings. The floor areas of unconditioned spaces, such as unheated basements, garages and attics shall not be included in the gross floor area.
[PL 1979, c. 503, §2 (NEW).]

9. Heat loss. "Heat loss" means the amount of heat transferred annually from the conditioned space to the outside or to an unconditioned space by means of conduction and infiltration as calculated by the method described in this chapter.
[PL 1979, c. 503, §2 (NEW).]

9-A. Industrial building.
[PL 2013, c. 120, §5 (RP).]

10. Infiltration. "Infiltration" means the uncontrolled movement of air into and out of the conditioned space through cracks and interstices in the building envelope.
[PL 1979, c. 503, §2 (NEW).]

11. Manual of Accepted Practices.

[PL 2003, c. 644, §2 (RP).]

12. Commercial building.
[PL 2013, c. 120, §6 (RP).]

13. Person. "Person" means any natural person, firm, partnership, association, corporation or governmental entity.
[PL 1979, c. 503, §2 (NEW).]

13-A. Primary heating system. "Primary heating system" means a heating system with a rated maximum heat output that is greater than 50% of the design heating load of the building or the unit.
[PL 1991, c. 275, §1 (NEW); PL 1991, c. 275, §§4, 5 (AFF).]

14. Public building.
[PL 2013, c. 120, §7 (RP).]

14-A. Remodeling. "Remodeling" means the addition to an existing building of new conditioned space that is heated electrically or the conversion of existing space from nonelectric heat to electric heat.
[PL 1991, c. 275, §1 (NEW); PL 1991, c. 275, §§4, 5 (AFF).]

15. Renovation. "Renovation" means the reconstruction, removal or replacement of any portion or element of an existing building that affects the heat loss or gain of the building, illumination of the building or the heating, ventilating or air conditioning system of the building when the total cost of the renovation exceeds 75% of the assessed value of the building, but does not include normal maintenance and repair.
[PL 1991, c. 275, §2 (AMD); PL 1991, c. 275, §§4, 5 (AFF).]

16. Residential building.
[PL 2013, c. 120, §8 (RP).]

SECTION HISTORY

PL 1979, c. 503, §2 (NEW). PL 1985, c. 370, §2 (AMD). PL 1987, c. 818, §§1-3 (AMD). PL 1989, c. 75, §§1, 2 (AMD). PL 1989, c. 501, Pt. DD, §§21, 22 (AMD). PL 1991, c. 246, §5 (AMD). PL 1991, c. 275, §§1, 2 (AMD). PL 1991, c. 275, §§4, 5 (AFF). PL 1991, c. 824, Pt. A, §13 (AMD). PL 2003, c. 151, §§1, 2 (AMD). PL 2003, c. 644, §2 (AMD). PL 2005, c. 350, §§1-4 (AMD). PL 2011, c. 300, §1 (AMD). PL 2013, c. 120, §§2-8 (AMD).

§1414. Advisory Council on Energy Efficiency Building Performance Standards

(REPEALED)

SECTION HISTORY

PL 1979, c. 503, §2 (NEW). PL 1983, c. 812, §§67,68 (AMD). PL 1989, c. 503, §B53 (AMD). PL 1999, c. 668, §81 (RP).

§1414-A. Adoption of energy performance building standards by state agencies

(REPEALED)

SECTION HISTORY

PL 1985, c. 370, §3 (NEW). PL 1989, c. 501, §DD23 (AMD). PL 2005, c. 350, §5 (AMD). PL 2013, c. 120, §9 (RP).

§1415. Energy efficiency standards

(REPEALED)

SECTION HISTORY

PL 1979, c. 503, §2 (NEW). PL 1979, c. 676, §1 (RP).

§1415-A. Energy efficiency standards

(REPEALED)

SECTION HISTORY

PL 1979, c. 676, §2 (NEW). PL 1985, c. 481, §A19 (AMD). PL 1989, c. 75, §3 (RP).

§1415-B. Mandatory standards for buildings

(REPEALED)

SECTION HISTORY

PL 1985, c. 370, §4 (NEW). PL 1989, c. 75, §4 (RP).

§1415-C. Mandatory standards for residential construction

(REPEALED)

SECTION HISTORY

PL 1987, c. 818, §4 (NEW). PL 1989, c. 75, §§5,6 (AMD). PL 1991, c. 246, §§6-9 (AMD). PL 1991, c. 824, §A14 (AMD). PL 2003, c. 151, §§3,4 (AMD). PL 2003, c. 645, §§1-4 (AMD). PL 2003, c. 645, §9 (AFF). PL 2005, c. 350, §§6-8 (AMD). PL 2005, c. 350, §16 (AFF). PL 2005, c. 683, §C4 (AMD). PL 2007, c. 699, §2 (AMD). PL 2009, c. 261, Pt. A, §1 (AMD). MRSA T. 10 §1415-C, sub-§7 (RP).

§1415-D. Mandatory standards for commercial construction

(REPEALED)

SECTION HISTORY

PL 1987, c. 818, §4 (NEW). PL 2003, c. 151, §5 (AMD). PL 2003, c. 645, §5 (AMD). PL 2005, c. 350, §9 (AMD). PL 2007, c. 699, §3 (AMD). PL 2009, c. 261, Pt. A, §2 (AMD). MRSA T. 10 §1415-D, sub-§2 (RP).

§1415-E. Administration of standards

(REPEALED)

SECTION HISTORY

PL 1987, c. 818, §4 (NEW). PL 1991, c. 824, §A15 (AMD). PL 2003, c. 644, §3 (AMD). PL 2005, c. 350, §10 (AMD). PL 2013, c. 120, §10 (RP).

§1415-F. Manual of Accepted Practices

(REPEALED)

SECTION HISTORY

PL 1989, c. 75, §7 (NEW). PL 1991, c. 824, §C2 (AMD). PL 2003, c. 644, §4 (RP).

§1415-G. Electric heating systems; subsidized housing

1. Residential construction, remodeling and renovation. During the construction, remodeling or renovation of a multifamily residential structure, a person may not install electric resistance space heating equipment as the primary heating system if that construction, remodeling or renovation is funded in whole or in part by public funds, guarantees or bond proceeds unless:

A. The person obtains a waiver from the commission in accordance with subsection 2; or [PL 2019, c. 306, §1 (NEW).]

B. The structure meets a standard for calculated heat load established by the commission by rule or order. [PL 2019, c. 306, §1 (NEW).]

For purposes of this section, "multifamily residential structure" means a residential structure with more than one dwelling unit and "electric resistance space heating equipment" does not include electric thermal storage space heating equipment, a high-performance air source heat pump that satisfies minimum heating performance standards of the Efficiency Maine Trust or a geothermal heat pump.
[PL 2019, c. 306, §1 (RPR).]

2. Waiver. After written petition from a building owner, the commission shall grant a waiver from subsection 1 if the building design conforms to the residential standards set forth in subsection 3 or 4. A waiver granted by the commission under this subsection must be in writing and state the commission's reason for granting the waiver.
[PL 2005, c. 350, §11 (AMD).]

3. Residential standards; electric heat. If the commission grants a waiver under subsection 2, the building owner shall renovate the building or construct a new building so that the entire building conforms to the minimum energy efficiency standards established in this section. If a waiver is granted under subsection 2 for a building to be remodeled or a building that receives an addition, only the remodeled portion of the building or the addition must conform to the following minimum energy efficiency standards.

A. All ceilings that face an outdoor or unheated space must be insulated to an R-value of 57 or greater. [PL 1991, c. 275, §3 (NEW); PL 1991, c. 275, §§4, 5 (AFF).]

B. All walls that face an outdoor or unheated space must be insulated to an R-value of 38 or greater. [PL 1991, c. 275, §3 (NEW); PL 1991, c. 275, §§4, 5 (AFF).]

C. All floors over unheated spaces must be insulated to an R-value of 25 or greater. [PL 1991, c. 275, §3 (NEW); PL 1991, c. 275, §§4, 5 (AFF).]

D. Slab-on-grade floors must have perimeter insulation of either:

(1) R-15 when the insulation extends downward from the top of the slab to the design frost line; or

(2) R-15 when the insulation extends around the perimeter and horizontally or diagonally beneath or away from the slab for a distance equivalent to the depth of the frost line. [PL 1991, c. 275, §3 (NEW); PL 1991, c. 275, §§4, 5 (AFF).]

E. All foundation walls adjacent to a heated space must be insulated from the top of the foundation to the frost line to an R-value of 19 or greater. [PL 1991, c. 275, §3 (NEW); PL 1991, c. 275, §§4, 5 (AFF).]

F. All windows and glass in doors, when the glass in the door constitutes 1/3 or more of the door area, must have a total window unit R-value of 2.5 or greater. [PL 1991, c. 275, §3 (NEW); PL 1991, c. 275, §§4, 5 (AFF).]

G. All exterior doors must be insulated or equipped with a storm door. [PL 1991, c. 275, §3 (NEW); PL 1991, c. 275, §§4, 5 (AFF).]

H. All new construction and renovation must comply with infiltration and ventilation standards established by the commission. [PL 2005, c. 350, §11 (AMD).]

[PL 2005, c. 350, §11 (AMD).]

4. Performance-based compliance. The commission may waive the requirements of subsection 3 for any building if the commission determines that the building's calculated annual energy consumption is not greater than the annual energy consumption of a similar building constructed in accordance with subsection 3.

[PL 2013, c. 120, §11 (AMD).]

5. Violation. A building owner who violates this section or rules adopted under this section commits a civil violation for which a fine of not less than $100 nor more than 5% of the value of construction must be adjudged.

[PL 2005, c. 350, §11 (AMD).]

6. Notification. An agency, municipality or granting authority that provides a housing subsidy as described in this section must notify the commission that the application complies with the residential energy requirements of this section. Notification must be in a form prescribed by rule by the commission.

[PL 2005, c. 350, §11 (AMD).]

SECTION HISTORY

PL 1991, c. 275, §3 (NEW). PL 1991, c. 275, §§4,5 (AFF). PL 2003, c. 20, §RR8 (AMD). PL 2003, c. 20, §RR18 (AFF). PL 2005, c. 350, §11 (AMD). PL 2011, c. 300, §2 (AMD). PL 2013, c. 120, §11 (AMD). PL 2019, c. 306, §1 (AMD).

§1415-H. Certification of compliance

(REPEALED)

SECTION HISTORY

PL 1993, c. 329, §1 (NEW). PL 1999, c. 657, §4 (AMD). PL 2003, c. 20, §RR9 (AMD). PL 2003, c. 20, §RR18 (AFF). PL 2005, c. 350, §12 (RP).

§1415-I. Notice

(REPEALED)

SECTION HISTORY

PL 2005, c. 350, §13 (NEW). PL 2013, c. 120, §12 (RP).

§1416. Procedure

(REPEALED)

SECTION HISTORY

PL 1979, c. 503, §2 (NEW). PL 1979, c. 676, §§3-5 (AMD). PL 1989, c. 75, §8 (RP).

§1417. Promulgation of rules

(REPEALED)

SECTION HISTORY

PL 1979, c. 503, §2 (NEW). PL 1979, c. 676, §6 (RP).

§1418. Municipal administration

(REPEALED)

SECTION HISTORY

PL 1979, c. 503, §2 (NEW). PL 1979, c. 676, §7 (AMD). PL 1989, c. 75, §9 (RP).

§1419. Disposition of fees

(REPEALED)

SECTION HISTORY

PL 1979, c. 503, §2 (NEW). PL 1989, c. 501, §DD24 (RP).

§1420. Penalties

(REPEALED)

SECTION HISTORY

PL 1979, c. 503, §2 (NEW). PL 1985, c. 370, §5 (AMD). PL 1987, c. 818, §5 (RPR). PL 1989, c. 75, §10 (AMD). PL 2005, c. 350, §14 (AMD). PL 2007, c. 699, §4 (AMD). PL 2009, c. 261, Pt. A, §3 (AMD). MRSA T. 10 §1420, sub-§4 (RP).

CHAPTER 214-A

RECREATIONAL VEHICLE MANUFACTURERS, DISTRIBUTORS AND DEALERS

§1431. Short title

This chapter may be known and cited as the "Regulation of Business Practices between Recreational Vehicle Manufacturers, Distributors and Dealers." [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1432. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 427, §2 (NEW).]

1. Camping trailer. "Camping trailer" means a trailer constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.
[PL 1997, c. 427, §2 (NEW).]

1-A. Area of sales responsibility. "Area of sales responsibility" means the geographical area agreed to by the dealer and the manufacturer in the dealer agreement within which the dealer has the exclusive right to display the manufacturer's new recreational vehicles of a particular line make to the retail public.
[PL 2009, c. 562, §3 (NEW).]

2. Dealer. "Dealer" means a person, firm, corporation or business entity licensed or required to be licensed under Title 29-A, including a recreational vehicle dealer to whom a dealer agreement is offered or granted.
[PL 2009, c. 562, §4 (AMD).]

3. Dealer agreement. "Dealer agreement" means an oral or written arrangement for a definite or indefinite period in which a manufacturer, distributor or wholesaler grants to a recreational vehicle dealer a license to use a trade name, service mark or related characteristic and in which there is a community of interest in the marketing of recreational vehicles or services related to recreational vehicles at wholesale, retail or leasing.
[PL 1997, c. 427, §2 (NEW).]

4. Designated family member. "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a new recreational vehicle dealer who, in the case of the owner's death, is entitled to inherit the ownership interest in the new recreational vehicle dealership under the terms of the owner's will or who, in the case of an incapacitated owner of a new recreational vehicle dealership, has been appointed by a court as the legal representative of the new recreational vehicle dealer's property.
[PL 1997, c. 427, §2 (NEW).]

5. Distributor branch. "Distributor branch" means a branch office maintained by a distributor or wholesaler that sells or distributes new or used recreational vehicles to recreational vehicle dealers.
[PL 1997, c. 427, §2 (NEW).]

6. Distributor representative. "Distributor representative" means a representative employed by a distributor branch, distributor or wholesaler.
[PL 1997, c. 427, §2 (NEW).]

7. Distributor or wholesaler. "Distributor" or "wholesaler" means any person that sells or distributes new or used recreational vehicles to recreational vehicle dealers or that maintains distributor representatives within this State.
[PL 1997, c. 427, §2 (NEW).]

8. Factory branch. "Factory branch" means a branch maintained by a manufacturer that manufactures or assembles recreational vehicles for sale to distributors or recreational vehicle dealers or that is maintained for directing and supervising the representatives of the manufacturer.
[PL 1997, c. 427, §2 (NEW).]

8-A. Factory campaign. "Factory campaign" means an effort on the part of a warrantor to contact recreational vehicle dealers or owners in order to address a part or equipment issue.
[PL 2009, c. 562, §5 (NEW).]

9. Factory representative. "Factory representative" means a representative employed by a manufacturer or employed by a factory branch for the purpose of making or promoting the sale of recreational vehicles or for contracting with, supervising, servicing, or instructing or contracting recreational vehicle dealers or prospective recreational vehicle dealers.
[PL 1997, c. 427, §2 (NEW).]

10. Fifth-wheel trailer. "Fifth-wheel trailer" means a vehicle mounted on wheels designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits and designed to be towed by a motor vehicle that contains a towing mechanism mounted above or forward of the tow vehicle's rear axle.
[PL 2009, c. 562, §6 (AMD).]

10-A. Folding camping trailer. "Folding camping trailer" means a vehicle mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold to provide temporary living quarters for recreational, camping or travel use.
[PL 2009, c. 562, §7 (NEW).]

11. Fraud. "Fraud" includes, in addition to its normal legal connotation, a misrepresentation in any manner, whether intentionally false or due to gross negligence of a material fact, a promise or representation not made honestly and in good faith and an intentional failure to disclose a material fact.
[PL 1997, c. 427, §2 (NEW).]

12. Good faith. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade as defined in Title 11, section 2103, subsection (1), paragraph (b).
[PL 1997, c. 427, §2 (NEW).]

12-A. Line make. "Line make" means a specific series of recreational vehicles that:

A. Are identified by a common series trade name or trademark; [PL 2009, c. 562, §8 (NEW).]

B. Are targeted to a particular market segment, as determined by their decor, features, equipment, size, weight and price range; [PL 2009, c. 562, §8 (NEW).]

C. Have lengths and interior floor plans that distinguish the recreational vehicles from other recreational vehicles with substantially the same decor, features, equipment, size, weight and price range; [RR 2009, c. 2, §15 (COR).]

D. Belong to a single, distinct classification of recreational vehicle types having a substantial degree of commonality in the construction of the chassis, frame and body; and [PL 2009, c. 562, §8 (NEW).]

E. A dealer agreement authorizes a dealer to sell. [PL 2009, c. 562, §8 (NEW).]
[RR 2009, c. 2, §15 (COR).]

13. Manufacturer. "Manufacturer" means any person, resident or nonresident, that manufactures or assembles new recreational vehicles or imports for distribution through distributors of recreational vehicles, or any person, resident or nonresident, that is controlled by the manufacturer who grants a dealer agreement to a recreational vehicle dealer. "Manufacturer" includes distributor or wholesaler, distributor branch, distributor representative, factory branch and factory representative.
[PL 1997, c. 427, §2 (NEW).]

13-A. Motor home. "Motor home" means a motor vehicle designed to provide temporary living quarters for recreational, camping or travel use that contains at least 4 of the following as permanently installed independent systems that meet the National Fire Protection Association standard for recreational vehicles:

A. A cooking facility with an on-board fuel source; [PL 2009, c. 562, §9 (NEW).]

B. A potable water supply system that includes at least a sink, a faucet and a water tank with an exterior service supply connection; [PL 2009, c. 562, §9 (NEW).]

C. A toilet with exterior evacuation; [PL 2009, c. 562, §9 (NEW).]

D. A gas or electric refrigerator; [PL 2009, c. 562, §9 (NEW).]

E. A heating or air-conditioning system with an on-board power or fuel source separate from the vehicle engine; and [PL 2009, c. 562, §9 (NEW).]

F. A 110-volt to 125-volt electric power supply. [PL 2009, c. 562, §9 (NEW).]

[PL 2009, c. 562, §9 (NEW).]

14. Motor vehicle. Motor vehicle has the same meaning as defined in Title 29-A, section 101, subsection 42.

[PL 1997, c. 427, §2 (NEW).]

15. New recreational vehicle. "New recreational vehicle" means a recreational vehicle that has not been previously sold to any person except a distributor or wholesaler or recreational vehicle dealer for resale.

[PL 1997, c. 427, §2 (NEW).]

16. Person. "Person" means a natural person, corporation, partnership, trust or other entity. In the case of an entity, "person" includes any other entity in which it has a majority interest or effectively controls, as well as the individual officers, directors and other persons in active control of the activities of each such entity.

[PL 1997, c. 427, §2 (NEW).]

16-A. Proprietary part. "Proprietary part" means a part manufactured by or for the manufacturer and sold exclusively by the manufacturer.

[PL 2009, c. 562, §10 (NEW).]

17. Recreational vehicle dealer. "Recreational vehicle dealer" means any person who sells or solicits or advertises the sale of new recreational vehicles. "Recreational vehicle dealer" does not include receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court or public officers while performing their duties as those officers.

[RR 2009, c. 2, §16 (COR).]

18. Recreational vehicle.

[PL 2009, c. 562, §11 (RP).]

18-A. Recreational vehicle. "Recreational vehicle" means a vehicle that is either self-propelled or towed by a consumer-owned tow vehicle, is primarily designed to provide temporary living quarters for recreational, camping or travel use, complies with all applicable federal vehicle regulations and does not require special highway movement permits to legally use the highways. "Recreational vehicle" includes motor homes, travel trailers, fifth-wheel trailers and folding camping trailers.

[PL 2009, c. 562, §12 (NEW).]

19. Sale. "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation or mortgage in any form, whether by transfer in trust or otherwise, of any recreational vehicle or interest in a recreational vehicle or of any dealer agreement related to a recreational vehicle

and any option, subscription or other contract, or solicitation looking to a sale, or any offer or attempt to sell in any form, whether spoken or written. A gift or delivery of any recreational vehicle with or as a bonus on account of the sale of anything is considered a sale of that recreational vehicle.
[PL 1997, c. 427, §2 (NEW).]

19-A. Supplier. "Supplier" means a person, firm, corporation or business entity that engages in the manufacture of recreational vehicle parts, accessories or components.
[PL 2009, c. 562, §13 (NEW).]

20. Trailer. "Trailer" means a vehicle without motive power and mounted on wheels, designed to carry persons or property and to be drawn by a motor vehicle and not operated on tracks.
[PL 1997, c. 427, §2 (NEW).]

20-A. Transient customer. "Transient customer" means a customer who is temporarily traveling through an area of sales responsibility.
[PL 2009, c. 562, §14 (NEW).]

21. Travel trailer. "Travel trailer" means a vehicle mounted on wheels designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits when towed by a motor vehicle.
[PL 2009, c. 562, §15 (AMD).]

22. Truck camper. "Truck camper" means a portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a truck.
[PL 1997, c. 427, §2 (NEW).]

23. Warrantor. "Warrantor" means a person, firm, corporation or business entity, including a manufacturer or supplier, that provides a written warranty to the customer in connection with a new recreational vehicle or parts, accessories or components of a new recreational vehicle. For purposes of this subsection, "written warranty" does not include service contracts, mechanical or other insurance or extended warranties sold for separate consideration by a dealer or other person not controlled by a manufacturer.
[PL 2009, c. 562, §16 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW). RR 2009, c. 2, §§15, 16 (COR). PL 2009, c. 562, §§3-16 (AMD).

§1433. Application

Any person who engages directly or indirectly in purposeful contacts within this State in connection with the offering or advertising for sale or has business dealings with respect to a new recreational vehicle within the State is subject to this chapter. [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1434. Prohibited conduct

The following acts are unfair methods of competition and unfair and deceptive practices. It is unlawful for any: [PL 1997, c. 427, §2 (NEW).]

1. Damage to public. Manufacturer or recreational vehicle dealer to engage in any action that is arbitrary, in bad faith or unconscionable and causes damage to any manufacturer or dealer parties or to the public;
[PL 1997, c. 427, §2 (NEW).]

2. Coercion involving deliveries and orders. Manufacturer or officer, agent or other representative of that manufacturer to coerce or attempt to coerce any recreational vehicle dealer:

A. To order or accept delivery of any recreational vehicle, appliances, equipment, parts or accessories for a recreational vehicle or any other commodity or commodities not required by law that the recreational vehicle dealer has not voluntarily ordered, or to order or accept delivery of any recreational vehicle with special features, appliances, accessories or equipment not included in the list price of the recreational vehicle if such price exists, as publicly advertised by the manufacturer; or [RR 2009, c. 2, §17 (COR).]

B. To order for any person any parts, accessories, equipment, machinery, tools, appliances or any other commodity; [PL 1997, c. 427, §2 (NEW).]

[RR 2009, c. 2, §17 (COR).]

3. Certain interference in dealer's business. Manufacturer or officer, agent or other representative of that manufacturer:

A. To refuse to deliver in reasonable quantities and within a reasonable time after receipt of a dealer's order to any recreational vehicle dealer having a dealer agreement or contractual arrangement for the retail sale of new recreational vehicles sold or distributed by that manufacturer any recreational vehicles that are covered by that dealer agreement or contract and specifically publicly advertised by that manufacturer to be available for delivery in a reasonable time, except that the failure to deliver any recreational vehicle is not a violation of this chapter if that failure is due to an act of God or work stoppage or delay due to a strike or labor difficulty, shortage of materials, freight embargo or other cause over which the manufacturer or any of its agents has no control; [PL 1997, c. 427, §2 (NEW).]

B. To coerce or attempt to coerce any recreational vehicle dealer to enter into any agreement with a manufacturer or an officer, agent or other representative of that manufacturer or to do any other act prejudicial to that dealer by threatening to cancel any dealer agreement or any contractual agreement existing between the manufacturer and that dealer. Notice in good faith to any recreational vehicle dealer of that dealer's violation of any terms or provisions of that dealer agreement or contractual agreement or insisting in good faith on the dealer's compliance with the terms or provisions of the dealer agreement or any other contractual agreement does not constitute a violation of this chapter; [PL 1997, c. 427, §2 (NEW).]

C. To resort to or use any false or misleading advertisement in connection with the manufacturer's business as a manufacturer or an officer, agent or other representative of that manufacturer or to force any dealer to participate in any advertising campaign or contest, or to purchase any unnecessary or unreasonable quantities of promotional materials, display devices or display decorations or materials at the expense of the new recreational vehicle dealer; [RR 2009, c. 2, §18 (COR).]

D. To offer to sell or to sell any new recreational vehicle at a lower price than the price offered to any other recreational vehicle dealer for the same model vehicle similarly equipped or to utilize any device, including but not limited to sales promotion plans or programs, that results in that lower price. This paragraph does not apply to the following:

(1) Sales to a recreational vehicle dealer for resale to any unit of the Federal Government;

(2) Any manufacturer or any of its agents offering to sell or selling new recreational vehicles to all recreational vehicle dealers at an equal price;

(3) Sales by a manufacturer to any unit of the Federal Government; and

(4) Sales to a recreational vehicle dealer who buys a specified number of new recreational vehicles if the same offer is available to all recreational vehicle dealers; [PL 1997, c. 640, §1 (AMD).]

E. To offer to sell or lease or to sell or lease any new recreational vehicle to any person, except a wholesaler or distributor, at a lower price than the price offered and charged to a recreational vehicle dealer for the same model vehicle similarly equipped or to utilize any device that results in that lower price. This paragraph does not apply to the sale or lease by a manufacturer to the Federal Government or any agency of the Federal Government; [PL 1997, c. 427, §2 (NEW).]

F. To offer to sell or to sell parts or accessories to any new recreational vehicle dealer for use in that dealer's own business for the purpose of replacing or repairing the same or a comparable part or accessory at a lower price than the price charged for that part or accessory to any other new recreational vehicle dealer for similar parts or accessories for use in the dealer's own business. This paragraph does not prohibit a manufacturer from offering incentives providing unit discounts based on the number of recreational vehicle parts and accessories sold as long as the incentive is offered to all dealers meeting the same terms and conditions of that incentive; [PL 1997, c. 640, §2 (AMD).]

G. To prevent or attempt to prevent by contract or otherwise any recreational vehicle dealer from changing the capital structure of that person's dealership or the means by or through which the dealer finances the operation of the person's dealership if the dealer at all times meets any reasonable capital standards agreed to between the dealer and the manufacturer and if that change by the dealer does not result in a change in the executive management control of the dealership; [PL 1997, c. 427, §2 (NEW).]

H. To prevent or attempt to prevent by contract or otherwise any recreational vehicle dealer or any officer, partner or stockholder of any recreational vehicle dealer from selling or transferring any part of the interest of those persons to any other person or party. A dealer, officer, partner or stockholder may not sell, transfer or assign the rights under the dealer agreement or power of management or control without the consent of the manufacturer. The manufacturer may not unreasonably withhold that consent; [PL 1997, c. 427, §2 (NEW).]

I. To obtain money, goods, services, anything of value or any other benefit from any other person with whom the recreational vehicle dealer does business, on account of or in relation to a transaction between the recreational vehicle dealer and the other person, unless that benefit is promptly accounted for and transmitted to the recreational vehicle dealer; [PL 1997, c. 427, §2 (NEW).]

J. To compete with a recreational vehicle dealer operating under an agreement or dealer agreement from the manufacturer in a relevant market area that has been determined exclusively by equitable principles. A manufacturer is not considered to be competing when operating a dealership either temporarily for a reasonable period not to exceed 2 years or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions; [PL 2009, c. 562, §17 (AMD).]

K. To require a recreational vehicle dealer to assent to a release assignment, novation, waiver or estoppel that relieves any person from liability imposed by this chapter; [PL 1997, c. 427, §2 (NEW).]

L. To require any new recreational vehicle dealer to refrain from participation in the management of, investment in or the acquisition of any other line of new recreational vehicle or related product; [PL 1997, c. 427, §2 (NEW).]

M. To require any new recreational vehicle dealer to change the location of the new recreational vehicle dealership or during the course of the agreement to make any substantial alterations to the dealership premises if the change or alteration is unreasonable; [PL 1997, c. 427, §2 (NEW).]

N. To cancel, terminate, fail to renew or refuse to continue any dealer agreement with a licensed new recreational vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or the terms or provisions of any waiver, unless a manufacturer has:

(1) Satisfied the notice requirement of paragraph Q;

(2) Acted in good faith as defined in section 1432, subsection 12; and

(3) Good cause for the cancellation, termination, nonrenewal or noncontinuance; [PL 1997, c. 427, §2 (NEW).]

O. To cancel, terminate, fail to renew or refuse to continue any dealer agreement with a licensed new recreational vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or the terms or provisions of any waiver unless good cause exists. Good cause exists for the purposes of a termination, cancellation, nonrenewal or noncontinuance when:

(1) There is a failure by the new recreational vehicle dealer to comply with a provision of the dealer agreement that is both reasonable and of material significance to the contractual relationship as long as compliance on the part of the new recreational vehicle dealer is reasonably possible and the manufacturer first acquired actual or constructive knowledge of the failure not more than 180 days prior to the date on which notification is given pursuant to paragraph Q;

(2) The failure by the new recreational vehicle dealer, described in subparagraph (1), relates to the performance of the new recreational vehicle dealer in sales or service, then good cause is defined as the failure of the new recreational vehicle dealer to effectively carry out the performance provisions of the dealer agreement if:

(a) The new recreational vehicle dealer was apprised by the manufacturer in writing of that failure, the notification stated that notice was provided of failure of performance pursuant to this section and the new recreational vehicle dealer was afforded a reasonable opportunity for a period of not less than 6 months to exert good faith efforts to carry out the performance provisions;

(b) The failure continued within the period that began not more than 180 days before the date of notification of termination, cancellation or nonrenewal was given pursuant to paragraph Q; and

(c) The new recreational vehicle dealer has not substantially complied with reasonable performance criteria established by the manufacturer and communicated to that dealer;

(3) The dealer and the manufacturer or distributor agree not to renew the dealer agreement; or

(4) The manufacturer discontinues production or distribution of the recreational vehicle product in this State and, in the case of termination or cancellation, discontinues advertising that product within this State; [PL 1997, c. 427, §2 (NEW).]

P. To cancel, terminate, fail to renew or refuse to continue any contractual relationship with a licensed new recreational vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or dealer agreement or the terms or provisions of any waiver, based on any of the following conditions, which do not constitute good cause:

(1) The change of ownership of the new recreational vehicle dealer's dealership. This subparagraph does not authorize any change in ownership that has the effect of the sale of rights under the dealer agreement without the manufacturer's or distributor's written consent. This

consent may not be unreasonably withheld. The burden of establishing the reasonableness is on the manufacturer or distributor;

(2) The fact that the new recreational vehicle dealer unreasonably refused to purchase or accept delivery of any new recreational vehicle, parts, accessories or any other commodity or services not ordered by the new recreational vehicle dealer, except that the manufacturer may require that the dealer stock a reasonable supply of parts or accessories required to perform campaign, recall or warranty work and that this provision is not intended to modify or supersede any requirement of the dealer agreement that dealers market a representative line of those recreational vehicles that the manufacturer is publicly advertising;

(3) The fact that the new recreational vehicle dealer owns, has an investment in, participates in the management of, or holds a license for, the sale of another make or line of new recreational vehicle or that the new recreational vehicle dealer has established another make or line of new recreational vehicle in the same dealership facilities as those of the manufacturer as long as the new recreational vehicle dealer maintains a reasonable line of credit for each make or line of new recreational vehicle and that the new recreational vehicle dealer remains in substantial compliance with reasonable facilities requirements of the manufacturer;

(4) The fact that the new recreational vehicle dealer sells or transfers ownership of the dealership or sells or transfers capital stock in the dealership to the new recreational vehicle dealer's designated family member. The manufacturer shall give effect to that change in the ownership in the dealership. This subparagraph does not authorize any changes in ownership that have the effect of the sale of the dealership without the manufacturer's written consent. This consent may not be unreasonably withheld. The burden of establishing the reasonableness is on the manufacturer; or

(5) The manufacturer has the burden of proof under paragraph N for showing that it has acted in good faith, that the notice requirements have been complied with and that there was good cause for the dealer agreements termination, cancellation, nonrenewal or noncontinuance; [PL 1997, c. 427, §2 (NEW).]

Q. To cancel, terminate, fail to renew or refuse to continue any dealership relationship with a licensed new recreational vehicle dealer, notwithstanding the terms, provisions or conditions of any agreement or dealer agreement or the terms or provisions of any waiver, without first providing notification of the termination, cancellation, nonrenewal or noncontinuance to the new recreational vehicle dealer as follows:

(1) Notification must be in writing and delivered personally or by certified mail to the new recreational vehicle dealer and contain:

(a) A statement of intent to terminate the dealer agreement, cancel the dealer agreement, not continue the dealer agreement or not to renew the dealer agreement;

(b) A statement of the reasons for the termination, cancellation, noncontinuance or nonrenewal; and

(c) The date on which the termination, cancellation, noncontinuance or nonrenewal takes effect;

(2) Notification may not be less than 90 days prior to the effective date of the termination, cancellation, noncontinuance or nonrenewal; or

(3) Notification may not be less than 15 days prior to the effective date of the termination, cancellation, noncontinuance or nonrenewal with respect to any of the following:

(a) Insolvency of the new recreational vehicle dealer or filing of any petition by or against the new recreational vehicle dealer under any bankruptcy or receivership law;

(b) The business operations outlined by the dealer agreement have been abandoned or closed for 14 consecutive business days unless the closing is due to an act of God, a strike or labor difficulty;

(c) Conviction of or plea of nolo contendere of a recreational vehicle dealer or one of its principal owners of any Class A, Class B or Class C crime, as defined in Title 17-A, in which a sentence of imprisonment of 60 days or more is imposed under Title 17-A, sections 1603 and 1604;

(d) Revocation of the recreational vehicle dealer's license pursuant to Title 29-A, section 903; or

(e) A determination that there was a material fraudulent misrepresentation by the dealer to the manufacturer, distributor or wholesaler; or [PL 2019, c. 113, Pt. C, §6 (AMD).]

R. To cancel, terminate, fail to renew or refuse to continue any dealer agreement with a licensed new recreational vehicle dealer without providing fair and reasonable compensation to the licensed new recreational vehicle dealer for:

(1) All unsold and unaltered new model recreational vehicle inventory of the current model year and the previous model year purchased from the manufacturer;

(2) Unused supplies and parts purchased from the manufacturer or its approved sources;

(3) Equipment and furnishings purchased from the manufacturer or its approved sources;

(4) Special tools purchased from the manufacturer or its approved sources; and

(5) Facilities, if the involuntary termination, cancellation, noncontinuance or nonrenewal is due to a failure of performance of the new recreational vehicle dealer in sales or service and:

(a) The new recreational vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, the manufacturer shall pay the new recreational vehicle dealer a sum equivalent to the prorated portion of rent attributable to the manufacturer's terminated line for the unexpired term of the lease or one year's rent, whichever is less; or

(b) The new recreational vehicle dealer owns the facilities, the manufacturer shall pay the new recreational vehicle dealer a sum equivalent to the prorated portion of the reasonable rental value of the facilities attributable to the manufacturer's terminated line for one year.

The fair and reasonable compensation for the items listed in subparagraphs (1) to (5) may not be less than the acquisition price and must be paid by the manufacturer within 90 days of the effective date of the termination, cancellation, noncontinuance or nonrenewal.

In lieu of any injunctive relief or any other damages, if the manufacturer fails to prove there was good cause for the termination, cancellation, noncontinuance or nonrenewal or if the manufacturer fails to prove that it acted in good faith, the manufacturer shall pay the new recreational vehicle dealer fair and reasonable compensation for the attributable value of the dealership as an ongoing business to the manufacturer's terminated line; and [PL 1997, c. 640, §3 (AMD).]

[PL 2019, c. 113, Pt. C, §6 (AMD).]

4. Dealer violations. Recreational vehicle dealer:

A. To require a purchaser of a new recreational vehicle, as a condition of sale and delivery of the new recreational vehicle, to also purchase special features, appliances, equipment, parts or accessories not desired or requested by the purchaser. The requirements of this paragraph must be conveyed by the recreational vehicle dealer to the purchaser prior to the consummation of the purchase; [PL 1997, c. 427, §2 (NEW).]

B. To represent and sell as a new recreational vehicle any recreational vehicle that has been used and operated for demonstration purposes or is otherwise a used recreational vehicle; [PL 1997, c. 427, §2 (NEW).]

C. To resort to or use any false or misleading advertisement in connection with that dealer's business as a recreational vehicle dealer; or [PL 1997, c. 427, §2 (NEW).]

D. To fail to disclose conspicuously in writing the recreational vehicle dealer's policy relating to the return of a deposit received from any person. A dealer shall require that a person making a deposit sign the form on which the disclosure appears. [PL 1997, c. 427, §2 (NEW).]

[PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW). PL 1997, c. 640, §§1-3 (AMD). RR 2009, c. 2, §§17, 18 (COR). PL 2009, c. 562, §17 (AMD). PL 2019, c. 113, Pt. C, §6 (AMD).

§1434-A. Termination, cancellation and nonrenewal of a dealer agreement

1. Termination; cancellation; nonrenewal. A manufacturer or distributor, directly or through an authorized officer, agent or employee, may terminate, cancel or fail to renew a dealer agreement with or without good cause. If the manufacturer or distributor terminates, cancels or fails to renew the dealer agreement without good cause, the manufacturer or distributor must comply with subsection 4. The manufacturer or distributor has the burden of showing good cause for terminating, canceling or failing to renew a dealer agreement. For purposes of determining whether there is good cause for the proposed action, any of the following factors may be considered in a proceeding:

A. The extent of the affected dealer's penetration in the area of sales responsibility; [PL 2009, c. 562, §18 (NEW).]

B. The nature and extent of the dealer's investment in the dealer's business; [PL 2009, c. 562, §18 (NEW).]

C. The adequacy of the dealer's service facilities, equipment, parts, supplies and personnel; [PL 2009, c. 562, §18 (NEW).]

D. The effect of the proposed action on the community; [PL 2009, c. 562, §18 (NEW).]

E. The extent and quality of the dealer's service under recreational vehicle warranties; [PL 2009, c. 562, §18 (NEW).]

F. The failure to follow agreed-upon procedures or standards related to the overall operation of the dealership; and [PL 2009, c. 562, §18 (NEW).]

G. The dealer's performance under the terms of its dealer agreement. [PL 2009, c. 562, §18 (NEW).]

[PL 2009, c. 562, §18 (NEW).]

2. Notice to dealer; requirements. Except as otherwise provided in this section, a manufacturer or distributor shall provide a dealer with at least 90 days' prior written notice of termination, cancellation or nonrenewal of a dealer agreement if the dealer agreement is being terminated for good cause.

A. A notice under this subsection must state all reasons for the proposed termination, cancellation or nonrenewal and must further state that if, within 30 days following receipt of the notice, the dealer provides to the manufacturer or distributor a written notice of intent to cure all claimed deficiencies, the dealer will then have 90 days following the manufacturer's or distributor's receipt of the notice to cure the deficiencies. If the deficiencies are cured within 90 days, the manufacturer's or distributor's notice is voided. If the dealer fails to provide the notice of intent to cure the deficiencies in the prescribed time period, the termination, cancellation or nonrenewal

takes effect 30 days after the dealer's receipt of the notice unless the dealer has new and untitled inventory on hand that may be disposed of pursuant to subsection 4. [PL 2009, c. 562, §18 (NEW).]

B. The notice period under this subsection may be reduced to not less than 30 days' prior written notice of termination, cancellation or nonrenewal if good cause exists. Good cause exists for purposes of this paragraph when:

(1) A dealer or one of its owners is convicted of or enters a plea of nolo contendere to murder or a Class A, Class B or Class C crime for which a sentence of imprisonment of one year or more is imposed under Title 17-A, section 1603 or 1604;

(2) A dealer abandons or closes the dealer's business operations for 10 consecutive business days unless the closing is due to an act of God, strike, labor difficulty or other cause over which the dealer has no control;

(3) There is a significant misrepresentation by the dealer materially affecting the business relationship between the dealer and the manufacturer or distributor;

(4) The dealer's license has been suspended or revoked or has not been renewed;

(5) There is a declaration by the dealer of bankruptcy or insolvency or the occurrence of an assignment for the benefit of creditors or bankruptcy; or

(6) A dealer fails to notify in writing the manufacturer or distributor at least 30 days prior to entering into a dealer agreement with a manufacturer or distributor of a competing, similar line make.

The notice requirements of this paragraph do not apply if the reason for termination, cancellation or nonrenewal is the dealer's insolvency, the occurrence of an assignment for the benefit of creditors or the dealer's bankruptcy. [PL 2019, c. 113, Pt. C, §7 (AMD).]

[PL 2019, c. 113, Pt. C, §7 (AMD).]

3. Notice to manufacturer or distributor; requirement. A dealer may terminate, cancel or refuse to renew a dealer agreement with or without good cause by giving 30 days' written notice to the manufacturer or distributor.

A. If the termination, cancellation or refusal to renew is for good cause, the notice must state all reasons for the proposed termination, cancellation or nonrenewal and must further state that if, within 30 days following receipt of the notice, the manufacturer or distributor provides to the dealer a written notice of intent to cure all claimed deficiencies, the manufacturer or distributor will then have 90 days following receipt of the original notice to cure the deficiencies. If the deficiencies are cured within 90 days, the dealer's notice is voided. If the manufacturer or distributor fails to provide the notice of intent to cure the deficiencies in the time period prescribed in the original notice of termination, cancellation or nonrenewal, the pending termination, cancellation or nonrenewal takes effect 30 days after the manufacturer's or distributor's receipt of the original notice. [PL 2009, c. 562, §18 (NEW).]

B. If the dealer terminates, cancels or fails to renew the dealer agreement without good cause, subsection 4 does not apply. If the dealer terminates, cancels or fails to renew the dealer agreement with good cause, subsection 4 applies. The dealer has the burden of showing good cause. [PL 2009, c. 562, §18 (NEW).]

C. For purposes of this subsection, good cause for termination, cancellation or nonrenewal exists when:

(1) A manufacturer or distributor is convicted of, or enters a plea of nolo contendere to, murder or a Class A, Class B or Class C crime for which a sentence of imprisonment of one year or more is imposed under Title 17-A, section 1603 or 1604;

(2) The business operations of the manufacturer or distributor have been abandoned or closed for 10 consecutive business days, unless the closing is due to an act of God, strike, labor difficulty or other cause over which the manufacturer or distributor has no control;

(3) There is a significant misrepresentation by the manufacturer or distributor materially affecting the business relationship between the dealer and the manufacturer or distributor; or

(4) There is a declaration by the manufacturer or distributor of bankruptcy or insolvency or the occurrence of an assignment for the benefit of creditors or bankruptcy. [PL 2019, c. 113, Pt. C, §8 (AMD).]

[PL 2019, c. 113, Pt. C, §8 (AMD).]

4. Repurchase of inventory. If the dealer agreement is terminated, canceled or not renewed by the manufacturer or distributor without good cause, or if the dealer terminates or cancels the dealer agreement for good cause and the manufacturer or distributor fails to cure the claimed deficiencies, the manufacturer or distributor shall, at the election of the dealer and within 45 days after termination, cancellation or nonrenewal, repurchase:

A. All new, untitled recreational vehicles that were acquired from the manufacturer or distributor within 12 months before the effective date of the termination, cancellation or nonrenewal that have not been used, except for demonstration purposes, and that have not been damaged, at 100% of the net invoice cost, including transportation, less applicable rebates and discounts to the dealer. If any of the vehicles repurchased pursuant to this subsection are damaged, but do not trigger a consumer disclosure requirement, the amount due the dealer is reduced by the cost to repair the vehicle. Damage prior to delivery to the dealer that is disclosed at the time of delivery does not disqualify repurchase under this paragraph; [PL 2009, c. 562, §18 (NEW).]

B. All undamaged accessories and proprietary parts sold to the dealer for resale within the 12 months prior to termination, cancellation or nonrenewal, if contained in the original packaging, at 105% of the original net price paid to the manufacturer or distributor to compensate the dealer for handling, packing and shipping the accessories or parts; and [PL 2009, c. 562, §18 (NEW).]

C. All properly functioning diagnostic equipment, special tools, current signs and other equipment and machinery at 100% of the dealer's net cost plus freight, destination, delivery and distribution charges and sales taxes, if any, if purchased by the dealer within 5 years before termination, cancellation or nonrenewal upon the manufacturer's or distributor's request and the dealer establishes that the items can no longer be used in the normal course of the dealer's ongoing business. The manufacturer or distributor shall pay the dealer within 30 days after receipt of the returned items. [PL 2009, c. 562, §18 (NEW).]

[PL 2009, c. 562, §18 (NEW).]

SECTION HISTORY

PL 2009, c. 562, §18 (NEW). PL 2019, c. 113, Pt. C, §§7, 8 (AMD).

§1435. Limitations on establishing or relocating dealerships

A new recreational vehicle dealership may not be established and an existing recreational vehicle dealership may not be relocated, except as follows. [PL 1997, c. 427, §2 (NEW).]

1. Notification. If a manufacturer seeks to enter into a dealer agreement establishing an additional new recreational vehicle dealership or relocating an existing new recreational vehicle dealership, within or into a relevant market area where the same line make is already represented, the manufacturer shall notify, in writing, each new recreational vehicle dealer in the line make in the relevant market area of the intention to establish an additional dealership or to relocate an existing dealership within or into that market area. The relevant market area is a radius of 15 miles around an existing dealership in the following cities: Augusta, Auburn, Bangor, Biddeford, Brewer, Falmouth, Lewiston, Portland, Saco,

South Portland, Waterville and Westbrook. The relevant market area is a radius of 30 miles around all other existing dealerships.

Within 30 days of receiving the notice or within 30 days after the end of any appeal procedure provided by the manufacturer, a new recreational vehicle dealership may file a complaint in the Superior Court of the county in which the dealership is located, protesting the establishment or relocation of the new recreational vehicle dealership. When a complaint is filed, the manufacturer may not establish or relocate the proposed new recreational vehicle dealership until a hearing has been held on the merits of establishing or relocating that recreational vehicle dealership, and that dealership may not be established or relocated if the court has determined that there is good cause for not permitting the new recreational vehicle dealership. For the purposes of this section, the reopening in a relevant market area of a new recreational vehicle dealership that has not been in operation for one year or more is considered the establishment of an additional new recreational vehicle dealership.
[PL 1997, c. 427, §2 (NEW).]

2. Good cause. In determining whether good cause has been established for not entering into a new dealer agreement or relocating an additional dealer for the same line make, the court shall take into consideration the existing circumstances, including, but not limited to:

A. The permanency of the investment of both the existing and proposed new recreational vehicle dealers; [PL 1997, c. 427, §2 (NEW).]

B. The effect on the retail new recreational vehicle business and the public in the relevant market area; [PL 1997, c. 427, §2 (NEW).]

C. Whether it is injurious or beneficial to the public for an additional new recreational vehicle dealer to be established; [PL 1997, c. 427, §2 (NEW).]

D. Whether the new recreational vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the recreational vehicles of the line make in that market area that includes the adequacy of recreational vehicle sales and service facilities, equipment, supply of recreational vehicle parts and qualified service personnel; [PL 1997, c. 427, §2 (NEW).]

E. Whether the establishment of an additional new recreational vehicle dealership would increase competition and be in the public interest; and [PL 1997, c. 427, §2 (NEW).]

F. The effect on the establishing or relocating dealer as a result of not being permitted to establish or relocate. [PL 1997, c. 427, §2 (NEW).]

[PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1436. Transportation damages

1. Liability of new dealer after acceptance. Notwithstanding the terms, provisions or conditions of any agreement or dealer agreement, the new recreational vehicle dealer is solely liable for damages to new recreational vehicles after acceptance from the carrier and before delivery to the ultimate purchaser.
[PL 1997, c. 427, §2 (NEW).]

2. Liability of manufacturer. Notwithstanding the terms, provisions or conditions of any agreement or dealer agreement, the manufacturer is liable for all damages to recreational vehicles before delivery to a carrier or transporter.
[PL 1997, c. 427, §2 (NEW).]

3. Additional liability of dealer. The new recreational vehicle dealer is liable for damages to new recreational vehicles after delivery to the carrier only if the dealer selects the method of transportation, mode of transportation and the carrier. In all other instances, the manufacturer is liable for carrier-related new recreational vehicle damage, as long as the new recreational vehicle dealer annotates the bill of lading or other carrier document indicating damages observed at the time of delivery to the new recreational vehicle dealer and promptly notifies the manufacturer of any concealed damage discovered after delivery.
[PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1437. Survivorship

1. Right of family member. The right of a designated family member to succeed in dealer ownership is governed by the following provisions.

A. Any designated family member of a deceased or incapacitated new recreational vehicle dealer who has been designated as successor to that dealer in writing to the manufacturer may succeed the dealer in the ownership or operation of the dealership under the existing dealer agreement or distribution agreement if the designated family member gives the manufacturer of new recreational vehicles a written notice of the intention to succeed to the dealership within 90 days of the dealer's death or incapacity. The designated family member may not succeed the dealer if there exists good cause for refusal to honor the succession on the part of the manufacturer. [PL 2009, c. 562, §19 (AMD).]

B. The manufacturer may request and the designated family member shall provide, upon the request, on forms provided for that purpose by the manufacturer, personal and financial data that is reasonably necessary to determine whether the succession may be honored. [PL 1997, c. 427, §2 (NEW).]

[PL 2009, c. 562, §19 (AMD).]

2. Refusal to honor; notice required. The refusal to honor the right of the designated family member to succeed in dealer ownership is governed by the following provisions.

A. If a manufacturer, distributor, factory branch, factory representative or importer believes that good cause exists for refusing to honor the succession to the ownership and operation of a dealership by a designated family member of a deceased or incapacitated new recreational vehicle dealer under the existing dealer agreement, the manufacturer, within 60 days of receipt of the information requested in subsection 1, paragraph B, may serve upon the designated family member notice of its refusal to honor the succession or its intent to discontinue the existing dealer agreement with the dealership. A discontinuance may not take place sooner than 90 days from the date the notice is served. [PL 1997, c. 427, §2 (NEW).]

B. The notice must state the specific grounds for the refusal to honor the succession and of the intent to discontinue the existing dealer agreement with the dealership no sooner than 90 days from the date the notice is served. [PL 1997, c. 427, §2 (NEW).]

C. If notice of refusal and discontinuance is not served upon the designated family member in a timely manner, the dealer agreement continues in effect and is subject to termination only as otherwise permitted by this section. [PL 1997, c. 427, §2 (NEW).]

[PL 1997, c. 427, §2 (NEW).]

3. Written designation of succession unaffected. This section does not preclude a new recreational vehicle dealer from designating any person, by written instrument filed with the manufacturer, as that dealer's successor.

[PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW). PL 2009, c. 562, §19 (AMD).

§1438. Delivery and preparation obligations; product liability and implied warranty complaints

A manufacturer shall specify to the dealer the delivery and preparation obligations of its recreational vehicle dealers prior to delivery of new recreational vehicles to retail buyers. The delivery and preparation obligations of its recreational vehicle dealers and a schedule of the compensation to be paid to its recreational vehicle dealers for the work and services the dealers are required to perform in connection with the delivery and preparation are the dealer's only responsibility for product liability between that dealer and that manufacturer. The compensation stated in the schedule must be reasonable. [PL 1997, c. 427, §2 (NEW).]

In any action or claim brought against the recreational vehicle dealer on a product liability complaint in which it is later determined that the manufacturer is liable, the dealer is entitled to receive from the manufacturer its reasonable costs and attorney's fees incurred in defending the claim or action. [PL 1997, c. 427, §2 (NEW).]

In any action or claim brought against the recreational vehicle dealer on a breach of implied warranty complaint in which it is later determined that the manufacturer is liable, the dealer is entitled to receive from the manufacturer the dealer's reasonable costs and attorney's fees incurred in defending the claim or action. In any implied warranty action, a dealer has the rights of a buyer under Title 11, section 2-607, subsection (5). [PL 1997, c. 427, §2 (NEW).]

The court shall consider the recreational vehicle dealer's share in the responsibility for the damages in awarding costs and attorney's fees. [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1439. Warranty

(REPEALED)

SECTION HISTORY

PL 1997, c. 427, §2 (NEW). PL 2009, c. 562, §20 (RP).

§1439-A. Warranty

1. Warranty obligations. A warrantor shall:

A. Specify in writing to a dealer the dealer's obligations, if any, for preparation, delivery and warranty service on products covered by the warrantor; [PL 2009, c. 562, §21 (NEW).]

B. Compensate the dealer for warranty service required of a dealer by the warrantor; and [PL 2009, c. 562, §21 (NEW).]

C. Provide a dealer the schedule of compensation to be paid and the time allowances for the performance of any work and service. The schedule of compensation must include reasonable compensation for diagnostic work as well as warranty labor. [PL 2009, c. 562, §21 (NEW).]

[PL 2009, c. 562, §21 (NEW).]

2. Time allowances; reasonable compensation. Time allowances set by the manufacturer for the diagnosis and performance of warranty labor must be reasonable for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factor to be given consideration is the actual retail labor rate being charged by the dealers in the community in which the dealer is doing business. The compensation of a dealer for warranty labor may not be less

than the average retail labor rates actually charged by the dealer for like nonwarranty labor as long as those rates are reasonable.
[PL 2009, c. 562, §21 (NEW).]

3. Reimbursement for warranty parts. A warrantor shall reimburse a dealer for warranty parts at actual wholesale cost plus a minimum 30% handling charge and the cost, if any, of freight to return warranty parts to the warrantor.
[PL 2009, c. 562, §21 (NEW).]

4. Audits. A warrantor may conduct warranty audits of dealer records on a reasonable basis, and dealer claims for warranty compensation may not be denied except for cause, such as performance of nonwarranty repairs, material noncompliance with the warrantor's published policies and procedures, lack of material documentation, fraud or misrepresentation.
[PL 2009, c. 562, §21 (NEW).]

5. Claims. A dealer shall submit warranty claims within 45 days after completing warranty service and repairs.
[PL 2009, c. 562, §21 (NEW).]

6. Notice for inability to perform warranty repairs. A dealer shall immediately notify the warrantor orally or in writing if the dealer is unable to perform any warranty repairs within 10 days of receipt of an oral or written complaint from a customer.
[PL 2009, c. 562, §21 (NEW).]

7. Claims not approved. A warrantor shall approve or disapprove a warranty claim in writing within 45 days after the date of submission by a dealer in the manner and form prescribed by the warrantor. Claims not specifically disapproved in writing within 45 days are deemed to be approved and must be paid within 60 days of submission.
[PL 2009, c. 562, §21 (NEW).]

8. Duties of warrantor. A warrantor:

A. Shall perform its warranty obligations under this subsection with respect to its warranted products; [PL 2009, c. 562, §21 (NEW).]

B. Shall include in written notices of factory campaigns to recreational vehicle owners and dealers the expected date by which necessary parts and equipment, including tires and chassis or chassis parts, will be available to dealers to perform the campaign work. The warrantor may ship parts to the dealer to effect the campaign work, and, if such parts are in excess of the dealer's requirements, the dealer may return unused parts to the warrantor for credit after completion of the campaign; [PL 2009, c. 562, §21 (NEW).]

C. Shall compensate dealers for authorized repairs performed by the dealer on merchandise damaged in manufacture or transit to the dealer, if the carrier is designated by the warrantor, factory branch, distributor or distributor branch; [PL 2009, c. 562, §21 (NEW).]

D. Shall compensate dealers in accordance with the schedule of compensation provided to the dealer pursuant to subsection 1, paragraph C if the work or service is performed in a timely and competent manner; [PL 2009, c. 562, §21 (NEW).]

E. May not intentionally misrepresent in any way to a purchaser of a recreational vehicle that warranties with respect to the manufacture, performance or design of the vehicle are made by the dealer as warrantor or cowarrantor; and [PL 2009, c. 562, §21 (NEW).]

F. May not require a dealer to make warranties to customers in any manner related to the manufacture of the recreational vehicle. [PL 2009, c. 562, §21 (NEW).]
[PL 2009, c. 562, §21 (NEW).]

9. Duties of dealer. A dealer:

A. Shall perform predelivery inspection functions, as specified by the warrantor, in a competent and timely manner; [PL 2009, c. 562, §21 (NEW).]

B. Shall perform warranty service or work authorized by the warrantor in a competent and timely manner on any transient customer's vehicle of the same line make or as otherwise authorized by the warrantor; [PL 2009, c. 562, §21 (NEW).]

C. Shall accurately document the time spent completing each repair, the total number of repair attempts conducted on a single vehicle and the number of repair attempts for the same repair conducted on a single vehicle; [PL 2009, c. 562, §21 (NEW).]

D. Shall notify the warrantor within 10 days of a 2nd repair attempt that impairs the use, value or safety of a vehicle; [PL 2009, c. 562, §21 (NEW).]

E. Shall maintain written records, including a customer's signature, regarding the amount of time a vehicle is stored for the customer's convenience during a repair; and [PL 2009, c. 562, §21 (NEW).]

F. May not make fraudulent warranty claims or misrepresent the terms of a warranty. [PL 2009, c. 562, §21 (NEW).]

[PL 2009, c. 562, §21 (NEW).]

10. Manufacturer audit of claims. A manufacturer is permitted to audit claims within an 18-month period from the date the claim was paid or credit issued by the manufacturer and to charge back any false or unsubstantiated claims. If there is evidence of fraud, this subsection does not limit the right of the manufacturer to audit for longer periods and charge back for any fraudulent claim.

[PL 2009, c. 562, §21 (NEW).]

SECTION HISTORY

PL 2009, c. 562, §21 (NEW).

§1440. Mediation and arbitration of manufacturer; dealer disputes

(REPEALED)

SECTION HISTORY

PL 1997, c. 427, §2 (NEW). PL 2009, c. 562, §22 (RP).

§1440-A. Mediation

1. Mediation. A dealer, manufacturer, distributor or warrantor injured by another party's violation of this chapter may bring an action pursuant to section 1447. Prior to bringing an action under section 1447, the party bringing the action for an alleged violation must serve a written demand for mediation upon the offending party.

A. The demand for mediation under this section must be served upon the other party via certified mail at the address stated within the agreement among the parties. [PL 2009, c. 562, §23 (NEW).]

B. The demand for mediation under this section must contain a brief statement of the dispute and the relief sought by the party filing the demand. [PL 2009, c. 562, §23 (NEW).]

C. Within 20 days after the date a demand for mediation under this section is served, the parties shall mutually select an independent certified mediator and meet with that mediator for the purpose of attempting to resolve the dispute. The meeting place must be in this State in a location selected by the mediator. The mediator may extend the date of the meeting for good cause shown by either party or upon stipulation of both parties. [PL 2009, c. 562, §23 (NEW).]

D. The service of a demand for mediation under this section tolls the time for the filing of any complaint, petition, protest or other action under this chapter until representatives of both parties have met with a mutually selected mediator for the purpose of attempting to resolve the dispute. If

a complaint, petition, protest or other action is filed before that meeting, the court shall enter an order suspending the proceeding or action until the mediation meeting has occurred and may, upon written stipulation of all parties to the proceeding or action that they wish to continue to mediate under this section, enter an order suspending the proceeding or action for as long a period as the court considers appropriate. [PL 2009, c. 562, §23 (NEW).]

E. The parties to the mediation under this section must bear their own costs for attorney's fees and divide equally the cost of the mediator. [PL 2009, c. 562, §23 (NEW).]

[PL 2009, c. 562, §23 (NEW).]

SECTION HISTORY

PL 2009, c. 562, §23 (NEW).

§1440-B. Indemnification

1. Warrantor. A warrantor shall indemnify and hold harmless its dealer against any losses or damages to the extent such losses or damages are caused by the negligence or willful misconduct of the warrantor. The dealer shall provide to the warrantor notice of a pending lawsuit or similar proceeding in which such allegations are made within 10 days after receiving the notice.

[PL 2009, c. 562, §24 (NEW).]

2. Dealer. A dealer shall indemnify and hold harmless its warrantor against any losses or damages to the extent such losses or damages are caused by the negligence or willful misconduct of the dealer. The warrantor shall provide to the dealer notice of a pending lawsuit or similar proceeding in which such allegations are made within 10 days after receiving the notice.

[PL 2009, c. 562, §24 (NEW).]

SECTION HISTORY

PL 2009, c. 562, §24 (NEW).

§1441. Unreasonable restrictions

(REPEALED)

SECTION HISTORY

PL 1997, c. 427, §2 (NEW). PL 2009, c. 562, §25 (RP).

§1442. Covered under written or oral agreements

(REPEALED)

SECTION HISTORY

PL 1997, c. 427, §2 (NEW). PL 2009, c. 562, §26 (RP).

§1442-A. Written agreements; designated territories

1. Prohibition. A manufacturer or distributor may not sell a recreational vehicle in this State to or through a dealer without having first entered into a dealer agreement with the dealer that has been signed by both parties.

[PL 2009, c. 562, §27 (NEW).]

2. Designation of area of sales responsibility. A manufacturer shall designate the area of sales responsibility assigned to a dealer in the dealer agreement and may not change the area or contract with another dealer for sale of the same line make in the area during the duration of the agreement. If, subsequent to entering into a dealer agreement, a dealer enters into an agreement to sell any competing recreational vehicles, or enters into an agreement to increase a preexisting commitment to sell any competing recreational vehicles, a manufacturer may revise the area of sales responsibility designated

in the dealer agreement if the market penetration of the manufacturer's products is compromised by the dealer's subsequent agreements.
[PL 2009, c. 562, §27 (NEW).]

3. Change of area of sales responsibility. The area of sales responsibility may not be changed until one year after the execution of the dealer agreement. The consent of both parties is required to change the dealer agreement.
[PL 2009, c. 562, §27 (NEW).]

4. Sale of new recreational vehicles. A dealer may not sell a new recreational vehicle in this State without having first entered into a dealer agreement with a manufacturer or distributor that has been signed by both parties.
[PL 2009, c. 562, §27 (NEW).]

SECTION HISTORY

PL 2009, c. 562, §27 (NEW).

§1443. Dealership interest; vested rights

(REPEALED)

SECTION HISTORY

PL 1997, c. 427, §2 (NEW). PL 2009, c. 562, §28 (RP).

§1444. Dealer's right to associate

Any dealer has the right of free association with other dealers for any lawful purpose. [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1445. Discounts and other inducements

In connection with a sale of a recreational vehicle or vehicles to the State or to any political subdivision of the State, a manufacturer may not offer discounts, refunds or any other similar type of inducement to a dealer without making the same offer or offers to all its dealers within the relevant market area. If inducements are made, the manufacturer shall give simultaneous notice of those inducements to all of its dealers within the relevant market area. [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1446. Public policy

A contract or part of a contract or practice under a contract in violation of any provision of this chapter is against public policy and is void and unenforceable. An existing contract or part of a contract or practice in violation of any provision of this chapter is against public policy and is void and unenforceable to the extent that it is in conflict with this chapter. [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1447. Civil remedies

Any manufacturer, warrantor, dealer or recreational vehicle dealer who has been damaged by reason of a violation of a provision of this chapter may bring an action to enjoin a person from acting as a dealer without being properly licensed, from violating or continuing to violate any of the provisions of this chapter, or from failing or refusing to comply with the requirements of this chapter, and to

recover any damages arising from that violation of any part of this chapter. The injunction must be issued without bond. A single act in violation of the provisions of this chapter is sufficient to authorize the issuance of an injunction. A final judgment, order or decree rendered against a person in any civil, criminal or administrative proceeding under the federal antitrust laws, the Federal Trade Commission Act or under the Maine Revised Statutes is prima facie evidence against that person subject to the conditions set forth in the federal antitrust laws, 15 United States Code, Section 16. Each party is responsible for its own attorney's fees and court costs. Neither party has a claim on such expenses from the other party. [PL 2009, c. 562, §29 (AMD).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW). PL 2009, c. 562, §29 (AMD).

§1447-A. Venue

Venue for a civil action authorized by this chapter is exclusively in the county in which the dealer's business is located. In an action involving more than one dealer, venue may be in any county in which any dealer that is party to the action is located. [PL 2009, c. 562, §30 (NEW).]

SECTION HISTORY

PL 2009, c. 562, §30 (NEW).

§1448. Statute of limitation

Actions arising out of any provision of this chapter must be commenced within 4 years after the cause of action accrues. If a person liable under this chapter conceals the cause of action from the knowledge of the person entitled to bring it, the period prior to the discovery of the cause of action by the person so entitled is excluded in determining the time limited for commencement of the action. If a cause of action accrues during the pendency of any civil, criminal or administrative proceeding against a person brought by the United States or any of its agencies under the antitrust laws, the Federal Trade Commission Act or any other federal Act or the laws of the State related to antitrust laws or to franchising, that action may be commenced within one year after the final disposition of the civil, criminal or administrative proceeding. [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1449. Construction

In construing this chapter the courts may be guided by the interpretations of the Federal Trade Commission Act, 15 United States Code, Section 45. [PL 1997, c. 427, §2 (NEW).]

If any provision of this chapter is declared unconstitutional or the applicability of this chapter to any person or circumstance is held invalid, the constitutionality of the remainder of this chapter and the applicability of this chapter to persons and circumstances is not affected. [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1450. Jurisdiction

A person who violates any provisions of this chapter is subject to the jurisdiction of the courts of this State upon service of process in accordance with Title 14, chapter 203 and consistent with the maximum limits of due process as decided by the United States Supreme Court. [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

§1450-A. Penalty

A person who violates this chapter is guilty of a Class E crime. [PL 1997, c. 427, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 427, §2 (NEW).

CHAPTER 215

USED CAR INFORMATION

§1451. Definitions

(REPEALED)

SECTION HISTORY

PL 1975, c. 546, §1 (NEW). PL 1975, c. 770, §56 (RP).

§1452. Exclusions

(REPEALED)

SECTION HISTORY

PL 1975, c. 546, §1 (NEW). PL 1975, c. 770, §56 (RP).

§1453. Construction

(REPEALED)

SECTION HISTORY

PL 1975, c. 546, §1 (NEW). PL 1975, c. 770, §56 (RP).

§1454. Warranty

(REPEALED)

SECTION HISTORY

PL 1975, c. 546, §1 (NEW). PL 1975, c. 770, §56 (RP).

§1455. Disclosure of information

(REPEALED)

SECTION HISTORY

PL 1975, c. 546, §1 (NEW). PL 1975, c. 770, §56 (RP).

§1456. Performance under warranty

(REPEALED)

SECTION HISTORY

PL 1975, c. 546, §1 (NEW). PL 1975, c. 770, §56 (RP).

§1457. Violations

(REPEALED)

SECTION HISTORY

PL 1975, c. 546, §1 (NEW). PL 1975, c. 770, §56 (RP).

CHAPTER 215

MOTOR FUEL DISTRIBUTION AND SALES

§1451. Short title

This chapter shall be known as the Motor Fuel Distribution and Sales Act. [PL 1975, c. 549 (NEW).]

SECTION HISTORY

PL 1975, c. 549 (NEW).

§1452. Legislative findings and purpose

The Legislature finds and declares that the distribution and retail sale of motor fuels at reasonable prices and in adequate supply throughout the State vitally affects the public health, welfare and safety, and that increased competition at all levels of the motor fuel market and maintenance within that market of a significant proportion of businesses independent of major marketers and refiners will promote reasonable prices and better assure supplies to all areas of the State. It is therefore necessary to define and regulate the relationship between parties to franchise agreements involving the sale or distribution of motor fuels in the State and to prescribe other trade practices. [PL 1975, c. 549 (NEW).]

SECTION HISTORY

PL 1975, c. 549 (NEW).

§1453. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings: [PL 1975, c. 549 (NEW).]

1. Automotive product. "Automotive product" shall mean any product sold or distributed by a retailer for use with a motor vehicle, whether or not such product is essential for the maintenance of the motor vehicle and whether or not such product is also used for non-automotive purposes;
[PL 1975, c. 549 (NEW).]

1-A. Blender. "Blender" means any person who blends blend stock with gasoline or who sells or distributes blend stock for the purpose of being blended with gasoline.
[PL 2011, c. 632, §1 (NEW).]

1-B. Blend stock. "Blend stock" means ethanol, methanol or any other products blended with gasoline to produce motor fuel.
[PL 2011, c. 632, §1 (NEW).]

1-C. Consignment. "Consignment" means a written or oral agreement between a franchisor and a franchisee whereby the franchisor maintains ownership of motor fuel provided to the franchisee and the franchisee sells the motor fuel on behalf of the franchisor at a price determined by the franchisor.
[PL 2013, c. 219, §1 (NEW).]

2. Deposit in advance. "Deposit in advance" shall mean any deposit, regardless of its purported purpose, which is received by a distributor or refiner from a retail dealer or distributor as a breakage, security or other similar deposit;
[PL 1975, c. 549 (NEW).]

3. Distributor. "Distributor" shall mean any person engaged in the sale, consignment or distribution of petroleum products to wholesale or retail outlets, whether or not such person owns, leases or in any way controls such outlets;
[PL 1975, c. 549 (NEW).]

4. Franchise agreement. "Franchise agreement" means a written or oral agreement, for a definite or indefinite period, between a refiner and a retail dealer or between a distributor and a retail dealer or between a refiner and a distributor under which:

A. A retail dealer or a distributor promises to sell or distribute any petroleum product or products of a refiner; [PL 2013, c. 219, §2 (AMD).]

B. A retail dealer or a distributor is granted the right to use a trademark, trade name, service mark or other identifying symbol or name owned by a refiner; or [PL 1975, c. 549 (NEW).]

C. A retail dealer or a distributor is granted the right to occupy premises owned, leased or controlled by a refiner or distributor and:

(1) Promises to sell or distribute any petroleum products of the refiner or the distributor; or

(2) Is granted the right to use a trademark, trade name, service mark or other identifying symbol or name owned by the refiner or the distributor. [PL 2013, c. 219, §2 (AMD).]

[PL 2013, c. 219, §2 (AMD).]

5. Franchisee. "Franchisee" shall mean either a distributor who has entered into a franchise agreement with a refiner or a retail dealer who has entered into a franchise agreement with a distributor or a refiner;

[PL 1975, c. 549 (NEW).]

6. Franchisor. "Franchisor" shall mean either a refiner who enters into a franchise agreement with a distributor or retail dealer, or a distributor who enters into a franchise agreement with a retail dealer;

[PL 1975, c. 549 (NEW).]

7. Motor fuel. "Motor fuel" and "petroleum product" shall mean any substance or combination of substances which is intended to be or is capable of being used for the purpose of propelling or running by combustion any internal combustion engine which is sold or used for that purpose;

[PL 1975, c. 549 (NEW).]

8. Person. "Person" means a natural person, corporation, partnership, trust or other entity and, in the case of any entity, includes any other entity that has a majority interest in the entity or effectively controls the entity.

[PL 2013, c. 219, §3 (AMD).]

9. Place of business. "Place of business" shall mean:

A. Any fixed geographical location at which, pursuant to a franchise agreement, motor fuels are sold or distributed or a trademark, trade name, service mark or other identifying symbol is used or displayed; or [PL 1975, c. 549 (NEW).]

B. Any premises owned, leased or controlled by a refiner or distributor, in which a retail dealer or a distributor is granted the right of occupancy pursuant to a franchise agreement. [PL 1975, c. 549 (NEW).]

[PL 1975, c. 549 (NEW).]

10. Refiner. "Refiner" shall mean any person engaged in the refining or importing of petroleum products;

[PL 1975, c. 549 (NEW).]

11. Retail dealer. "Retail dealer" shall mean any person who operates a service station, filling station, store, garage or other place of business for the sale of motor fuel for delivery into the service tank or tanks of any vehicle propelled by an internal combustion engine;

[PL 1975, c. 549 (NEW).]

12. Retail fuel outlet. "Retail fuel outlet" shall mean a place at which gasoline and oil are stored and supplied to the public, which is operated directly by a refiner or distributor;

[PL 1975, c. 549 (NEW).]

SECTION HISTORY

PL 1975, c. 549 (NEW). PL 2011, c. 632, §1 (AMD). PL 2013, c. 219, §§1-3 (AMD).

§1454. Franchised dealers and distributors

1. Franchise agreements. When a franchise agreement between a refiner and a retail dealer or a distributor or between a distributor and a retail dealer covers the sale of petroleum products and those sales constitute more than 35% of the retail dealer's gross sales and those gross sales are more than $30,000 annually, the franchise agreement is subject to the nonwaivable provisions set forth in this subsection, whether or not they are expressly set forth in the agreement.

A. A retail dealer or distributor as franchisee has the right to cancel a franchise agreement until midnight of the 7th business day after the day on which the agreement was signed, by giving the franchisor written notice of the cancellation. Upon the franchisee's giving the franchisor such a notice, all money, equipment and merchandise loaned, sold or delivered to the franchisee under the agreement must be returned to the franchisor for full credit, or the cash equivalent. If the franchisor is the owner of the real estate upon which the franchisee conducted business, the franchisee shall deliver full possession of the real estate to the franchisor immediately upon such cancellation. [PL 2013, c. 219, §4 (AMD).]

B. An agreement may not contain a provision that in any way limits the right of either party to trial by jury, the interposition of counterclaims or crossclaims. [PL 2013, c. 219, §4 (AMD).]

C. The price at which a franchisee sells products may not be fixed or maintained by a franchisor, nor may any person seek to do so, nor may the price of products be subject to enforcement or coercion by any person in any manner, but this paragraph may not be construed to prohibit a franchisor from suggesting prices to franchisees or counseling franchisees concerning prices. Each agreement must have, in 10-point type, the legend: "PRICE FIXING OR MANDATORY PRICES FOR ANY PRODUCTS COVERED IN THIS AGREEMENT IS PROHIBITED. A SERVICE STATION DEALER OR WHOLESALE DISTRIBUTOR MAY SELL ANY PRODUCTS LISTED IN THIS AGREEMENT FOR A PRICE THAT THE SERVICE STATION DEALER OR WHOLESALE DISTRIBUTOR ALONE MAY DECIDE." The provisions of this paragraph do not apply to any petroleum products included in a franchisor's consignment agreement with a franchisee or to any franchise agreement that provides for petroleum products to be sold on consignment by a franchisee on behalf of a franchisor. [PL 2013, c. 219, §4 (AMD).]

D. A franchisor may not withhold consent to any assignment, transfer or sale of the franchise agreement as long as the assignee, transferee or purchaser of the franchise agreement meets the qualifications required in the franchise agreement. [PL 2013, c. 219, §4 (AMD).]

E. If the franchise agreement requires the franchisee to provide a cash deposit in advance for the use of the service station or delivery of fuel, except as advance payment in whole or in part for product ordered, the cash deposit must be held by the franchisor and may be used by the franchisor in the franchisor's business. Interest at a rate of at least the one-year United States Treasury bill rate, or the rate of a comparable instrument if the one-year United States Treasury bill rate is not offered, as of the first business day of the year in which the interest is paid must be paid to the franchisee at least annually on the use of the cash deposit to the extent not otherwise applied by the franchisor to obligations of the franchisee as provided in the franchise agreement. Within 90 days after the termination of the agreement, any portion of the cash deposit that has not otherwise been applied by the franchisor to obligations of the franchisee as provided in the franchise agreement must be returned, together with any unpaid interest on any unused cash deposit at the rate of at least the one-year United States Treasury bill rate, or the rate of a comparable instrument if the one-year

United States Treasury bill is not offered, as of the first business day of the year in which the interest is paid.

For purposes of this paragraph, "one-year United States Treasury bill rate" means the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last full week of the calendar year immediately prior to the year in which interest is paid. [PL 2013, c. 219, §4 (AMD).]

F. An agreement may not provide for the use of any promotion, premium, coupon, give-away or rebate in the operation of the business, except that a dealer may participate in a promotion, premium, coupon, give-away or rebate sponsored by the franchisor, if the dealer so desires. [PL 2013, c. 219, §4 (AMD).]

[PL 2013, c. 219, §4 (AMD).]

2. Termination of franchise agreements. A franchisor may not, directly or through any officer, agent or employee, terminate, cancel or fail to renew a franchise agreement, except for good cause. For purposes of this section, "good cause " includes, but is not limited to:

A. With respect to franchise agreements in which the franchisor leases real property and improvements to the franchisee:

(1) The sale or lease of the real property and improvements by the franchisor to other than a subsidiary or affiliate of the franchisor for any use;

(2) The sale or lease of the real property and improvements to a subsidiary or affiliate of the franchisor for a purpose other than the wholesale distribution or the retail sale of motor fuels;

(3) The conversion of the real property and improvements to a use other than the wholesale distribution or the retail sale of motor fuels; or

(4) The lawful termination of lease, license or other nonownership under which the franchisor is entitled to possession or control of the real property and improvements; [PL 2013, c. 219, §5 (AMD).]

B. Mutual agreement of the franchisor and franchisee to terminate, cancel or not renew the franchise agreement; [PL 2013, c. 219, §5 (AMD).]

C. Criminal misconduct or a violation of law relating to the business or premises of the franchisee; [PL 2013, c. 219, §5 (AMD).]

D. Fraud, which includes but is not limited to the following:

(1) Adulteration of the franchisor's products;

(2) Commingling of funds;

(3) Misleading consumers or misbranding gasoline;

(4) Trademark violations;

(5) Intentionally overcharging or deceiving customers as to repairs that are not needed; and

(6) Intentionally deceiving the franchisor regarding a term of the term of the lease; [PL 2013, c. 219, §5 (AMD).]

E. Failure of the franchisee to open for business for 5 consecutive days, exclusive of holidays and reasonable vacation and sick days; [PL 2013, c. 219, §5 (AMD).]

F. Bankruptcy or insolvency of the franchisee; [PL 2013, c. 219, §5 (AMD).]

G. Nonpayment of rent or loss by the franchisor of its legal right to grant possession of leased premises to the franchisee; [PL 2013, c. 219, §5 (AMD).]

H. Public condemnation or other public taking; and [PL 2013, c. 219, §5 (AMD).]

I. Substantial noncompliance with the obligations of the franchise agreement. [PL 1975, c. 623, §6-D (NEW).]

[PL 2013, c. 219, §5 (AMD).]

3. Notice of termination. Except when a franchise agreement is terminated, cancelled or not renewed by mutual agreement of the franchisor and the franchisee, the franchisor shall give the franchisee advance written notice of termination, cancellation or intent not to renew. Notwithstanding any statute to the contrary, advance notice required by this subsection must precede the effective date of such termination, cancellation or nonrenewal by at least:

A. Forty-five days when the asserted cause is specified in subsection 2, paragraph H or I; [PL 2013, c. 219, §6 (AMD).]

B. One hundred twenty days when the asserted cause is specified in subsection 2, paragraph A; or [PL 2013, c. 219, §6 (AMD).]

C. Seven days when the asserted cause is specified in subsection 2, paragraph C, D , E, F or G. [PL 2013, c. 219, §6 (AMD).]

[PL 2013, c. 219, §6 (AMD).]

4. Compensation on termination of franchise. Upon the termination of any franchise, the franchisee is entitled to fair and reasonable compensation by the franchisor for the franchisee's remaining inventory, supplies, equipment and furnishings purchased by the franchisee from the franchisor or its approved sources except that compensation is not allowed for personalized items that have no value to the franchisor.

[PL 2013, c. 219, §7 (AMD).]

SECTION HISTORY

PL 1975, c. 549 (NEW). PL 1975, c. 623, §§6-C,6-D (AMD). PL 2013, c. 219, §§4-7 (AMD).

§1455. Statute of limitations

No action may be brought under this chapter for a cause of action which arose more than 2 years prior to the date such action is brought. [PL 1975, c. 549 (NEW).]

SECTION HISTORY

PL 1975, c. 549 (NEW).

§1456. Legal and equitable remedies

1. Suit. If a franchisor or distributor engages in conduct prohibited under this chapter, a franchisee or a distributor may maintain a suit against such franchisor or distributor.

[PL 1975, c. 549 (NEW).]

2. Court action. The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under this chapter that the court finds to exist, including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages when indicated, in suits under this chapter and may direct that costs, reasonable attorney's and expert witness fees incurred by the franchisee in those portions of the action in which the franchisee is the prevailing party be paid by the franchisor.

[PL 2013, c. 219, §8 (AMD).]

SECTION HISTORY

PL 1975, c. 549 (NEW). PL 2013, c. 219, §8 (AMD).

§1457. Ethanol enhanced motor fuel

1. Prohibition. No distributor, franchisor or refiner may impose any condition, restriction, agreement or understanding that unreasonably discriminates against or unreasonably limits the sale, resale, transfer or purchase of ethanol or other synthetic motor fuel of equivalent usability in any case in which synthetic or conventional motor fuel is sold for use, consumption or resale.
[PL 1983, c. 852, §1 (NEW).]

2. Exception. This section does not apply to any distributor, franchisor or refiner which makes available sufficient supplies of ethanol or other synthetic motor fuels of equivalent usability to satisfy its customers' needs for those products, if those synthetic motor fuels are made available on terms and conditions which are equivalent to the terms and conditions on which conventional motor fuel products are made available.
[PL 1983, c. 852, §1 (NEW).]

3. Reasonable conditions. A motor fuel distributor, franchisor or refiner which does not make available sufficient supplies of ethanol or other synthetic motor fuels of equivalent usability may:

A. Require reasonable labeling of pumps dispensing the ethanol or other synthetic motor fuels to indicate, as appropriate, that the ethanol or other synthetic motor fuel was not manufactured, distributed or sold by that distributor, franchisor or refiner; [PL 1983, c. 852, §1 (NEW).]

B. Issue disclaimers, as appropriate, of product liability for damage from use of ethanol or other synthetic motor fuels; [PL 1983, c. 852, §1 (NEW).]

C. Refuse to provide advertising support for ethanol or other synthetic motor fuels; or [PL 1983, c. 852, §1 (NEW).]

D. Refuse to furnish or provide any additional pumps, tanks or other related facilities required for the sale of ethanol or other synthetic motor fuels. [PL 1983, c. 852, §1 (NEW).]

[PL 1983, c. 852, §1 (NEW).]

4. Ethanol-free motor fuel. A motor fuel distributor, franchisor or refiner may not impose any condition, restriction, agreement or understanding that prohibits or limits the sale, resale, transfer or purchase of conventional, ethanol-free motor fuel products in the State. This subsection applies to contracts entered into or renewed after the effective date of this subsection.
[PL 2015, c. 143, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 852, §1 (NEW). PL 2015, c. 143, §1 (AMD).

§1457-A. Liability for use of ethanol-enhanced motor fuel

A distributor, blender or retail dealer is not liable for damages caused by the use of motor fuel containing more than 10% ethanol sold, consigned or distributed by that distributor, blender or retail dealer if the sale, consignment or distribution of that motor fuel is in accordance with federal law and the fuel is a transportation fuel or fuel additive that has received a waiver for introduction into interstate commerce by the Administrator of the United States Environmental Protection Agency pursuant to 42 United States Code, Section 7545(f)(4) (2011). [PL 2011, c. 632, §2 (NEW).]

SECTION HISTORY

PL 2011, c. 632, §2 (NEW).

§1457-B. Prohibition on sale, consignment or distribution of motor fuel containing corn-based ethanol; contingent effective date

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE ON CONTINGENCY: See T. 10, §1457-B, sub-§2)

1. Prohibition on sale of motor fuel containing corn-based ethanol. A distributor, blender or retail dealer may not sell, consign or distribute motor fuel containing corn-based ethanol.
[PL 2013, c. 249, §1 (NEW).]

2. Contingent effective date. This section does not take effect until at least 10 other states or a number of states with a collective population of 30,000,000 have enacted laws that prohibit the sale of motor fuel containing corn-based ethanol. The Commissioner of Agriculture, Conservation and Forestry shall notify the Revisor of Statutes when 10 other states or a number of states having a collective population of 30,000,000 have adopted laws that prohibit the sale of motor fuel containing corn-based ethanol.
[PL 2013, c. 249, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 249, §1 (NEW).

§1458. Emergency Petroleum Products Supply Act

(REPEALED)

SECTION HISTORY

PL 1981, c. 3 (NEW). PL 1985, c. 506, §A10 (RP).

CHAPTER 215-A

MOTOR CARRIER TRANSPORTATION CONTRACTS

§1459. Indemnity agreement in motor carrier transportation contract void

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

A. "Motor carrier" has the same meaning as in Title 29-A, section 101, subsection 37. [PL 2011, c. 85, §1 (NEW); PL 2011, c. 85, §2 (AFF).]

B. "Motor carrier transportation contract" means a contract, agreement or understanding covering:

(1) The transportation of property for compensation by a motor carrier;

(2) Entrance on property by a motor carrier for the purposes of loading, unloading or transporting property for compensation; or

(3) A service incidental to an activity described in subparagraph (1) or (2), including, but not limited to, storage of property. [PL 2011, c. 85, §1 (NEW); PL 2011, c. 85, §2 (AFF).]

C. "Promisee" includes any agent, employee, servant or independent contractor who is directly responsible to the promisee. The term does not include a motor carrier that is party to a motor carrier transportation contract with the promisee and does not include that motor carrier's agent, employee, servant or independent contractor directly responsible to that motor carrier. [PL 2011, c. 85, §1 (NEW); PL 2011, c. 85, §2 (AFF).]
[PL 2011, c. 85, §1 (NEW); PL 2011, c. 85, §2 (AFF).]

2. Certain indemnity agreements void. Notwithstanding any other provision of law, a provision, clause, covenant or agreement contained in, collateral to or affecting a motor carrier transportation contract that purports to indemnify, defend or hold harmless, or has the effect of indemnifying, defending or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against the public policy of this State and is void and unenforceable.

[PL 2011, c. 85, §1 (NEW); PL 2011, c. 85, §2 (AFF).]

SECTION HISTORY

PL 2011, c. 85, §1 (NEW). PL 2011, c. 85, §2 (AFF).

CHAPTER 216

REGIONAL RIDE SHARE SERVICES MATCHING FUND PROGRAM

§1461. Title

(REPEALED)

SECTION HISTORY

PL 1981, c. 499, §1 (NEW). PL 2015, c. 43, §1 (RP).

§1462. Findings and purpose

(REPEALED)

SECTION HISTORY

PL 1981, c. 499, §1 (NEW). PL 2015, c. 43, §1 (RP).

§1463. Definitions

(REPEALED)

SECTION HISTORY

PL 1981, c. 499, §1 (NEW). PL 2015, c. 43, §1 (RP).

§1464. Regional Ride Share Services Matching Fund Program

(REPEALED)

SECTION HISTORY

PL 1981, c. 499, §1 (NEW). PL 1989, c. 501, §DD25 (AMD). PL 2015, c. 43, §1 (RP).

§1465. Allocation and disbursement of funds

(REPEALED)

SECTION HISTORY

PL 1981, c. 499, §1 (NEW). PL 2015, c. 43, §1 (RP).

§1466. Legislative reports

(REPEALED)

SECTION HISTORY

PL 1981, c. 499, §1 (NEW). PL 2015, c. 43, §1 (RP).

CHAPTER 217

USED CAR INFORMATION

§1471. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [PL 1975, c. 770, §57 (NEW).]

1. Conspicuous. "Conspicuous or conspicuously" means that a term or clause is written or printed in a manner that so differentiates it from any accompanying matter that an ordinary person against whom it is to operate could be fairly presumed to have been made fully aware of the term or clause.
[PL 1975, c. 770, §57 (NEW).]

2. Dealer. "Dealer" means and includes a natural person, firm, corporation, partnership and any other legal entity that is engaged in the business of selling, offering for sale or negotiating the sale of used motor vehicles, except auction businesses licensed by the Secretary of State and includes the officers, agents and employees thereof. "Dealer" also includes, but is not limited to, persons licensed to engage in the business of selling, offering for sale or negotiating the sale of used motor vehicles in states other than this State, finance companies and banks, except when the finance company or bank engages in the wholesale sale of a repossessed vehicle through an auction business licensed by the Secretary of State or to a vehicle dealer licensed by the Secretary of State, car rental companies and insurance companies that sell or transfer title to used motor vehicles within the State at licensed auction locations in this State or by any other means. "Dealer" does not include departments or agencies of the State when selling, offering for sale or negotiating the sale of used state-owned motor vehicles.
[PL 1989, c. 198, §1 (AMD); PL 1989, c. 684, §1 (AMD).]

2-A. Extended service warranty. "Extended service warranty" means a service contract, not a warranty as that term is used in Title 11, Article 2, that promises service in exchange for a fee and may also be referred to as "extended service contract."
[PL 2005, c. 476, §1 (NEW).]

2-B. Livery service. "Livery service" means a service that for a fee arranges, schedules or procures a vehicle for rent or hire or provides a ride for hire.
[PL 2015, c. 167, §1 (NEW).]

3. Mechanical defect. "Mechanical defect" means any defect, failure or malfunction of the mechanical system of a motor vehicle, including but not limited to the motor and transmission, electrical, hydraulic or suspension systems, and any defect, damage, failure or malfunction that affects the safety or normal use of a motor vehicle.
[PL 1975, c. 770, §57 (NEW).]

4. Motor vehicle. "Motor vehicle" means any self-propelled vehicle designed primarily to transport not more than 14 individuals, except motorcycles as defined in Title 29-A, section 101, subsection 38, and any vehicles operated exclusively on a rail or rails. This definition is intended to include motor trucks that have a gross vehicle weight of not more than 10,000 pounds.
[PL 1997, c. 393, Pt. A, §16 (AMD).]

5. Person. "Person" means and includes natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations and any other legal entities.
[PL 1975, c. 770, §57 (NEW).]

6. Purchaser. "Purchaser" means any person who has obtained ownership of a used motor vehicle from a dealer by transfer, gift or purchase.
[PL 1975, c. 770, §57 (NEW).]

6-A. Reconstructable motor vehicle. "Reconstructable motor vehicle" means a used motor vehicle that does not meet the inspection standards as set forth in Title 29-A, section 1751, and that is sold, offered for sale or negotiated for sale to a person other than another dealer for the purpose of transportation after repair or rebuilding.
[PL 1995, c. 65, Pt. A, §19 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

6-B. Seller. "Seller" means any person who sells a used motor vehicle to a dealer, including, but not limited to, individuals, other new or used motor vehicle dealers, motor vehicle manufacturers and insurance companies.
[PL 1993, c. 112, §1 (NEW).]

6-C. Rideshare. "Rideshare" means a program, activity or action in which a person uses that person's private vehicle to transport a person for a fee.
[PL 2015, c. 167, §1 (NEW).]

7. Used motor vehicle. "Used motor vehicle" means a motor vehicle that either has been once registered or is not covered by a manufacturer's new car warranty.
[PL 1975, c. 770, §57 (NEW).]

7-A. Vehicle history report. "Vehicle history report" means a written or electronic report, record or document that describes or provides information on the service history of a vehicle.
[PL 2015, c. 167, §1 (NEW).]

8. Warranty. Except as otherwise provided in this section, "warranty" has the same meaning in this chapter as in Title 11, Article 2, and includes any expression or affirmation of a dealer's willingness or ability to repair the vehicle, or make it conform to other affirmations or expressions of its qualities, communicated in any manner to a purchaser at or before the agreement to sell.
[PL 2005, c. 476, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 770, §57 (NEW). PL 1985, c. 429, §1 (AMD). PL 1985, c. 569, §1 (AMD). PL 1989, c. 198, §1 (AMD). PL 1989, c. 684, §1 (AMD). PL 1993, c. 112, §1 (AMD). PL 1995, c. 65, §§A18,19 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1997, c. 393, §A16 (AMD). PL 2005, c. 476, §§1,2 (AMD). PL 2015, c. 167, §1 (AMD).

§1472. Exclusions

Nothing in this chapter applies to motor vehicles sold, offered for sale or transferred for parts or scrap and not for transportation if that purpose is conspicuously written in the contract as follows: "This vehicle is sold for parts or scrap and not for transportation." Evidence outside the contract will be admissible to contradict such a contract provision. Nothing in this chapter applies to motor vehicles sold, offered for sale or transferred by a lessor to that vehicle's lessee or to an employee of the lessee, provided that any lessee who is otherwise a dealer, as defined in section 1471, subsection 2, is required to comply with the terms of this section in connection with any such sale or transfer to a person other than that lessee. [PL 1989, c. 61 (AMD).]

SECTION HISTORY

PL 1975, c. 770, §57 (NEW). PL 1985, c. 429, §2 (RPR). PL 1989, c. 61 (AMD).

§1473. Construction

The provisions of this chapter shall not be construed to limit or restrict in any way the rights or warranties provided to persons under any other Maine law, except that Title 11, section 2-316, subsection 5 shall not apply to transactions under this chapter. [PL 1975, c. 770, §57 (NEW).]

SECTION HISTORY

PL 1975, c. 770, §57 (NEW).

§1474. Warranty

1. Warranty content. A dealer warrants that the motor vehicle the dealer sells, negotiates the sale of, offers for sale or transfers to a person other than another dealer has been inspected in accordance with Title 29-A, section 1751, and with the rules promulgated under that section:

A. That the motor vehicle is in the condition and meets the standards required by that law and the rules; or [PL 1985, c. 429, §3 (NEW).]

B. If the motor vehicle is a reconstructable motor vehicle, that the motor vehicle is in the condition specified in the disclosure statement affixed to the vehicle as required by subsection 4. [PL 1985, c. 429, §3 (NEW).]

[PL 1995, c. 65, Pt. A, §20 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

2. Exclusion limitation, modification or waiver prohibited. The warranty referred to in subsection 1 herein, and any person's remedies for breach thereof, may not be excluded, limited, modified or waived by words or conduct of either the dealer or any other person.

[PL 1975, c. 770, §57 (NEW).]

3. Dealer to furnish certain written statements concerning warranty. No dealer may sell, offer for sale or transfer a used motor vehicle to a person unless he furnishes to such person a written statement containing the warranty required by subsection 1. Any other warranty, in addition to that required by subsection 1, that may be extended or agreed to by the dealer must be set forth in this written statement in accordance with further requirements of this section.

A. Every written statement shall contain, fully and conspicuously disclosed, the following information:

(1) The name and address of the dealer's place of business, where repairs, replacement of parts and other service under the warranty are to be performed or, if such repairs, replacement of parts and other service under the warranty are not to be performed at such place of business, the name, address and other identifying information of each facility within a radius of 50 miles of the dealer's place of business to which the vehicle may be brought for repairs, replacement of parts and other service under the warranty; and

(2) The following notice: "If a dealer fails to perform his obligation under the warranty, the purchaser shall give the dealer written notice of such failure before the purchaser initiates a civil action in accordance with section 1476." The notice must be sent by registered or certified mail to the dealer's last known business address. [PL 1981, c. 470, Pt. A, §29 (RPR).]

B. In addition, the written statement required by this subsection must contain, fully and conspicuously disclosed, the following information concerning any additional warranty not required by subsection 1:

(1) The date on which the additional warranty begins as well as the date on which or the number of days or mileage at which the warranty will terminate, either handwritten or printed on the statement by the dealer;

(2) The parts or systems of the vehicle that are warranted against mechanical defects, or the parts or systems of the vehicle excluded from the warranty; and

(3) A statement of what the dealer will do in the event of a mechanical defect and at whose expense. [PL 2013, c. 292, §1 (AMD); PL 2013, c. 292, §2 (AFF).]

[PL 2013, c. 292, §1 (AMD); PL 2013, c. 292, §2 (AFF).]

4. Disclosure of information for the sale of reconstructable motor vehicles. Disclosure of information for the sale of reconstructable motor vehicles shall be as follows.

A. No dealer may sell, negotiate the sale of, offer for sale or transfer any reconstructable motor vehicle to a person other than another dealer unless he affixes to the vehicle a conspicuous written statement that must:

(1) Appear under the following conspicuous caption:

UNSAFE MOTOR VEHICLE

THIS CAR DOES NOT MEET MAINE'S INSPECTION LAWS AND IS UNSAFE TO DRIVE ON THE ROAD. THIS CAR WILL NEED TO BE REBUILT OR REPAIRED IN ORDER TO MEET MAINE'S INSPECTION LAWS AND BE SAFELY DRIVEN ON THE ROAD;

(2) Contain a statement of the components of the motor vehicle which must be inspected pursuant to Maine's inspection laws and the specific components on this vehicle which do not meet those laws;

(3) Contain the following information in the form of an inspection report:

(a) The make, model, model year and vehicle identification number of the reconstructable motor vehicle;

(b) The signature and inspection license number of the inspection mechanic licensed by the State of Maine who performed the inspection; and

(c) The date the inspection was performed; and

(4) A statement that this vehicle must be towed from these premises. [PL 1985, c. 429, §4 (NEW).]

B. The dealer shall present to the buyer of a reconstructable motor vehicle a copy of the disclosure statement required under paragraph A and obtain the buyer's signature and date on this disclosure prior to the sale or transfer of the reconstructable motor vehicle to the buyer. The dealer shall furnish the buyer with a copy of the signed and dated disclosure immediately after the buyer signs the disclosure. The dealer shall retain a copy of the signed and dated disclosure for a period of 3 years from the date of sale or transfer. [PL 1985, c. 429, §4 (NEW).]

C. The inspection report shall be dated no more than 60 days prior to the date of sale, negotiation for sale, offer for sale or transfer of the reconstructable motor vehicle. [PL 1985, c. 429, §4 (NEW).]

D. Evidence outside the contract and written disclosure will be admissible to contradict any written provisions in the contract or disclosure. [PL 1985, c. 429, §4 (NEW).]

E. The disclosure sticker affixed to the reconstructable motor vehicle may not be removed by the dealer. [PL 1985, c. 429, §4 (NEW).]

F. The Bureau of Motor Vehicles may adopt rules related to this section, including, but not limited to, rules establishing uniform disclosure forms and stickers. [PL 1991, c. 837, Pt. A, §24 (AMD).]

G. In addition to the penalties described in section 1477, any violation of subsection 1, paragraph B, and this subsection shall be a Class E crime. [PL 1985, c. 429, §4 (NEW).]

[PL 1991, c. 837, Pt. A, §24 (AMD).]

SECTION HISTORY

PL 1975, c. 770, §57 (NEW). PL 1977, c. 224 (AMD). PL 1977, c. 564, §50 (AMD). PL 1977, c. 696, §116 (AMD). PL 1981, c. 470, Pt. A, §29 (AMD). PL 1985, c. 429, §§3, 4 (AMD). PL 1991, c. 837, Pt. A, §24 (AMD). PL 1995, c. 65, §A20 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 2013, c. 292, §1 (AMD). PL 2013, c. 292, §2 (AFF).

§1475. Disclosure of information

1. Written disclosure statement. No dealer may sell, negotiate the sale of, offer for sale or transfer any used motor vehicle, including any used motor vehicle transferred to another dealer, unless the dealer affixes to the vehicle a conspicuous written statement containing the information required by subsection 2-A.

[PL 1991, c. 824, Pt. A, §16 (AMD).]

2. Required contents of disclosure statement.
[PL 1989, c. 878, Pt. F, §2 (RP).]

2-A. Required contents of disclosure statement. The statement required by subsection 1 must contain a complete description of the motor vehicle to be sold, including, but not limited to:

A. The make, model, model year and any identification or serial numbers of the motor vehicle; [PL 1989, c. 878, Pt. F, §3 (NEW).]

B. The dealer's duty to disclose promptly the name and address of the previous owner of the motor vehicle, or dealer, upon the request of any person, the principal use to which the motor vehicle was put by that owner, such as personal transportation, police car, daily rental car, taxi, rideshare, livery service or other descriptive term, and the type of sale or other means by which the person acquired the motor vehicle, such as trade-in, sheriff's sale, repossession, auction or other descriptive term, to the extent that such information is reasonably available to the person; [PL 2015, c. 167, §2 (AMD).]

C. A statement identifying any and all mechanical defects known to the dealer at the time of sale; [PL 1989, c. 878, Pt. F, §3 (NEW).]

D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if that information is known to the dealer; [PL 1989, c. 878, Pt. F, §3 (NEW).]

E. A statement, if applicable, that implied warranties with respect to the vehicle are excluded or modified. Nothing in this paragraph may be construed to affect the requirements of Title 11, section 2-316; [PL 1989, c. 878, Pt. F, §3 (NEW).]

F. A statement, if applicable, disclosing that the vehicle was returned to the manufacturer, its agent or authorized dealer, for its nonconformity with express warranties. The statement must identify the nature of the nonconformities; [PL 1995, c. 269, §2 (AMD).]

G. If the vehicle is repossessed, a statement identifying this fact; [PL 2015, c. 167, §3 (AMD).]

H. The dealer's duty to disclose conspicuously in writing the dealer's policy in relation to the return of deposits received from any person. A dealer shall require that a person making a deposit sign the form on which the disclosure appears ; and [PL 2015, c. 167, §4 (AMD).]

I. A dealer that provides to a consumer a vehicle history report prepared by a person other than the dealer has no liability for inaccuracies in the vehicle history report if the dealer makes the following disclosure: "[Name of dealer] is pleased to provide you a courtesy copy of a service history report for the vehicle you are considering purchasing. [Name of dealer] makes no representation as to the accuracy of this service history report." [PL 2015, c. 167, §5 (NEW).]

The Bureau of Motor Vehicles may adopt rules related to this section, including, but not limited to, rules establishing uniform disclosure forms and stickers. The Bureau of Motor Vehicles may include in any rule establishing uniform disclosure forms and stickers any information that the Federal Trade Commission requires to be disclosed on a sticker pursuant to the Motor Vehicle Trade Regulation Rule, 16 Code of Federal Regulations, Part 455, except that the Bureau of Motor Vehicles may not include in any uniform disclosure form or sticker information from the Federal Trade Commission rule that conflicts in any manner with the information required by this section.

Any dealer who offers for sale to the consuming public a repossessed vehicle that has been obtained by the dealer through any transaction other than a retail sale and who meets the warranty and disclosure requirements of section 1474 and subsection 1 and this subsection has no other liability under this chapter, except for any additional warranties negotiated between the dealer and the consumer.

The dealer must require the buyer to sign and date the disclosure statement, provide the buyer with a copy of the signed and dated statement and maintain a copy of the signed and dated statement for 3 years following the sale of the vehicle.
[PL 2015, c. 167, §§2-5 (AMD).]

3. Written statement. A dealer shall obtain from the seller of a used motor vehicle a written statement containing the following information:

A. The make, model, model year and any identification or serial numbers of the motor vehicle; [PL 1995, c. 625, Pt. A, §16 (RPR).]

B. The name and address of the seller, the principal use to which the motor vehicle was put by the seller, such as personal transportation, police car, daily rental car, taxi, rideshare, livery service or other descriptive term; [PL 2015, c. 167, §6 (AMD).]

C. A statement identifying any and all mechanical defects known to the seller at the time of sale; and [PL 1995, c. 625, Pt. A, §16 (RPR).]

D. A statement identifying the type of damage, if any, that the vehicle has sustained, such as fire, water or substantial collision damage, if such information is known to the seller. [PL 1995, c. 625, Pt. A, §16 (RPR).]

Any dealer who offers for sale to consumers a repossessed vehicle that has been obtained by the dealer through any transaction other than a retail sale is not subject to the provisions of this subsection.

A dealer is not subject to the provisions of this subsection if that dealer offers for sale to consumers a used motor vehicle that has been obtained by the dealer through an auction located outside the State at which buyers are limited to licensed dealers and the seller of the used motor vehicle is neither a resident of this State nor a dealer licensed in this State, if the dealer clearly discloses on the written disclosure statement required by subsections 1 and 2-A that the vehicle was acquired at an out-of-state auction and that historical information regarding mechanical defects and substantial damage is not available.

The seller of the used motor vehicle shall sign and date this written statement and the dealer who buys the vehicle shall maintain a record of it for 2 years following the sale of the motor vehicle.

As used in subsection 2-A and this subsection, "substantial collision damage" means any damage to a motor vehicle from a collision when the costs of repair of that damage, at the time of repair, including replacement of mechanical and body parts, exceed $3,000.
[PL 2015, c. 167, §6 (AMD).]

4. Lemon law buybacks. If a vehicle has been the subject of a complaint pursuant to chapter 203-A or any state's new motor vehicle lemon law that protects consumers from motor vehicles that do not conform to all manufacturer express warranties and that complaint was either filed in court or accepted for state-certified arbitration and the manufacturer subsequently purchased back the vehicle, either as the result of a court or arbitration order or voluntary settlement:

A. The dealer must disclose this fact, if known, when disclosing any defects pursuant to subsection 2-A; and [PL 1993, c. 112, §3 (NEW).]

B. The manufacturer must disclose this fact when selling the vehicle to a dealer and completing the statement required by subsection 3. [PL 1993, c. 112, §3 (NEW).]
[PL 1993, c. 112, §3 (NEW).]

5. Extended service warranty arbitration location. An extended service warranty that was sold in this State for a motor vehicle registered in this State that includes a clause indicating that arbitration is required must require the location of the arbitration to be in this State.
[PL 2005, c. 476, §3 (NEW).]

SECTION HISTORY

PL 1975, c. 770, §57 (NEW). PL 1981, c. 296, §§1-4 (AMD). PL 1983, c. 311, §§1-3 (AMD). PL 1985, c. 265, §§1-3 (AMD). PL 1985, c. 429, §5 (AMD). PL 1987, c. 136 (AMD). PL 1987, c. 593 (AMD). PL 1989, c. 198, §2 (AMD). PL 1989, c. 684, §§2-5 (AMD). PL 1989, c. 878, §§F2,3 (AMD). PL 1991, c. 62, §§1,2 (AMD). PL 1991, c. 824, §A16 (AMD). PL 1991, c. 837, §A25 (AMD). PL 1993, c. 112, §§2,3 (AMD). PL 1995, c. 65, §A21 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 188, §§1,2 (AMD). PL 1995, c. 269, §§2,3 (AMD). PL 1995, c. 625, §A16 (AMD). PL 1999, c. 617, §1 (AMD). PL 2003, c. 240, §1 (AMD). PL 2005, c. 476, §3 (AMD). PL 2015, c. 167, §§2-6 (AMD).

§1476. Performance under warranty

1. Failure to perform warranty obligations prohibited. No dealer shall fail to perform his obligation under a warranty made in accordance with this chapter. It shall not constitute a failure to perform such obligations if a dealer refuses to act in accordance with the provisions of that warranty with respect to any mechanical defect that resulted from unreasonable use or maltreatment of that motor vehicle by the purchaser.
[PL 1975, c. 770, §57 (NEW).]

2. Conditions deemed failure to perform warranty. A dealer shall be considered to have failed to perform his obligations under warranty made in accordance with this chapter if:

A. He fails to perform repair or replacement of parts required under the warranty within:

(1) Five calendar days, excluding Saturday, Sunday and legal holidays, after the date on which the purchaser delivers the motor vehicle to him for such repair or replacement; or

(2) Thirty-five calendar days after the date on which the purchaser delivers the motor vehicle to him if necessary parts are not available to the dealer during the period set forth in subparagraph (1); or

(3) A reasonable period after the period set forth in subparagraph (2) if necessary parts are not available to the dealer because of a strike, natural disaster or other disaster affecting the manufacture, distribution or shipment of parts; or [PL 1975, c. 770, §57 (NEW).]

B. He fails to provide the purchaser with the use of an operating motor vehicle at no cost, except gasoline and oil, beginning at the conclusion of the time stated in paragraph A, subparagraphs (1) and (2), and continuing until repairs have been completed; or [PL 1975, c. 770, §57 (NEW).]

C. He transfers ownership of a used motor vehicle which does not conform to the warranty imposed by section 1474, subsection 1; or [PL 1977, c. 78, §34 (AMD).]

D. He fails in any other material respect to perform an obligation arising out of the warranty within a reasonable time. [PL 1975, c. 770, §57 (NEW).]
[PL 1977, c. 78, §34 (AMD).]

3. Purchaser's rights upon failure of dealer to perform warranty obligations. If the dealer fails to perform his obligations under the warranty, the purchaser, in addition to any other rights he or she may have, shall have the right to:

A. Rescind the contract of sale and recover the full consideration paid for the motor vehicle, including the fair market value of any property forming part of that consideration, reduced only by:

(1) The amount of damage caused to the motor vehicle by the purchaser, other than damage resulting primarily from a mechanical defect repairable under the warranty; and

(2) With respect to vehicles that have been in possession of the purchaser for more than 30 days, diminution, if any in the retail fair market value of the motor vehicle attributable to the period during which the consumer has had possession of said motor vehicle in useable condition. Fair market value for the purposes of this subparagraph shall be measured by the

average retail price listed in an authorized used car guide, such as the National Automobile Dealer's Association Official Used Car Guide New England Edition, issued next before the sale and next before the rescission. [PL 1975, c. 770, §57 (NEW).]

B. Recover damages in an amount equal to the differences between the fair market value of the motor vehicle in its actual condition at the time the dealer fails to perform his obligations under the warranty and the fair market value of the motor vehicle had it been as warranted. Such damages may be deducted from any balance due on the contract or recovered by the purchaser in a civil action.

Before initiating a civil action pursuant to this paragraph, the purchaser must give the dealer written notice that the dealer has failed to perform his obligations under the warranty. The written notice shall be given to the dealer by registered or certified mail addressed to his usual place of business or to his last known business address. [PL 1975, c. 770, §57 (NEW).]

[PL 1975, c. 770, §57 (NEW).]

4. Attorney's fees. If the court finds, in any action commenced under this section, that the dealer failed to perform his obligations under the warranty, the petitioner shall, in addition to other relief provided for by this section and irrespective of the amount in controversy, be awarded reasonable attorney's fees and costs incurred in connection with said action.

[PL 1975, c. 770, §57 (NEW).]

SECTION HISTORY

PL 1975, c. 770, §57 (NEW). PL 1977, c. 78, §34 (AMD).

§1477. Violations

1. Violations of this chapter to be violations of the Unfair Trade Practices Act. Any violation of this chapter shall constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act.

[PL 1975, c. 770, §57 (NEW).]

2. Civil penalty. Each violation of this chapter constitutes a civil violation and shall be punished by a forfeiture of not less than $100 nor more than $1,000. No action may be brought for a civil violation under this subsection more than 2 years after the date of the occurrence of the violation. No dealer may be held liable for a civil violation under this subsection if that dealer shows by a preponderance of the evidence that the violation was unintentional and a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error. The failure of a dealer or a seller of a used motor vehicle to disclose all information concerning a vehicle which is sold to another dealer as required by section 1475, when the information is known to the dealer or seller at the time of the sale or transfer of the vehicle, shall also be considered a violation of this chapter and shall constitute a civil violation that is subject to the civil penalties provided for in this subsection.

[PL 1989, c. 198, §3 (AMD).]

3. Private remedies. In addition to any other remedy, if a dealer violates this chapter, that dealer is liable to the purchaser in an amount determined by the court of not less than $100 nor more than $1,000 as liquidated damages, and for costs and reasonable attorney's fees. No action may be brought under this subsection more than 2 years after the date of the occurrence of the violation. No dealer may be held liable under this subsection if that dealer shows by a preponderance of the evidence that the violation was unintentional and a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

In addition to any other remedy, if a seller of a used motor vehicle who sells the vehicle to a dealer fails to disclose facts concerning that vehicle which are required to be disclosed by the provisions of section 1475, which facts were known by the seller at the time the disclosure was made, the seller is liable to the purchasing dealer in an amount determined by the court of not less than $100 nor more than $1,000

as liquidated damages, and for costs and reasonable attorney's fees. No action may be brought under this subsection more than 30 months after the date of the occurrence of the violation.
[PL 1993, c. 112, §4 (AMD).]

SECTION HISTORY

PL 1975, c. 770, §57 (NEW). PL 1981, c. 296, §5 (AMD). PL 1983, c. 311, §§4,5 (AMD). PL 1989, c. 198, §§3,4 (AMD). PL 1993, c. 112, §4 (AMD).

§1478. Motor vehicles and equipment sold at state auction

1. Exemption of State from liability. Whenever motor vehicles and equipment of a state agency as defined in Title 5, section 8002, subsection 2 are sold at a state auction, the State or any state employee shall not be liable for any personal injury or death or any property damage sustained as a result of the use of that vehicle following the sale of that vehicle at auction. At any auction held pursuant to this section, a statement shall be made at the beginning of the auction that the State is not liable for any damage, injury or death resulting from the use of the vehicle or equipment following the sale at auction.

A. For the purposes of this section, "state agency" includes the Maine community colleges. [PL 1989, c. 443, §20 (AMD); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

[PL 1989, c. 443, §20 (AMD); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

2. State agencies to maintain documents for each vehicle. Each state agency shall maintain records for each vehicle in the possession of and assigned for primary use by the agency. The records must contain the information defined in section 1475, subsection 2, paragraphs B, C, D and F. Each state agency shall use the disclosure forms as provided by the Bureau of Motor Vehicles pursuant to section 1475, subsection 2, paragraph G.

A. In the event that a uniform disclosure form prepared by the Bureau of Motor Vehicles is not available for state agency use, each agency shall devise a form until a uniform form becomes available. [PL 1991, c. 837, Pt. A, §26 (AMD).]

B. This subsection applies to motor vehicles purchased on or after July 1, 1986. [PL 1985, c. 569, §2 (NEW).]

[PL 1991, c. 837, Pt. A, §26 (AMD).]

3. Transfer of vehicles among agencies. Whenever a motor vehicle or an article of equipment, subject to the provisions of this section, is transferred from one state agency to another state agency, the disclosure form for the transferred motor vehicle or equipment shall be transferred with the motor vehicle or article of equipment.
[PL 1985, c. 569, §2 (NEW).]

4. Disclosure at auction. At the time that a motor vehicle or article of equipment is provided to the auction for sale, the disclosure form must be attached to that vehicle or equipment in a place visible to the general public. The disclosure form must also indicate the last known date on which the vehicle passed inspection pursuant to Title 29-A, chapter 15.

A. In the event that a motor vehicle submitted by a state agency to the state auction does not possess a valid inspection certificate that has been issued within 180 days previous to the auction, the motor vehicle is subject to inspection pursuant to Title 29-A, chapter 15. If the motor vehicle passes inspection, a current and valid inspection certificate must be affixed to the vehicle. [PL 1995, c. 65, Pt. A, §22 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

B. In the event that a motor vehicle subjected to a vehicle inspection pursuant to this subsection does not pass the inspection, the provision of section 1474, subsection 4 applies to the motor vehicle. [PL 1985, c. 569, §2 (NEW).]

[PL 1995, c. 65, Pt. A, §22 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

5. Temporary certification. Any motor vehicle for which there is no current and valid certificate of motor vehicle inspection at the time of sale at a state auction and which does not pose a serious threat to the general public, as determined by the Bureau of Purchases from the form required in subsection 2 and from an inspection of the vehicle, may be provided a temporary certificate authorizing the operation of the motor vehicle from the auction site to a point designated by the purchaser.

[PL 1985, c. 569, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 569, §2 (NEW). PL 1989, c. 443, §20 (AMD). PL 1991, c. 837, §A26 (AMD). PL 1995, c. 65, §A22 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF).

CHAPTER 217-A

MOLD ASSESSMENT AND REMEDIATION SERVICES

§1480. Disclosure statement required

A person may not provide both mold assessment and remediation services on a building project unless the person has provided to the owner of the building or the owner's agent a signed disclosure statement regarding the potential for conflict of interest in providing both mold assessment and remediation services. For purposes of this section, "person" means an individual, a partnership, a corporation or any other legal entity. [PL 2007, c. 355, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 355, §1 (NEW).

CHAPTER 219

INSULATION CONTRACTORS

§1481. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [PL 1977, c. 660 (NEW).]

1. Insulation. "Insulation" means any material, including, but not limited to, mineral wool, cellulose fibre, vermeculite and perlite, and foams to reduce heat flow between the interior and exterior surfaces of a building.

[PL 1981, c. 470, Pt. B, §1 (AMD).]

2. Person. "Person" means an individual, a copartnership, corporation or any other legal entity.

[PL 1977, c. 660 (NEW).]

3. Residence or residential. "Residence" or "residential" shall mean any existing dwelling structure with 3 or less living units whether leased or owner occupied. Except as provided in this subsection, buildings used for commercial or business purposes shall not be subject to the provisions of this chapter.

[PL 1977, c. 660 (NEW).]

4. Resistance factor. "Resistance factor" shall have the same meaning as "thermal resistance," as defined in the ASHRAE Handbook of Fundamentals.
[PL 1977, c. 660 (NEW).]

SECTION HISTORY

PL 1977, c. 660 (NEW). PL 1981, c. 470, §B1 (AMD).

§1482. Residential insulation contract

No person shall install insulation in any existing residence for compensation without providing the owner or lessee in advance with a written contract which shall include, but not be limited to, the following provisions which shall be clearly and conspicuously disclosed in the contract: [PL 1977, c. 660 (NEW).]

1. Resistance factor. The resistance factor of the insulation per inch and the thickness in inches to be installed;
[PL 1977, c. 660 (NEW).]

2. Type of insulation. The type of insulation to be installed;
[PL 1977, c. 660 (NEW).]

3. Area covered. An estimate of the square footage of area to be covered;
[PL 1977, c. 660 (NEW).]

4. Degree of flammability. The degree of flammability of the insulation;
[PL 1979, c. 154 (RPR).]

5. Method of installation. The method of installation to be used;
[PL 1977, c. 660 (NEW).]

6. Type of ventilation. The type of ventilation to be installed. If no ventilation is to be installed, the contract shall so state;
[PL 1977, c. 660 (NEW).]

7. Guarantee against settling. Whether the installed insulation is guaranteed against settling and, if so, for how long and to what degree; if not, the contract shall so state;
[PL 1977, c. 660 (NEW).]

8. Type of vapor barrier. The type of vapor barrier to be installed. If no vapor barrier is to be installed, the contract shall so state;
[PL 1977, c. 660 (NEW).]

9. Areas to be insulated. The areas of the dwelling to be insulated;
[PL 1977, c. 660 (NEW).]

10. Changes required. Any construction, reconstruction or structural changes required to install the insulation;
[PL 1977, c. 660 (NEW).]

11. Work following insulation. Any restoration, finishing or cleanup work to be performed following the installation of insulation;
[PL 1977, c. 660 (NEW).]

12. Provisions of warranties. The provisions of all warranties;
[PL 1983, c. 681, §1 (AMD).]

13. Names. The name, business address and owner of the firm providing the goods and services provided herein; and
[PL 1983, c. 681, §1 (AMD).]

14. Use of urea formaldehyde insulation. If urea formaldehyde insulation is to be installed, the following information:

A. A warning that urea formaldehyde may cause the occupants to experience harmful side effects, including respiratory problems, dizziness, nausea, eye and throat irritations and cancer; [PL 1983, c. 681, §2 (NEW).]

B. Disclosure that allergic symptoms may develop anywhere from a few days to more than 6 months after installation; and [PL 1983, c. 681, §2 (NEW).]

C. Disclosure whether the contractor will take corrective action if an allergic reaction develops. [PL 1983, c. 681, §2 (NEW).]

[PL 1983, c. 681, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 660 (NEW). PL 1979, c. 154 (AMD). PL 1983, c. 681, §§1,2 (AMD).

§1483. Civil forfeiture; Unfair Trade Practices Act violation

Any person who fails to provide the owner or tenant with an insulation contract, containing at least the minimum information required by section 1482, prior to this installation of insulation into an existing residence shall be deemed to have committed a civil violation for which a forfeiture of not less than $200 for the first offense and not less than $500 for each subsequent offense shall be adjudged. In addition to the civil penalty provided in this section, any violation of this chapter shall constitute a violation of the Unfair Trade Practices Act in Title 5, chapter 10. [PL 1977, c. 660 (NEW).]

SECTION HISTORY

PL 1977, c. 660 (NEW).

§1484. Exemption

This chapter shall not apply to any person who provides to the owner or the lessee of a residence the labor or material for installing insulation in that residence if that person is not primarily engaged in the business of installing insulation and if that person does not advertise, solicit or hold himself out as one who installs insulation. For the purposes of this section, the term "not primarily engaged in the business of installing insulation" means having gross receipts for the installation of insulation which do not exceed either $2,500 for all labor or $4,500 for all materials in any one calendar year. [PL 1977, c. 660 (NEW).]

SECTION HISTORY

PL 1977, c. 660 (NEW).

§1485. Development of insulation fact sheet

(REPEALED)

SECTION HISTORY

PL 1979, c. 212 (NEW). PL 1989, c. 501, §§DD26-28 (AMD). PL 2003, c. 644, §5 (RP).

CHAPTER 219-A

HOME CONSTRUCTION CONTRACTS

§1486. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 574 (NEW).]

1. Change orders. "Change orders" means a written amendment to the home construction contract which becomes part of and is in conformance with the existing contract.
[PL 1989, c. 502, Pt. A, §30 (AMD).]

2. Down payment. "Down payment" means all payments to a home construction contractor prior to or contemporaneous with the execution of the home construction contract.
[PL 1987, c. 574 (NEW).]

3. Materials. "Materials" means all supplies which are used to construct, alter or repair a residence.
[PL 1987, c. 574 (NEW).]

4. Home construction contract. "Home construction contract" means a contract to build, remodel or repair a residence, including not only structural work but also electrical, plumbing and heating work; carpeting; window replacements; and other nonstructural work.
[PL 1989, c. 248, §1 (AMD).]

5. Residence. "Residence" means a dwelling with 3 or fewer living units and garages, if any. Buildings used for commercial or business purposes are not subject to this chapter.
[PL 1989, c. 248, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 574 (NEW). PL 1989, c. 248, §1 (AMD). PL 1989, c. 502, §A30 (AMD).

§1487. Home construction contracts

Any home construction contract for more than $3,000 in materials or labor must be in writing and must be signed by both the home construction contractor and the homeowner or lessee. Both the contractor and the homeowner or lessee must receive a copy of the executed contract prior to any work performance. This basic contract must contain the entire agreement between the homeowner or lessee and the home construction contractor and must contain at least the following parts: [PL 2003, c. 85, §1 (AMD).]

1. Names of parties. The name, address and phone number of both the home construction contractor and the homeowner or lessee;
[PL 1987, c. 574 (NEW).]

2. Location. The location of the property upon which the construction work is to be done;
[PL 1987, c. 574 (NEW).]

3. Work dates. Both the estimated date of commencement of work and the estimated date when the work will be substantially completed. The estimated date of commencement of work and the completion date may be changed if work can not begin or end due to circumstances beyond the control of the contractor, including, but not limited to, the lack of readiness of the job site or the unavailability of building materials;
[PL 2003, c. 85, §2 (AMD).]

4. Contract price. The total contract price, including all costs to be incurred in the proper performance of the work, or, if the work is priced according to a "cost-plus" formula, the agreed-upon price and an estimate of the cost of labor and materials;
[PL 1987, c. 574 (NEW).]

5. Payment. The method of payment, with the initial down payment being limited to no more than 1/3 of the total contract price;
[PL 1987, c. 574 (NEW).]

6. Description of the work. A general description of the work and materials to be used;
[PL 1987, c. 574 (NEW).]

7. Warranty. A warranty statement which reads:

"In addition to any additional warranties agreed to by the parties, the contractor warrants that the work will be free from faulty materials; constructed according to the standards of the building code applicable for this location; constructed in a skillful manner and fit for habitation or appropriate use. The warranty rights and remedies set forth in the Maine Uniform Commercial Code apply to this contract";

[PL 1989, c. 248, §2 (AMD).]

8. Resolution of disputes. A statement allowing the parties the option to adopt one of 3 methods of resolving contract disputes in addition to the option of a small claims action. At a minimum, this statement must provide the following information:

"If a dispute arises concerning the provisions of this contract or the performance by the parties that may not be resolved through a small claims action, then the parties agree to settle this dispute by jointly paying for one of the following (check only one):

(1) Binding arbitration under the Maine Uniform Arbitration Act, in which the parties agree to accept as final the arbitrator's decision ( );

(2) Nonbinding arbitration, with the parties free to reject the arbitrator's decision and to seek a solution through other means, including a lawsuit ( ); or

(3) Mediation, in which the parties negotiate through a neutral mediator in an effort to resolve their differences in advance of filing a lawsuit ( )";

[PL 2009, c. 173, §1 (AMD).]

9. Change orders. A change order statement which reads:

"Any alteration or deviation from the above contractual specifications that results in a revision of the contract price will be executed only upon the parties entering into a written change order";

[PL 1989, c. 248, §2 (AMD).]

10. Door-to-door sales. If the contract is being used for sales regulated by the consumer solicitation sales law, Title 32, chapter 69, subchapter V or the home solicitation sales law, Title 9-A, Part 5, a description of the consumer's rights to avoid the contract, as set forth in these laws;
[PL 1989, c. 193, §1 (AMD).]

11. Residential insulation. If the construction includes installation of insulation in an existing residence, any disclosures required by chapter 219, Insulation Contractors;
[PL 2005, c. 619, §1 (AMD); PL 2005, c. 619, §6 (AFF).]

12. Energy standards. A statement by the contractor that chapter 214 establishes minimum energy efficiency building standards for new residential construction, and whether the new building or an addition to an existing building will meet or exceed those standards;
[PL 2005, c. 619, §2 (AMD); PL 2005, c. 619, §6 (AFF).]

13. Consumer protection information. As an addendum to the contract, a copy of the Attorney General's consumer protection information on home construction and repair, which includes information on contractors successfully sued by the State, as provided on the Attorney General's publicly accessible website; and
[PL 2005, c. 619, §3 (NEW); PL 2005, c. 619, §6 (AFF).]

14. Attorney General's publicly accessible website. A clear and conspicuous notice that states that consumers are strongly advised to visit the Attorney General's publicly accessible website to gather current information on how to enforce their rights when constructing or repairing their homes, as well as the Attorney General's publicly accessible website address and telephone number.

[PL 2005, c. 619, §4 (NEW); PL 2005, c. 619, §6 (AFF).]

SECTION HISTORY

PL 1987, c. 574 (NEW). PL 1989, c. 193, §§1,2 (AMD). PL 1989, c. 248, §2 (AMD). PL 2003, c. 85, §§1,2 (AMD). PL 2005, c. 619, §§1-4 (AMD). PL 2005, c. 619, §6 (AFF). PL 2009, c. 173, §1 (AMD).

§1488. Change orders

Each change order to a home construction contract must be in writing and becomes a part of and is in conformance with the existing contract. All work shall be performed under the same terms and conditions as specified in the original contract unless otherwise stipulated. The change order must detail all changes to the original contract that result in a revision of the contract price. The previous contract price must be stated and the revised price shall also be stated. Both parties must sign the change order. [PL 1987, c. 574 (NEW).]

SECTION HISTORY

PL 1987, c. 574 (NEW).

§1489. Exemption

Parties to a home construction contract may exempt themselves from the requirements of this chapter only if the contractor specifically informs the homeowner or lessee of his rights under this chapter and the parties then mutually agree to a contract or change order that does not contain the parts set forth in sections 1487 and 1488. [PL 1987, c. 574 (NEW).]

SECTION HISTORY

PL 1987, c. 574 (NEW).

§1490. Penalties

1. Violation. Any violation of this chapter shall constitute prima facie evidence of a violation of the Unfair Trade Practices Act, Title 5, chapter 10.
[PL 1987, c. 574 (NEW).]

2. Civil penalty. Each violation of this chapter constitutes a civil violation for which a forfeiture of not less than $100 nor more than $1,000 may be adjudged. No action may be brought for a civil violation under this subsection more than 2 years after the date of the occurrence of the violation. No home construction contractor may be held liable for a civil violation under this subsection if the contractor shows by a preponderance of the evidence that the violation was unintentional and a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.
[PL 1987, c. 574 (NEW).]

SECTION HISTORY

PL 1987, c. 574 (NEW).

CHAPTER 221

WARRANTIES FOR SALE AND INSTALLATION OF SOLAR ENERGY EQUIPMENT

§1491. Legislative findings and purpose

The Legislature finds that a major detriment to the commercialization of solar energy in Maine is lack of consumer confidence in the performance and reliability of solar energy equipment. It is the purpose of this chapter, therefore, to establish a minimum warranty for the sale and installation of all solar energy equipment in Maine. [PL 1979, c. 299 (NEW).]

SECTION HISTORY

PL 1979, c. 299 (NEW).

§1492. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings. [PL 1979, c. 299 (NEW).]

1. Solar energy equipment. "Solar energy equipment" means all controls, tanks, pumps, heat exchangers, collectors and all other equipment necessary for the collection, transfer and storage of solar energy, as determined by the Governor's Energy Office. Passive solar energy systems or those systems using natural means to collect, store and transfer solar energy may not be included under this chapter. [PL 2011, c. 655, Pt. MM, §9 (AMD); PL 2011, c. 655, Pt. MM, §26 (AFF).]

SECTION HISTORY

PL 1979, c. 299 (NEW). PL 1989, c. 501, §DD29 (AMD). PL 2011, c. 655, Pt. MM, §9 (AMD). PL 2011, c. 655, Pt. MM, §26 (AFF).

§1493. Express warranty

(REPEALED)

SECTION HISTORY

PL 1979, c. 299 (NEW). PL 1989, c. 501, §DD30 (AMD). PL 2003, c. 644, §6 (RP).

§1494. Civil forfeiture; Unfair Trade Practices Act violation

Any person who fails to provide the purchaser of solar energy equipment, as defined in this chapter, with a minimum warranty, as established by law, shall be deemed to have committed a civil violation for which a forfeiture of not less than $200 nor more than $500 for the first offense and not less than $500 nor more than $1,000 for each subsequent offense shall be adjudged. In addition to the civil penalty provided in this section, any violation of this chapter shall constitute a violation of Title 5, chapter 10. [PL 1979, c. 299 (NEW).]

SECTION HISTORY

PL 1979, c. 299 (NEW).

CHAPTER 222

PAYROLL PROCESSORS

§1495. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 495, §1 (NEW).]

1. Employer. "Employer" means a person that maintains an office or otherwise transacts business in this State and makes payment of wages taxable under Title 36, Part 8 to a resident or nonresident individual.
[PL 1997, c. 495, §1 (NEW).]

1-A. Administrator. "Administrator" means, except in cases in which the payroll processor is a supervised financial organization or a wholly owned subsidiary of a supervised financial organization, the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation. In cases in which the payroll processor is a supervised financial organization or a wholly owned subsidiary of a supervised financial organization, "administrator" means the Superintendent of

Financial Institutions within the Department of Professional and Financial Regulation. For the purposes of this subsection, "supervised financial organization" has the same meaning as in Title 9-A, section 1-301, subsection 38-A.
[PL 2005, c. 500, §2 (AMD); PL 2007, c. 273, Pt. B, §6 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

1-B. Full-service payroll processor license. "Full-service payroll processor license" means a license permitting a payroll processor to prepare and issue payroll checks, prepare and file state or federal income withholding tax reports and unemployment insurance compensation reports and collect, hold and turn over to the State Tax Assessor or to federal tax authorities income withholding taxes or unemployment insurance contributions.
[PL 2011, c. 308, §1 (NEW).]

1-C. Issue payroll checks. To "issue payroll checks" means to provide redeemable payroll payment instruments and includes functions performed by a payroll processor that holds a signature stamp, electronic signature or presigned check stock from the employer, but does not include functions performed by a payroll processor that provides unsigned checks to the employer for distribution by the employer.
[PL 2011, c. 308, §1 (NEW).]

1-D. Limited payroll processor license. "Limited payroll processor license" means a license that permits a payroll processor to prepare and issue payroll checks and prepare and file state or federal income withholding tax reports and unemployment insurance compensation reports, but does not permit the licensee to collect, hold or turn over to the State Tax Assessor or to federal tax authorities income withholding taxes or unemployment insurance contributions.
[PL 2011, c. 308, §1 (NEW).]

2. Payroll processing services. "Payroll processing services" means preparing and issuing payroll checks; preparing and filing state or federal income withholding tax reports or unemployment insurance contribution reports; or collecting, holding and turning over to the State Tax Assessor or to federal tax authorities income withholding taxes pursuant to Title 36, chapter 827 or federal law or unemployment insurance contributions pursuant to Title 26, chapter 13, subchapter 7 or federal law.
[PL 2011, c. 308, §2 (AMD).]

3. Payroll processor. "Payroll processor" means a person that provides payroll processing service for one or more employers.
[PL 1997, c. 495, §1 (NEW).]

4. Restricted payroll processor license. "Restricted payroll processor license" means a license that permits a payroll processor to prepare and file state or federal income withholding tax reports and unemployment insurance compensation reports, but does not permit the licensee to collect, hold or turn over to the State Tax Assessor or to federal tax authorities income withholding taxes or unemployment insurance contributions or to issue payroll checks.
[PL 2011, c. 308, §3 (NEW).]

SECTION HISTORY

PL 1997, c. 495, §1 (NEW). PL 1997, c. 668, §2 (AMD). PL 2003, c. 668, §1 (AMD). PL 2003, c. 668, §12 (AFF). PL 2005, c. 500, §2 (AMD). PL 2007, c. 273, Pt. B, §6 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF). PL 2011, c. 308, §§1-3 (AMD).

§1495-A. Registration required

(REPEALED)

SECTION HISTORY

PL 1997, c. 495, §1 (NEW). PL 1999, c. 172, §1 (AMD). PL 1999, c. 172, §2 (AFF). PL 2003, c. 668, §2 (RP). PL 2003, c. 668, §12 (AFF).

§1495-B. Disclosure to employers

1. Generally.

[PL 2003, c. 668, §3 (RP); PL 2003, c. 668, §12 (AFF).]

2. Exception.

[PL 2003, c. 668, §3 (RP); PL 2003, c. 668, §12 (AFF).]

3. Periodic reports to employers. On a regular basis not less frequently than quarterly, a payroll processor shall provide to each employer an accounting of:

A. Funds received from that employer; and [PL 2003, c. 668, §4 (NEW); PL 2003, c. 668, §12 (AFF).]

B. The aggregate amounts disbursed for:

(1) Payroll;

(2) Each category of local, state and federal tax; and

(3) Unemployment compensation premiums. [PL 2003, c. 668, §4 (NEW); PL 2003, c. 668, §12 (AFF).]

[PL 2003, c. 668, §4 (NEW); PL 2003, c. 668, §12 (AFF).]

4. Disclosure of methods of verification. On a regular basis not less frequently than quarterly, a payroll processor shall clearly and conspicuously and in easily understood language disclose to each employer for which it provides payroll processing services the specific method or methods whereby each employer can contact state and federal tax and unemployment insurance authorities, including but not limited to Internet address and toll-free telephone number information, to verify that payments have been made and properly credited on behalf of the employer.

[PL 2003, c. 668, §4 (NEW); PL 2003, c. 668, §12 (AFF).]

5. Disclosure of limitations of surety bond. Whenever a payroll processor promotes, markets or advertises itself or its services and uses the phrase "bonded with the State" or "fully bonded" or other language that in the opinion of the administrator would lead an employer to believe that the bond coverage provides full compensation for potential losses should the payroll processor fail to make required payments or become insolvent, the payroll processor shall also include a clear and conspicuous disclaimer stating that use of the language referencing bonding does not signify or ensure that the bond will cover all potential claims if the payroll processor fails to comply with its responsibilities under this chapter. A payroll processor also shall provide this disclaimer to an employer before contracting for payroll processing services to that employer.

[PL 2003, c. 668, §4 (NEW); PL 2003, c. 668, §12 (AFF).]

6. Notices of nonpayment to be sent to employers. A payroll processor may not designate itself as the sole recipient of notices from state or federal authorities for nonpayment of taxes or unemployment insurance contributions. A payroll processor shall ensure that such notices are provided directly to the affected employers.

[PL 2003, c. 668, §4 (NEW); PL 2003, c. 668, §12 (AFF).]

7. Exception. A payroll processor that does not have the authority to access, control, direct, transfer or disburse a client's funds is not subject to this section.

[PL 2003, c. 668, §4 (NEW); PL 2003, c. 668, §12 (AFF).]

SECTION HISTORY

PL 1997, c. 495, §1 (NEW). PL 2003, c. 668, §§3,4 (AMD). PL 2003, c. 668, §12 (AFF).

§1495-C. Penalties

1. Civil violations. A payroll processor is subject to a civil penalty or a civil forfeiture in accordance with the following.

A. A payroll processor that fails to provide the disclosure statement required by section 1495-B to an employer for which it provides payroll processing services commits a civil violation for which a forfeiture of not less than $50 nor more than $250 may be adjudged. Each failure to notify a particular client constitutes a separate violation for the purposes of this section. An action for a civil violation under this subsection must be brought within 2 years after the date on which disclosure should have been made. An owner or operator of a payroll processor may not be held liable for a civil violation under this subsection if that person shows by a preponderance of the evidence that the violation was unintentional. [PL 1997, c. 495, §1 (NEW).]

B. A payroll processor that conducts business in this State and fails to obtain a license from the administrator as required by section 1495-D commits a civil violation for which a penalty of not less than $1,500 nor more than $7,500 may be adjudged. [PL 2003, c. 668, §5 (AMD); PL 2003, c. 668, §12 (AFF).]

[PL 1997, c. 495, §1 (NEW); PL 2003, c. 668, §5 (AMD); PL 2003, c. 668, §12 (AFF).]

2. Criminal violations. A payroll processor is a fiduciary for purposes of Title 17-A, section 903. [PL 1997, c. 495, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 495, §1 (NEW). PL 2003, c. 668, §5 (AMD). PL 2003, c. 668, §12 (AFF).

§1495-D. Licensing; proof of insurance and bonding; fees

1. License required. A person desiring to engage or continue in business in this State as a payroll processor shall apply to the administrator for a license under this chapter on or before January 31st of each year. The application must be in a form prescribed by the administrator. The administrator may refuse the application if it contains erroneous or incomplete information. A license may not be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant and, where applicable, its partners, officers or directors, warrant belief that the business will be operated honestly and fairly within the purposes of this chapter.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

2. Proof of fidelity insurance. Each applicant for a limited payroll processor license, and each applicant for a full-service payroll processor license that issues payroll checks, shall provide to the administrator proof of one of the following, at the applicant's option, in an amount 2 times the highest weekly payroll processed by the applicant in the preceding year or in the amount of $5,000,000, whichever is less:

A. Fidelity bond; [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

B. Employee dishonesty bond; [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

C. Third-party fidelity coverage; or [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

D. Liability insurance, including crime coverage. [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

[PL 2011, c. 308, §4 (AMD).]

3. Proof of surety bond or other security. Except as provided in section 1495-E, subsection 4, an applicant under subsection 1 shall provide to the administrator proof of the surety bond or other security instrument required pursuant to section 1495-E.
[PL 2005, c. 278, §1 (AMD).]

3-A. Conditional, probationary or provisional licenses. The administrator, within the administrator's discretion, may issue a conditional, probationary or provisional license to an applicant. A conditional, probationary or provisional license may run for any time period the administrator considers appropriate and must be consistent with ensuring the maximum practicable protection for employers.
[PL 2005, c. 278, §2 (NEW).]

4. Fees. The initial license application and annual renewal application must include the fees set out in this subsection.

A. The fee for a full-service payroll processor license or a limited payroll processor license is $200 if the payroll processor has fewer than 25 employers as payroll processing clients; $500 if the payroll processor has from 25 to 500 employers as payroll processing clients; and $800 for those payroll processors that have more than 500 employers as payroll processing clients. [PL 2011, c. 308, §5 (NEW).]

B. The fee for a restricted payroll processor license is $100. [PL 2011, c. 308, §5 (NEW).]

The aggregate of license fees and other fees and assessments provided for by this chapter is appropriated for the use of the administrator. Any balance of these funds does not lapse but must be carried forward to be expended for the same purpose in the following fiscal year.
[PL 2011, c. 308, §5 (RPR).]

SECTION HISTORY

PL 2003, c. 668, §6 (NEW). PL 2003, c. 668, §12 (AFF). PL 2005, c. 278, §§1-3 (AMD). PL 2011, c. 308, §§4, 5 (AMD).

§1495-E. Surety bonding

1. Bond required; minimum amount; duration. Each application for a license under section 1495-D must be accompanied by evidence of a surety bond, in a form approved by the administrator, in an amount equal to the total of all local, state and federal tax payments and unemployment insurance premiums processed by the payroll processor on behalf of employers in this State in the 3-consecutive-month period of highest volume during the previous calendar year or $50,000, whichever is greater, but not to exceed $500,000. The bond must designate the administrator as payee. The bond paid to the administrator may be used for the purposes of the administrator and for the benefit of any employer who may have a cause of action against the payroll processor. The terms of the bond must run continuously until cancelled and the aggregate amount of the bond must be maintained at all times during the licensing period.
[PL 2005, c. 278, §4 (AMD).]

2. Modification of bond requirement. The administrator, within the administrator's discretion, may modify terms and conditions specified in subsection 1 or may permit submission of an irrevocable letter of credit or other alternative form of security so as to ensure the maximum practicable or appropriate protection for employers.
[PL 2005, c. 500, §3 (AMD).]

2-A. Alternative security; Payroll Processor Recovery Fund. The Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation, referred to in this subsection as "the fund administrator," shall administer the Payroll Processor Recovery Fund, established in section 980-D and referred to in this section as "the fund." Participation in the fund must be made available to any payroll processor that is not a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A or a wholly owned subsidiary of such a supervised financial organization. The fund administrator may increase the fund, replenish the fund and seek reimbursement for the fund administrator's initial deposit into the fund through annual or special assessments against payroll processors using the fund. Before being eligible to participate in the fund, a payroll processor

must provide a $10,000 surety bond or irrevocable letter of credit in a form acceptable to the fund administrator. Assessments into the fund must be in amounts equal to 1% of the balance of bond coverage required pursuant to this section. An initial deposit into the fund must be made by the fund administrator in an amount not less than 1/2 of the maximum amount of a surety bond or other security required pursuant to subsection 1. All amounts assessed by the fund administrator must be paid into the fund until the fund reaches the maximum amount of a surety bond or other security required pursuant to subsection 1, after which time assessments must be equally divided between payments into the fund and payments to the fund administrator until the fund administrator is reimbursed for the fund administrator's initial deposit into the fund. If an employer's loss due to a participating payroll processor's failure to pay taxes or unemployment insurance premiums is demonstrated to the satisfaction of the fund administrator, the fund administrator shall require release of funds to the fund administrator for the benefit of the employer. If employer losses exceed the maximum amount recoverable pursuant to this subsection, funds are distributed to employers on a pro rata basis, based on the magnitude of the demonstrated loss. In the event an initial claim is made against the fund, any other claims arising within 45 days of the initial claim must be treated as having arisen on the same day as the initial claim for purposes of allocating recoveries to affected employers. Total funds released as a result of the failure of any one payroll processor to pay taxes or unemployment insurance premiums may not exceed 50% of the current fund balance. Fund proceeds must be used only for recovery of unpaid taxes and unemployment insurance premiums and may not be used for any other purpose.
[PL 2005, c. 500, §4 (NEW); PL 2007, c. 273, Pt. B, §6 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

3. Cancellation notification. A surety company issuing a bond pursuant to this section shall immediately notify the administrator when that bond is cancelled or terminated or lapses. The notice must include the name and address of the payroll processor and the amount of the bond. The cancellation, termination or lapse is not effective until at least 30 days after the administrator receives notice.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

4. Exceptions. A payroll processor that does not have the authority to access, control, direct, transfer or disburse a client's funds is not subject to this section. A payroll processor that arranges for the transfer of funds from an employer's account directly to taxing authorities for payment of the employer's taxes is not subject to this section, as long as the payroll processor is not authorized to arrange for the transfer of funds for any other uses or to any other accounts. The administrator may construe this subsection through issuance of an advisory ruling or through rules adopted pursuant to section 1495-F.
[PL 2005, c. 278, §4 (AMD).]

SECTION HISTORY

PL 2003, c. 668, §6 (NEW). PL 2003, c. 668, §12 (AFF). PL 2005, c. 278, §4 (AMD). PL 2005, c. 500, §§3,4 (AMD). PL 2007, c. 273, Pt. B, §6 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 695, Pt. A, §47 (AFF).

§1495-F. Powers of administrator

1. Examinations. The administrator shall establish a program of regular examinations of payroll processors subject to the provisions of this chapter. The regular examinations must be conducted not less frequently than every 18 months. The administrator may, in the administrator's discretion, use an audit report of a payroll processor performed by the processor or another party to supplement or substitute for the administrator's own regular examination. In addition, the administrator may, at any time, conduct a special examination or investigation of any payroll processor the administrator believes has engaged in conduct that is a violation of any provision in this chapter. For purposes of both routine and special examinations and investigations, the payroll processor shall give the administrator free and

reasonable access to the offices, places of business and records of the payroll processor, and the administrator may make and procure copies of those records, books, documents or other materials without employing the subpoena powers provided by subsection 2. For purposes of both routine and special examinations and investigations, and in addition to reviewing for compliance with other provisions of this chapter, the administrator may review the safety and soundness of the payroll processor, including but not limited to an examination of its assets and liabilities and its investments of employer funds to ensure that the payroll processor is utilizing prudent investment practices with respect to those funds.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

2. Subpoenas. For the purposes of this section, the administrator may administer oaths or affirmations and, upon the administrator's own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence and require the production of any matter that is relevant to an examination or investigation, including the existence, description, nature, custody, condition and location of any books, documents or other material and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of admissible evidence.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

3. Inspection of records. If the payroll processor's records are located outside this State, that payroll processor, at the administrator's option, shall either make the records available to the administrator at a convenient location within the State or allow the administrator or the administrator's representatives to inspect them at the place where the records are maintained. The administrator may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the administrator's behalf.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

3-A. Accounting standards and escrow requirement. To facilitate the administrator's compliance examination responsibilities, a payroll processor shall maintain a trust account for client funds in accordance with generally accepted accounting principles, international accounting standards or other recognized accounting standards. A payroll processor may not commingle funds held on behalf of its clients with the payroll processor's operating funds.
[PL 2011, c. 308, §6 (NEW).]

4. Maintenance of records. A payroll processor shall maintain records of its payroll processing service activity in conformity with generally accepted accounting principles and practices and in a manner that will enable the administrator to determine whether the payroll processor is complying with the provisions of this chapter. The records need not be kept in the place of business where the activity took place if the administrator is given free access to the records, wherever located. All records relating to payroll processing services must be maintained for at least 6 years from the end of the fiscal year in which the activity took place.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

5. Enforcement. If an individual without lawful excuse fails to obey a subpoena or to give testimony when directed to do so by the administrator or obstructs the proceedings by any means, whether or not in the presence of the administrator, that individual is guilty of contempt. The administrator, through the Attorney General, may file a complaint in the Superior Court of the county in which an act on which the complaint is based was performed or in which the individual resides or transacts business setting forth the facts constituting the contempt and requesting an order returnable in not less than 2 days nor more than 5 days directing the individual to show cause before the court why the individual should not be punished for contempt. If the court determines that the individual has committed any alleged contempt, the court shall punish the offender for contempt.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

6. Expenses. At the discretion of the administrator, the expenses of the administrator necessarily incurred in the examination or investigation of any payroll processor engaged in conduct governed by this chapter may be charged to that payroll processor. That payroll processor may be assessed for the actual expenses incurred by the administrator, including, but not limited to, travel expenses and the proportionate part of the salaries and expenses of examiners engaged in the examination or investigation. Notice of any assessment of those costs must be given to the payroll processor by the administrator as soon as feasible after the close of the examination or investigation and the payroll processor must have the time specified by the administrator to pay the assessment, which may not be less than 30 days.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

7. Rules. The administrator may adopt reasonable rules governing payroll processors in accordance with this chapter. These rules are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

SECTION HISTORY

PL 2003, c. 668, §6 (NEW). PL 2003, c. 668, §12 (AFF). PL 2011, c. 308, §6 (AMD).

§1495-G. Contracts and cooperation with other agencies

1. Other agencies' staff. The administrator may employ and engage experts, professionals or other personnel of other state or federal regulatory agencies as may be necessary to assist the administrator in carrying out the regulatory functions of this chapter. The administrator may contract agency staff to other state and federal agencies to assist those other state and federal agencies in carrying out their regulatory functions.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

2. Cooperative agreements. The administrator may enter into cooperative agreements with other state, federal or foreign agencies to facilitate the regulatory functions of the administrator, including, but not limited to, the sharing between agencies of information that is otherwise confidential, coordination of examinations and joint examinations.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

3. Confidentiality. Any information furnished pursuant to this section by or to the administrator that has been designated as confidential by the agency furnishing the information remains the property of the agency furnishing the information and must be kept confidential by the recipient of the information except as authorized by the furnishing agency.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

4. Provision of information by state agencies. Notwithstanding any other provision of law, a state agency, including but not limited to the State Tax Assessor and the Department of Labor, shall provide such information to the administrator as is necessary for the administrator's enforcement of this chapter.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

SECTION HISTORY

PL 2003, c. 668, §6 (NEW). PL 2003, c. 668, §12 (AFF).

§1495-H. Enforcement actions

A payroll processor that fails to obtain a license under section 1495-D or that violates any provision of this chapter or any rule issued by the administrator, or through any unfair, unconscionable or deceptive practice causes or has the potential to cause damage to an employer or employee of that employer, is subject to one or more of the actions specified in this section: [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

1. Cease and desist order. A cease and desist order.

A. The administrator may issue and serve an order upon a payroll processor requiring that processor to cease and desist from the violation or practice if in the opinion of the administrator that payroll processor subject to the provisions of this chapter is engaging in or has engaged in or if the administrator has reasonable cause to believe that the processor is about to engage in any of the following violations or practices:

(1) Violation of a law, rule or regulation relating to the supervision of the payroll processor;

(2) Violation of any written agreement entered into with the administrator; or

(3) An anticompetitive or deceptive practice or one that is otherwise injurious to the public interest. [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

B. Except as provided in paragraph C, prior to the issuance of any order to cease and desist in accordance with this subsection, the administrator shall provide notice to the payroll processor. This notice must contain a statement of the facts upon which the order is to be issued and the date upon which the order is to take effect. Upon petition of any interested party, a hearing in conformity with Title 5, chapter 375 must be provided prior to the effective date of any order issued pursuant to this subsection, except as provided in paragraph C. [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

C. Whenever, in the opinion of the administrator, a violation or practice requires immediate action for the protection of the public or when the violation or practice or the continuation thereof is likely to cause insolvency or substantial dissipation of the assets or earnings of the payroll processor, the administrator may issue an order pursuant to this subsection which becomes effective upon service of that order, without prior notice or hearing. If an order subsequently is issued by the administrator pursuant to paragraph A, the administrator shall afford an opportunity for a hearing to rescind the order and action taken promptly thereafter, upon application by an interested party; [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

2. Bond or security forfeiture. After notice and hearing, forfeiture of that portion of the required bond or other security instrument as proportionately may make aggrieved parties whole;
[PL 2005, c. 278, §5 (AMD).]

3. Civil action by administrator. A civil action seeking civil penalties, remedial action and injunctive relief by the administrator through the Attorney General, after which a court may assess a civil penalty of not less than $1,500 nor more than $7,500 per violation or order remedial or injunctive relief. When the violation consists of failure to maintain the surety bond required by section 1495-E, each day in which coverage is not provided constitutes a separate violation;
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

4. Private civil action. A civil action by an aggrieved employer in which that employer has the right to recover actual damages from the payroll processor in an amount determined by the court, plus costs of the action together with reasonable attorney's fees;
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

5. Regulatory oversight. Increased regulatory oversight by the administrator, including requiring reports or other information to be submitted at those times and in such forms as the administrator considers appropriate for the proper supervision and regulation of the payroll processor; and
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

6. Action on license. Revocation, suspension or nonrenewal of the payroll processor's license.
[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

SECTION HISTORY

PL 2003, c. 668, §6 (NEW). PL 2003, c. 668, §12 (AFF). PL 2005, c. 278, §5 (AMD).

§1495-I. Insolvency and liquidation

1. Voluntary liquidation. A payroll processor who voluntarily ceases to do business in the State is subject to the following provisions.

A. Prior to voluntarily ceasing business as a payroll processor, a payroll processor shall:

(1) Notify the administrator of the proposed termination at least 30 days prior to its effective date;

(2) Notify all employers in writing of the proposed termination at least 30 days prior to its effective date;

(3) Provide all employers with detailed final accountings of all accounts;

(4) Remit all money held by the payroll processor to each respective employer or the appropriate taxing authority; and

(5) Return its license to the administrator for cancellation. [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

B. When terminating a business, a payroll processor whose contract with an employer does not authorize the processor to assign the account to another processor may not transfer the account to another processor without first securing the written permission of the employer. [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

2. Involuntary liquidation. A payroll processor who is no longer eligible to do business in this State is subject to the following provisions.

A. If, upon examination of a payroll processor, the administrator is of the opinion that the payroll processor is insolvent or can no longer obtain a surety bond or when the license of a payroll processor has expired or terminated for any reason, the administrator may appoint a receiver who shall proceed to close the payroll processor. The person appointed by the administrator as a receiver may be the administrator, a deputy or such other person as the administrator may choose, and a certified copy of the order making such appointment is evidence of the appointment. A receiver has the power and authority provided in this chapter and such other powers and authority as may be expressed in the order of the administrator. If the administrator or a deputy is appointed receiver, no additional compensation need be paid, but any reasonable and necessary expenses as a receiver must be paid by the processor. If another person is appointed, then the compensation of the receiver must be paid from the assets of that processor. [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

B. Upon taking possession of the property and business of a payroll processor under this section, the receiver:

(1) May collect money due to the administrator and perform all acts necessary to conserve the payroll processor's assets and business and shall proceed to liquidate the payroll processor's affairs;

(2) Shall collect all debts due and claims belonging to the payroll processor and may sell or compound all bad or doubtful debts;

(3) May sell, for cash or other consideration or as provided by law, all or any part of the real and personal property of the payroll processor;

(4) May take, in the name of the administrator, a mortgage on the real property from a bona fide purchaser to secure the whole or part of the purchase price; and

(5) May borrow money and issue evidence of indebtedness therefor. To secure the repayment of this money, the receiver may mortgage, pledge, transfer in trust or hypothecate any of the property of the payroll processor, whether real, personal or mixed, superior to any charge for expenses of liquidation. [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

C. The assets of the payroll processor in liquidation, exclusive of any bond proceeds, must be disbursed in the following order:

(1) First, the payment of the costs and expenses of liquidation;

(2) Second, payment of payroll, tax and unemployment insurance premium funds held by the payroll processor;

(3) Third, payment of all debts, claims and obligations owed by the payroll processor;

(4) Fourth, the payment of claims otherwise proper that were not filed within the prescribed time; and

(5) Fifth, the payment of any obligation expressly subordinated to claims entitled to the priority established by subparagraphs (1) to (3). [PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

3. Judicial review. A payroll processor closed by action of the administrator pursuant to this chapter may bring an action challenging the administrator's appointment of receiver in Superior Court of Kennebec County or of the county in which the processor transacts business within 10 days after the administrator appoints a receiver. The court shall uphold the administrator's finding that a payroll processor is insolvent or that its condition is such as to render its further proceedings hazardous to the public or to those having funds in its custody and shall uphold the appointment of a receiver unless the court finds that the administrator's action was arbitrary and capricious.

[PL 2003, c. 668, §6 (NEW); PL 2003, c. 668, §12 (AFF).]

SECTION HISTORY

PL 2003, c. 668, §6 (NEW). PL 2003, c. 668, §12 (AFF).

CHAPTER 223

TELEFACSIMILE TRANSMISSIONS

§1496. Unsolicited telefacsimile transmissions prohibited

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

A. "Telefacsimile" means any process in which electronic signals are transmitted by means of a telephone system for immediate direct printing as images or written text, excluding telecommunication signals transmitted by devices for the deaf, hearing impaired or speech impaired. [PL 1989, c. 758 (NEW).]

[PL 1989, c. 758 (NEW).]

2. Prohibition. No person may initiate:

A. The unsolicited transmission of a telefacsimile message:

(1) Seeking charitable contributions; or

(2) Promoting real property, goods or services for purchase or rent by the recipient of such a message. [PL 1989, c. 758 (NEW).]

[PL 1989, c. 758 (NEW).]

3. Exception. Subsection 2, paragraph A, does not apply if the person initiating the transmission and the recipient have a contractual or business relationship and no request to cease any such transmission has been made by the recipient in writing or by telefacsimile message to the person initiating the transmission.
[PL 1989, c. 758 (NEW).]

4. Penalty. Violation of this chapter is an unfair trade practice as prohibited by Title 5, section 207. Each complete telefacsimile transmission constitutes a separate violation.
[PL 1989, c. 758 (NEW).]

SECTION HISTORY

PL 1989, c. 758 (NEW).

CHAPTER 223-A

CELLULAR TELEPHONE CUSTOMER PRIVACY ACT

§1496-A. Short title

This chapter may be known and cited as "the Cellular Telephone Customer Privacy Act." [PL 2005, c. 582, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 582, §1 (NEW).

§1496-B. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 582, §1 (NEW).]

1. Customer proprietary network information. "Customer proprietary network information" has the same meaning as in 47 United States Code, Section 222(h)(1) as in effect on January 1, 2006.
[PL 2005, c. 582, §1 (NEW).]

2. Other customer proprietary information. "Other customer proprietary information" means any information loaded, installed or otherwise placed on a wireless telephone or transmitted from a wireless telephone by a wireless telephone customer.
[PL 2005, c. 582, §1 (NEW).]

3. Telecommunications carrier. "Telecommunications carrier" has the same meaning as in 47 United States Code, Section 153(44) as in effect on January 1, 2006.
[PL 2005, c. 582, §1 (NEW).]

4. Wireless telephone service. "Wireless telephone service" means any mobile telecommunications services as defined in Title 35-A, section 102, subsection 9-A.
[PL 2005, c. 582, §1 (NEW).]

5. Wireless telephone service provider. "Wireless telephone service provider" means a telecommunications carrier that provides wireless telephone service.
[PL 2005, c. 582, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 582, §1 (NEW).

§1496-C. Sale or disclosure of customer proprietary network information

1. Civil violation. Except as provided in subsection 3, a person may not sell or disclose or offer to sell or disclose any customer proprietary network information relating to the wireless telephone service account of any wireless telephone service customer or user in this State or any other customer proprietary information of any wireless telephone service customer or user in this State.

A. Violation of this subsection constitutes a violation of the Maine Unfair Trade Practices Act. [PL 2005, c. 582, §1 (NEW).]

[PL 2005, c. 582, §1 (NEW).]

2. Criminal violation. Except as provided in subsection 3, a person may not knowingly sell or disclose or offer to sell or disclose any customer proprietary network information relating to the wireless telephone service account of any wireless telephone service customer or user in this State or any other customer proprietary information of any wireless telephone service customer or user in this State.

A. A person who violates this subsection commits a Class D crime. [PL 2005, c. 582, §1 (NEW).]

[PL 2005, c. 582, §1 (NEW).]

3. Exceptions. The prohibitions contained in subsections 1 and 2 do not apply to a disclosure of customer proprietary network information or any other customer proprietary information:

A. Authorized or required by:

(1) Any state or federal law, regulation or rule;

(2) An order of an agency having regulatory authority over a wireless telephone service provider; or

(3) The wireless telephone service account holder; or [PL 2005, c. 582, §1 (NEW).]

B. Required by a subpoena, warrant or other lawful process. [PL 2005, c. 582, §1 (NEW).]

[PL 2005, c. 582, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 582, §1 (NEW).

CHAPTER 224

ELECTRONIC MAIL SOLICITATION

§1497. Electronic mail solicitation restricted

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

A. "E-mail" means electronic mail sent or delivered by transmission over the Internet. [PL 2003, c. 327, §1 (NEW).]

B. "E-mail service provider" means a business or organization qualified to do business in this State that provides individuals, corporations or other entities the ability to send or receive e-mail through equipment located in this State or that is an intermediary in sending or receiving e-mail. [PL 2003, c. 327, §1 (NEW).]

C. "Unsolicited commercial e-mail" means an e-mail, other than an e-mail sent at the request of the recipient, sent via an e-mail service provider to 2 or more recipients in this State with whom the sender does not have an existing business relationship for the purpose of:

(1) Offering real property, goods or services for sale or rent;

(2) Conveying information on real property, goods or services to solicit sales or purchase;

(3) Conveying information on the extension of credit; or

(4) Promoting or soliciting charitable contributions.

"Unsolicited commercial e-mail" does not include an e-mail message to which an e-mail service provider has attached an advertisement if the e-mail service provider has an agreement with the recipient under which the e-mail service provider allows the recipient free use of an e-mail account in exchange for allowing the e-mail service provider to send such advertisements. [RR 2003, c. 1, §5 (COR).]

[RR 2003, c. 1, §5 (COR).]

2. Requirements. A person sending unsolicited commercial e-mail shall maintain a valid return e-mail address through which the recipient may provide notice to the sender that the recipient does not wish to receive any more unsolicited commercial e-mail.

[PL 2003, c. 327, §1 (NEW).]

3. Statement. All unsolicited commercial e-mail must contain:

A. In the subject line:

(1) The first 4 characters as follows: "ADV:"; and

(2) If the unsolicited commercial e-mail contains information about material that may be viewed only by a person at least 18 years of age, the first 8 characters as follows: "ADV:ADLT"; [PL 2003, c. 327, §1 (NEW).]

B. A statement informing the recipient of the name of the person or entity from which the unsolicited commercial e-mail originated; [PL 2003, c. 327, §1 (NEW).]

C. The return e-mail address required by subsection 2; and [PL 2003, c. 327, §1 (NEW).]

D. A statement informing the recipient that the recipient may use the return e-mail address to notify the sender that the recipient does not want to receive any more unsolicited commercial e-mails from the sender. [PL 2003, c. 327, §1 (NEW).]

[PL 2003, c. 327, §1 (NEW).]

4. Prohibition. A person receiving notification from a recipient that the recipient does not wish to receive any more unsolicited commercial e-mails from that person shall cease to send unsolicited commercial e-mails to that recipient. If a recipient is the registered owner of more than one e-mail address and notifies the sender of unsolicited commercial e-mails to cease sending unsolicited commercial e-mails to all of the e-mail addresses registered to that person or entity, the sender shall cease to send unsolicited commercial e-mails to those addresses.

[PL 2003, c. 327, §1 (NEW).]

5. Use of 3rd-party domain names. A person may not:

A. Send an unsolicited commercial e-mail that uses a 3rd party's Internet address or domain name without the 3rd party's consent; or [PL 2003, c. 327, §1 (NEW).]

B. Falsify the e-mail transmission information or other routing information of an unsolicited commercial e-mail. [PL 2003, c. 327, §1 (NEW).]

[PL 2003, c. 327, §1 (NEW).]

6. Penalty. Violation of this chapter is an unfair trade practice as prohibited by Title 5, section 207. Each unsolicited commercial e-mail transmission to a recipient in violation of this chapter constitutes a separate violation. The Attorney General shall establish procedures for receiving and investigating complaints of violations of this chapter. The procedures may include the development of

electronic forms, available over the Internet, by which a person may file a complaint with the Attorney General alleging a violation of this chapter.
[PL 2003, c. 327, §1 (NEW).]

7. Civil action; recipients. Notwithstanding Title 5, section 213, a person who receives a commercial e-mail sent in violation of this chapter may bring an action in an appropriate state court for either or both of the following:

A. An injunction to stop such future e-mails; and [PL 2003, c. 327, §1 (NEW).]

B. Recovery of actual damages from each violation or up to $250 in damages for each violation, whichever is greater. [PL 2003, c. 327, §1 (NEW).]

If the court finds there has been a violation of this chapter, the court shall award the petitioner reasonable attorney's fees and costs incurred in connection with the action.

If the court finds that the defendant willfully or knowingly violated this chapter, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph B.
[PL 2003, c. 327, §1 (NEW).]

8. Civil action; e-mail service providers. Notwithstanding Title 5, section 213, an e-mail service provider through whose service is sent a commercial e-mail in violation of this chapter may bring an action in an appropriate state court for either or both of the following:

A. An injunction to stop such future e-mails; and [PL 2003, c. 327, §1 (NEW).]

B. Recovery of actual damages from each violation or up to $1,000 in damages for each violation, whichever is greater. [PL 2003, c. 327, §1 (NEW).]

If the court finds there has been a violation of this chapter, the court shall award the petitioner reasonable attorney's fees and costs incurred in connection with the action.

If the court finds that the defendant willfully or knowingly violated this chapter, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph B.
[PL 2003, c. 327, §1 (NEW).]

9. Immunity. An e-mail service provider may, upon its own initiative, block the receipt or transmission through its service of any commercial e-mail that it reasonably believes is or will be sent in violation of this chapter. An e-mail service provider is not liable for any action taken in good faith to block the receipt or transmission through its service of any commercial e-mail that it reasonably believes is or will be sent in violation of this chapter.
[PL 2003, c. 327, §1 (NEW).]

SECTION HISTORY

RR 2003, c. 1, §5 (COR). PL 2003, c. 327, §1 (NEW).

CHAPTER 225

TELEPHONE SOLICITATION

§1498. Automated telephone solicitation prohibited; exceptions; penalties

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

A. "Automated telephone calling device" means any system or equipment, including a facsimile machine, that selects, dials or calls telephone numbers and plays recorded messages or attempts to send facsimiles. [PL 2005, c. 197, §1 (AMD).]

A-1. "Misleading or inaccurate caller identification information" includes, to the extent consistent with federal law, blocked caller identification information. [PL 2019, c. 185, §1 (NEW).]

B. "Solicitation calls" means calls, including facsimile transmissions, the purpose of which is any of the following:

(1) To offer real property, goods or services for sale or rent;

(2) To convey information on real property, goods or services to solicit sales or purchases;

(3) To promote or solicit charitable contributions; or

(4) To gather data or statistics or solicit information. [PL 2005, c. 197, §1 (AMD).]

[PL 2019, c. 185, §1 (AMD).]

2. Prohibition. A person may not use an automated telephone calling device or an artificial or prerecorded voice to make solicitation calls to:

A. Any emergency telephone numbers in this State including, but not limited to, the emergency telephone numbers of any hospital, physician, health care facility, ambulance service, or fire or law enforcement officer or facility; [PL 1989, c. 775 (NEW).]

B. Any paging or cellular phone within the State; [PL 2019, c. 185, §2 (AMD).]

C. Any unlisted, unpublished, toll-free long distance or direct inward dial telephone number within the State; or [PL 2019, c. 185, §2 (AMD).]

D. Any residential telephone number within the State. [PL 2019, c. 185, §2 (NEW).]

[PL 2019, c. 185, §2 (AMD).]

3. Restriction. A person may not use an automated telephone calling device to make solicitation calls to any telephone number in the State except weekdays between 9 a.m. and 5 p.m., according to the time in this State, and may not complete more than one solicitation call to any telephone number during each 8-hour period. In addition, the person using the device to place the call shall ensure that the device disconnects no more than 5 seconds following the disconnection of the telephone number called.

[PL 1991, c. 524, §2 (AMD).]

4. Caller identification. Persons making calls restricted under the provision of subsection 3 shall, within the first minute of the call, identify the name, address and telephone number of the organization for whom the call is being made.

[PL 1989, c. 775 (NEW).]

5. Prima facie violation. Use of any automated calling device that calls telephone numbers sequentially and cannot distinguish the telephone numbers of those authorized to be contacted from those it is unlawful to contact is prima facie evidence of intent to violate this section.

[PL 1989, c. 775 (NEW).]

6. Exceptions. This section does not prohibit the use of an automated telephone calling device or an artificial or prerecorded voice to:

A. Inform purchasers of the receipt, availability or delivery of goods or services or any other pertinent information on the status of any purchased goods or services; [PL 1989, c. 775 (NEW).]

B. Respond to a telephone inquiry initiated by the person to whom the automated call or call using an artificial or prerecorded voice is directed; [PL 2019, c. 185, §3 (AMD).]

C. Carry out the duties of any state or local governmental unit or school administrative unit or private school; [PL 2019, c. 185, §3 (AMD).]

D. Deliver an emergency message by a governmental entity; [PL 2019, c. 185, §3 (NEW).]

E. Deliver information with the prior, written, express consent of the recipient of the call; or [PL 2019, c. 185, §3 (NEW).]

F. Communicate with a business about reservations, purchases and other information for customers such as hours of operation, directions and merchandise availability. [PL 2019, c. 185, §3 (NEW).]
[PL 2019, c. 185, §3 (AMD).]

7. Registration.

[PL 1999, c. 694, §1 (RP).]

7-A. Failure to produce transcript. A person using an automated telephone calling device for making solicitation calls shall maintain a full transcript of each solicitation call message that the person has transmitted to consumers during the previous 24 months. A copy of the transcript must be made available to the Attorney General upon request. Failure to provide a copy of a requested transcript is a violation of this section.
[PL 1999, c. 694, §2 (NEW).]

8. Penalty. Violation of this section is an unfair trade practice as prohibited by Title 5, section 207.
[PL 1999, c. 694, §3 (AMD).]

SECTION HISTORY

PL 1989, c. 775 (NEW). PL 1991, c. 524, §§2,3 (AMD). PL 1999, c. 694, §§1-3 (AMD). PL 2005, c. 197, §1 (AMD). PL 2019, c. 185, §§1-3 (AMD).

§1499. Telephone solicitation

(REPEALED)

SECTION HISTORY

PL 1991, c. 252, §1 (NEW). PL 1993, c. 589, §1 (AMD). PL 1995, c. 334, §2 (RPR). PL 2007, c. 227, §1 (RP).

§1499-A. Telemarketing; prohibition on number blocking

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

A. "Caller identification service" means a service that allows a telephone subscriber to have the telephone number and, where available, name of the calling party transmitted contemporaneously with the telephone call and displayed on a device in or connected to the subscriber's telephone. [PL 2003, c. 70, §1 (NEW); PL 2003, c. 70, §2 (AFF).]

B. "Seller" means any person who, in connection with a telemarketing transaction, provides, offers to provide or arranges for others to provide goods or services to the customer in exchange for consideration. [PL 2003, c. 70, §1 (NEW); PL 2003, c. 70, §2 (AFF).]

C. "Telemarketer" means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor. [PL 2003, c. 70, §1 (NEW); PL 2003, c. 70, §2 (AFF).]

D. "Telemarketing" means a plan, program or campaign that is conducted by use of one or more telephones or other telecommunications services, including interconnected voice over Internet protocol and text messaging, to induce the purchase of goods or services or a charitable

contribution. "Telemarketing" does not include the solicitation of sales through the mailing of a catalog that contains a written description or illustration of the goods or services offered for sale, the business address of the seller and multiple pages of written material or illustrations, and that is issued not less frequently than once a year, if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders without further solicitation. For purposes of this paragraph, "further solicitation" does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog that prompted the customer's call or in a substantially similar catalog. [PL 2019, c. 185, §4 (AMD).]

[PL 2019, c. 185, §4 (AMD).]

2. Prohibition. It is an unfair trade practice, as prohibited by Title 5, section 207 and enforced by the Office of the Attorney General, for a seller or telemarketer to cause any caller identification services to transmit misleading or inaccurate caller identification information with the intent to defraud or cause harm to another person or to wrongfully obtain anything of value.

[PL 2019, c. 185, §5 (RPR).]

3. Exception.

[PL 2019, c. 185, §6 (RP).]

4. Exception. It is not a violation of subsection 2 for:

A. A seller or telemarketer to substitute for the name and telephone number used in or billed for making the call:

(1) The name of the seller or charitable organization on whose behalf the telemarketing call is placed; or

(2) The seller's or charitable organization's customer or donor service telephone number that is answered during regular business hours; or [PL 2019, c. 185, §7 (NEW).]

B. A telecommunications carrier, as defined in 47 United States Code, Section 153(51), to provide telecommunications service, as defined in 47 United States Code, Section 153(53). [PL 2019, c. 185, §7 (NEW).]

[PL 2019, c. 185, §7 (NEW).]

SECTION HISTORY

PL 2003, c. 70, §1 (NEW). PL 2003, c. 70, §2 (AFF). PL 2019, c. 185, §§4-7 (AMD).

§1499-B. Telephone solicitation

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

A. "Consumer" means a resident of this State who is a residential telephone subscriber and an actual or prospective:

(1) Purchaser, lessee or recipient of consumer goods or services; or

(2) Donor or contributor to an organization. [PL 2007, c. 227, §2 (NEW).]

B. "Consumer goods or services" means:

(1) Tangible or intangible personal property or real property that is normally used for personal, family or household purposes;

(2) Property intended to be attached to or installed on real property without regard to whether it is actually attached or installed;

(3) Services related to the property described in subparagraph (1) or (2);

(4) Credit cards or the extension of credit; or

(5) Professional services. [PL 2007, c. 227, §2 (NEW).]

C. "Division" means the Department of the Attorney General, Consumer Protection Division. [PL 2007, c. 227, §2 (NEW).]

D. "Doing business in Maine" means making telephone sales calls to consumers located in this State whether the telephone sales calls originate in the State or outside the State. [PL 2007, c. 227, §2 (NEW).]

D-1. "Established business relationship" means a prior or existing relationship formed by a voluntary 2-way communication between a telephone solicitor and a consumer with or without an exchange of consideration on the basis of the consumer's purchase from or transaction with the telephone solicitor within the 18 months immediately preceding the date of a telephone sales call or on the basis of the consumer's inquiry or application regarding products or services offered by the telephone solicitor within the 3 months immediately preceding the date of the call that has not been previously terminated by the consumer pursuant to subparagraph (1) or by the telephone solicitor.

(1) A consumer's request to a particular telephone solicitor not to receive telephone sales calls from that telephone solicitor terminates an established business relationship for purposes of a telephone sales call even if the consumer continues to do business with the telephone solicitor.

(2) The consumer's established business relationship with a particular telephone solicitor does not extend to affiliates of the telephone solicitor unless the consumer would reasonably expect them to be included given the nature and type of goods or services offered by the affiliate and the identity of the affiliate. [PL 2007, c. 489, §1 (NEW).]

E. "Registry" means the do-not-call registry maintained by the division that lists the names of persons who do not wish to receive telephone sales calls. [PL 2007, c. 227, §2 (NEW).]

F. "Resident" means a resident of this State. [PL 2007, c. 227, §2 (NEW).]

G. "Telephone number" means a residential telephone number. [PL 2007, c. 227, §2 (NEW).]

H. "Telephone sales call" means a solicitation call made to a consumer for:

(1) Solicitation of a sale of consumer goods or services; or

(2) Obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes.

"Telephone sales call" includes a call made by use of automated dialing or recorded message devices. [PL 2007, c. 227, §2 (NEW).]

I. "Telephone solicitor" means an individual, firm, organization, partnership, association or corporation, including affiliates and subsidiaries, doing business in Maine. [PL 2007, c. 227, §2 (NEW).]

[PL 2007, c. 489, §1 (AMD).]

2. Application. This section does not apply to:

A. A telephone sales call made in response to and at the express request of the person called; [PL 2007, c. 227, §2 (NEW).]

B. A telephone sales call made primarily in connection with an existing debt or contract for which payment or performance has not been completed at the time of the call; [PL 2007, c. 489, §2 (AMD).]

C. A telephone sales call for a solicitation other than a commercial solicitation, but only if:

(1) The telephone call is made by a volunteer or an employee of the soliciting organization; and

(2) The telephone solicitor who makes the telephone call immediately discloses all of the following information:

(a) The solicitor's true first and last name; and

(b) The name, address and telephone number of the soliciting organization; or [PL 2007, c. 489, §2 (AMD).]

D. A telephone sales call made to any person with whom the telephone solicitor has an established business relationship. [PL 2007, c. 489, §2 (NEW).]

[PL 2007, c. 489, §2 (AMD).]

3. Compliance with law. This section does not relieve a person from complying with any other applicable law.

[PL 2007, c. 227, §2 (NEW).]

4. Duties of division. The division shall establish and maintain a do-not-call registry of telephone numbers of consumers who request not to be solicited by telephone. The national "do-not-call" registry established and maintained by the Federal Trade Commission, pursuant to the 16 Code of Federal Regulations, Section 310.4(b)(1)(iii)(B), may serve as the Maine do-not-call registry required by this subsection. The division may provide the telephone numbers of residents that are in the state registry to the Federal Trade Commission for inclusion in the national registry.

[PL 2007, c. 227, §2 (NEW).]

5. Adoption of rules. The division may adopt rules consistent with Title 5, section 207, subsection 2 to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 227, §2 (NEW).]

6. Telephone solicitation violations. It is a violation of this section for a telephone solicitor to initiate a telephone sales call to a consumer if that consumer's telephone number has been on the national or state do-not-call registry, established by the Federal Trade Commission, for at least 3 months prior to the date the call is made. A telephone solicitor is not liable for violating this section if the telephone solicitor can demonstrate that:

A. As part of the telephone solicitor's routine business practice, the telephone solicitor has established and implemented written procedures to comply with this section; [PL 2007, c. 489, §3 (NEW).]

B. As part of the telephone solicitor's routine business practice, the telephone solicitor has trained its personnel, and any entity assisting in its compliance, in the procedures established pursuant to paragraph A; [PL 2007, c. 489, §3 (NEW).]

C. As part of the telephone solicitor's routine business practice, the telephone solicitor or another person acting on behalf of the telephone solicitor has recorded and maintained a list of telephone numbers the telephone solicitor may not contact; [PL 2007, c. 489, §3 (NEW).]

D. As part of the telephone solicitor's routine business practice, the telephone solicitor uses a process to prevent telemarketing to any telephone number on any list established pursuant to paragraph C or on the national do-not-call registry, employing a version of the national do-not-call registry obtained from the Federal Trade Commission no more than 31 days prior to the date any call is made, and maintains records documenting this process; [PL 2007, c. 489, §3 (NEW).]

E. As part of the telephone solicitor's routine business practice, the telephone solicitor or another person acting on behalf of the telephone solicitor monitors and enforces compliance with the procedures established pursuant to paragraph A; and [PL 2007, c. 489, §3 (NEW).]

F. Any subsequent call otherwise violating this section is the result of error. [PL 2007, c. 489, §3 (NEW).]

[PL 2007, c. 489, §3 (AMD).]

7. Telephone solicitation disclosure. A telephone solicitor who makes a telephone sales call to a consumer must immediately disclose the following information upon making contact with that consumer:

A. The solicitor's real first and last name; and [PL 2007, c. 227, §2 (NEW).]

B. The name of the business on whose behalf the telephone solicitor is soliciting. [PL 2007, c. 227, §2 (NEW).]

[PL 2007, c. 227, §2 (NEW).]

8. Directories exemption. This section does not apply to a person obtaining consumer information for inclusion in a directory assistance database or a telephone directory sold by a telephone company.

[PL 2007, c. 227, §2 (NEW).]

9. Exclusion of a telephone number. A telephone solicitor or person who obtains consumer information that includes telephone numbers shall exclude the telephone numbers that appear on the most current federal or state do-not-call registry.

[PL 2007, c. 227, §2 (NEW).]

10. Unfair trade practice violations. A telephone solicitor who fails to comply with any provision of this section commits an unfair and deceptive act that is a violation of the Maine Unfair Trade Practices Act.

[PL 2007, c. 227, §2 (NEW).]

11. Attorney General remedies. In an action under this section, the Attorney General may obtain any or all of the following:

A. An injunction to enjoin future violations of this section; [PL 2007, c. 227, §2 (NEW).]

B. A civil penalty of not more than:

(1) Ten thousand dollars for the first violation; and

(2) Twenty-five thousand dollars for each subsequent violation; [PL 2007, c. 227, §2 (NEW).]

C. All money the defendant obtained through violation of this section; [PL 2007, c. 227, §2 (NEW).]

D. The Attorney General's reasonable cost in:

(1) The investigation of the deceptive act; and

(2) Maintaining the action under this subsection; and [PL 2007, c. 227, §2 (NEW).]

E. Reasonable attorney's fees. [PL 2007, c. 227, §2 (NEW).]

[PL 2007, c. 227, §2 (NEW).]

12. Voidable contracts. In an action under this section, the court may void or limit the application of contracts or clauses resulting from a violation of this section and order restitution to be paid to an aggrieved consumer.

[PL 2007, c. 227, §2 (NEW).]

13. Jurisdiction. An action under this section may be brought in the District Court or Superior Court of the jurisdiction in which an aggrieved consumer resides or in Kennebec County.

[PL 2007, c. 227, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 227, §2 (NEW). PL 2007, c. 489, §§1-3 (AMD).

CHAPTER 227

ASSISTIVE DEVICES FOR PERSONS WITH DISABILITIES

§1500. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 235, §1 (NEW).]

1. Assistive device. "Assistive device" means any device that a consumer purchases or accepts transfer of in this State that is used within manufacturer specifications by a person with a disability within the meaning of the federal Americans with Disabilities Act to offset the effect of the disability and enhance function in carrying out a major life activity. "Assistive device" includes, but is not limited to, manual wheelchairs, motorized wheelchairs, motorized scooters and other aids that enhance the mobility of the individual; hearing aids, telephone communications devices for the deaf, or TDD, assistive listening devices and other aids that enhance an individual's ability to hear; voice synthesized computer modules, optical scanners, talking software, braille printers and other devices that enhance a sight-impaired individual's ability to communicate; and any other assistive device that enables a person with a disability to communicate, see, hear or maneuver. "Assistive device" does not include a hearing aid as defined by Title 32, section 17101, subsection 8.
[PL 2007, c. 369, Pt. B, §1 (AMD); PL 2007, c. 369, Pt. C, §5 (AFF).]

2. Consumer. "Consumer" means a person who purchases or leases an assistive device from a dealer or manufacturer for purposes other than resale; a person to whom an assistive device is transferred for purposes other than resale while an express warranty is in effect; a funding source that purchases a device for a person with a disability; or a person otherwise legally qualified to enforce a warranty.
[PL 1997, c. 235, §1 (NEW).]

3. Nonconformity. "Nonconformity" means a condition or a defect that substantially impairs the use, value or safety of an assistive device that is covered by an express warranty applicable to that assistive device, or to a component of that assistive device, but does not include a condition or defect that is the result of abuse, neglect or unauthorized modification or alteration of the assistive device by the consumer.
[PL 1997, c. 235, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 235, §1 (NEW). PL 2007, c. 369, Pt. B, §1 (AMD). PL 2007, c. 369, Pt. C, §5 (AFF).

§1500-A. Trial period

All assistive devices as defined in this chapter must be sold subject to a 30-day trial. A consumer may return an assistive device to the dealer from which it was purchased within the 30-day trial period if the device is not specifically fit for the consumer's particular needs and receive a full refund, after satisfaction of any perfected security interests, if the assistive device has not been damaged, abused or altered by the consumer. If the assistive device was purchased with insurance or public funds, the refund must be returned to the funding source. This section does not apply to an assistive device for which a trial period is already specifically addressed by another law. [PL 1997, c. 235, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 235, §1 (NEW).

§1500-B. Express warranty

1. Warranty. A manufacturer who sells or leases an assistive device to a consumer, either directly or through an assistive device dealer, shall warranty that the assistive device is in conformity with the terms of this subsection and shall furnish the consumer with a written express warranty for the assistive device. In the case of a sale, the duration of the express warranty must be at least one year from the date of the initial setup of the assistive device for the consumer. In the case of a lease, the duration of the express warranty must be for the duration of the lease. In both cases, the warranty must provide that the assistive device is free from any condition or defect that substantially impairs its value to the consumer during the warranty period. In the absence of an express warranty, the manufacturer is deemed to have made this warranty.
[PL 1997, c. 235, §1 (NEW).]

2. Repair. If a new assistive device does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer, the assistive device lessor or any of the manufacturer's authorized assistive device dealers and makes the assistive device available for repair during the warranty period, the nonconformity must be repaired at no charge to the consumer or the funding source. If a repair is required, a replacement or loan of a comparable assistive device must be provided to the consumer as soon as feasible at no charge. In the case of a lease, lease payments must be suspended during any part of the repair period that a comparable assistive device has not been provided.
[PL 1997, c. 235, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 235, §1 (NEW).

§1500-C. Replacement of defective devices; refunds

1. Reasonable attempt to repair. A reasonable attempt to repair an assistive device to conform it to the express warranty is deemed to have been undertaken if:

A. The same conformity has been subject to repair 3 or more times by the manufacturer or its agents or authorized dealers within the express warranty term and the nonconformity continues; or [PL 1997, c. 235, §1 (NEW).]

B. The assistive device is out of service for a cumulative total of 30 days or more because of warranty nonconformity. [PL 1997, c. 235, §1 (NEW).]

[PL 1997, c. 235, §1 (NEW).]

2. Refund and replacement. If, after a reasonable attempt to repair the nonconformity, the nonconformity is not repaired, the manufacturer must accept return of the assistive device and, at the option of the consumer, refund the full purchase price to the consumer after satisfaction of any applicable perfected security interests or replace the assistive device with a comparable new assistive device. If the assistive device was purchased with public funds or insurance coverage on behalf of the consumer, the manufacturer shall notify the funder and, at the option of the consumer, replace the assistive device with a comparable new assistive device or refund to the funder the total reimbursement amount so that another suitable device may be purchased.
[PL 1997, c. 235, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 235, §1 (NEW).

§1500-D. Disclosure at time of resale

An assistive device that is returned to the manufacturer under section 1500-C may not be sold without clear written disclosure to any subsequent purchaser, whether that purchaser is a consumer or a dealer, that the assistive device was returned to the manufacturer under this chapter and a written

description of the nonconformity for which the assistive device was returned. [PL 1997, c. 235, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 235, §1 (NEW).

§1500-E. Other remedies

1. Rights. This section may not be construed to limit rights or remedies available to a consumer under any other law.
[PL 1997, c. 235, §1 (NEW).]

2. Enforcement. A consumer may bring an action to recover for damages caused by a violation of this chapter. The court shall award a consumer who prevails in such an action twice the amount of any pecuniary loss, plus reasonable costs and attorney's fees.

It is a valid defense to an action brought under this subsection if, at the time of sale, the dealer had no reasonable way of knowing that the device was intended to be used within manufacturer specifications by the consumer as an assistive device as defined by section 1500, subsection 1.
[PL 1997, c. 235, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 235, §1 (NEW).

§1500-F. Waiver

Any waiver of rights under this chapter by a consumer is void. [PL 1997, c. 235, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 235, §1 (NEW).

CHAPTER 228

SALE OF INDIAN ARTS AND CRAFTS PRODUCTS

§1500-G. Unlawful acts; deceptive trade practice

1. False representation of authentic Indian products. A person may not offer or display for sale or sell a good in a manner that falsely suggests it is Indian-produced, an Indian product or the product of a particular Indian or Indian tribe or Indian arts and crafts organization in a manner that violates 25 United States Code, Section 305e.
[PL 2013, c. 302, §1 (NEW).]

2. Unfair trade practice. A violation of this section constitutes an unfair or deceptive act or practice in violation of Title 5, chapter 10. An action brought under this chapter by the Office of the Attorney General may not preclude a person from bringing a civil action to obtain injunctive or equitable relief or damages under 25 United States Code, Section 305e.
[PL 2013, c. 302, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 302, §1 (NEW).

CHAPTER 229

GUARANTEED ASSET PROTECTION WAIVERS

§1500-H. Guaranteed asset protection waivers

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

A. "Administrator" means a person, other than an insurer or creditor, that performs administrative or operational functions pursuant to a waiver program. [PL 2017, c. 475, Pt. A, §13 (RPR).]

B. "Borrower" means a debtor or retail buyer under a finance agreement. [PL 2017, c. 475, Pt. A, §13 (RPR).]

C. "Creditor" means:

(1) The lender in a loan or credit transaction;

(2) A person engaged as a retail seller of motor vehicles that provides credit to consumers, as defined in Title 9-A, section 1-301, subsection 10, of the motor vehicles, as long as that person complies with the provisions of this section;

(3) The seller in a commercial retail installment transaction; or

(4) The assignee of any of the persons in subparagraphs (1) to (4) to which the credit obligation is payable. [PL 2017, c. 475, Pt. A, §13 (RPR).]

D. "Finance agreement" means a loan or retail installment sales contract for the purchase of a motor vehicle. [PL 2017, c. 475, Pt. A, §13 (RPR).]

E. "Free-look period" means the period of time, not less than 30 days, from the effective date of the waiver until the date the borrower may cancel the waiver contract without penalty, fees or costs to the borrower. [PL 2017, c. 475, Pt. A, §13 (RPR).]

F. "Guaranteed asset protection waiver" or "waiver" means a contractual agreement in which a creditor agrees for a separate charge to cancel or waive all or part of the amount due on a borrower's finance agreement for a motor vehicle in the event of a total physical damage loss or unrecovered theft of the motor vehicle. The waiver must be part of or a separate addendum to the finance agreement. [PL 2017, c. 475, Pt. A, §13 (RPR).]

G. "Insurer" has the same meaning as in Title 24-A, section 4. [PL 2017, c. 475, Pt. A, §13 (RPR).]

H. "Motor vehicle" means a self-propelled vehicle not operated exclusively on railroad tracks; a motorcycle as defined in Title 29-A, section 101, subsection 38; a motor home as defined in Title 29-A, section 101, subsection 40; an all-terrain vehicle as defined in Title 12, section 13001, subsection 3; a snowmobile as defined in Title 12, section 13001, subsection 25; a motorboat as defined in Title 12, section 13001, subsection 16; a personal watercraft as defined in Title 12, section 13001, subsection 23; or a trailer as defined in Title 29-A, section 101, subsection 86. "Motor vehicle" includes vehicles whether self-propelled or towed. [PL 2017, c. 475, Pt. A, §13 (RPR).]

I. "Person" includes an individual, company, association, organization, partnership, business trust, corporation and every form of legal entity. [PL 2017, c. 475, Pt. A, §13 (RPR).]

J. "Superintendent" means, except in cases in which a credit union or financial institution authorized to do business in this State, as defined in Title 9-B, section 131, subsections 12-A and 17-A, is the creditor, the Superintendent of Consumer Credit Protection. In cases in which a financial institution authorized to do business in this State is the creditor, "superintendent" means the Superintendent of Financial Institutions. [PL 2017, c. 475, Pt. A, §13 (RPR).]

[PL 2017, c. 475, Pt. A, §13 (RPR).]

2. Requirements for offering waivers. The following provisions apply to offering waivers.

A. A waiver may be offered, sold or provided to a borrower in this State in compliance with this chapter. [PL 2017, c. 475, Pt. A, §13 (RPR).]

B. A waiver may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option. [PL 2017, c. 475, Pt. A, §13 (RPR).]

C. Notwithstanding any other provision of law, any cost to the borrower for a waiver entered into in compliance with the federal Truth in Lending Act, 15 United States Code, Section 1601 et seq. and its implementing regulations, as they may be amended from time to time, must be separately stated and may not be considered a finance charge or interest. [PL 2017, c. 475, Pt. A, §13 (RPR).]

D. A retail seller must insure its waiver obligations under a contractual liability policy or other insurance policy issued by an insurer. A creditor, other than a retail seller, may insure its waiver obligations under a contractual liability policy or other insurance policy issued by an insurer. Any such insurance policy may be directly obtained by a creditor or retail seller or may be procured by an administrator to cover a creditor's or retail seller's obligations. [PL 2017, c. 475, Pt. A, §13 (RPR).]

E. A waiver remains a part of the finance agreement upon the assignment, sale or transfer of the finance agreement by the creditor. [PL 2017, c. 475, Pt. A, §13 (RPR).]

F. The extension of credit, the term of credit and the term of the related motor vehicle sale may not be conditioned upon the purchase of a waiver. [PL 2017, c. 475, Pt. A, §13 (RPR).]

G. A creditor that offers a waiver must report the sale of and forward funds received on such a waiver to the designated party, if any, as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy or other specified program documents. [PL 2017, c. 475, Pt. A, §13 (RPR).]

H. Funds received or held by a creditor or administrator and belonging to an insurer, creditor or administrator, pursuant to the terms of a written agreement, must be held by the creditor or administrator in a fiduciary capacity. [PL 2017, c. 475, Pt. A, §13 (RPR).]

I. The borrower's primary motor vehicle insurance carrier or, if applicable, the 3rd-party liability carrier shall determine the existence of a total physical damage loss. If no primary motor vehicle insurance or 3rd-party liability insurance is present on the date of loss, then the existence of a total physical damage loss must be determined pursuant to the terms of the waiver. [PL 2017, c. 475, Pt. A, §13 (RPR).]

[PL 2017, c. 475, Pt. A, §13 (RPR).]

3. Contractual liability policy or other insurance policy. The following provisions govern a contractual liability policy or other insurance policy insuring waivers.

A. A contractual liability policy or other insurance policy insuring waivers must state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the waivers issued by the creditor and purchased by the borrower or held by the borrower. [PL 2017, c. 475, Pt. A, §13 (RPR).]

B. Coverage under a contractual liability or other insurance policy insuring a waiver must also cover any subsequent assignee upon the assignment, sale or transfer of the finance agreement. [PL 2017, c. 475, Pt. A, §13 (RPR).]

C. Coverage under a contractual liability or other insurance policy insuring a waiver must remain in effect unless cancelled or nonrenewed as provided in Title 24-A. [PL 2017, c. 475, Pt. A, §13 (RPR).]

D. The cancellation or nonrenewal of a contractual liability or other insurance policy may not reduce the insurer's responsibility for waivers issued by the creditor prior to the date of cancellation

or nonrenewal and for which premium has been received by the insurer. [PL 2017, c. 475, Pt. A, §13 (RPR).]

[PL 2017, c. 475, Pt. A, §13 (RPR).]

4. Disclosures. A waiver must disclose, as applicable, in writing and in clear, understandable language that is easy to read, the following:

A. The name and address of the initial creditor and the borrower at the time of sale, and the identity of any administrator if different from the creditor; [PL 2017, c. 475, Pt. A, §13 (RPR).]

B. The purchase price and the terms of the waiver, including without limitation the requirements for protection, condition or exclusion associated with the waiver; [PL 2017, c. 475, Pt. A, §13 (RPR).]

C. That the borrower may cancel the waiver within a free-look period as specified in the waiver and will be entitled to a full refund of the purchase price as long as no waiver benefits have been provided; [PL 2017, c. 475, Pt. A, §13 (RPR).]

D. The procedure the borrower must follow, if any, to obtain waiver benefits under the terms and conditions of the waiver and a telephone number and address where the borrower may apply for waiver benefits; [PL 2017, c. 475, Pt. A, §13 (RPR).]

E. Whether or not the waiver is cancellable after the free-look period, the conditions under which it may be cancelled or terminated and the procedures for requesting any refund due; [PL 2017, c. 475, Pt. A, §13 (RPR).]

F. That, in order to receive any refund due in the event of a borrower's cancellation of the waiver agreement or early termination of the finance agreement, the borrower, in accordance with the terms of the waiver, must provide a written request to cancel to the creditor, administrator or other party as specified in the waiver. If a borrower is cancelling the waiver due to early termination of the finance agreement, the borrower must provide a written request to the creditor, administrator or other party within 90 days of the occurrence of the event terminating the finance agreement; [PL 2017, c. 475, Pt. A, §13 (RPR).]

G. The methodology for calculating any refund due of the unearned portion of the purchase price of the waiver in the event of cancellation of the waiver or early termination of the finance agreement; and [PL 2017, c. 475, Pt. A, §13 (RPR).]

H. That the extension of credit, the terms of credit and the terms of the related motor vehicle sale may not be conditioned upon purchase of the waiver. [PL 2017, c. 475, Pt. A, §13 (RPR).]

[PL 2017, c. 475, Pt. A, §13 (RPR).]

5. Cancellation. The following provisions govern the cancellation of a waiver.

A. A waiver must be cancellable after the free-look period. A waiver must provide that if a borrower cancels the waiver within the free-look period, the borrower is entitled to a full refund of the purchase price as long as no benefits have been provided. [PL 2017, c. 475, Pt. A, §13 (RPR).]

B. In the event of a borrower's cancellation of the waiver or early termination of the finance agreement, after the agreement has been in effect beyond the free-look period, the borrower is entitled to a pro rata refund of any unearned portion of the purchase price of the waiver. In order to receive a refund, the borrower, in accordance with any applicable terms of the waiver, must provide a written request to the creditor, administrator or other party. If the borrower is cancelling the waiver due to the early termination of the finance agreement, the borrower must provide a written request within 90 days of the event terminating the finance agreement. [PL 2017, c. 475, Pt. A, §13 (RPR).]

C. If the cancellation of a waiver occurs as a result of a default under the finance agreement or the repossession of the motor vehicle associated with the finance agreement, or any other termination of the finance agreement, any refund due may be paid directly to the creditor or administrator and applied as set forth in paragraph D. [PL 2017, c. 475, Pt. A, §13 (RPR).]

D. Any refund under paragraph A, B or C may be applied by the creditor as a reduction of the amount owed under the finance agreement unless the borrower shows that the finance agreement has been paid in full. [PL 2017, c. 475, Pt. A, §13 (RPR).]

[PL 2017, c. 475, Pt. A, §13 (RPR).]

6. Enforcement. The superintendent may require the filing of notification by an administrator pursuant to Title 9-A, section 6-202 and section 6-203, subsection 1. The superintendent may require the filing of waivers in use by an administrator. Upon request by the superintendent, an administrator shall annually file a record of waivers administered by the administrator.

The superintendent may take action that is necessary or appropriate to enforce the provisions of this chapter and to protect borrowers who hold waivers in this State. In cases in which a credit union or financial institution authorized to do business in this State, as defined in Title 9-B, section 131, subsections 12-A and 17-A, is a creditor, the Superintendent of Financial Institutions is responsible for enforcement. After notice and opportunity for hearing, the superintendent may:

A. Order the creditor, administrator or any other person not in compliance with this chapter to cease and desist from further waiver-related operations that are in violation of this chapter; and [PL 2017, c. 475, Pt. A, §13 (RPR).]

B. Impose a penalty of not more than $500 per violation and not more than $10,000 in the aggregate for all violations of a similar nature. For purposes of this paragraph, violations must be considered of a similar nature if the violations consist of the same or a similar course of conduct, action or practice, irrespective of the number of times the conduct, action or practice that is determined to be a violation of this chapter occurred. [PL 2017, c. 475, Pt. A, §13 (RPR).]

[PL 2017, c. 475, Pt. A, §13 (RPR).]

7. Exemptions. The following exemptions apply.

A. This chapter does not apply to:

(1) An insurance policy or a guaranteed asset protection insurance policy offered by an insurer under Title 24-A; or

(2) A debt cancellation or debt suspension contract offered by a credit union or financial institution authorized to do business in this State, as defined in Title 9-B, section 131, subsections 12-A and 17-A, in compliance with 12 Code of Federal Regulations, Part 37 (2017) or 12 Code of Federal Regulations, Part 721 (2017) or other federal law. [PL 2017, c. 475, Pt. A, §13 (RPR).]

B. Subsection 2, paragraph C and subsections 4 and 6 are not applicable to a waiver offered in connection with a retail installment sale associated with a commercial transaction. [PL 2017, c. 475, Pt. A, §13 (RPR).]

C. Waivers governed under this chapter are not insurance and are exempt from Title 24-A. A person is not required to obtain a license as a producer or insurer or in any other capacity be regulated under Title 24-A in order to market, administer, sell or offer to sell a waiver. [PL 2017, c. 475, Pt. A, §13 (RPR).]

[PL 2017, c. 475, Pt. A, §13 (RPR).]

SECTION HISTORY

PL 2017, c. 178, §1 (NEW). PL 2017, c. 228, §1 (NEW). PL 2017, c. 475, Pt. A, §13 (RPR).

CHAPTER 231

POSING AS A GOVERNMENTAL ENTITY OR AGENT IN COMMERCE

§1500-L. Posing as a governmental entity or agent in commerce

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

A. "Governmental entity" means a unit, subdivision or entity of the Federal Government, the State, a county, a municipality or another state, including an agency, department, board, commission, bureau, division or military or public safety organization. [PL 2017, c. 475, Pt. A, §14 (NEW).]

[PL 2017, c. 475, Pt. A, §14 (NEW).]

2. False representation of posing as a governmental entity or agent in commerce. A person who is not an official, agent or representative of a governmental entity or who does not have express approval of a governmental entity may not in commerce:

A. Represent, imply or otherwise cause a likelihood of confusion that the person is an official, agent or representative of a governmental entity in the sale, advertising for sale, marketing, offering, distribution or solicitation of any goods or services; [PL 2017, c. 475, Pt. A, §14 (NEW).]

B. Simulate a summons, complaint, jury notice, tax form or other judicial or administrative process or make an untrue statement that any good, service, advertisement or offer was sent or distributed by or has been approved, authorized or endorsed in whole or in part by a governmental entity; [PL 2017, c. 475, Pt. A, §14 (NEW).]

C. Use language or a symbol, logo, representation, statement, title, name, seal, emblem, insignia, trade or brand name, business or control tracking number, website, e-mail address or any other term or content that falsely represents or implies or otherwise causes a likelihood of confusion that any goods, services, advertisement or offer is from a governmental entity; or [PL 2017, c. 475, Pt. A, §14 (NEW).]

D. Offer a document that is available free of charge or at a lesser price from a governmental entity without conspicuously disclosing that availability in a manner that is clearly visible to a consumer. [PL 2017, c. 475, Pt. A, §14 (NEW).]

[PL 2017, c. 475, Pt. A, §14 (NEW).]

3. Unfair trade practice. A violation of this section constitutes an unfair or deceptive act or practice in violation of Title 5, chapter 10.

[PL 2017, c. 475, Pt. A, §14 (NEW).]

SECTION HISTORY

PL 2017, c. 475, Pt. A, §14 (NEW).

PART 4

TRADEMARKS AND NAMES

CHAPTER 301

GENERAL PROVISIONS

§1501. Use of another's trademark; penalty

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1502. Unauthorized use of business names

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1503. Filing certificate with Secretary of State

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1504. False oath; mandamus to compel recording

(REPEALED)

SECTION HISTORY

PL 1967, c. 441, §2 (AMD). PL 1979, c. 572, §3 (RP).

§1505. Exclusive use; rights assignable

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1506. Recording of certificates and assignments; copies as evidence

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1507. Counterfeits and sale of counterfeits; penalty

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1508. Counterfeiting recorded trademarks

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1509. Fraudulent use of trademarks

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1510. Security interest in trademarks

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1511. Existing rights not abridged

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

§1512. Injunctions

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §3 (RP).

CHAPTER 301-A

THE REGISTRATION AND PROTECTION OF MARKS

§1521. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 572, §2 (NEW).]

1. Applicant. "Applicant" includes the person filing an application for registration of a mark under this chapter, his legal representatives, successors or assigns.
[PL 1979, c. 572, §2 (NEW).]

1-A. Certification mark. "Certification mark" means a mark used upon or in connection with the products or services of one or more persons other than the owner of the mark to certify regional or other origin, material, mode of manufacture, quality, accuracy or other characteristics of such goods or services, or that the work or labor on the goods or services was performed by members of a union or other organization.
[PL 1981, c. 684, §1 (NEW).]

1-B. Collective mark. "Collective mark" means a trademark or service mark used by the members of a cooperative, an association or other collective group or organization, and includes marks used to indicate membership in a union, an association or other organization.
[PL 1981, c. 684, §1 (NEW).]

1-C. Corporate name. "Corporate name" includes any corporate name, reserved name, registered name or assumed name as those terms are used in Title 13-C, sections 401, 402, 403 and 404 respectively and includes a corporate name, reserved name, registered name or assumed name as those terms are used in Title 13-B, sections 301-A, 302-A, 303-A and 308-A respectively.
[PL 2003, c. 344, Pt. A, §1 (NEW).]

2. Corporate name.

[PL 2003, c. 344, Pt. A, §2 (RP).]

2-A. Limited partnership name. "Limited partnership name" includes a limited partnership name or assumed name under Title 31, section 1308 or reserved name or registered name as used in Title 31, section 1309.

[PL 2005, c. 543, Pt. D, §6 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

2-B. Limited liability company name. "Limited liability company name" includes a limited liability company name, reserved name, assumed name or registered name as those terms are used in Title 31, sections 1508 to 1511.
[PL 2009, c. 629, Pt. A, §3 (AFF); PL 2009, c. 629, Pt. B, §6 (AMD).]

2-C. Limited liability partnership name. "Limited liability partnership name" includes a limited liability partnership name, reserved name, assumed name or registered name as those terms are used in Title 31, sections 803-A to 806-A.
[PL 2003, c. 344, Pt. A, §5 (AMD).]

3. Mark. "Mark" includes any trademark, service mark, certification mark or collective mark entitled to be registered under this chapter, whether registered or not.
[PL 1981, c. 684, §2 (RPR).]

4. Person. "Person" means any individual, firm, partnership, corporation, association, union or other organization.
[PL 1979, c. 572, §2 (NEW).]

5. Registrant. "Registrant" includes the person to whom the registration of a mark under this chapter is issued, the registrant's legal representatives, successors or assigns.
[PL 1991, c. 465, §10 (AMD).]

6. Service mark. "Service mark" means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others.
[PL 1979, c. 572, §2 (NEW).]

7. Trade name. "Trade name" means a word, name, symbol, device or any combination thereof used by a person to identify his business, vocation or occupation and distinguish it from the business, vocation or occupation of others.
[PL 1979, c. 572, §2 (NEW).]

8. Trademark. "Trademark" means any word, name, symbol or device or any combination thereof adopted and used by a person to identify goods made or sold by him and to distinguish them from goods made or sold by others.
[PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1981, c. 684, §§1,2 (AMD). PL 1991, c. 465, §§10,11 (AMD). PL 1993, c. 316, §§2,3 (AMD). PL 1993, c. 718, §B1 (AMD). PL 1995, c. 633, §C1 (AMD). PL 2003, c. 344, §§A1-5 (AMD). PL 2005, c. 543, §D6 (AMD). PL 2005, c. 543, §D18 (AFF). PL 2009, c. 629, Pt. A, §3 (AFF). PL 2009, c. 629, Pt. B, §6 (AMD).

§1521-A. Use of marks

For the purpose of this chapter, a mark is determined to be used in this State on goods when it is placed in any manner on the goods or their containers or the displays associated with the goods or on the tags or labels affixed to the goods and the goods are sold or otherwise distributed in the State and on services when it is used or displayed in the sale or advertising of services and the services are rendered in this State. [PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1522. Registration

1. Registrability. A mark shall not be registered if it:

A. Consists of or comprises deceptive matter; [PL 1979, c. 572, §2 (NEW).]

B. Consists of or comprises matter which may falsely suggest a connection with persons, living or dead, or institutions; [PL 1979, c. 572, §2 (NEW).]

C. Consists of or comprises the flag or coat of arms or other insignia of the United States or of any state or municipality or of any foreign nation or any simulation thereof; [PL 1979, c. 572, §2 (NEW).]

D. Consists of or comprises the name, signature or portrait of any living individual, except with that individual's written consent, which shall be filed together with the application for registration under this section; [PL 1979, c. 572, §2 (NEW).]

E. Consists of a mark that, when applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them or, when applied to the goods or services of the applicant, is primarily geographically descriptive or deceptively misdescriptive of them, except as indications of regional origin may be registrable under subsection 3, or is primarily merely a surname, provided that nothing in this paragraph may prevent the registration of a mark used in this State by the applicant that has become distinctive of the applicant's goods or services. The Secretary of State may accept as evidence that the mark has become distinctive, as applied to the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this State or elsewhere for the 5 years next preceding the date of the filing of the application for registration; [PL 2005, c. 543, Pt. D, §7 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

F. Consists of or comprises a mark that so resembles a mark registered in this State or a mark or trade name previously used in this State by another and not abandoned, as to be likely, when applied to the goods or services of the applicant, to cause confusion or mistake or to deceive, unless the registered owner or holder of the other mark executes and files with the Secretary of State proof of authorization of the use of a similar mark by the applicant seeking to use the similar mark; [PL 1993, c. 616, §1 (AMD).]

G. Is not distinguishable from the real, assumed, fictitious, reserved or registered name of a corporation, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership, unless the corporation, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership executes and files with the Secretary of State proof of authorization of the use of a mark similar to the real, assumed, fictitious, reserved or registered name of a corporation, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership by the applicant seeking to use the mark; [PL 2005, c. 543, Pt. D, §8 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

H. Consists of or comprises language that is obscene, contemptuous, profane or prejudicial; [PL 1997, c. 633, §1 (AMD).]

I. Inappropriately promotes abusive or unlawful activity; or [PL 1997, c. 633, §1 (AMD).]

J. Notwithstanding paragraph G, is identical to a corporate, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership name, unless the corporation, limited liability company, limited liability partnership, limited partnership or limited liability limited partnership is the same entity as the applicant that is seeking to register the mark and files proof of ownership with the Secretary of State. [PL 2005, c. 543, Pt. D, §9 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

The Secretary of State shall make the final determination regarding the availability of a mark for filing. [PL 2003, c. 344, Pt. A, §6 (AMD); PL 2005, c. 543, Pt. D, §§7-9 (AMD); PL 2005, c. 543, Pt. D, §18 (AFF).]

2. Application for registration. Subject to the limitations set forth in this chapter, any person who adopts and uses a mark in this State may file in the office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

A. The name and business address of the person applying for the registration and, if a corporation, the state of incorporation; [PL 1997, c. 376, §1 (AMD).]

B. The goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with the goods or services and the class in which the goods or services fall; [PL 1979, c. 572, §2 (NEW).]

C. The date when, to the best of the applicant's knowledge and belief, the mark was first used anywhere and the date when it was first used in this State by the applicant or the applicant's predecessor in business; and [PL 1997, c. 376, §1 (AMD).]

D. A statement that to the best of the applicant's knowledge and belief, the applicant is the owner of the mark and that no other person has the right to use the mark in this State as a mark or as a trade name or as a corporate name either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of the other person, to cause confusion or to cause mistake or to deceive. [PL 1997, c. 376, §1 (AMD).]

The application must be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

The execution of an application containing false statements constitutes unsworn falsification under Title 17-A, section 453.

The application must be accompanied by a specimen or facsimile of the mark in triplicate.

The application for registration must be accompanied by a filing fee of $60 for the first class and $10 for each additional class, payable to the Treasurer of State.
[PL 2003, c. 673, Pt. WWW, §1 (AMD); PL 2003, c. 673, Pt. WWW, §37 (AFF).]

3. Collective marks and certification marks. Collective marks and certification marks, including indications of regional origin used in commerce, shall be registrable in the same manner and with the same effect as trademarks and service marks by persons and by governmental entities, as defined in Title 14, section 8102, subsections 2, 3 and 4.
[PL 1981, c. 684, §5 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1981, c. 684, §§3-5 (AMD). PL 1987, c. 561, §1 (AMD). PL 1993, c. 316, §§4,5 (AMD). PL 1993, c. 616, §§1,2 (AMD). PL 1993, c. 718, §B2 (AMD). PL 1995, c. 462, §A24 (AMD). PL 1995, c. 633, §C2 (AMD). PL 1997, c. 376, §1 (AMD). PL 1997, c. 633, §§1,2 (AMD). PL 2003, c. 344, §A6 (AMD). PL 2003, c. 673, §WWW1 (AMD). PL 2003, c. 673, §WWW37 (AFF). PL 2005, c. 543, §§D7-9 (AMD). PL 2005, c. 543, §D18 (AFF).

§1523. Attested copy

Upon compliance by the applicant with the requirements of this chapter, the Secretary of State shall promptly make a copy of the original and attest that copy by marking upon it the same endorsement that is required to appear upon the original, together with a further endorsement that the copy is a true copy of the original document. The attested copy must be returned to the person submitting the document for filing or to that person's representative. [PL 1997, c. 376, §2 (AMD).]

An attested copy issued by the Secretary of State under this section or a copy duly certified by the Secretary of State is admissible in evidence as competent and sufficient proof of the registration of the mark in any action or judicial proceedings in any court of this State. [PL 1997, c. 376, §2 (AMD).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1997, c. 376, §2 (AMD).

§1524. Duration and renewal

Registration of a mark is effective for a term of 10 years from the date of registration. Upon application filed within 6 months prior to the expiration of the term, on a form to be furnished by the Secretary of State, the registration may be renewed for a like term. A renewal fee of $60, payable to the Treasurer of State, must accompany the application for renewal of the registration. [PL 2003, c. 673, Pt. WWW, §2 (AMD); PL 2003, c. 673, Pt. WWW, §37 (AFF).]

A mark registration may be renewed for successive periods of 10 years in like manner. [PL 1979, c. 572, §2 (NEW).]

The Secretary of State shall notify each registrant of a mark under this chapter of the necessity of renewal within the year next preceding the expiration of the 10 years from the date of registration, by writing to the last known address of the registrant. [PL 1979, c. 572, §2 (NEW).]

Any registration in force on the date on which this chapter becomes effective shall expire 10 years from the date of the registration or one year after the effective date of this chapter, whichever is later, and may be renewed by filing an application with the Secretary of State on a form furnished by him and paying the renewal fee within 6 months prior to the expiration of the registration. [PL 1979, c. 572, §2 (NEW).]

All applications for renewals under this chapter, whether of registrations made under this chapter or of registrations effected under any prior Act, shall include a statement that the mark is still in use in this State. [PL 1979, c. 572, §2 (NEW).]

The Secretary of State shall, within 6 months after the effective date of this chapter, notify all registrants of marks under prior Acts of the date of expiration of the registrations, unless renewed in accordance with this chapter by writing by first class mail to the last known address of each registrant. [PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1987, c. 561, §2 (AMD). PL 2003, c. 673, §WWW2 (AMD). PL 2003, c. 673, §WWW37 (AFF).

§1525. Assignment

1. Recording. Any mark and its registration are assignable with the good will of the business in which the mark is used or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignment must be by an instrument in writing duly executed and may be recorded with the Secretary of State upon the payment of a fee of $40 payable to the Treasurer of State. The Secretary of State, upon recording of an assignment, shall issue an attested copy in the name of the assignee. The assignment is valid for the remainder of the term of the registration or of the last renewal. An assignment of any registration under this chapter is void as against any subsequent purchaser for valuable consideration without notice, unless it is recorded with the Secretary of State within 3 months after the date thereof or prior to the subsequent purchase.
[PL 1997, c. 376, §3 (AMD).]

2. Corporate, limited liability company or partnership name. Any registrant of a mark that has been duly recorded pursuant to section 1523 may grant to any domestic or foreign corporation, limited liability company, limited liability partnership or limited partnership authorized to do business in this State the exclusive right to the use of a name similar to that mark.
[PL 1997, c. 376, §4 (AMD).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1987, c. 561, §3 (AMD). PL 1993, c. 316, §6 (AMD). PL 1993, c. 718, §B3 (AMD). PL 1995, c. 633, §C3 (AMD). PL 1997, c. 376, §§3,4 (AMD).

§1525-A. Amendment

The registration of a mark may be amended by adding or removing one or more classes of goods and services under section 1527, subsection 2. The amendment must be in writing and recorded with the Secretary of State and accompanied by a filing fee of $10 for each class affected, payable to the Treasurer of State. The Secretary of State may prescribe a form for this purpose. The Secretary of State upon recording of an amendment shall issue an attested copy. The amendment is valid for the remainder of the term of the registration or of the last renewal. [PL 1997, c. 376, §5 (AMD).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW). PL 1997, c. 376, §5 (AMD).

§1526. Records

The Secretary of State shall keep for public examination a record of all marks registered or renewed under this chapter. [PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW).

§1526-A. Information requests

(REPEALED)

SECTION HISTORY

PL 1991, c. 780, §U2 (NEW). PL 1991, c. 837, §A27 (NEW). PL 1993, c. 349, §25 (RPR). PL 2007, c. 231, §1 (RP).

§1527. Cancellation; classification

1. Cancellation required. The Secretary of State shall cancel from the register:

A. After one year from the effective date of this chapter, all registrations under prior Acts which are more than 10 years old and not renewed in accordance with this chapter; [PL 1979, c. 572, §2 (NEW).]

B. Any registration on file when the Secretary of State receives a voluntary request for cancellation from the registrant or the assignee of record. The cancellation must be in writing and recorded with the Secretary of State and accompanied by a filing fee of $10, payable to the Treasurer of State. The Secretary of State may prescribe a form for this purpose. The Secretary of State, upon the recording of a cancellation under this paragraph, shall issue an attested copy to the remitter of the instrument; [PL 2007, c. 535, Pt. A, §1 (AMD); PL 2007, c. 535, Pt. A, §7 (AFF).]

C. All registrations granted under this chapter and not renewed in accordance with the chapter; [PL 1979, c. 572, §2 (NEW).]

D. Any registration concerning which a court of competent jurisdiction shall find:

(1) That the registered mark has been abandoned;

(2) That the registrant is not the owner of the mark;

(3) That the registration was granted improperly;

(4) That the registration was obtained fraudulently;

(5) That the registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States Patent and Trademark Office prior to the date of the filing of the application for registration by the registrant and not

abandoned; provided that, should the registrant prove that he is the owner of a concurrent registration of his mark in the United States Patent and Trademark Office covering an area including this State, the registration shall not be cancelled; or

(6) That, in the case of a certification mark, the registrant does not control, or is not able legitimately to exercise control over, the use of the mark; engages in the production or marketing of any goods or services to which the certification mark is applied; permits the use of the certification mark for purposes other than to certify; or discriminately refuses to certify or to continue to certify the goods or services of any person who maintains the standards or conditions which the mark certifies; and [PL 1981, c. 684, §§6, 7 (AMD).]

E. When a court of competent jurisdiction shall order cancellation of a registration on any ground. [PL 1979, c. 572, §2 (NEW).]

[PL 2007, c. 535, Pt. A, §1 (AMD); PL 2007, c. 535, Pt. A, §7 (AFF).]

2. Classification. The following general classes of goods and services are established for convenience of administration of this chapter, but not to limit or extend the applicant's or registrant's rights and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used. If the goods or services fall in more than one class, an additional fee in the amount prescribed in section 1522, subsection 2, shall be paid for each additional class.

The classes are as follows:

A. Goods and services:

(1) Chemical products used in industry, science, photography, agriculture, horticulture, forestry; artificial and synthetic resins; plastics in the form of powders, liquids or pastes, for industrial use; natural and artificial manures; fire extinguishing compositions; tempering substances for preserving foodstuffs; tanning substances and adhesive substances used in industry;

(2) Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; coloring matters, dyestuffs; mordants; natural resins and metals in foil and powder form for painters and decorators;

(3) Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions and dentifrices;

(4) Industrial oils and greases, other than oils and fats and essential oils; lubricants; dust laying and absorbing compositions; fuels, including motor spirit and illuminants and candles, tapers, night lights and wicks;

(5) Pharmaceutical, veterinary and sanitary substances; infants' and invalids' foods; plasters, material for bandaging; material for stopping teeth, dental wax, disinfectants and preparations for killing weeds and destroying vermin;

(6) Unwrought and partly wrought common metals and their alloys; anchors, anvils, bells, rolled and cast building materials; rails and other metallic materials for railway tracks; chains, except driving chains for vehicles; nonelectric cables and wires; locksmiths' work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws; other goods in nonprecious metal not included in other classes and ores;

(7) Machines and machine tools; motors, except for land vehicles; machine couplings and belting, except for land vehicles; large size agricultural implements and incubators;

(8) Hand tools and instruments; cutlery, forks and spoons and side arms;

(9) Scientific, nautical, surveying and electrical apparatus and instruments, including wireless apparatus and instruments, photographic, cinematographic, optical, weighing, measuring, signaling, checking, supervision, lifesaving and teaching apparatus and instruments; coin or counterfreed apparatus; talking machines, cash registers; calculating machines and fire extinguishing apparatus;

(10) Surgical, medical, dental and veterinary instruments and apparatus, including artificial limbs, eyes and teeth;

(11) Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes;

(12) Vehicles and apparatus for locomotion by land, air or water;

(13) Firearms; ammunition and projectiles; explosive substances and fireworks;

(14) Precious metals and their alloys and goods in precious metals or coated therewith, except cutlery, forks and spoons and jewelry, precious stones, horological and other chronometric instruments;

(15) Musical instruments, other than talking machines and wireless apparatus;

(16) Paper, cardboard, articles of paper or of cardboard, not included in other classes; printed matter, newspapers and periodicals, books; bookbinding material; photographs; stationery, adhesive stationery materials; artists' materials; paint brushes; typewriters and office requisites, other than furniture; instructional and teaching material, other than apparatus; playing cards; printers' type and stereotype cliches;

(17) Gutta percha, india rubber, balata and substitutes, articles made from these substances and not included in other classes; plastics in the form of sheets, blocks and rods, being for use in manufacture; materials for packing, stopping or insulating; asbestos, mica and their products and nonmetallic hose pipes;

(18) Leather and imitations of leather, and articles made from these materials and not included in other classes; skins, hides; trunks and traveling bags, umbrellas, parasols and walking sticks and whips, harness and saddlery;

(19) Building materials, natural and artificial stone, cement, lime, mortar, plaster and gravel; pipes of earthenware or cement; road-making materials; asphalt, pitch and bitumen; portable buildings; stone monuments and chimney pots;

(20) Furniture, mirrors, picture frames and articles, not included in other classes, of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, celluloid, substitutes for all these materials or of plastics;

(21) Small domestic utensils and containers, not of precious metals, or coated therewith; combs and sponges; brushes, other than paint brushes; brushmaking materials; instruments and material for cleaning purposes, steel wool; unworked or semiworked glass, excluding glass used in building and glassware, porcelain and earthenware, not included in other classes;

(22) Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks; padding and stuffing materials, such as hair, kapok, feathers, seaweed and raw fibrous textile materials;

(23) Yarns and threads;

(24) Tissue piece goods; bed and table covers and textile articles not included in other classes;

(25) Clothing, including boots, shoes and slippers;

(26) Lace and embroidery, ribands and braid; buttons, press buttons, hooks and eyes, pins and needles and artificial flowers;

(27) Carpets, rugs, mats and matting; linoleums and other materials for covering existing floors and nontextile wall hangings;

(28) Games and playthings; gymnastic and sporting articles, except clothing and ornaments and decorations for Christmas trees;

(29) Meats, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams; eggs, milk and other dairy products; edible oils and fats; preserves and pickles;

(30) Coffee, tea, cocoa, sugar, rice, tapioca, sago, coffee substitutes; flour, and preparations made from cereals; bread, biscuits, cakes, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard, pepper, vinegar, sauces, spices and ice;

(31) Agricultural, horticultural and forestry products and grains not included in other classes; living animals; fresh fruits and vegetables; seeds; live plants and flowers; foodstuffs for animals and malt;

(32) Beer, ale and porter; mineral and aerated waters and other nonalcoholic drinks and syrups and other preparations for making beverages;

(33) Wines, spirits and liqueurs;

(34) Tobacco, raw or manufactured; smokers' articles and matches; and

(35) Merchandise not otherwise classified;

(36) Advertising and business;

(37) Insurance and financial;

(38) Construction and repair;

(39) Communication;

(40) Transportation and storage;

(41) Material treatment;

(42) Education and entertainment; and

(43) Services not otherwise classified. [PL 1997, c. 376, §6 (AMD).]

[PL 1997, c. 376, §6 (AMD).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). PL 1981, c. 684, §§6,7 (AMD). RR 1991, c. 2, §32 (COR). PL 1997, c. 376, §6 (AMD). PL 2007, c. 535, Pt. A, §1 (AMD). PL 2007, c. 535, Pt. A, §7 (AFF).

§1527-A. Powers of the Secretary of State

The Secretary of State has the power and authority reasonably necessary to administer this chapter efficiently and to perform the duties imposed upon the secretary. These powers include, without limitation: [PL 1991, c. 465, §12 (NEW).]

1. Rulemaking. The power to make rules not inconsistent with this chapter;
[PL 1991, c. 465, §12 (NEW).]

2. Forms; required. The power to prescribe forms for all documents required or permitted to be filed with the Secretary of State and to refuse to file documents not utilizing the prescribed forms to the extent possible; and
[PL 1991, c. 465, §12 (NEW).]

3. Refuse filing of documents. The power to refuse to file any document that is not clearly legible or may not be clearly reproducible photographically.

[PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1527-B. Expedited service

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. All fees collected as provided by this section must be deposited into a fund for use by the Secretary of State in providing an improved filing service. [PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1527-C. Access to Secretary of State's database

The Secretary of State may provide public access to the database of the Department of the Secretary of State through a dial-in modem, public terminals and electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may promulgate rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures. [PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1527-D. Publications

1. Informational publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of these publications.
[PL 1991, c. 465, §12 (NEW).]

2. Fund; fees deposited. All fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State for the purpose of replacing and updating publications offered in accordance with this chapter and for funding new publications.
[PL 1991, c. 465, §12 (NEW).]

SECTION HISTORY

PL 1991, c. 465, §12 (NEW).

§1528. Fraudulent registration

Any person who shall for himself, or on behalf of any other person, procure the filing or registration of any mark in the office of the Secretary of State under this chapter, by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of the filing or registration, to be recovered by or on behalf of the party injured in any court of competent jurisdiction. [PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW).

§1529. Infringement

Subject to section 1532, any person who shall: [PL 1979, c. 572, §2 (NEW).]

1. Use without consent of copy of a registered mark in connection with sale of goods or services. Use, without the consent of the registrant, any reproduction, counterfeit, copy or colorable imitation of a mark registered under this chapter in connection with the sale, offering for sale or advertising of any goods or services on or in connection with which use is likely to cause confusion or mistake to deceive as to the source of origin of the goods or services; or
[PL 1979, c. 572, §2 (NEW).]

2. Reproduce and apply a mark in conjunction with sale of goods or services. Reproduce, counterfeit, copy or colorably imitate any mark and apply the reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used upon or in conjunction with the sale or other distribution in this State of the goods or services;

shall be liable to a civil action by the owner of the registered mark for any or all of the remedies provided in section 1531, except that under subsection 2 the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that the mark is intended to be used to cause confusion or mistake or to deceive.
[PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW).

§1530. Injury to business reputation; dilution

Likelihood of injury to business reputation or of dilution of the distinctive quality of a mark registered under this chapter, or a mark valid at common law, or a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services. [PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW).

§1531. Remedies

1. Generally. Any owner of a mark registered under this chapter may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations and the Superior Court may grant injunctions to restrain the manufacture, use, display or sale as may be by the court deemed just and reasonable and may require the defendants to pay to the owner all profits derived from and all damages suffered by reason of the wrongful manufacture, use, display or sale and the court may also order that any counterfeits or imitations in the possession or under the control of any defendant in the case, be delivered to an officer of the court or to the complainant to be destroyed.
[PL 1979, c. 572, §2 (NEW).]

2. Statutory damages. The owner of the mark may elect, at any time before final judgment is rendered, to recover instead of actual damages or profits an award of statutory damages with respect to any one mark for which any one defendant is liable individually or for which any 2 or more defendants are liable jointly and severally in an amount not to exceed $2,000.
[PL 1979, c. 572, §2 (NEW).]

3. Attorney's fees and costs. The Superior Court shall award the prevailing party costs and, in exceptional cases only, may award the prevailing party reasonable attorney's fees.
[RR 1991, c. 2, §33 (COR).]

4. Criminal prosecution. The enumeration of any right or remedy shall not affect a registrant's right to prosecute under any penal law of this State.
[PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW). RR 1991, c. 2, §33 (COR).

§1532. Common law rights

Nothing in this chapter shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at common law at any time before or after the enactment of this chapter. [PL 1979, c. 572, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 572, §2 (NEW).

CHAPTER 302

UNIFORM TRADE SECRETS ACT

§1541. Short title

This Act shall be known and may be cited as the "Uniform Trade Secrets Act." [PL 1987, c. 143 (NEW).]

SECTION HISTORY

PL 1987, c. 143 (NEW).

§1542. Definitions

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 143 (NEW).]

1. Improper means. "Improper means" means theft, bribery, misrepresentation, breach or inducement of a breach of duty to maintain secrecy or espionage through electronic or other means. [PL 1987, c. 143 (NEW).]

2. Misappropriation. "Misappropriation" means:

A. Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or [PL 1987, c. 143 (NEW).]

B. Disclosure or use of a trade secret of another without express or implied consent by a person who:

(1) Used improper means to acquire knowledge of the trade secret;

(2) At the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was:

(i) Derived from or through a person who had utilized improper means to acquire it;

(ii) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(iii) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(3) Before a material change of his position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake. [PL 1987, c. 143 (NEW).]

3. Person. "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency or any other legal or commercial entity.

[PL 1987, c. 143 (NEW).]

4. Trade secret. "Trade secret" means information, including, but not limited to, a formula, pattern, compilation, program, device, method, technique or process, that:

A. Derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and [PL 1987, c. 143 (NEW).]

B. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. [PL 1987, c. 143 (NEW).]

[PL 1987, c. 143 (NEW).]

SECTION HISTORY

PL 1987, c. 143 (NEW).

§1543. Injunctive relief

1. Misappropriation restrained or enjoined. Actual or threatened misappropriation may be restrained or enjoined. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.

[PL 1987, c. 143 (NEW).]

2. Exceptional circumstances. In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited.

A. Exceptional circumstances include, but are not limited to, a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable. [PL 1987, c. 143 (NEW).]

[PL 1987, c. 143 (NEW).]

3. Protection of trade secret compelled. In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.

[PL 1987, c. 143 (NEW).]

4. Application. This section applies to all forms of injunctive relief, including temporary restraining orders, preliminary injunctions and permanent injunctions.

[PL 1987, c. 143 (NEW).]

SECTION HISTORY

PL 1987, c. 143 (NEW).

§1544. Damages

Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant is entitled to recover damages for misappropriation. [PL 1987, c. 143 (NEW).]

1. Measurement of damages. Damages may include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.

[PL 1987, c. 143 (NEW).]

2. Willful, malicious misappropriation. If willful and malicious misappropriation exists, the court may award exemplary damages in an amount not to exceed twice any award made under subsection 1.
[PL 1987, c. 143 (NEW).]

SECTION HISTORY

PL 1987, c. 143 (NEW).

§1545. Attorneys fees

If a claim of misappropriation is made in bad faith, a motion to terminate an injunction is made or resisted in bad faith or willful and malicious misappropriation exists, the court may award reasonable attorneys fees to the prevailing party. [PL 1987, c. 143 (NEW).]

SECTION HISTORY

PL 1987, c. 143 (NEW).

§1546. Preservation of secrecy

In an action under this Act, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in camera hearings, sealing the records of the action and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval. [PL 1987, c. 143 (NEW).]

SECTION HISTORY

PL 1987, c. 143 (NEW).

§1547. Statute of limitations

An action for misappropriation must be brought within 4 years after the misappropriation is discovered or, by the exercise of reasonable diligence, should have been discovered. For the purposes of this section, a continuing misappropriation constitutes a single claim. [PL 1987, c. 143 (NEW).]

SECTION HISTORY

PL 1987, c. 143 (NEW).

§1548. Effect on other laws

1. No effect. Except as provided in this section, this Act displaces conflicting tort, restitutionary and other laws of this State providing civil remedies for misappropriation of a trade secret. This Act does not affect:

A. Contractual remedies, whether or not based upon misappropriation of a trade secret; [PL 1987, c. 143 (NEW).]

B. Other civil remedies that are not based upon misappropriation of a trade secret; [PL 1987, c. 143 (NEW).]

C. Criminal remedies, whether or not based upon misappropriation of a trade secret; [PL 1987, c. 143 (NEW).]

D. The duty of any person to disclose information where expressly required by law; or [PL 1987, c. 143 (NEW).]

E. The provisions of the Maine Tort Claims Act, Title 14, chapter 741. [PL 1987, c. 143 (NEW).]
[PL 1987, c. 143 (NEW).]

SECTION HISTORY

PL 1987, c. 143 (NEW).

CHAPTER 303

MILK

§1551. Filing and publishing description of name and devices

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §4 (RP).

§1552. Use of can without owner's consent; evidence

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §4 (RP).

§1553. Defacing or mutilating containers

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §4 (RP).

§1554. Placing foreign matter in container

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §4 (RP).

§1555. Search warrants for containers in wrongful possession

(REPEALED)

SECTION HISTORY

PL 1965, c. 431, §1 (RP).

CHAPTER 305

POTATOES

§1601. Trademarks

In order to better carry out the objectives of the Potato Tax Law, the Maine Potato Commission may develop and register trademarks. The Commissioner of Agriculture, Conservation and Forestry may delegate to the Maine Potato Commission the authority to regulate the use of the State of Maine trademark when used in packaging potatoes, both fresh and processed. [RR 2009, c. 2, §19 (COR); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

RR 2009, c. 2, §19 (COR). PL 2011, c. 657, Pt. W, §6 (REV).

§1602. Licenses

1. Unlawful use of trademark. After establishment by rules adopted in a manner consistent with the Maine Administrative Procedure Act of a trademark by the commission, a person may not use the trademark without first securing a permit or license from the Maine Potato Commission.
[PL 2003, c. 452, Pt. E, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not more than $50 may be adjudged. [PL 2017, c. 475, Pt. A, §15 (AMD).]

B. A person who violates this section after having previously violated this section commits a civil violation for which a fine of not more than $200 may be adjudged. [PL 2003, c. 452, Pt. E, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2017, c. 475, Pt. A, §15 (AMD).]

3. Additional remedies. The Maine Potato Commission or a duly authorized representative may recover penalties imposed for violation of this section in a civil action brought in the name of the commission, and if it prevails in such action may recover full costs; or the commission may prosecute for violations of this section by complaint or indictment. The District Court and the Superior Court have concurrent jurisdiction of actions brought for the recovery of penalties imposed by this section and of prosecutions for violations thereof.
[PL 2003, c. 452, Pt. E, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1977, c. 694, §166 (AMD). PL 2003, c. 452, §E1 (RPR). PL 2003, c. 452, §X2 (AFF). PL 2017, c. 475, Pt. A, §15 (AMD).

§1603. Price

The Maine Potato Commission shall have the authority to set prices on trademarked potatoes sold by licensed shippers or processors.

§1604. Buying and selling

In order to promote the prosperity of this State and of the potato industry by fostering and promoting better methods of production, processing, merchandising and advertising, the Maine Potato Commission shall have the authority to buy and sell potatoes or processed potato products.

§1605. Rules and regulations; contract

The Maine Potato Commission may prescribe rules and regulations for carrying out the purposes of this chapter, and may issue licenses to shippers or processors who shall enter into a contract with the commission and agree to abide by the rules and regulations. The commission may charge a fee on a per package or per hundred-weight basis for the use of trademarks established by the commission or of the State of Maine trademark used on potatoes, fresh or processed. The commission shall reserve the right to cancel any license for failure to abide by the rules and regulations of the commission, or for breach of the terms of any contract entered into with the commission; and the commission shall have the right to cancel all outstanding licenses at any time that the commission deems such action necessary to the best interest of the potato industry as a whole. The commission shall have the right to grant an exclusive license for the use of such trademarks to a single co-operative which shall, by contract with the commission, be empowered to issue licenses to shippers and processors on such terms and conditions as the commission may require.

§1606. Enforcement; jurisdiction

(REPEALED)

SECTION HISTORY

PL 2003, c. 452, §E2 (RP). PL 2003, c. 452, §X2 (AFF).

CHAPTER 307

OILS

§1651. Description of marks filed

All persons or corporations engaged in the sale of kerosene, refined petroleum, gasoline or other burning or illuminating oils or fluids, in cans of a capacity of not less than 5 gallons, with their names or other marks or devices branded, stamped, engraved, etched, impressed or otherwise produced upon such cans or anything connected therewith or appertaining thereto, may file in the office of the town or city clerk, in which their principal place of business is situated, a description of the names and marks used by them, and cause the same to be published once a week for 3 successive weeks in any newspaper of general circulation in the county in which the notice may have been filed. [PL 1987, c. 667, §5 (AMD).]

SECTION HISTORY

PL 1987, c. 667, §5 (AMD).

§1652. Regulation of sale of certain oils

No person may sell or keep for sale, except for remanufacture or as provided, kerosene, range oil, fuel oil or other burning oil for illuminating, heating or cooking purposes which will flash at a temperature of less than 100° Fahrenheit, to be ascertained by the application of any standard approved closed cup tester. Nothing contained in this section may prohibit the sale or keeping for sale of gasoline or naphtha as such for fuel or illuminating purposes. [PL 1983, c. 106 (AMD).]

SECTION HISTORY

PL 1979, c. 541, §A94 (AMD). PL 1983, c. 106 (AMD).

§1652-A. Prohibition of nondegradable plastic carriers on lubricating oil containers

(REPEALED)

SECTION HISTORY

PL 1987, c. 373, §§3,5 (NEW). PL 1993, c. 341, §5 (RP).

§1653. Pure sperm oil defined; adulteration

All oils sold under the names of sperm, summer, fall and winter oils are deemed to be sold for pure sperm oil, the test of which is Southworth's oleometer. Whoever sells under said names any oils which are adulterated by the mixture of an inferior article, without disclosing the full extent of adulteration to the purchaser, forfeits to the prosecutor $15 for each offense. The oil so sold shall be deemed whale oil, and the seller is liable to the purchaser for the difference between pure sperm oil and whale oil, to be recovered in a civil action.

§1654. Deception; adulteration or misbranding

It shall be unlawful for any person, firm or corporation within this State to store, sell, distribute, transport, expose for sale or offer for sale, distribution or transportation any internal combustion engine fuels, lubricating oils or other similar products in any manner whatsoever so as to deceive or tend to deceive the purchaser as to the nature, quality, price and identity of the product so sold or offered for sale or which is adulterated or misbranded within the meaning of this chapter.

§1655. Description of contents; identity of manufacturer or distributor

It is unlawful for a person, firm or corporation to store, keep, expose for sale, offer for sale or sell from any tank or container or from any pump or other distributing device or equipment any internal combustion engine fuels, lubricating oils or other similar products than those indicated by the name, trade name, symbol, sign or other distinguishing mark or device of the manufacturer or distributor appearing upon the tank, container, pump or other distributing equipment from which the same are sold, offered for sale or distributed, and all tanks, containers, pumps or other distributing equipment containing internal combustion engine fuels, lubricating oils or other similar products must be plainly designated by the name, trademark, symbol, sign or other distinguishing mark or device of the manufacturer or distributor. [PL 2009, c. 434, §3 (AMD).]

SECTION HISTORY

PL 2009, c. 434, §3 (AMD).

§1656. Trade names not imitated

It shall be unlawful for any person, firm or corporation to disguise or camouflage his or their own equipment by imitating the design, symbol or trade name of the equipment under which recognized brands of internal combustion engine fuels, lubricating oils and similar products are generally marketed.

§1657. Trade name oils or fuels not to be mixed or adulterated

It shall be unlawful for any person, firm or corporation to expose for sale, offer for sale or sell under any trademark or trade name in general use any internal combustion engine fuels, lubricating oils or other like products except those manufactured or distributed by the manufacturer or distributor marketing internal combustion engine fuels, lubricating oils or other like products under such trademark or trade name, or to substitute, mix or adulterate the internal combustion engine fuels, lubricating oils or other similar products sold, offered for sale or distributed under such trademark or trade name.

§1658. Filling marked tank with other fuel or oil forbidden

It shall be unlawful for any person, firm or corporation to aid or assist any other person, firm or corporation in the violation of this chapter by depositing or delivering into any tank, receptacle or other container any other internal combustion engine, fuels, lubricating oils or like products than those intended to be stored therein and distributed therefrom as indicated by the name of the manufacturer or distributor, or the trademark or trade name of the product displayed on the container itself, or on the pump or other distributing device used in connection therewith.

§1658-A. Marking and filling containers owned by others

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

A. "Liquefied petroleum gas" means any material that is composed predominantly of any of the following hydrocarbons or mixtures of those hydrocarbons: propane, propylene, normal butane, isobutane and butylenes. [PL 1991, c. 770, §1 (NEW).]

B. "Owner" means any person who holds title to a liquefied petroleum gas container. [PL 1991, c. 770, §1 (NEW).]

[PL 1991, c. 770, §1 (NEW).]

2. Unlawful use of containers. No person except the owner, or a person authorized in writing by the owner to do so, may fill or refill a liquefied petroleum gas container with a liquefied petroleum gas or any other gas or substance.

[PL 1991, c. 770, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 770, §1 (NEW).

§1659. Internal combustion engine fuel defined; expenses

For the purposes of this chapter, the term "internal combustion engine fuel" shall mean motor fuel, commonly called and known as gasoline, benzol or other product to be used in the operation of an internal combustion engine. The term "misbranded" shall apply to all internal combustion engine fuel, the package, label, pump, tank or container of which shall bear any statement, design or device regarding such article or the ingredient or substance contained therein which shall be false or misleading in any particular or which is falsely branded in any particular.

Gasoline shall be held to be "adulterated":

1. Water or tar-like matter. If it contains water or tar-like matter;

2. Weight of residue after distillation. If it contains more than 4% by weight of residue after being distilled at a temperature of 437` Fahrenheit;

3. Temperature of vapor. If the maximum temperature of the vapor on distillation without pressure exceeds 437` Fahrenheit.

The methods of testing to be used shall be those in general use in the petroleum refining industry.

§1660. Enforcement

The Director of the Maine Agricultural Experiment Station shall analyze or cause to be analyzed such samples of internal combustion engine fuels, lubricating oils and other like products at such time and to such extent as the Attorney General may determine. The Attorney General shall enforce this chapter and for that purpose shall have full access at all reasonable hours to any place in which internal combustion engine fuels, lubricating oils and other like products are stored, transported, sold, offered or exposed for sale. The Attorney General may open any case, package or other container, tank, pump, tank car or storage tank and enter upon any barge, vessel or other vehicle of transportation and may, upon tendering the market price, take samples for analysis. The expense of such analysis and of the administration of this chapter shall be included in the expense of the administration of the tax on gasoline. [PL 1979, c. 407, §2 (AMD).]

SECTION HISTORY

PL 1979, c. 407, §2 (AMD).

§1661. Deception as to price prohibited

Every retail dealer in internal combustion engine fuel advertising the price of such engine fuel on any sign shall include in the price shown on such sign all taxes imposed with respect to the manufacture or sale of the motor fuel offered for sale, and every such sign shall either contain a statement of the taxes included in said price, or, without specifying the amount thereof, shall state that such taxes are included in said price. All figures, including fractions, upon said signs, other than figures and fractions used in any price computing mechanism constituting a part of any pump or dispensing device, shall be of the same size.

§1661-A. Gasoline stations to provide services for handicapped drivers

Every full-service gasoline station offering self-service pumping at a lesser cost shall require an attendant employed by the station to dispense gasoline to any motor vehicle properly displaying a handicapped placard or special designating plates issued under Title 29-A, section 521, when the person to whom the placard or plates have been issued is the operator of the vehicle, the service is requested, the operator has a driver's license designated with a code S, restricted to special equipment, and there is no nonhandicapped adult in the motor vehicle. [PL 1995, c. 645, Pt. A, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 615 (NEW). PL 1987, c. 718 (NEW). PL 1989, c. 83, §1 (RPR). PL 1995, c. 65, §A23 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 645, §A1 (AMD).

§1661-B. Requirement for gasoline stations to post prices of fuels sold

1. Posting required. A retail seller of fuel to be used by vehicles on public highways shall make clearly visible on each pump the price of the fuel available at that pump, either by posting a sign of no less than 64 square inches or by a price reading, digital or analog, built into the pump that must reflect the actual price of the fuel pumped. The pump must have a sign of no less than 64 square inches on it if either the price on the pump differs from the price posted on the roadside sign due to a difference in grade of fuel or service or the retailer does not have a roadside sign. On multi-grade pumps, the posted price must be for the lowest priced unleaded regular gasoline. The posting must indicate the difference in price for full-service, mini-service and self-service if more than one grade of service is available at that pump.
[PL 2007, c. 86, §1 (AMD).]

2. Penalties. The following penalties apply to violations of this section.

A. A person, firm, partnership or corporation who violates this section commits a civil violation for which a fine of not more than $100 may be adjudged. [PL 2003, c. 452, Pt. E, §3 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person, firm, partnership or corporation who violates this section after having previously violated this section commits a civil violation for which a fine of not more than $500 may be adjudged. [PL 2003, c. 452, Pt. E, §3 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. E, §3 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

3. Enforcement. The Commissioner of Agriculture, Conservation and Forestry shall enforce this section pursuant to Title 7, section 13.
[PL 2005, c. 512, §44 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

PL 1989, c. 83, §2 (NEW). PL 2003, c. 452, §§E3,4 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 512, §44 (AMD). PL 2007, c. 86, §1 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

§1661-C. Notice of propane unit price

1. Notice. A retail seller of propane gas shall notify a customer or potential customer of the unit price of propane gas upon request, when an oral order for a single delivery is received and at the time of billing.
[PL 1991, c. 770, §2 (NEW).]

2. Unit. "Unit," for the purposes of this chapter, may include gallon, pound or cubic foot; but upon customer request a retail seller of propane gas shall convert prices quoted by the pound or cubic foot into per gallon prices.
[PL 1991, c. 770, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 770, §2 (NEW).

§1662. Penalties

A person who violates any of the provisions of this chapter, except section 1658-A, is punished by a fine of not more than $100 for the first offense and by a fine of not more than $200 for each subsequent offense, or by imprisonment for 90 days, or by both. A person who violates section 1658-A commits a civil violation for which a forfeiture not to exceed $1,000 may be adjudged. Each separate sale or attempt to sell in violation of this chapter is a separate offense. [PL 1991, c. 770, §3 (AMD).]

SECTION HISTORY

PL 1991, c. 770, §3 (AMD).

§1663. Sale of biomass-based diesel blends and biodiesel blends

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

A. "Biodiesel" means the mono-alkyl esters of long chain fatty acids derived from plant or animal matter that meets the requirements of the American Society of Testing and Materials Standard D6751. [PL 2013, c. 124, §1 (NEW).]

B. "Biomass-based diesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under 42 United States Code, Section 7545 (2012). [PL 2013, c. 124, §1 (NEW).]

C. "Biomass-based diesel blend" and "biodiesel blend" mean a blend of biomass-based diesel or biodiesel and petroleum-based diesel fuel. [PL 2013, c. 124, §1 (NEW).]

[PL 2013, c. 124, §1 (NEW).]

2. Number 2 heating oil. For purposes of this section, all references to diesel include #2 heating oil.

[PL 2013, c. 124, §1 (NEW).]

3. Transfer document. A person that sells or otherwise transfers title to a biomass-based diesel blend or biodiesel blend to any other person for resale of the product shall prepare a document evidencing the transfer. This transfer document may be in the form of an invoice, bill of lading, bill of sale or other written instrument meeting the requirements of this subsection. This transfer document must include the name of the transferor, the name of the transferee, the date of the transfer, the volume in gallons of the product transferred and either the volume in gallons or the percentage of biomass-based diesel or biodiesel that is contained in the blended product. A person making such a transfer shall maintain the transfer document required by this subsection for a period of 4 years from the transfer date. As used in this subsection, the term "resale" does not include a sale of product purchased at a retail outlet.

[PL 2013, c. 124, §1 (NEW).]

4. Transferee not liable. A transferee of a biomass-based diesel blend or biodiesel blend is not liable for failing to verify the accuracy of the information included in any transfer document conforming to the requirements of subsection 3 or for any other liability arising from the transferee's reliance on such information.

[PL 2013, c. 124, §1 (NEW).]

5. Supplement other requirements. The requirements of this section are in addition to any other requirements or standards in state law.

[PL 2013, c. 124, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 124, §1 (NEW).

CHAPTER 308

PETROLEUM MARKET SHARE ACT

§1671. Short title

This chapter may be known and cited as the "Petroleum Market Share Act." [PL 1991, c. 836, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW).

§1672. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 836, §3 (NEW).]

1. Affiliate. "Affiliate" means any person who controls, is controlled by or is under common control with any other person.
[PL 1991, c. 836, §3 (NEW).]

2. Control of retail outlet. "Control of retail outlet" means the power, whether or not exercised, to establish, fix or direct the retail price of home heating oil or motor fuel sold by a retail outlet, through ownership of stock in or assets used by the retail outlet or through contract, agency, consignment or otherwise, whether that power can be exercised directly or indirectly or through parent corporations, subsidiaries, related persons and entities or affiliates.
[PL 1991, c. 836, §3 (NEW).]

3. Home heating oil. "Home heating oil" means #2 fuel oil sold for heating residential, industrial or commercial space or water.
[PL 1991, c. 836, §3 (NEW).]

4. Motor fuel oil. "Motor fuel oil" means internal combustion fuel sold for use in motor vehicles as defined in Title 29-A, section 101, subsection 42.
[PL 1995, c. 65, Pt. A, §24 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

5. Refiner. "Refiner" means any person who is engaged directly or indirectly or whose affiliate is engaged directly or indirectly in the refining of crude oil, including any person who is engaged directly or indirectly in the production of crude oil who contracts with another person to refine petroleum products for the purpose of resale.
[PL 1991, c. 836, §3 (NEW).]

6. Retail outlet. "Retail outlet" means a service station or filling station used in the sale of motor fuel in the State, a sales office servicing retail customers by soliciting or accepting orders for the purchase of home heating oil to end users for consumption in the State, or a bulk storage facility or depot used in the sale of home heating oil to end users for consumption in the State.
[PL 1991, c. 836, §3 (NEW).]

7. Retailer. "Retailer" means a person that sells motor fuel oil or home heating oil to an end user for consumption in the State.
[PL 1991, c. 836, §3 (NEW).]

8. Wholesaler. "Wholesaler" means a person that sells motor fuel oil or home heating oil for resale through retail outlets and retailers.
[PL 1991, c. 836, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW). PL 1995, c. 65, §A24 (AMD). PL 1995, c. 65, §§A153,C15 (AFF).

§1673. Reporting

1. Reporting by wholesaler. A wholesaler shall provide annual reports to the Department of the Attorney General setting forth:

A. The total gallons of home heating oil and motor fuel oil sold by the wholesaler to each retail outlet or retailer; [PL 1993, c. 46, §1 (NEW).]

B. The total gallons of home heating oil and motor fuel oil supplied by the wholesaler to each retail outlet controlled by the wholesaler during any portion of the reporting period; and [PL 1993, c. 46, §1 (NEW).]

C. The total gallons of home heating oil and motor fuel oil sold by the wholesaler from a bulk storage facility or depot directly to any end user for consumption in the State. [PL 1993, c. 46, §1 (NEW).]

[PL 1993, c. 613, §1 (AMD).]

2. Reports by refiner. A refiner shall make the following reports.

A. Within 30 days of the effective date of this chapter, a refiner controlling retailers or retail outlets shall file with the Department of the Attorney General a list showing the business name and location of each retail outlet controlled by the refiner on the effective date of this chapter and specifying whether the retail outlet sells home heating oil, motor fuel oil or both. [PL 1991, c. 836, §3 (NEW).]

B. A refiner shall file annually with the Department of the Attorney General a list showing the number and location of retail outlets controlled by the refiner during the preceding year. [PL 2005, c. 155, §3 (AMD).]

C. A refiner or its affiliate shall provide reports annually to the Department of the Attorney General setting forth the total gallons of home heating oil and motor fuel oil supplied to each retail outlet under its control during any portion of the reporting period and the total gallons of home heating oil and motor fuel oil sold by the refiner or its affiliate from a bulk storage facility or depot directly to any end user for consumption in the State. [PL 2005, c. 155, §4 (AMD).]

[PL 2005, c. 155, §§3, 4 (AMD).]

3. Repeal.

[PL 2005, c. 155, §5 (RP).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW). PL 1993, c. 46, §§1,2 (AMD). PL 1993, c. 613, §§1,2 (AMD). PL 1995, c. 627, §1 (AMD). PL 1999, c. 151, §1 (AMD). PL 2005, c. 155, §§3-5 (AMD).

§1674. Investigation by Attorney General

The Attorney General may require, by summons, the attendance and testimony of witnesses and the production of books and papers related to the Attorney General's determination of the market shares held by retailers. A summons must be served in the same manner as a summons for a witness in a criminal case and all provisions of law related to that service apply to a summons issued under this section insofar as they are applicable. All investigations or hearings pursuant to this chapter must be held in Kennebec County or in another county as the Attorney General may designate. A Justice of the Superior Court may, by order, upon application of the Attorney General, compel the attendance of witnesses, the production of books and papers and the giving of testimony before the Attorney General in the same manner and to the same extent as before that court. Failure to obey such an order of the court is punishable by the court as a contempt of court. [PL 1991, c. 836, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW).

§1675. Confidentiality

Information received by the Department of the Attorney General pursuant to sections 1673 and 1674 is confidential. [PL 1993, c. 719, §3 (AMD); PL 1993, c. 719, §12 (AFF).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW). PL 1993, c. 719, §3 (AMD). PL 1993, c. 719, §12 (AFF).

§1676. Prohibitions of anticompetitive, unfair and deceptive trade practices

1. Geographic radius restrictions on new motor fuel outlets. A refiner controlling a retail outlet for the sale of motor fuel oil in a city, town or municipality may not secure control of additional retail outlets for the sale of motor fuel oil within a 2-mile radius of any of its existing retail outlets in that city, town or municipality unless, in the Attorney General's sole discretion, the Attorney General concludes that the additional outlet will not decrease competition in the retail motor fuel oil market.
[PL 1991, c. 836, §3 (NEW).]

2. Deceptive sales practices. A retailer, wholesaler or refiner may not misrepresent the efficiency of an oil furnace or engage in a deceptive act or practice in connection with the sale of home heating oil, service or equipment.
[PL 1991, c. 836, §3 (NEW).]

3. Resale price-fixing. A refiner may not fix or maintain the price of motor fuel oil sold by a franchisee, as defined in section 1453, subsection 5.
[PL 1991, c. 836, §3 (NEW).]

4. Unfair trade practices. A retailer, wholesaler or refiner may not engage in any unfair methods of competition or unfair or deceptive trade practices, as defined by the Attorney General through rules issued under section 1682.
[PL 1991, c. 836, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW).

§1677. Report by Attorney General to Legislature

Every 2 years beginning April 1, 2010, the Attorney General shall make a report to the Legislature describing the concentration of retail outlets in the State or in sections of the State without disclosing the name of any particular retailer or retail outlet. The Attorney General shall include in the report a recommendation to the Legislature as to whether additional legislation is needed to further limit or curtail the activity of refiners operating retail outlets. In formulating a legislative recommendation, the Attorney General shall consult with industry stakeholders; notwithstanding this consultation requirement, the substance of the recommendation is a matter for the Attorney General's sole discretion. Annually, beginning April 1, 2010, the Attorney General shall post on the Attorney General's publicly accessible website the aggregate data collected pursuant to this chapter. [PL 2009, c. 119, §1 (AMD).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW). PL 2005, c. 155, §6 (AMD). PL 2009, c. 119, §1 (AMD).

§1678. Petroleum Advisory Committee

(REPEALED)

SECTION HISTORY

RR 1991, c. 2, §34 (COR). PL 1991, c. 836, §3 (NEW). PL 2001, c. 352, §6 (AMD). PL 2005, c. 155, §7 (RP). PL 2005, c. 294, §20 (RP).

§1679. Penalties and injunctive action

A person that violates this chapter is subject to a civil penalty not to exceed $10,000. In any action initiated by the Attorney General seeking a civil penalty for violation of section 1676, each day that the refiner controls a retail outlet in violation of that section constitutes a separate violation. The Attorney General may initiate an action in Superior Court for injunctive and other equitable relief to enforce compliance with this chapter. In any action commenced by the Attorney General for violation of section 1676, the Superior Court may order the refiner to divest any retail outlet established or operated in violation of this chapter and may order the refiner to disgorge any gross revenues earned from sales or operations in violation of this chapter. In any action commenced by the Attorney General under this chapter for injunctive and other equitable relief or for civil penalties, the Attorney General, if on the prevailing side, must be awarded necessary and reasonable investigative costs, reasonable expert witness fees, reasonable attorneys' fees and court costs. [PL 1991, c. 836, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW).

§1680. Private right of action

A retailer, wholesaler or refiner who is injured as a result of a violation of Title 5, section 207 or section 1676 may maintain a civil action in Superior Court against the violator for damages and equitable relief. In any action, the Superior Court shall enter a temporary, preliminary or permanent injunction to restrain further violations or threatened violations of section 1676, regardless of whether the complaining party has an adequate remedy in damages. If the complaining party prevails in any action, the party is entitled to an award of reasonable attorneys' fees and court costs, including expert witness fees. [PL 1991, c. 836, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW).

§1681. Fees

Annually by September 1st, a person who operates or causes to be operated an oil terminal facility within the State, as defined in Title 38, section 542, subsection 7, and a person who is required to register with the Commissioner of Environmental Protection pursuant to Title 38, section 545-B, shall pay to the Attorney General a fee for each 10,000 gallons of home heating oil and motor fuel oil transported into the State during the previous 12-month period ending June 1st. Home heating oil or motor fuel oil that is subsequently exported from the State is excluded from computation, except that home heating oil sold to a retailer or retail outlet located outside the State that sells home heating oil at retail within the State is not excluded. The fee that must be paid by September 1, 1996 and for each subsequent year is 40¢ for each 10,000 gallons or portion thereof. The fees must be deposited in a dedicated, nonlapsing account, known as the Petroleum Marketing Fund. The Attorney General shall administer the fund. [PL 2005, c. 155, §8 (AMD).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW). PL 1993, c. 46, §3 (AMD). PL 1993, c. 415, §F1 (AMD). PL 1993, c. 613, §3 (AMD). PL 1995, c. 627, §2 (AMD). PL 1999, c. 151, §2 (AMD). PL 2005, c. 155, §8 (AMD).

§1682. Rulemaking

The Attorney General may adopt rules necessary to implement this chapter. [PL 1991, c. 836, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 836, §3 (NEW).

CHAPTER 309

SARDINES

§1701. Trademarks

The Maine Sardine Council, by rule adopted in a manner consistent with the Maine Administrative Procedure Act, may develop and register trademarks and regulate the use of the State of Maine trademark when used in the processing and sale of Maine sardines. [PL 1993, c. 585, §3 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §167 (AMD). PL 1993, c. 585, §3 (AMD).

§1702. License

After establishment of a trademark by the council, as provided in section 1701, it shall be unlawful to use such trademark without first securing a permit or license from the Maine Sardine Council. Any violations of this section shall be punishable for the first offense by a fine of not more than $50 and for each subsequent offenses a fine of not more than $200. [PL 1977, c. 694, §168 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §168 (AMD).

§1703. Price

(REPEALED)

SECTION HISTORY

PL 1987, c. 333, §1 (RP).

§1704. Rules and regulations

The Maine Sardine Council may prescribe, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for carrying out the purposes of this chapter, and may issue licenses to processors who request authority to use the trademark and shall abide by those rules and regulations. The council may charge a fee on a case basis for the use of trademarks established by the council or for the use of the State of Maine trademark on canned sardines. The District Court, upon application of the Maine Sardine Council or the Attorney General, has the right to cancel any license for failure to abide by the rules and regulations prescribed by the council; and the council has the right, after notice and opportunity for a hearing and in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, to cancel all outstanding licenses at any time that the council deems such action necessary to the best interest of the sardine industry as a whole. [PL 1995, c. 307, §1 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1977, c. 694, §169 (AMD). PL 1995, c. 307, §1 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF).

§1705. Fees

All fees charged for use of the trademarks and from the issuance of licenses shall be paid to the Treasurer of State and the same are appropriated for carrying out this chapter, and for promoting the prosperity of this State and the sardine industry by fostering and promoting better methods of processing, merchandising and advertising of Maine sardines under the direction of the Maine Sardine Council.

§1706. Enforcement; jurisdiction

The council or a duly authorized representative may recover penalties imposed for violation of section 1702 in a civil action brought in the name of the council, and if it prevails in such action shall recover full costs; or the council may prosecute for violations thereof by complaint or indictment. The District Court and the Superior Court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by section 1702, and of prosecutions for violations thereof. All fines received under section 1702 by county treasurers shall be paid by them to the Treasurer of State and the same are appropriated for carrying out this chapter.

CHAPTER 311

SHOES AND LEATHER GOODS

§1751. Manufacturer of leather, boots and shoes may stamp his name thereon; counterfeiting stamp

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §5 (RP).

CHAPTER 313

SYPHONS, BOTTLES AND CANS

§1801. Protection of marks on containers for soda water and similar beverages

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §6 (RP).

§1802. Unlawful use or defacing of containers marked as provided in §§ 190 and 229

(REPEALED)

SECTION HISTORY

PL 1979, c. 572, §6 (RP).

§1803. Search warrant to search for such containers

(REPEALED)

SECTION HISTORY

PL 1965, c. 431, §2 (RP).

CHAPTER 315

REGULATION OF BUSINESS PRACTICES BETWEEN MOTION PICTURE DISTRIBUTORS AND EXHIBITORS

§1901. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 266 (NEW).]

1. Bid. "Bid" means a written offer or proposal by an exhibitor to a distributor, in response to an "invitation to bid," stating the terms under which the exhibitor will agree to exhibit a motion picture.
[PL 1979, c. 266 (NEW).]

2. Blind bidding. "Blind bidding" means the solicitation of bidding for, solicitation of negotiation for, or solicitations of offers for or agreeing to terms for the licensing or exhibition of a motion picture if the motion picture has not been trade screened.
[PL 1979, c. 266 (NEW).]

3. Distributor. "Distributor" means any person engaged in the business of distributing or supplying motion pictures to exhibitors by rental, sale or licensing.
[PL 1979, c. 266 (NEW).]

4. Exhibit or exhibition. "Exhibit" or "exhibition" means showing a motion picture to the public for a charge.
[PL 1979, c. 266 (NEW).]

5. Exhibitor. "Exhibitor" means any person engaged in the business of operating one or more theaters.
[PL 1979, c. 266 (NEW).]

6. Invitation to bid. "Invitation to bid" means a written solicitation or invitation by a distributor to one or more exhibitors to bid for the right to exhibit a motion picture.
[PL 1979, c. 266 (NEW).]

7. License agreement. "License agreement" means any contract agreement, understanding or condition between a distributor and an exhibitor relating to the licensing or exhibition of a motion picture by the exhibitor.
[PL 1979, c. 266 (NEW).]

8. Person. "Person" includes one or more individuals, partnerships, associates, societies, trust or corporations.
[PL 1979, c. 266 (NEW).]

9. Run. "Run" means the continuous exhibition of a motion picture in a defined geographic area for a specified period of time.

A "first run" is the first exhibition of a picture in the designated area, a "second run" is the second exhibition and "subsequent runs" are subsequent exhibitions after the second run.

"Exclusive run" is any run limited to a single theater in a defined geographic area and a "nonexclusive run" is any run in more than one theater in a defined geographic area.
[PL 1979, c. 266 (NEW).]

10. Theater. "Theater" means any establishment in which motion pictures are exhibited to the public regularly for a charge.
[PL 1979, c. 266 (NEW).]

11. Trade screening. "Trade screening" means the showing of a motion picture by a distributor at some location within the metropolitan area in which is located a distributor's sales or film distributing facility serving the theater, which is open to any exhibitor interested in exhibiting the motion picture.
[PL 1979, c. 266 (NEW).]

SECTION HISTORY

PL 1979, c. 266 (NEW).

§1902. Blind bidding

1. Prohibition. Blind bidding is hereby prohibited within the State. No bids shall be returnable, no negotiations for the exhibition or licensing of a motion picture shall take place and no license agreement or any of its terms shall be agreed to for the exhibition of any motion picture within the State before the motion picture has been trade screened.
[PL 1979, c. 266 (NEW).]

2. Information to be included in bid. A distributor shall include in each invitation to bid for a motion picture for exhibition within the State, if that motion picture has not already been trade screened, the date, time and place of the trade screening of the motion picture.
[PL 1979, c. 266 (NEW).]

3. Notice to exhibitors. A distributor shall provide reasonable and uniform notice to exhibitors within the State of all trade screenings of motion pictures he is distributing.
[PL 1979, c. 266 (NEW).]

4. Waiver void. Any purported waiver of the requirements of this section shall be void and unenforceable.
[PL 1979, c. 266 (NEW).]

SECTION HISTORY

PL 1979, c. 266 (NEW).

§1903. Bidding procedures

If bids are solicited from exhibitors for the licensing of a motion picture within the State then: [PL 1979, c. 266 (NEW).]

1. Information to be included in bid. The invitation of bid shall specify:

A. The number and length of runs for which the bid is being solicited, whether it is a first, second or subsequent run and the geographic area for each run; [PL 1979, c. 266 (NEW).]

B. The names of all exhibitors who are being solicited; [PL 1979, c. 266 (NEW).]

C. The date and hour the invitation to bid expires; and [PL 1979, c. 266 (NEW).]

D. The location, including the address, where the bids will be opened, which shall be within the metropolitan area in which is located a distributor's sales or film distribution facility serving the theater. [PL 1979, c. 266 (NEW).]

[PL 1979, c. 266 (NEW).]

SECTION HISTORY

PL 1979, c. 266 (NEW).

§1904. Remedies

Any violations of the provisions of this chapter shall be deemed to be a deceptive trade practice, as defined in chapter 206, section 1212, and the remedies available to any aggrieved party shall be those contained within chapter 206, section 1213. [PL 1979, c. 266 (NEW).]

SECTION HISTORY

PL 1979, c. 266 (NEW).

§1905. Effective for 4 years

(REPEALED)

SECTION HISTORY

PL 1979, c. 266 (NEW). PL 1981, c. 18 (AMD). PL 1983, c. 7 (RP).

CHAPTER 317

MAINE PATENT PROGRAM

§1921. Maine Patent Program

The Maine Patent Program, referred to in this chapter as the "program," is administered by the University of Maine System, Center for Advanced Technology Law and Management. The program's purpose is to support the commercialization and manufacturing of innovations in the State by providing education and assistance with the patent process of the United States Patent and Trademark Office to companies, inventors and entrepreneurs in the State. [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

1. Program components. The program must:

A. Provide at least 4 workshops each year on general topics concerning the patent process of the United States Patent and Trademark Office; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

B. Provide at least 4 workshops each year on focused topics and specific training concerning the patent process of the United States Patent and Trademark Office; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

C. Conduct innovation screening of 50 to 100 preliminary potential patent applications and patent searches on 25 to 50 potential patent applications each year; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

D. Prepare 10 to 20 patent applications per year; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

E. Provide licensing assistance; and [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

F. Provide other assistance concerning the patent process of the United States Patent and Trademark Office as needed. [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

[PL 1999, c. 731, Pt. WWW, §1 (NEW).]

2. Applicant's costs and duties. An applicant accepted by the program shall pay the costs of the patent search and opinion and for patent prosecution if the final product is manufactured or licensed out of state. An applicant shall pay to the program a reasonable percentage of the royalties for any successful innovation patented through the program.

[PL 1999, c. 731, Pt. WWW, §1 (NEW).]

3. Staffing. The University of Maine System, Center for Advanced Technology Law and Management shall hire a director for the program. The director must be a professional who:

A. Is a registered patent attorney or patent agent; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

B. Has experience in commercialization, such as working as an in-house patent professional for a large company or an academic or nonprofit technology transfer operation; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

C. Has relevant experience working directly with manufacturers; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

D. Has relevant experience working directly with entrepreneurial startups; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

E. Has relevant experience working directly with independent inventors; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

F. Has experience with equity and royalty offerings; [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

G. Has experience with successful licensing; and [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

H. Has experience in educating the general public through workshops, seminars and continuing education courses. [PL 1999, c. 731, Pt. WWW, §1 (NEW).]

[PL 1999, c. 731, Pt. WWW, §1 (NEW).]

4. Fund. The Maine Patent Fund, referred to in this chapter as the "fund," is established as a revolving, nonlapsing fund to supplement the Maine Patent Program. All money from royalties received from applicants pursuant to this chapter must be credited to the fund. Money in the fund not currently needed to meet expenses of the program must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund. Money in the fund may only be expended in accordance with allocations approved by the Legislature.

[PL 1999, c. 731, Pt. WWW, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 731, §WWW1 (NEW).

PART 5

MINING

CHAPTER 401

MINING BUREAU

§2101. Establishment

(REPEALED)

SECTION HISTORY

PL 1967, c. 170, §§1,3 (AMD). PL 1969, c. 504, §19 (AMD). PL 1969, c. 508, §1 (RPR). PL 1969, c. 590, §10 (AMD). PL 1975, c. 339, §§1,2 (AMD). PL 1975, c. 373, §1 (AMD). PL 1977, c. 360, §2 (RP).

§2101-A. Purpose

(REPEALED)

SECTION HISTORY

PL 1969, c. 508, §2 (NEW). PL 1977, c. 360, §2 (RP).

§2101-B. Definitions

(REPEALED)

SECTION HISTORY

PL 1969, c. 508, §2 (NEW). PL 1971, c. 544, §24 (AMD). PL 1977, c. 360, §2 (RP).

§2102. Authority to prospect

(REPEALED)

SECTION HISTORY

PL 1969, c. 508, §3 (RPR). PL 1977, c. 360, §2 (RP).

§2103. Location of claim and maintenance of right of possession

(REPEALED)

SECTION HISTORY

PL 1969, c. 508, §4 (RPR). PL 1977, c. 360, §2 (RP).

§2104. Recording of claim

(REPEALED)

SECTION HISTORY

PL 1969, c. 508, §§5-8 (AMD). PL 1975, c. 339, §§3,4 (AMD). PL 1977, c. 360, §2 (RP).

§2105. License to mine; fees

(REPEALED)

SECTION HISTORY

PL 1967, c. 120, §§1,2 (AMD). PL 1967, c. 170, §§2,3 (AMD). PL 1975, c. 373, §§2-8 (AMD). PL 1975, c. 771, §§119,120 (AMD). PL 1977, c. 360, §2 (RP).

§2106. Mining lease

(REPEALED)

SECTION HISTORY

PL 1975, c. 373, §§9-10 (AMD). PL 1977, c. 360, §2 (RP).

§2107. Safety; rules and regulations

(REPEALED)

SECTION HISTORY

PL 1969, c. 508, §9 (RP).

§2108. Rights of way

(REPEALED)

SECTION HISTORY

PL 1969, c. 508, §10 (AMD). PL 1977, c. 360, §2 (RP).

§2109. Mining underwater

(REPEALED)

SECTION HISTORY

PL 1969, c. 508, §11 (RPR). PL 1977, c. 360, §2 (RP).

§2110. Annual reports

(REPEALED)

SECTION HISTORY

PL 1969, c. 508, §12 (AMD). PL 1977, c. 360, §2 (RP).

§2111. Forfeiture

(REPEALED)

SECTION HISTORY

PL 1977, c. 360, §2 (RP).

§2151. Short title

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2152. Purpose

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2153. Definitions

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2154. Waste prohibited

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2155. Authority of the bureau

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1969, c. 535, §2 (AMD). PL 1977, c. 360, §2 (RP).

§2156. Allocation of production

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2157. Well spacing

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2158. Integration of interests in spacing units

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2159. Unit operations

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2160. Approval of unit agreements

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2161. Orders; hearings

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2162. Oil and Gas Fund

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2163. Penal offenses

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2164. Illegal oil, gas and products

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2165. Injunctions against violation

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

§2166. Judicial review

(REPEALED)

SECTION HISTORY

PL 1969, c. 301 (NEW). PL 1977, c. 360, §2 (RP).

PART 5-A

MINING-CONSERVATION AND REHABILITATION OF LAND

CHAPTER 451

CONSERVATION AND REHABILITATION OF LAND

§2201. Declaration of policy

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1979, c. 466, §1 (RP).

§2202. Definitions

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 618, §§1,13 (AMD). PL 1973, c. 537, §8 (AMD). PL 1979, c. 466, §2 (RP). PL 1979, c. 541, §A95 (AMD). PL 1979, c. 663, §58 (AMD).

§2203. Administration

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 544, §25 (AMD). PL 1971, c. 618, §§2,17 (RPR). PL 1977, c. 78, §35 (AMD). PL 1979, c. 466, §3 (RP).

§2204. Powers of the commission

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 618, §§13,17 (AMD). PL 1973, c. 537, §9 (AMD). PL 1977, c. 300, §1 (AMD). PL 1979, c. 466, §4 (RP).

§2205. Approval of mining plan required; contents of mining plan; fee; bond

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 618, §§13,17 (AMD). PL 1973, c. 537, §10 (AMD). PL 1973, c. 625, §56 (AMD). PL 1973, c. 712, §1 (AMD). PL 1979, c. 466, §5 (RP). PL 1979, c. 541, §A96 (AMD). PL 1979, c. 663, §59 (AMD).

§2206. Procedure

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 618, §§13,17 (AMD). PL 1973, c. 537, §11 (AMD). PL 1977, c. 694, §§170,171 (AMD). PL 1979, c. 466, §6 (RP).

§2207. Time for commencement and completion of reclamation; deferred planting

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 618, §§13,17 (AMD). PL 1979, c. 466, §7 (RP).

§2208. Partial release of bond when planting deferred; payment in lieu of forfeiture

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 618, §§13,17 (AMD). PL 1979, c. 466, §7 (RP).

§2209. Report on expiration of mining plan, contents

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 618, §§13,17 (AMD). PL 1977, c. 300, §2 (AMD). PL 1979, c. 466, §8 (RP).

§2210. Additional powers

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 544, §§26,27 (AMD). PL 1971, c. 618, §§13,17 (AMD). PL 1979, c. 466, §9 (RP).

§2211. Conformance to statutes and regulations required

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1979, c. 466, §10 (RP).

§2212. Violations; general procedures

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 618, §§13,17 (AMD). PL 1973, c. 537, §12 (AMD). PL 1977, c. 694, §172 (RP).

§2213. Violations; emergency procedures

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1973, c. 537, §13 (AMD). PL 1977, c. 694, §173 (RP).

§2214. Appeal

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1971, c. 618, §§13,17 (AMD). PL 1977, c. 300, §3 (RP).

§2215. Enforcement of orders

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1977, c. 300, §3 (RP).

§2216. Criminal penalties

(REPEALED)

SECTION HISTORY

PL 1969, c. 472 (NEW). PL 1977, c. 300, §§3-A (RP).

PART 6

WEIGHTS AND MEASURES

CHAPTER 501

WEIGHTS AND MEASURES LAW

SUBCHAPTER 1

GENERAL PROVISIONS

§2301. Short title

This chapter shall be known and may be cited as the "Maine Weights and Measures Law."

§2302. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and phrases shall have the following meanings: [PL 1973, c. 91, §1 (RPR).]

1. Cord;

A. A standard cord is a unit of measure of wood products 4 feet wide, 4 feet high and 8 feet long, or its equivalent, containing 128 cubic feet when the wood is ranked and well stowed. Any voids that will accommodate a stick, log or bolt of average dimensions to those in that pile shall be deducted from the measured volume. [PL 1979, c. 659, §1 (RPR).]

A-1. A cord when used in connection with sawdust, chips or shavings means the volume of material contained in 128 cubic feet at the time of sale. [PL 1979, c. 659, §2 (NEW).]

A-2. Fuel wood, when sold loose and not ranked and well stowed, shall be sold by the cubic foot or loose cord, unless other arrangements are made between the buyer and seller. When sold by the loose cord, the wood in any cord shall average either 12 inches, 16 inches or 24 inches in length. When so sold, the volume of the cords shall be: A cord of 12 or 16 inches in length shall mean the amount of wood, bark and air contained in a space of 180 cubic feet; and a cord of wood 24 inches in length shall mean the amount of wood, bark and air contained in a space of 195 cubic feet. [PL 1981, c. 219 (AMD).]

B. A face cord is a unit of measure 4 feet high and 8 feet long, or its equivalent, containing 32 square feet. The length of sticks shall be agreed upon by both parties; [PL 1973, c. 91, §1 (RPR).]
[PL 1981, c. 219 (AMD).]

2. Correct. "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this chapter;
[PL 1973, c. 91, §1 (RPR).]

3. Dealer. "Dealer" shall mean any person engaged in the business of dealing in, selling, buying, exchanging or trading in weighing or measuring devices in this State;
[PL 1973, c. 91, §1 (RPR).]

4. Licensed public weighmaster. "Licensed public weighmaster" shall mean and refer to all persons who shall, for hire, weigh or measure any commodity, produce or article and issue therefor, a weight certificate, which shall be accepted as the accurate weight, upon which the purchase or sale of such commodity is based;
[PL 1973, c. 91, §1 (RPR).]

4-A. Motor fuel dispenser. "Motor fuel dispenser" means a commercial motor fuel dispenser that dispenses fuel for retail sale.
[PL 2003, c. 638, §1 (NEW).]

5. Package. "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale;
[PL 1973, c. 91, §1 (RPR).]

6. Person. "Person" means both plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations;
[PL 1973, c. 91, §1 (RPR).]

7. Primary standards. "Primary standards" means the physical standards of the State which serve as the legal reference from which all other standards and weights and measures are derived;
[PL 1973, c. 91, §1 (RPR).]

8. Repairman. "Repairman" shall mean any person engaged in the business of adjusting or repairing weighing or measuring devices in this State or an employee thereof engaged in such business;
[PL 1973, c. 91, §1 (RPR).]

9. Sale from bulk. "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale;
[PL 1973, c. 91, §1 (RPR).]

10. Sealer and deputy sealer. "Sealer" and "deputy sealer" shall mean, respectively, a sealer of weights and measures, and a deputy sealer of weights and measures, of a municipality or of several municipalities;
[PL 1973, c. 91, §1 (RPR).]

11. Secondary standards. "Secondary standards" means the physical standards which are traceable to the primary standards through comparison, using acceptable laboratory procedures and used in the enforcement of weights and measures laws and regulations;
[PL 1973, c. 91, §1 (RPR).]

12. State sealer and deputy state sealer. "State sealer" and "deputy state sealer" shall mean, respectively, the State Sealer of Weights and Measures and the Deputy State Sealer of Weights and Measures;
[PL 1973, c. 91, §1 (RPR).]

13. Weight. "Weight" as used in connection with any commodity means net weight;
[PL 1973, c. 91, §1 (RPR).]

14. Weights or measures. "Weights or measures," or both, means all weights and measures of every kind, instruments and devices for weighing and measuring and any appliance and accessories associated with any or all such instruments and devices.
[PL 1973, c. 91, §1 (RPR).]

SECTION HISTORY

PL 1965, c. 178, §1 (AMD). PL 1973, c. 91, §1 (RPR). PL 1979, c. 659, §§1,2 (AMD). PL 1981, c. 219 (AMD). PL 2003, c. 638, §1 (AMD).

§2303. Construction of contracts

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §2 (RP).

§2304. Duty of owners of incorrect apparatus

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §2 (RP).

§2305. Exclusions

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §2 (RP).

SUBCHAPTER 2

STANDARDS AND EQUIPMENT

§2351. Systems of weights and measures

The system of weights and measures in customary use in the United States and the metric system of weights and measures are jointly recognized and either one or both of these systems shall be used for all commercial purposes in the State. The definitions of basic units of weight and measure, the tables of weight and measure and weights and measures equivalents as published by the National Bureau of Standards or its successor organization, the National Institute of Standards and Technology, are recognized and shall govern weighing and measuring equipment and transactions in the State. [PL 1989, c. 24, §1 (AMD).]

SECTION HISTORY

PL 1973, c. 91, §3 (RPR). PL 1989, c. 24, §1 (AMD).

§2352. Physical standards

Weights and measures that are traceable to the United States prototype standards supplied by the Federal Government, or approved as being satisfactory by the National Bureau of Standards, or its successor organization, the National Institute of Standards and Technology, shall be the state primary standards of weights and measures and shall be maintained in such calibration as prescribed by the National Bureau of Standards or the National Institute of Standards and Technology, as applicable. All secondary standards may be prescribed by the state sealer and shall be verified upon their initial receipt and as often thereafter as determined necessary by the state sealer. [PL 1989, c. 24, §2 (AMD).]

SECTION HISTORY

PL 1973, c. 91, §3 (RPR). PL 1989, c. 24, §2 (AMD).

§2353. Technical requirements for commercial devices

The specifications, tolerances and other technical requirements for commercial weighing and measuring devices as adopted by the National Conference on Weights and Measures and published in National Bureau of Standards Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Commercial Weighing and Measuring Devices," or published in the National Institute of Standards and Technology Handbook 44, 1990, and supplements or revisions to those publications, shall apply to commercial weighing and measuring devices in the State, except insofar as modified or rejected by regulation. [PL 1989, c. 24, §3 (AMD).]

SECTION HISTORY

PL 1973, c. 91, §3 (RPR). PL 1989, c. 24, §3 (AMD).

§2354. Municipal standards and equipment

The municipal officers of each municipality for which a sealer has been appointed as provided for by section 2451 shall procure at the expense of the municipality, such standards of weight and measure and such additional equipment to be used in the enforcement of this chapter in such municipality, as may be prescribed by the state sealer. [PL 1973, c. 91, §3 (RPR).]

SECTION HISTORY

PL 1973, c. 91, §3 (RPR).

§2355. Standard weight fixed

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §4 (RP).

SUBCHAPTER 2-A

MEASUREMENT OF WOOD

§2361. Definitions

(REPEALED)

SECTION HISTORY

PL 1975, c. 598, §1 (NEW). PL 1977, c. 537, §1 (RPR). PL 1983, c. 804, §1 (RP).

§2361-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 804, §2 (NEW).]

1. Agreement of the parties. "Agreement of the parties" means the mutual agreement of the parties or their authorized representatives, and is distinguished from a unilateral condition imposed by any party to the agreement. A party is a company or individual buying wood, a contractor, an individual providing services described in subsection 7 or an authorized employee representative negotiating on behalf of the individual providing services.
[PL 1983, c. 804, §2 (NEW).]

2. Butt diameter. Except as otherwise provided by the state sealer, "butt diameter" means the diameter of the severed stem butt, measured outside the bark, the short way through the center, disregarding crevices and cracks.
[PL 1983, c. 804, §2 (NEW).]

3. Butt measure. "Butt measure" means the lineal measure of the butt end of tree length wood, without subsequent conversion to volume by any means. This measurement may be represented in either the number of stems in each butt diameter class by species, or alternatively in the cumulative sum of the butt diameters by species, expressed in inches, without regard to the butt diameter class.
[PL 1983, c. 804, §2 (NEW).]

4. Butt scale. "Butt scale" means the volume measure of wood based solely on measurement of the butt end of individual trees and converted to volume by any means.
[PL 1983, c. 804, §2 (NEW).]

5. Green wood. "Green wood" means trees or parts of trees that have been freshly felled.
[PL 1983, c. 804, §2 (NEW).]

5-A. Hauler. "Hauler" means the person, company or other entity that owns the truck or trailer on which a load of wood is transported.
[PL 1997, c. 648, §1 (NEW).]

6. Oven-dried wood. "Oven-dried wood" means wood that has been oven-dried to remove its moisture content according to standards as adopted by the American Society of Testing and Materials.
[PL 1983, c. 804, §2 (NEW).]

7. Payment for services. "Payment for services" means payment made for services in or incidental to harvesting, hauling or chipping wood, and does not involve transfer of title to the wood.

[PL 1983, c. 804, §2 (NEW).]

8. Properly prepared wood. "Properly prepared wood" means wood that was required to be harvested and yarded, and was prepared as directed, according to written cutting specifications.
[PL 1983, c. 804, §2 (NEW).]

9. Sale of wood. "Sale of wood" means a transaction involving transfer of title to wood.
[PL 1983, c. 804, §2 (NEW).]

10. Standard cord. A "standard cord" means the cubic foot measurement of 4 foot long wood, ranked and well stowed, and stacked 4 feet wide, 4 feet high and 8 feet long, or its equivalent, which stack measure contains 128 cubic feet of wood, bark and air space. A "standard cord" when used in connection with sawdust chips, bark or shavings means the volume contained in 128 cubic feet at the time of sale.
[PL 1983, c. 804, §2 (NEW).]

10-A. Trip ticket. "Trip ticket" means the form used to identify the origin and destination of a truckload of wood.
[PL 1997, c. 648, §1 (NEW).]

11. Wood. "Wood" means the severed but unprocessed fibrous derivative of trees, without regard for quality or grade and also means the chipped fibrous derivative of trees.
[PL 1983, c. 804, §2 (NEW).]

12. Wood transactions. "Wood transactions" means the "sale of wood" or "payment for services" as those terms are defined in this section.
[PL 1983, c. 804, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 804, §2 (NEW). PL 1997, c. 648, §1 (AMD).

§2362. Measurement of wood

(REPEALED)

SECTION HISTORY

PL 1975, c. 598, §1 (NEW). PL 1977, c. 537, §2 (RPR). PL 1983, c. 804, §3 (RP).

§2362-A. Fuel wood

Nothing in this subchapter supersedes or in any way modifies the measurement standards relating to fuel wood provided for in section 2302, subsection 1. [PL 1983, c. 804, §4 (NEW).]

SECTION HISTORY

PL 1983, c. 804, §4 (NEW).

§2363. Standards for weight scale

(REPEALED)

SECTION HISTORY

PL 1975, c. 598, §1 (NEW). PL 1977, c. 537, §3 (AMD). PL 1977, c. 694, §174 (AMD). PL 1983, c. 804, §5 (RP).

§2363-A. Measurement of wood

1. Cubic measure and standard cord. In all wood transactions the volume of wood may be measured in cubic feet or by the standard cord as provided for by the state sealer.
[PL 1983, c. 804, §6 (NEW).]

2. Weight scale. When agreed upon by the parties, weight measurement may be used in all wood transactions, under the following conditions:

A. The weight measurement may not be converted to volume; [PL 2013, c. 154, §1 (AMD).]

B. When payment is made for services harvesting wood, all weight measurements must be expressed on a green wood basis. Except as otherwise provided by the state sealer, when the wood is not, or will not be, weighed within 15 days of felling, the person performing the services may, prior to hauling, require that the wood instead be measured by butt measure, or other authorized method of measurement; [PL 2013, c. 154, §1 (AMD).]

C. Sales of wood chips may be based on oven-dried weight, except when payment is made for harvesting wood; [PL 2013, c. 154, §1 (AMD).]

D. When a service contract for harvesting wood requires payment on a per tonnage basis, the contracting party must notify the contractor of the price per ton to be paid under the contract prior to the contractor's providing the harvesting service; and [PL 2013, c. 154, §1 (NEW).]

E. For service contracts for hauling wood, the contracting party must notify the contractor of the price per ton to be paid under the contract prior to the contractor's providing the hauling service. [PL 2013, c. 154, §1 (NEW).]

Notification required under this subsection must be made in writing. Written notification may be communicated by United States mail, private courier or electronic means, including, but not limited to, e-mail and fax transmission.
[PL 2013, c. 154, §1 (AMD).]

3. Tree length wood. Butt measure shall be the standard state method for the measurement of tree length wood. Where agreed upon, the parties may use any other method of measurement authorized by this subchapter.

A. Butt scale measurements may be used as follows.

(1) Where payment is made for services, the use of butt scale measurements is prohibited as of April 1, 1986. Until that date, the use of butt scale measurements is permitted for tree length wood under the following conditions.

(a) Prior to its usage, the parties or their authorized representatives, shall sign and date the volume table which shall designate the applicable harvesting area or areas.

(b) The parties, or their authorized representatives, shall receive a copy of the signed butt scale table prior to performance of the services, if a request is made in writing by the employee, an authorized employee representative or by the state sealer.

(c) The volume table to which the measurements are applied shall reasonably represent the volume of trees being cut on the operation.

(2) In the sale of wood, butt scale measurements shall continue to be permitted for tree length wood, under the following conditions.

(a) The applicable butt scale table shall be provided in a written contract agreement.

(b) The volume table to which the measurements are applied shall reasonably represent the volume of trees being cut on the operation. [PL 1983, c. 804, §6 (NEW).]

4. Log length stems. Log length stems shall be measured as follows.

A. The international 1/4 inch log rule shall be the standard state rule for the measurement of log length stems. [PL 1983, c. 804, §6 (NEW).]

B. Where agreed upon by the parties, cubic foot measurement, weight measurement, butt measure or another log rule may also be used to measure log length stems. [PL 1983, c. 804, §6 (NEW).]

[PL 1983, c. 804, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 804, §6 (NEW). PL 2013, c. 154, §1 (AMD).

§2364. Standards for butt scale

(REPEALED)

SECTION HISTORY

PL 1975, c. 598, §1 (NEW). PL 1977, c. 537, §4 (RP).

§2364-A. Accurate and verifiable measurements

1. Standards. It is the intent of this subchapter that any method of wood scaling or measurement used in wood transactions shall provide an accurate and verifiable count of the volume, quantity, dimension or weight measured, according to the standards established by the state sealer, provided that those standards may be efficiently and conveniently applied in wood transactions, as defined in this subchapter.
[PL 1983, c. 804, §7 (NEW).]

2. Measurements. In all wood transactions, no person who scales or measures wood and no person who makes payment to another shall represent a weight, volume, quantity or dimension of wood which is less than the weight, volume, quantity or dimension of wood to be measured.

A. When payment is made for services harvesting wood, all wood that is properly prepared shall be measured in full, without regard to its future merchantability or use. Nothing in this subsection prevents making reasonable deductions based on quantity factors, such as for loose piling, short or undersized wood or for wood that was not designated to be harvested, hauled or chipped. [PL 1983, c. 804, §7 (NEW).]

B. The written cutting specifications for properly prepared tree stems shall be provided to the person providing the service and shall be signed by the person requiring the service. [PL 1983, c. 804, §7 (NEW).]

C. When payment is made for services in hauling or trucking wood, all wood that was designated to be hauled and which was hauled, shall be measured in full. [PL 1983, c. 804, §7 (NEW).]

D. In the sale of wood, all wood that meets the specifications of the parties shall be measured by the terms of the sales contract according to the measurement procedures set forth in section 2363-A that are applicable to a sale of wood, as defined in this subchapter. [PL 1983, c. 804, §7 (NEW).]

E. When payment is made for services, payment shall be expressed in the same system of measure that was used in making the measurement. Nothing in this subsection may be interpreted to prohibit the use of the standard cord or butt measure. [PL 1983, c. 804, §7 (NEW).]

F. In the sale of wood, the measurement tally sheet recording the first measurement shall include the name of the landowner from whom the stumpage was purchased. The tally sheet also shall include the name or names of other parties involved in this original transaction. [PL 1989, c. 102 (NEW).]

G. A person buying stumpage from a landowner shall provide a stumpage sheet or a copy of the measurement tally sheet to the landowner for every truckload sold. The sheet must include:

(1) The name of the landowner;

(2) The name of the contractor;

(3) The name of the hauler;

(4) A description of the product;

(5) The date; and

(6) The destination of the truckload.

This sheet must be provided to the landowner when the person buying the stumpage pays the landowner. [PL 1989, c. 760 (NEW).]

[PL 1989, c. 102 (AMD); PL 1989, c. 760 (AMD).]

3. Measurement tally sheet. When payment is made for services, the person providing the service shall promptly receive a copy of the tally sheet setting forth the total measure of the wood, identifying the person or persons providing the service, the location from which the wood was hauled and the date the measurements were made. If, based upon a complaint involving wood that is taken outside the State, the state sealer, after investigation, has reason to believe that there has been inaccurate measurement of the wood, that the measurement of the wood was inaccurately or incompletely represented on the measurement tally sheet or that a measurement tally sheet for the wood was not promptly provided to the person providing the service, then, except in a case of inadvertent error, the state sealer shall require, for a period of not less than one year, that the person requiring the service measure and provide the person providing the service a completed measurement tally sheet for wood that is taken outside the State.

[PL 1983, c. 804, §7 (NEW).]

4. Specification for properly prepared wood. Companies or individuals buying wood for processing shall give contractors or landowners written specifications for properly prepared wood. No deductions for quality or future merchantability may be made for properly prepared wood, meeting the written specifications which have been provided by the companies and individuals buying the wood.

[PL 1983, c. 804, §7 (NEW).]

SECTION HISTORY

PL 1983, c. 804, §7 (NEW). PL 1989, c. 102 (AMD). PL 1989, c. 760 (AMD).

§2364-B. Transportation of wood

A person transporting wood must comply with the provisions of this section. [PL 1997, c. 648, §2 (NEW).]

1. Trip ticket required. Except as provided in subsections 3 and 4, each truckload of wood transported must be accompanied by a trip ticket containing the following information for that load of wood:

A. The date the wood is hauled; [PL 1997, c. 648, §2 (NEW).]

B. The name of the landowner; [PL 1997, c. 648, §2 (NEW).]

C. The town of origin; [PL 1997, c. 648, §2 (NEW).]

D. For wood harvested in the State, the number on the harvest notification form filed with the Bureau of Forestry in accordance with Title 12, section 8883-B; [PL 2003, c. 452, Pt. F, §1 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

E. The name of the contractor; [PL 1997, c. 648, §2 (NEW).]

F. The name or names of the cutting crew; [PL 1997, c. 648, §2 (NEW).]

G. The name of the hauler; [PL 1997, c. 648, §2 (NEW).]

H. The destination of the wood, both town and customer; and [PL 1997, c. 648, §2 (NEW).]

I. The signature of the truck driver. [PL 1997, c. 648, §2 (NEW).]

[PL 2003, c. 452, Pt. F, §1 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

2. Trip ticket part of record. Upon delivery of a truckload of wood requiring a trip ticket, the truck driver shall provide a copy of the trip ticket to the wood scaler or other person accepting delivery. When a tally sheet or other record of measurement is required under section 2364-A, subsection 2, the harvest notification number and other information contained on the trip ticket must be recorded on the record of measure or a copy of the trip ticket must be attached to the record of measure.
[PL 1997, c. 648, §2 (NEW).]

3. Wood transported after measurement. When wood is transported after its first measurement in accordance with section 2364-A, the information specified in subsection 1, paragraphs B, D and F is not required on the trip ticket and the harvest notification number is not required on subsequent records of measurement.
[PL 1997, c. 648, §2 (NEW).]

4. Consumer transactions of firewood excluded. The requirements of this section do not apply to the transportation of firewood in consumer transactions on the retail market as defined in rules adopted pursuant to section 2367.
[PL 1997, c. 648, §2 (NEW).]

5. Enforcement; violations. Upon request, a truck driver must present the trip ticket to any employee of the State charged with enforcing the provisions of this subchapter. Upon request, a wood scaler shall present the record of measurement including a copy of the trip ticket or information contained on the trip ticket to any employee of the State charged with enforcing the provisions of this subchapter.

A. A person who violates this section commits a civil violation and is subject to the penalties provided in section 2368. [PL 2003, c. 452, Pt. E, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates this section after having previously violated this subchapter or rules adopted pursuant to this subchapter commits a civil violation and is subject to the penalties provided in section 2368. [PL 2003, c. 452, Pt. E, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. A person who misrepresents information on a trip ticket commits a civil violation and is subject to the penalties provided in section 2368. [PL 2003, c. 452, Pt. E, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. A person who misrepresents information on a trip ticket after having previously violated this subchapter or rules adopted pursuant to this subchapter commits a civil violation and is subject to the penalties provided in section 2368. [PL 2003, c. 452, Pt. E, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. E, §5 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

6. Presentation of trip ticket to forest ranger. Upon request, a truck driver shall present a copy of the trip ticket to a forest ranger in any log yard or mill site. Upon request, a wood scaler shall present the record of measurement including a copy of the trip ticket or information contained on the trip ticket to a forest ranger. A forest ranger may request and use this information for the purpose of enforcing and investigating alleged violations of Title 12, section 8883; Title 14, section 7552; and Title 17, section 2510. For purposes of this subsection, "forest ranger" means a person employed by the Department of Agriculture, Conservation and Forestry, Bureau of Forestry under Title 12, section 8901. A truck driver or wood scaler who fails to comply with the provisions of this subsection is subject to the penalties provided in section 2368.
[PL 2003, c. 454, §1 (NEW); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY

PL 1997, c. 648, §2 (NEW). PL 2003, c. 452, §§E5,F1 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2003, c. 454, §1 (AMD). PL 2011, c. 657, Pt. W, §§5, 7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§2365. Standards for measurement

(REPEALED)

SECTION HISTORY

PL 1975, c. 598, §1 (NEW). PL 1977, c. 537, §4 (RP).

§2365-A. Licensing of measuring and scaling operators

The state sealer has the authority to license all persons who measure or scale wood and has the authority to issue rules and establish fees for licensing and examination. Annual license fees shall not exceed $25 and funds collected shall cover the expenses involved in administering the licensing process and other costs related to the administration of this section. No license to measure or scale wood may be issued to any person, unless that person successfully completes an examination as established by the state sealer. Once a licensing program is instituted then the following provisions of this section shall be in effect. [PL 1985, c. 501, Pt. B, §17 (AMD).]

Fees collected under this section shall be deposited in a separate account which shall not lapse. [PL 1983, c. 804, §8 (NEW).]

1. Applications. Applications for licenses under this subchapter shall be made in writing on forms prescribed by the state sealer for each wood scaler. The application shall include the name of the applicant scaler, his qualifications, and other pertinent information as the state sealer shall require. [PL 1983, c. 804, §8 (NEW).]

2. Violation. No person may scale or measure wood without first obtaining a proper license. [PL 1983, c. 804, §8 (NEW).]

3. License; denial; revocation; suspension. The state sealer may take enforcement action against the licensee or may initiate proceedings in the District Court, pursuant to Title 5, chapter 375, to revoke or suspend a license for any of the following reasons:

A. The licensee has violated any condition of the license; [PL 1983, c. 804, §8 (NEW).]

B. The licensee has obtained a license by misrepresentation or failure to disclose fully all relevant facts; and [PL 1983, c. 804, §8 (NEW).]

C. The licensee has violated any provision of the laws within this chapter. [PL 1983, c. 804, §8 (NEW).]

[PL 1983, c. 804, §8 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1983, c. 804, §8 (NEW). PL 1985, c. 501, §B17 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF).

§2365-B. Persons licensed to measure and scale wood

Beginning September 1, 1985, there shall be at least one person licensed to measure and scale wood residing in each of the following 3 regions of the State: Aroostook County, Penobscot-Piscataquis Counties and Washington-Hancock Counties. [PL 1985, c. 501, Pt. B, §18 (NEW).]

SECTION HISTORY

PL 1985, c. 501, §B18 (NEW).

§2365-C. Persons enforcing laws relating to measurement of wood

Any employee of the State charged with enforcing the provisions of this chapter relating to the measurement of wood must be examined and licensed in accordance with the provisions of section 2365-A. [PL 1985, c. 501, Pt. B, §18 (NEW).]

SECTION HISTORY

PL 1985, c. 501, §B18 (NEW).

§2366. Appeal procedure

(REPEALED)

SECTION HISTORY

PL 1975, c. 598, §1 (NEW). PL 1977, c. 537, §5 (RPR). PL 1977, c. 694, §175 (AMD). PL 1979, c. 127, §62 (AMD). PL 1983, c. 804, §9 (RP).

§2366-A. Disputed wood

In case a dispute arises as to whether wood was accurately scaled or measured, the person aggrieved may file a complaint with the state sealer. Any complaint shall be initiated within 15 days of discovery of the alleged grievance. The state sealer shall investigate the complaint. As part of the investigation, the state sealer or deputy state sealer may subpoena such witnesses and documents as may be necessary to determine the matter, and may cause the disputed wood to be impounded and check measured if it may be separately identified. In the event that an aggrieved party fails to file a complaint within 15 days from discovery of the alleged grievance, the aggrieved party is barred from seeking a remedy under section 2368, subsection 2. [PL 1983, c. 862, §33 (AMD).]

SECTION HISTORY

PL 1983, c. 804, §10 (NEW). PL 1983, c. 862, §33 (AMD).

§2367. Rules

The state sealer shall, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, promulgate and adopt rules relating to: [PL 1983, c. 804, §11 (NEW).]

1. Weight scale. Procedures for determining the weight of wood according to weight scale;
[PL 1983, c. 804, §11 (NEW).]

2. Butt measure; other measurement systems. Procedures and standards for the lineal and volumetric measurement of wood;
[PL 1983, c. 804, §11 (NEW).]

3. Measurement equipment standards and tolerances. Measurement equipment standards and tolerances;
[PL 1983, c. 804, §11 (NEW).]

4. Complaints; investigations. Procedures for the filing and investigating of complaints and for the sampling, check scaling and check measurement of disputed wood, including verification of butt scale tables;
[PL 1983, c. 804, §11 (NEW).]

5. Designation; units of measure. The designation of appropriate units of measure which can be efficiently and conveniently used in wood transactions;
[PL 1983, c. 804, §11 (NEW).]

6. Dissemination; scaling and measurement tallies. The dissemination of the scaling and measurement tallies or slips as appropriate to prevent unfair or deceptive representations of the quantity of wood measured;

[PL 1983, c. 804, §11 (NEW).]

7. Measuring and scaling operators; licensing. Licensing of measuring and scaling operators; and
[PL 1983, c. 804, §11 (NEW).]

8. Other standards. Other standards and rules necessary to the administration of this subchapter.
[PL 1983, c. 804, §11 (NEW).]

SECTION HISTORY

PL 1983, c. 804, §11 (NEW).

§2368. Violations; penalties

1. Civil penalties. The following penalties apply to violations of this subchapter or a rule adopted pursuant to this subchapter.

A. A person who violates this subchapter or a rule adopted pursuant to this subchapter is subject to a civil penalty of not more than $1,000. [PL 2003, c. 452, Pt. E, §6 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates this subchapter or a rule adopted pursuant to this subchapter after having previously violated this subchapter or a rule adopted pursuant to this subchapter is subject to a civil penalty of not more than $2,000. [PL 2003, c. 452, Pt. E, §6 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

These penalties may be recovered by the state sealer on behalf of the State in a civil action.
[PL 2003, c. 452, Pt. E, §6 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Private action. A person who violates this subchapter or a rule adopted pursuant to this subchapter is liable in a civil action to a person aggrieved by the violation pursuant to the remedies set forth in Title 26, section 626-A. The civil action for damages may be brought by either the aggrieved party or, at the request of the state sealer, by the Attorney General.
[PL 2003, c. 452, Pt. E, §6 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1983, c. 804, §11 (NEW). PL 2003, c. 452, §E6 (RPR). PL 2003, c. 452, §X2 (AFF).

§2369. Transition provision

1. Promulgate and adopt rules. The state sealer, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, shall promulgate and adopt rules pursuant to this subchapter within 90 days of the effective date of this section. The rules shall become effective April 30, 1985.
[PL 1983, c. 804, §11 (NEW).]

SECTION HISTORY

PL 1983, c. 804, §11 (NEW).

SUBCHAPTER 3

STATE SEALER

§2401. Designation; deputy; inspector of weights and measures

There shall be a State Sealer of Weights and Measures. The Commissioner of Agriculture, Conservation and Forestry shall be, ex officio, the state sealer. There shall be a Deputy State Sealer of

Weights and Measures and state inspectors of weights and measures, referred to in this chapter as the deputy state sealer and inspectors, respectively. [PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

PL 1967, c. 300, §2 (AMD). PL 1971, c. 594, §17 (AMD). PL 1973, c. 537, §14 (AMD). PL 1979, c. 731, §19 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

§2402. Powers and duties

The state sealer shall: [PL 1973, c. 91, §5 (RPR).]

1. Federal standards. Maintain traceability of the state standards to the National Bureau of Standards;
[PL 1973, c. 91, §5 (NEW).]

2. Enforcement. Enforce this chapter;
[PL 1973, c. 91, §5 (NEW).]

3. Regulations. Issue, in a manner consistent with the Maine Administrative Procedure Act, reasonable regulations for the enforcement of this chapter, which regulations shall have the force and effect of law;
[PL 1977, c. 694, §176 (AMD).]

4. Standards. Establish standards of weight, measure or count, reasonable standards of fill and standards for the presentation of cost per unit information for any packaged commodity;
[PL 1973, c. 91, §5 (NEW).]

5. Exemptions. Grant any exemptions from this chapter or any regulations promulgated pursuant thereto, when appropriate to the maintenance of good commercial practices within the State;
[PL 1973, c. 91, §5 (NEW).]

6. Investigations. Conduct investigations to ensure compliance with this chapter;
[PL 1973, c. 91, §5 (NEW).]

7. Delegation of responsibility. Delegate to appropriate personnel any of these responsibilities for the proper administration of his office;
[PL 1973, c. 91, §5 (NEW).]

8. Tests. Test annually the standards of weight and measure used by any city or county within the State and approve the same when found to be correct;
[PL 1973, c. 91, §5 (NEW).]

9. Inspection -- sale. Inspect and test weights and measures kept, offered or exposed for sale;
[PL 1973, c. 91, §5 (NEW).]

10. -- commercial use. Inspect and test to ascertain if they are correct, weights and measures commercially used:

A. In determining the weight, measure or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure or count; or [PL 1973, c. 91, §5 (NEW).]

B. In computing the basic charge or payment for services rendered on the basis of weight, measure or count; [PL 1973, c. 91, §5 (NEW).]

[PL 1973, c. 91, §5 (NEW).]

11. -- institutions. Test all weights and measures used in checking the receipt or disbursement of supplies in every institution for the maintenance of which funds are appropriated by the Legislature;
[PL 1973, c. 91, §5 (NEW).]

12. Approval or rejection. Approve for use, and may mark, such weights and measures as the state sealer finds to be correct and shall reject and mark as rejected such weights and measures as the state sealer finds to be incorrect. Weights and measures that have been rejected may be seized, if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The state sealer shall condemn and may seize weights and measures found to be incorrect that are not capable of being made correct. This approval, rejection, specification or condemnation may not be considered to be licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act;
[RR 2009, c. 2, §20 (COR).]

13. Sampling. Weigh, measure or inspect packaged commodities kept, offered or exposed for sale, sold or in the process of delivery, to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or regulations promulgated pursuant thereto. In carrying out this section, the state sealer shall employ recognized sampling procedures such as are designated in National Bureau of Standards Handbook 67, "Checking Prepackaged Commodities;"
[PL 1973, c. 91, §5 (NEW).]

14. Appropriate measure. Prescribe, by regulation adopted in a manner consistent with the Maine Administrative Procedure Act, the appropriate term or unit of weight or measure to be used, whenever he determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count or combination thereof does not facilitate value comparisons by consumers or offers an opportunity for consumer confusion;
[PL 1977, c. 694, §178 (AMD).]

15. Variations. Allow reasonable variation from the stated quantity of contents which shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice only after the commodity has entered intrastate commerce;
[PL 1973, c. 91, §5 (NEW).]

16. Personnel training. Provide for the weights and measures training of inspection personnel and shall establish minimum training requirements which shall be met by all municipal and state weights and measures inspection personnel in the State;
[PL 1973, c. 91, §5 (NEW).]

17. Standards to enforcement. Prescribe the standards of weight and measure, additional equipment and methods of test and inspection to be employed in the enforcement of this chapter. The state sealer may prescribe or provide, or both, the official test and inspection forms used in the enforcement of this chapter; and
[PL 1991, c. 712, §1 (AMD); PL 1991, c. 712, §5 (AFF).]

18. Registration of commercial motor fuel dispensers. Accept applications for the registration of motor fuel dispensers in accordance with section 2412.
[PL 1991, c. 712, §2 (NEW); PL 1991, c. 712, §5 (AFF).]

SECTION HISTORY

PL 1973, c. 91, §5 (RPR). PL 1977, c. 694, §§176-178 (AMD). PL 1991, c. 712, §§1,2 (AMD). PL 1991, c. 712, §5 (AFF). RR 2009, c. 2, §20 (COR).

§2403. Special police powers

When necessary for the enforcement of this chapter or regulations promulgated pursuant thereto, the state sealer is: [PL 1973, c. 91, §5 (RPR).]

1. Entry. Authorized to enter any commercial premises during normal business hours, except that in the event such premises are not open to the public, he shall first present his credentials and obtain consent before making entry thereto, unless a search warrant has previously been obtained;
[PL 1973, c. 91, §5 (NEW).]

2. Orders. Empowered to issue stop-use, hold and removal orders with respect to any weights and measures commercially used and stop-sale, hold and removal orders with respect to any packaged commodities or bulk commodities kept, offered or exposed for sale. These stop-use, hold and removal orders shall not be considered to be licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act;
[PL 1977, c. 694, §179 (AMD).]

3. Seizure. Empowered to seize, for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package or commodity found to be used, retained, offered or exposed for sale or sold in violation of this chapter or regulations promulgated pursuant thereto;
[PL 1973, c. 91, §5 (NEW).]

4. Stopping vehicles. Empowered to stop any commercial vehicle and, after presentment of his credentials, inspect the contents, require that the person in charge of that vehicle produce any documents in his possession concerning the contents and require him to proceed with the vehicle to some specified place for inspection.
[PL 1973, c. 91, §5 (NEW).]

SECTION HISTORY

PL 1973, c. 91, §5 (RPR). PL 1977, c. 694, §179 (AMD).

§2404. General inspection and testing of weights, measures and devices

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §6 (RP).

§2405. Investigations

The state sealer shall investigate complaints made to him concerning violations of this chapter, and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of this chapter and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

§2406. Inspection of packages

The state sealer shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered or exposed for sale, sold or in the process of delivery, to determine whether the same contain the amounts represented and whether they be kept, offered or exposed for sale, or sold, in accordance with law. When such packages or amounts of commodities are found not to contain the amounts represented or are found to be kept, offered or exposed for sale in violation of law, the state sealer may order them off sale and may mark or stamp them as "illegal." These orders shall not be considered to be licensing or any adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act. No person shall sell, or keep, offer or expose for sale any package or amount of commodity that has been ordered off sale as provided in this section, unless and until such package or amount of commodity has been brought into full compliance with legal requirements, or dispose of any package or amount of commodity that has been ordered off sale and that has not been brought into compliance with legal requirements, in any manner, except with the specific approval of the state sealer. [PL 1977, c. 694, §180 (AMD).]

SECTION HISTORY

PL 1973, c. 91, §6 (RP). PL 1973, c. 654, §1 (REEN). PL 1977, c. 694, §180 (AMD).

§2407. Stop-use, stop-removal and removal orders

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §6 (RP).

§2408. Disposition of correct and incorrect apparatus

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §6 (RP).

§2409. Powers of state sealer; right of entry and stoppage

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §6 (RP).

§2410. Powers and duties of deputy state sealer and inspectors

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §6 (RP).

§2411. Concurrent jurisdiction

In municipalities for which sealers of weights and measures have been appointed as provided for in this chapter, the state sealer shall have concurrent authority to enforce this chapter.

§2412. Registration of motor fuel dispensers

It is unlawful to sell motor fuel from a commercial motor fuel dispenser without a certificate of registration. [PL 1991, c. 712, §3 (NEW); PL 1991, c. 712, §5 (AFF).]

1. Certificate of registration. The state sealer shall provide application forms and shall issue a certificate of registration upon receipt of a completed application accompanied by an annual fee as determined under subsection 5. A certificate of registration expires on December 31st. The state sealer may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee.
[PL 2007, c. 539, Pt. GGGG, §1 (AMD).]

2. Local sealers account. The state sealer shall deposit all fees from applicants with commercial dispensers in municipalities with duly appointed local sealers into a separate, nonlapsing account, known as the local sealers account. Funds from this account may be used for costs associated with carrying out this subchapter. The state sealer shall deposit all other fees received under this section into the General Fund.
[PL 1995, c. 665, Pt. T, §1 (AMD).]

3. Payment from local sealers account. Upon receiving verification from a local sealer that a registered fuel dispenser has been inspected and conforms to standards established for fuel dispensers, the state sealer shall pay to the local sealer an amount as determined under subsection 5.
[PL 2007, c. 539, Pt. GGGG, §2 (AMD).]

4. No additional fee. A state or local sealer may not assess a fee for periodic testing and sealing of retail motor fuel dispensers.
[PL 1991, c. 712, §3 (NEW); PL 1991, c. 712, §5 (AFF).]

5. Rulemaking. The Commissioner of Agriculture, Conservation and Forestry shall adopt rules to establish a fee for issuing a certificate of registration under subsection 1 and the payment to a local sealer under subsection 3. The fee and payment established in rule must be per dispensing nozzle certified or inspected. Notwithstanding Title 5, section 8071, subsection 3, paragraph B, rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 539, Pt. GGGG, §3 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

PL 1991, c. 712, §3 (NEW). PL 1991, c. 712, §5 (AFF). PL 1995, c. 665, §T1 (AMD). PL 1997, c. 454, §5 (AMD). PL 2007, c. 539, Pt. GGGG, §§1-3 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

§2413. Gasoline labeling

(REPEALED)

SECTION HISTORY

PL 1999, c. 709, §1 (NEW). PL 2003, c. 638, §2 (RP).

SUBCHAPTER 4

LOCAL SEALERS

§2451. Election by municipal officers

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §7 (RPR). PL 2013, c. 595, Pt. U, §7 (RP).

§2452. Appointment by state sealer

(REPEALED)

SECTION HISTORY

PL 2013, c. 595, Pt. U, §7 (RP).

§2453. -- powers and duties

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §7 (RPR). PL 2013, c. 595, Pt. U, §7 (RP).

§2454. Testing of standards of municipalities

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §8 (RP).

§2455. Records of weights and measures sealed; annual report

(REPEALED)

SECTION HISTORY

PL 2013, c. 595, Pt. U, §7 (RP).

SUBCHAPTER 4-A

LOCAL SEALERS

§2461. Election by municipal officers

The municipal officers of a municipality may elect or appoint a sealer of weights and measures, and a deputy sealer if necessary, not necessarily a resident of that municipality, and the sealer and deputy sealer hold office during their efficiency and the faithful performance of their duties. The state sealer has final approval authority over a sealer or deputy sealer elected or appointed pursuant to this section. Prior to approval or assuming any duties, a sealer or deputy sealer elected or appointed pursuant to this section must successfully complete certification by the National Conference on Weights and Measures as a weights and measures professional in the National Conference on Weights and Measures professional certification program for the device types the sealer or deputy sealer wishes to seal. On complaint being made to the municipal officers of the inefficiency or neglect of duty of a sealer or deputy sealer, the municipal officers shall set a date for and give notice of a hearing to the complainant, the relevant sealer and the state sealer. If evidence satisfies the municipal officers that the sealer or deputy sealer has been inefficient or has neglected the sealer's or deputy sealer's duty, they may remove the sealer or deputy sealer from office and elect or appoint another in the sealer's or deputy sealer's stead. The state sealer has jurisdiction over a sealer or deputy sealer elected or appointed pursuant to this section, and any vacancy caused by death or resignation must be filled by election or appointment by the municipal officers within 30 days. Within 10 days after each such election or appointment, the clerk of each municipality shall communicate the name of the person so elected or appointed to the state sealer. A sealer of weights and measures in any municipality may be sealer for several municipalities, if such is the pleasure of the municipal officers of those municipalities, as long as this action receives the approval of the state sealer. The state sealer or the state sealer's designee shall test and certify annually municipal weights and measures equipment used by a sealer or deputy sealer elected or appointed pursuant to this section. [PL 2017, c. 172, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 172, §1 (NEW).

§2462. Municipalities that do not choose a sealer

If the municipal officers do not elect or appoint a sealer or fail to make a return to the state sealer of the election or appointment within 30 days after the election or appointment in accordance with section 2461, the state sealer retains sole authority to enforce this chapter in that municipality and the concurrent authority provided under section 2411 does not apply in that municipality. Pursuant to section 2402, subsection 7, the state sealer may appoint a qualified person to carry out the state sealer's responsibilities in that municipality, and any person appointed under this section may serve in that capacity for more than one municipality. [PL 2017, c. 172, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 172, §1 (NEW).

§2463. Powers and duties

A weights and measures official elected or appointed for a municipality has the duties enumerated in section 2402, subsections 2 to 9 and the powers enumerated in section 2403. These powers and duties extend to the official's jurisdiction. [PL 2017, c. 172, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 172, §1 (NEW).

§2464. Records of weights and measures sealed; annual report

A sealer shall keep records of all weights and measures, balances and measuring devices inspected, sealed or condemned by that sealer, giving the name of the owner or agent, the place of business, the date of inspection and kind of apparatus inspected, sealed or condemned. The sealer shall make an annual report on July 1st for the 12 preceding months on forms prescribed by the state sealer and shall furnish such information as the state sealer may require. [PL 2017, c. 172, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 172, §1 (NEW).

SUBCHAPTER 5

WEIGHMASTER

§2501. Qualifications

1. Individual license. A person wishing to be a licensed public weighmaster shall make application to the state sealer upon forms provided by the state sealer, and each application must be accompanied by an annual fee of $25. When the state sealer receives an application and is satisfied that the applicant is of good moral character, has the ability to weigh accurately and to make correct weight certificates, has passed such oral or written examination as the state sealer may require and makes an oath to execute the requisite duties satisfactorily, the state sealer shall grant the applicant a license as a public weighmaster. A license expires on December 31st annually or in a manner consistent with the Maine Administrative Procedure Act, whichever is later, unless sooner revoked or suspended under section 2506.

Except as provided in subsection 2, a licensed public weighmaster shall, at the public weighmaster's own expense, procure an impression seal. The public weighmaster's name and the word "Maine" must be inscribed around the outer margin of the seal and the words "licensed public weighmaster" must appear in the center of the seal. The seal must be impressed upon each weight certificate issued by the licensed public weighmaster.
[PL 1999, c. 646, §1 (NEW).]

2. Corporate license. A business, company or corporation wishing to be a licensed corporate public weighmaster shall make application to the state sealer upon forms provided by the state sealer. The application must name the owner or manager of the business, company or corporation who is making the application. Each application must be accompanied by an annual fee of $250 and a list of employees who hold valid individual licenses under subsection 1. When the state sealer receives an application and is satisfied that the business, company or corporation has the ability to train its employees to weigh accurately and to make correct weight certificates and that at least one employee of that business, company or corporation holds a valid individual license under subsection 1, the state sealer shall grant the business, company or corporation a license as a corporate public weighmaster. A license expires on December 31st annually or in a manner consistent with the Maine Administrative Procedure Act, whichever is later, unless sooner revoked or suspended under section 2506.

The holder of a corporate license must notify the state sealer when a licensed public weighmaster begins or leaves employment with that business, company or corporation. The state sealer shall assign a number to each licensed public weighmaster operating under a corporate license. A corporate licensed public weighmaster shall procure, at the corporation's expense, an impression seal. The business, company or corporation name and the word "Maine" must be inscribed around the outer margin of the

seal. The words "licensed corporate public weighmaster" must appear in the center of the seal with a number identifying the individual who is operating under the corporate weighmaster license. The seal and correct identifying number must be impressed upon each weight certificate issued under the corporate license. A person who does not hold a valid license under subsection 1 may not issue a weight certificate under a corporate license.
[PL 1999, c. 646, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 694, §181 (AMD). PL 1989, c. 888, §5 (AMD). PL 1997, c. 454, §6 (AMD). PL 1999, c. 646, §1 (RPR).

§2502. Scale used; type; test

When making a weight determination as provided for by this chapter, a licensed public weighmaster shall use a weighing device that is of a type suitable for the weighing of the amount and kind of material to be weighed and that has been tested and approved for use by the state sealer or a sealer within a period of 12 months immediately preceding the date of weighing.

§2503. Capacity; platform size; one-draft weighing

A licensed public weighmaster shall not use any scale to weigh a load, the weight of which exceeds the nominal or rated capacity of the scale. When the gross or tare weight of any vehicle or combination of vehicles is to be determined, the weighing shall be performed upon a scale having a platform of sufficient size to accommodate such vehicle or combination of vehicles fully, completely and as one entire unit. If a combination of vehicles must be broken up into separate units in order to be weighed as prescribed, each such separate unit shall be entirely disconnected before weighing and a separate weight certificate shall be issued for each such separate unit.

§2504. Action by unlicensed persons

No person shall assume the title "licensed public weighmaster," or any title of similar import, perform the duties or acts to be performed by a licensed public weighmaster, hold himself out as a licensed public weighmaster, issue any weight certificate, ticket, memorandum or statement for which a fee is charged, or engage in the full-time or part-time business of public weighing, unless he holds a valid license as a licensed public weighmaster. "Public weighing," as used in this section, shall mean the weighing for any person, upon request, of property, produce, commodities or articles other than those which the weigher or his employer, if any, is either buying or selling.

§2505. Malfeasance

1. Falsification of certificate. A licensed public weighmaster who falsifies a weight certificate or who delegates authority to a person not licensed as a licensed public weighmaster or who preseals a weight certificate with the licensed public weighmaster's official seal before performing the act of weighing commits a civil violation for which a fine of not more than $100 may be adjudged.
[PL 2003, c. 452, Pt. E, §7 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Misuse of seal. A holder of a corporate public weighmaster's license may not allow a person not licensed as a licensed public weighmaster to issue a weight certificate using the corporate seal.

A. A person who violates this subsection commits a civil violation for which a fine of not more than $500 may be adjudged. [PL 2003, c. 452, Pt. E, §7 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates this subsection after having previously violated this subsection commits a civil violation for which a fine of not more than $1,000 may be adjudged. [PL 2003, c. 452, Pt. E, §7 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. E, §7 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

3. Holder of corporate license. For the purposes of this section, the person whose name appears on the application for a corporate license pursuant to section 2501, subsection 2 is deemed to be the holder of the corporate license.
[PL 2003, c. 452, Pt. E, §7 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1999, c. 646, §2 (AMD). PL 2003, c. 452, §E7 (RPR). PL 2003, c. 452, §X2 (AFF).

§2506. Suspension or revocation of license

The state sealer is authorized, in a manner consistent with the Maine Administrative Procedure Act, to refuse to renew, and the District Court is authorized, on complaint of the state sealer or the Attorney General, to suspend or revoke the license of any licensed public weighmaster or licensed corporate public weighmaster when the licensee has violated any provision of this chapter or of any valid regulation of the state sealer affecting a licensed public weighmaster. [PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF); PL 1999, c. 646, §3 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §182 (RPR). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 1999, c. 646, §3 (AMD).

SUBCHAPTER 6

WEIGHT CERTIFICATES

§2551. Required entries

The weight certificate forms shall be approved by the state sealer and shall contain the following information: The date of issuance, the kind of property, produce, commodity or article weighed, the name of the declared owner or agent of the owner or of the consignee of the material weighed, the accurate weight of the material weighed, the means by which the material was being transported at the time it was weighed and such other available information as may be necessary to distinguish or identify the property, produce, commodity or article from others of like kind. Such weight certificate, when so made and properly signed and sealed, shall be prima facie evidence of the accuracy of the weights shown.

§2552. Execution; requirements

A licensed public weighmaster shall not enter on a weight certificate issued by him any weight values but such as he has personally determined, and he shall make no entries on a weight certificate issued by some other person. A weight certificate shall be so prepared as to show clearly that weight or weights were actually determined. If the certificate form provides for the entry of gross, tare and net weights, in any case in which only the gross, the tare or the net weight is determined by the weighmaster he shall strike through or otherwise cancel the printed entries for the weights not determined or computed. If gross and tare weights are shown on a weight certificate and both of these were not determined on the same scale and on the day for which the certificate is dated, the weighmaster shall identify on the certificate the scale used for determining each such weight and the date of each such determination.

§2553. Copies preserved and available

A licensed public weighmaster shall keep and preserve for at least one year, or for such longer period as may be specified in the regulations authorized to be issued for the enforcement of this chapter, a legible carbon copy of each weight certificate issued by him, which copies shall be open at all reasonable times for inspection by the state sealer or a sealer.

§2554. Reciprocal acceptance

Whenever in any other state which licenses public weighmasters, there is statutory authority for the recognition and acceptance of the weight certificates issued by licensed weighmasters of this State, the state sealer of this State is authorized to recognize and accept the weight certificates of such other state.

SUBCHAPTER 7

SALE OF COMMODITIES

§2601. Method of sale

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2602. Declarations of quantity and origin; tolerances; exceptions

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2603. Declarations of unit price on random packages

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2604. Misleading packages

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2605. Commodity in package form defined

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2606. Sale by weight

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2607. Misrepresentation of price; display of basic quantity and fraction in price per unit

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2608. Meat, fish and poultry

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2609. Butter, oleomargarine and margarine

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2610. Fluid dairy products

(REPEALED)

SECTION HISTORY

PL 1969, c. 44, §1 (AMD). PL 1973, c. 91, §9 (RP).

§2611. Flour, corn meal and hominy grits

(REPEALED)

SECTION HISTORY

PL 1969, c. 44, §2 (AMD). PL 1973, c. 91, §9 (RP).

§2612. Coal, coke and charcoal

(REPEALED)

SECTION HISTORY

PL 1969, c. 44, §3 (AMD). PL 1973, c. 91, §9 (RP).

§2613. Wood

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2614. Ice

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2615. Textile products

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

§2616. Berries and small fruits

(REPEALED)

SECTION HISTORY

PL 1973, c. 91, §9 (RP).

SUBCHAPTER 7-A

SALE OF COMMODITIES

§2621. Misrepresentation of quantity

No person shall sell, offer or expose for sale less than the quantity he represents, nor take any more than the quantity he represents when, as buyer, he furnishes the weight or measure by means of which the quantity is determined. [PL 1973, c. 91, §10 (NEW).]

SECTION HISTORY

PL 1973, c. 91, §10 (NEW).

§2622. Misrepresentation of pricing

No person shall misrepresent the price of any commodity or service sold, offered, exposed or advertised for sale by weight, measure or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive a person. [PL 1973, c. 91, §10 (NEW).]

SECTION HISTORY

PL 1973, c. 91, §10 (NEW).

§2623. Method of sale

1. Sales of commodities. Except as otherwise provided by the State Sealer, sales of commodities must comply with the following:

A. Commodities in liquid form must be sold by liquid measure or by weight; [PL 2001, c. 491, §1 (NEW).]

B. Commodities not in liquid form must be sold only by weight, by measure or by count; [PL 2009, c. 192, §1 (AMD).]

C. A seller selling commodities in liquid form and using temperature compensators shall have the seller's entire fleet of vehicles equipped with temperature compensators or have prior approval by the State Sealer for regional use of temperature compensators and shall provide accurate and adequate quantity information that permits the buyer to make price and quantity comparisons. Such equipment must be sealed and in use throughout the year; [PL 2009, c. 192, §1 (AMD).]

D. Beginning January 1, 2010 all new delivery vehicles using vehicle tank meters and intended for the retail sale of refined petroleum products in the State must be equipped with automatic temperature compensating meters. A seller selling refined petroleum products and using temperature compensators shall have the seller's entire fleet of vehicles equipped with temperature compensators; and [PL 2009, c. 192, §1 (NEW).]

E. Beginning January 1, 2015 all delivery vehicles using vehicle tank meters and intended for the retail sale of refined petroleum products in the State must be equipped with automatic temperature compensating meters. A seller selling refined petroleum products and using temperature compensators shall have the seller's entire fleet of vehicles equipped with temperature compensators, and they must be in use throughout the year. [PL 2009, c. 192, §1 (NEW).]

[PL 2009, c. 192, §1 (AMD).]

SECTION HISTORY

PL 1973, c. 91, §10 (NEW). PL 1977, c. 694, §183 (AMD). PL 2001, c. 491, §1 (RPR). PL 2009, c. 192, §1 (AMD).

§2623-A. Certain wood by-products

A carrier transporting loose sawdust or wood shavings for final delivery to a destination where they will be used in the production of agricultural commodities shall conspicuously label the volume

capacity of the vehicle in cubic feet or cords. For the purposes of this section a cord means 128 cubic feet. [PL 1981, c. 288 (NEW).]

Any sale from a vehicle covered by this section shall be accompanied by a sales slip indicating the volume sold. [PL 1981, c. 288 (NEW).]

SECTION HISTORY

PL 1981, c. 288 (NEW).

§2624. Sale from bulk

Whenever the quantity is determined by the seller, bulk sales in excess of $20 and all bulk deliveries of heating fuel shall be accompanied by a delivery ticket containing the following information: [PL 1973, c. 91, §10 (NEW).]

1. Name and address. The name and address of the vendor and purchaser;
[PL 1973, c. 91, §10 (NEW).]

2. Date. The date delivered;
[PL 1973, c. 91, §10 (NEW).]

3. Quantity. The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity, including when temperature-compensated sales are made, that fact must be stated;
[PL 2001, c. 491, §2 (AMD).]

4. Identity. The identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale;
[PL 1973, c. 91, §10 (NEW).]

5. Count. The count of individually wrapped packages if more than one.
[PL 1973, c. 91, §10 (NEW).]

SECTION HISTORY

PL 1973, c. 91, §10 (NEW). PL 2001, c. 491, §2 (AMD).

§2625. Information required on packages

Except as otherwise provided in this chapter or by regulations promulgated pursuant thereto, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain and conspicuous declaration of: [PL 1973, c. 91, §10 (NEW).]

1. Identity. The identity of the commodity in the package, unless the same can easily be identified through the wrapper or container;
[PL 1973, c. 91, §10 (NEW).]

2. Quantity. The quantity of contents in terms of weight, measure or count;
[PL 1973, c. 91, §10 (NEW).]

3. Name and place of business. The name and place of business of the manufacturer, packer or distributor in the case of any package kept, offered or exposed for sale.
[PL 1975, c. 108 (AMD).]

SECTION HISTORY

PL 1973, c. 91, §10 (NEW). PL 1975, c. 108 (AMD).

§2626. Declarations of unit price on random packages

In addition to the declarations required by section 2625, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on

the outside of the package a plain and conspicuous declaration of the price per single unit of weight. [PL 1973, c. 91, §10 (NEW).]

SECTION HISTORY

PL 1973, c. 91, §10 (NEW).

§2627. Advertising packages for sale

Whenever a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or regulation to appear on the package. Where a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement. [PL 1973, c. 91, §10 (NEW).]

Whenever a package commodity or consumer commodity, as defined in Title 7, section 523, subsection 3, is advertised for retail sale, there must be a declaration of the price of the item either on each individual item, on the shelf where the item is located or on a placard or sign immediately adjacent to the item. [PL 2009, c. 192, §2 (NEW).]

SECTION HISTORY

PL 1973, c. 91, §10 (NEW). PL 2009, c. 192, §2 (AMD).

§2628. Conformity to national method of sale regulations

The methods, units, terms and other requirements for the sale of commodities, as adopted by the National Conference on Weights and Measures and published in the National Bureau of Standards, or as published in the National Institute of Standards and Technology, "Model State Method of Sale of Commodities Regulation," and supplements or revisions to those publications, shall apply to the sale of commodities in the State of Maine, except insofar as specifically modified, amended or rejected by a regulation issued by the state sealer. [PL 1989, c. 24, §4 (AMD).]

SECTION HISTORY

PL 1973, c. 91, §10 (NEW). PL 1989, c. 24, §4 (AMD).

§2629. Conformity to national packaging and labeling regulations

The packaging and labeling requirements for consumer and nonconsumer packages, as adopted by the National Conference on Weights and Measures and published in the National Bureau of Standards, "Model State Packaging and Labeling Regulation," or in publications of the National Institute of Standards and Technology, successor organization to the National Bureau of Standards, or in any supplements or revisions to those publications, shall apply to any package kept for the purpose of sale or offered or exposed for sale in the State of Maine, except insofar as specifically modified, amended or rejected by a regulation issued by the state sealer. [PL 1989, c. 24, §5 (AMD).]

SECTION HISTORY

PL 1973, c. 91, §10 (NEW). PL 1989, c. 24, §5 (AMD).

§2630. Sale of engine coolants and antifreeze

1. Aversive agent required. A person may not sell or offer to sell in this State any engine coolant or antifreeze that contains more than 10% ethylene glycol unless it includes denatonium benzoate at a minimum of 30 parts per million as a bittering agent within the product so as to render it unpalatable. [PL 2007, c. 336, §1 (NEW).]

2. Substitute aversive agent authorized. Notwithstanding subsection 1, an aversive agent other than denatonium benzoate may be used in engine coolant or antifreeze if it meets or exceeds the degree of aversion in test subjects obtained by using the formulation of 30 parts per million of denatonium benzoate in antifreeze.

[PL 2007, c. 336, §1 (NEW).]

3. Records of manufacturer and packager. Any manufacturer or packager of engine coolant or antifreeze subject to this section shall maintain a record of the trade name, scientific name and active ingredients of the bittering agent used pursuant to this section. Information and documentation maintained pursuant to this subsection must be furnished to any member of the public upon request.
[PL 2007, c. 336, §1 (NEW).]

4. Limitation of liability. A manufacturer, distributor, recycler or seller of any engine coolant or antifreeze that contains more than 10% ethylene glycol and is required to contain an aversive agent under this section is not liable to any person for any personal injury, death, property damage, damage to the environment or natural resources or economic loss that results from the inclusion of denatonium benzoate or a substitute aversive agent if the aversive agent is included in ethylene glycol engine coolant or antifreeze in concentrations mandated by this section. This subsection does not provide immunity to any person for liability to the extent that the cause of the liability is not related to the inclusion of an aversive agent.
[PL 2007, c. 336, §1 (NEW).]

5. Misconduct negates limitation of liability. The limitation of liability under subsection 4 does not apply if the personal injury, death, property damage, damage to the environment or natural resources or economic loss described under subsection 4 results from willful or reckless misconduct by the manufacturer, distributor, recycler or seller of the ethylene glycol engine coolant or antifreeze.
[PL 2007, c. 336, §1 (NEW).]

6. Exceptions. This section does not apply to the sale of a motor vehicle that contains engine coolant or antifreeze.
[PL 2007, c. 336, §1 (NEW).]

7. Effective date.
[PL 2011, c. 691, Pt. A, §3 (RP).]

SECTION HISTORY

PL 2007, c. 336, §1 (NEW). PL 2011, c. 691, Pt. A, §3 (AMD).

§2631. Conformity to national engine fuels and automotive lubricants regulations

The engine fuel and automotive lubricants requirements, as adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology uniform regulation "Uniform Engine Fuels and Automotive Lubricants Regulation," apply to any internal combustion engine fuels, lubricating oils or other similar products stored, sold, distributed, transported, exposed for sale or offered for sale, distribution or transportation in the State, except as specifically modified, amended or rejected by a regulation issued by the state sealer. [PL 2009, c. 192, §3 (NEW).]

SECTION HISTORY

PL 2009, c. 192, §3 (NEW).

§2632. Compliance testing of net contents on packaged goods

The specifications, tolerances and other technical requirements for compliance testing of the net contents of packaged goods as adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 133 (2016), "Checking the Net Contents of Packaged Goods," and supplements or revisions to this publication, apply to packaged goods in this State, except as modified or rejected by a regulation issued by the state sealer. [PL 2017, c. 172, §2 (NEW).]

SECTION HISTORY

PL 2017, c. 172, §2 (NEW).

SUBCHAPTER 8

DEALERS AND REPAIRMEN

§2651. Registration; certificates

Any person wishing to be registered as a dealer or repairman shall make application to the state sealer upon forms provided by the state sealer, furnishing such pertinent information as may be required and each application must be accompanied by an annual fee of $25. Upon approval, the state sealer shall issue to the applicant a registration certificate that expires on December 31st, or in the manner provided in the Maine Administrative Procedure Act, Title 5, chapter 375, whichever is later, unless sooner suspended or revoked under section 2655. A registration may be issued for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee. [PL 1997, c. 454, §7 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §184 (AMD). PL 1989, c. 888, §6 (AMD). PL 1997, c. 454, §7 (AMD).

§2652. Handling of condemned devices; disposition

A dealer or repairman who accepts weighing or measuring devices, which have been condemned by the state sealer in trade for new or used weighing or measuring devices, and which are intended to be dismantled or destroyed, upon receipt thereof, shall remove the condemned tags. Such condemned tags shall be returned to the state sealer within 10 days thereafter, with a statement describing the weighing or measuring device, giving the number of the weighing or measuring device, if obtainable, and the name and address of the former owner or user from whom it was received. There shall be furnished a statement of what disposition has been made of the weighing or measuring device.

§2653. Reports to state sealer

Every dealer or repairman, within 10 days after the making of a repair, adjustment or the sale and delivery of a new, repaired, rebuilt, exchanged or used weighing or measuring device, shall notify, in writing, the state sealer, giving the name and address of the person, firm, copartnership, corporation or association for whom such repair has been made, or to whom a repaired, rebuilt, adjusted, exchanged or used weighing or measuring device has been sold or delivered. The dealer or repairman shall make a written statement that the same has been so altered, rebuilt or repaired as to conform to the standard specifications and regulations of the state sealer. Every dealer and repairman, registered pursuant to section 2651, shall submit to the state sealer the name and address of every person, firm, copartnership, corporation or association for whom weighing or measuring devices are adjusted, repaired, rebuilt or to whom a new, adjusted, repaired, rebuilt, exchanged or used weighing or measuring device has been sold or delivered.

§2654. Calibration of testing equipment; certificate

A dealer or repairman shall submit his testing equipment at least once a year to the office of the state sealer for comparison and calibration with the standard maintained by such state sealer. After comparison and calibration, the state sealer shall issue to such dealer or repairman a certificate of his findings.

§2654-A. Retail vehicle tank metering devices

A repairman registered and otherwise regulated under this subchapter may test and calibrate retail vehicle tank metering devices for the delivery of petroleum products, provided that the state sealer has

determined that the repairman is qualified, on the basis of his competency and his proper use of correct equipment, to perform those tests and calibrations. The state sealer shall note his determination of that qualification on the repairman's registration certificate and shall make a new determination of qualification each time the certificate is renewed. [PL 1985, c. 33, §1 (NEW).]

Such a metering device which has been tested and, if necessary, calibrated by a repairman in accordance with this section shall not be tested or calibrated by the state sealer within the 12-month period following the date of the testing and calibration unless testing or calibration by the state sealer is requested by the owner or operator of the device, except that the state sealer may test and, if necessary, calibrate any such device for the purpose of evaluating the competency of any repairman or for the purpose of investigation of a complaint. When the state sealer tests or calibrates such a device for those purposes, he shall not charge any fee if the device has been tested and, if necessary, calibrated within the previous 12 months and he finds the device to be correct. [PL 1985, c. 33, §1 (NEW).]

SECTION HISTORY

PL 1985, c. 33, §1 (NEW).

§2655. Suspension or revocation of registration of dealers or repairmen

The state sealer is authorized to refuse to renew the certificate of any registered dealer or repairman when he is satisfied, after providing notice and opportunity for a hearing in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory hearings, that the registrant has violated this subchapter or is found to be an incompetent, inefficient, unscrupulous or unsuitable person to be engaged as a dealer or repairman. The District Court, upon complaint of the state sealer or the Attorney General, is authorized to suspend or revoke the certificate of any registered dealer or repairman on the same grounds. [PL 1977, c. 694, §185 (RPR); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1977, c. 694, §185 (RPR). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF).

§2656. Penalties

1. Violation of subchapter; first and subsequent offenses. The following penalties apply to violations of this subchapter.

A. A person who violates a provision of this subchapter commits a civil violation for which a fine of not more than $100 may be adjudged. [PL 2003, c. 452, Pt. E, §8 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates a provision of this subchapter after having previously violated this subchapter commits a civil violation for which a fine of not more than $200 may be adjudged. [PL 2003, c. 452, Pt. E, §8 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. E, §8 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Conducting business without license; first and subsequent offenses. A person may not conduct a business of dealer or repairman without having a certificate in full force.

A. A person who violates this subsection commits a civil violation for which a fine of not more than $100 may be adjudged. [PL 2003, c. 452, Pt. E, §8 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates this subsection after having previously violated this subsection commits a civil violation for which a fine of not more than $200 may be adjudged. [PL 2003, c. 452, Pt. E, §8 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. E, §8 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 2003, c. 452, §E8 (RPR). PL 2003, c. 452, §X2 (AFF).

SUBCHAPTER 9

FEES

§2701. Schedule

The Commissioner of Agriculture, Conservation and Forestry is authorized, after consultation with municipal authorities and representatives of industry, to hold a public hearing for the purpose of establishing fees of the state sealer and the sealers of weights and measures for testing weights and measures to be paid by the person for whom the service is rendered. [PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

Promulgation and establishment of fees shall follow the procedure and be subject to the requirements as to rulemaking of the Maine Administrative Procedure Act. [PL 1977, c. 694, §186 (AMD).]

No sealer shall charge a fee provided by this section unless he has adequate equipment to test accurately and which equipment has been approved to perform the service rendered by the state sealer.

The state sealer or sealers shall not charge a fee for testing or calibrating, weighing and measuring devices which have been calibrated or tested and approved within a period of 3 months from time of approval, provided the same are found to be correct, except fees for testing or calibrating retail vehicle tank metering devices tested or calibrated by a repairman in accordance with section 2654-A shall be charged as provided in that section. [PL 1985, c. 33, §2 (AMD).]

When any person requests an inspection of any measuring device, the state sealer, deputy or inspector is authorized to charge an amount sufficient to cover the cost of actual expense incurred in performing this special service, including mileage, lodging and meals, in addition to the inspection fees described.

All fees and expenses collected under this chapter by the state sealer shall be deposited in the General Fund. [PL 1979, c. 672, Pt. A, §48 (RPR).]

SECTION HISTORY

PL 1969, c. 332 (AMD). PL 1977, c. 694, §186 (AMD). PL 1979, c. 672, §A48 (AMD). PL 1979, c. 731, §19 (AMD). PL 1985, c. 33, §2 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

§2702. Penalty for failure to pay

1. Payment for services rendered. A person, firm or corporation for whom scales, weights and measures or any weighing or measuring devices have been tested by a local sealer of weights and measures may not neglect or refuse to pay for the services rendered.
[PL 2003, c. 452, Pt. E, §9 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Penalties. The following penalties apply to violations of this section.

A. A person, firm or corporation who violates subsection 1 commits a civil violation for which a fine of $3 plus costs must be adjudged. [PL 2003, c. 452, Pt. E, §9 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person, firm or corporation who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not less than $10 plus costs and not more than $20 plus costs must be adjudged. [PL 2003, c. 452, Pt. E, §9 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. E, §9 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 2003, c. 452, §E9 (RPR). PL 2003, c. 452, §X2 (AFF).

SUBCHAPTER 10

ENFORCEMENT AND JURISDICTION

§2751. Offenses and penalties

A person who violates the following enumerated provisions or any provision of this chapter or rules adopted pursuant thereto, for which a specific penalty has not been prescribed, commits a civil violation for which a forfeiture must be adjudged in an amount not less than $50 nor more than $2,000. [PL 1991, c. 650, §1 (AMD).]

A person may not: [PL 1991, c. 650, §1 (AMD).]

1. Use or have in possession. Use or have in possession for use in commerce any incorrect weight or measure;
[PL 1973, c. 91, §11 (RPR).]

2. Remove tag, seal or mark. Remove any tag, seal or mark from any weight or measure without specific written authorization from the proper authority;
[PL 1973, c. 91, §11 (RPR).]

3. Hinder or obstruct. Hinder or obstruct any weights and measures official in the performance of that official's duties;
[PL 1991, c. 650, §1 (AMD).]

4. Use of scale. Use any scale that requires permanent installation that has been relocated without first having the same tested and approved by the state sealer or a sealer;
[PL 1991, c. 650, §1 (AMD).]

5. Sale of less quantity represented. Sell, or offer or expose for sale, less than the quantity the person represents of any commodity, thing or service;
[PL 1991, c. 650, §1 (AMD).]

6. Take more quantity as buyer. Take more than the quantity the person represents of any commodity, thing or service when, as a buyer, the person furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined; or
[PL 1991, c. 650, §1 (AMD).]

7. Commodity in unlawful condition. Keep for the purpose of sale, advertise or offer or expose for sale, or sell any commodity, thing or service in a condition or manner contrary to law or rule.
[PL 1991, c. 650, §1 (AMD).]

SECTION HISTORY

PL 1965, c. 178, §2 (AMD). PL 1973, c. 91, §11 (RPR). PL 1973, c. 654, §2 (AMD). PL 1991, c. 650, §1 (AMD).

§2752. Jurisdiction

The District Court and the Superior Court shall have concurrent jurisdiction of prosecutions for all offenses against the laws pertaining to weights and measures.

§2753. Injunction

The state sealer is authorized to apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any provision of this chapter or any rule promulgated pursuant to this chapter. [PL 1983, c. 804, §12 (AMD).]

SECTION HISTORY

PL 1973, c. 91, §12 (NEW). PL 1983, c. 804, §12 (AMD).

§2754. Presumptive evidence

Whenever there shall exist a weight or measure or weighing or measuring device in or about any place in which or from which buying or selling is commonly carried on, there shall be a rebuttable presumption that such weight or measure or weighing or measuring device is regularly used for the business purposes of that place. [PL 1973, c. 91, §12 (NEW).]

SECTION HISTORY

PL 1973, c. 91, §12 (NEW).

§2755. Regulations to be unaffected by repeal or prior enabling statute

The adoption of this Act or any of its provisions shall not affect any regulations promulgated pursuant to the authority of any earlier enabling statute unless inconsistent with this Act or modified or revoked by the state sealer. [PL 1973, c. 91, §12 (NEW).]

SECTION HISTORY

PL 1973, c. 91, §12 (NEW).

CHAPTER 503

MILK AND MILK CONTAINERS

SUBCHAPTER 1

GENERAL PROVISIONS

§2801. Definitions

(REPEALED)

SECTION HISTORY

PL 1979, c. 541, §A97 (AMD). PL 1999, c. 362, §17 (RP).

SUBCHAPTER 2

STANDARDS

§2851. Rules and regulations; tests

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§2852. Standard measure

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§2853. Capacity of milk bottles and jars

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

SUBCHAPTER 3

TESTING

§2901. Regulations on testing

(REPEALED)

SECTION HISTORY

PL 1977, c. 694, §187 (AMD). PL 1999, c. 362, §17 (RP).

§2902. Taking of samples

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§2903. Testing equipment

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§2904. Access

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§2905. Babcock tester's license

(REPEALED)

SECTION HISTORY

PL 1977, c. 694, §188 (AMD). PL 1999, c. 362, §17 (RP).

§2906. Composite test period

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

SUBCHAPTER 4

MARKING AND STAMPING

§2951. Marking and proving of measures and cans

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§2952. Marking milk containers; sealing

(REPEALED)

SECTION HISTORY

PL 1977, c. 694, §189 (AMD). PL 1999, c. 362, §17 (RP).

§2953. -- penalty for violation

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§2954. Marking of bottles and jars sealed by manufacturer; bond

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§2955. Marking of glassware

(REPEALED)

SECTION HISTORY

PL 1979, c. 541, §A98 (AMD). PL 1981, c. 186 (RPR). PL 1999, c. 362, §17 (RP).

SUBCHAPTER 5

ENFORCEMENT AND JURISDICTION

§3001. Sale or use of bottles not complying with law

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§3002. Prosecutions

(REPEALED)

SECTION HISTORY

PL 1973, c. 567, §20 (AMD). PL 1999, c. 362, §17 (RP).

§3003. Jurisdiction

(REPEALED)

SECTION HISTORY

PL 1999, c. 362, §17 (RP).

§3004. Penalties

(REPEALED)

SECTION HISTORY

PL 1991, c. 650, §2 (AMD). PL 1999, c. 362, §17 (RP).

PART 7

LIENS

CHAPTER 601

BRICK

§3201. Labor and materials

Whoever performs labor or furnishes labor or wood for manufacturing and burning bricks has a lien on such bricks for such labor and wood for 30 days after the same are burned, suitable for use, provided said bricks remain in the yard where burnt. Such lien shall take precedence over all other claims and of all attachments and encumbrances not made to secure a similar lien and may be enforced by attachment within the time aforesaid.

CHAPTER 603

BUILDINGS, LOTS, WHARVES AND PIERS; LABOR AND MATERIALS

§3251. Lien established

Whoever performs labor or furnishes labor or materials, including repair parts of machines used, or performs services as a surveyor, an architect, a forester licensed under Title 32, chapter 76 or an engineer, or as a real estate licensee, or as an owner-renter, owner-lessor, or owner-supplier of equipment used in erecting, altering, moving or repairing a house, building or appurtenances, including any public building erected or owned by any city, town, county, school district or other municipal corporation, or in constructing, altering or repairing a wharf or pier, or any building thereon, including the surveying, clearing, grading, draining, excavating or landscaping of the ground adjacent to and upon which any such objects are constructed, or in selling any interest in land, improvements or structures, by virtue of a contract with or by consent of the owner, has a lien thereon and on the land on which it stands and on any interest such owner has in the same, to secure payment thereof, with costs. If the owner of the building has no legal interest in the land on which the building is erected or to which it is moved, the lien attaches to the building, and if the owner of the wharf or pier has no legal interest in the land on which the wharf or pier is erected, the lien attaches to the wharf or pier, and in either case may be enforced as provided. If the owner of such land, building, wharf or pier, so contracting, is a minor or married woman, such lien exists and such minority or coverture does not bar a recovery in any proceeding brought to enforce it. [PL 2015, c. 56, §1 (AMD).]

SECTION HISTORY

PL 1971, c. 421 (AMD). PL 1991, c. 280 (AMD). PL 1993, c. 137, §1 (AMD). PL 1997, c. 264, §1 (AMD). PL 2015, c. 56, §1 (AMD).

§3252. Prevention of lien

If the labor, materials or services were not furnished by a contract with the owner of the property affected, the owner may prevent such lien for labor, materials or services not then performed or

furnished, by giving written notice to the person performing or furnishing the same that he will not be responsible therefor.

§3253. Dissolution unless claim filed

1. Filing of claim. The lien under section 3252 is dissolved unless the claimant, within 90 days after ceasing to labor, furnish materials or perform services:

A. Files in the office of the register of deeds in the county or registry district in which the building, wharf or pier is situated a true statement of the amount due the claimant, with all just credits given, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it and the names of the owners, if known. The statement must be subscribed and sworn to by the person claiming the lien, or by someone in the claimant's behalf, and recorded in a book kept for that purpose by the register of deeds for the county or registry district, who is entitled to the same fees as for recording mortgages; and [PL 2005, c. 287, §1 (NEW).]

B. Provides a copy of the statement under paragraph A to the owner or owners by ordinary mail. For purposes of this paragraph, a post office certificate of mailing the notice to the owner is conclusive proof of receipt by the owner. [PL 2005, c. 287, §1 (NEW).]

[PL 2005, c. 287, §1 (NEW).]

2. Exemption for contract with owner. This section does not apply when the labor, materials or services are furnished by a contract with the owner of the property affected.

[PL 2005, c. 287, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 91, §1 (AMD). PL 2005, c. 287, §1 (RPR).

§3254. Inaccuracy does not void lien if reasonably certain

No inaccuracy in such statement relating to said property, if the same can be reasonably recognized, or in stating the amount due for labor, materials or services invalidates the proceedings, unless it appears that the person making it willfully claims more than his due.

§3255. Liens preserved and enforced by action

1. Enforcement by action. The liens mentioned in sections 3251 to 3254 may be preserved and enforced by action against the debtor and owner of the property affected and all other parties interested therein, filed with the Superior Court or District Court clerk in the county or division where the house, building or appurtenances, wharf, pier or building thereon on which a lien is claimed is situated within 120 days after the last of the labor or services are performed or labor, materials or services are so furnished, except as provided in section 3256. If the labor, materials or services were not performed or furnished by a contract with the owner of the property affected, the claimant may not serve the complaint and summons, as provided in the Maine Rules of Civil Procedure, on the owner until 30 days after the date of filing of the complaint and any deadline for filing a return of service on the owner provided in the Maine Rules of Civil Procedure is tolled for 30 days.

[PL 2005, c. 287, §2 (AMD).]

2. Bona fide purchaser. Any person who is a bona fide purchaser for value of a house, building or appurtenances, a public building erected or owned by any city, town, county, school district or other municipal corporation, or a wharf or pier or any building thereon, including the ground adjacent to and upon which any such objects are constructed, takes title free of the lien described in this chapter unless, before the bona fide purchaser takes title to the premises on which such lien attaches:

A. The person performing or furnishing that labor, materials or services either has filed the notice required by section 3253 or has filed a notice in the office of the register of deeds in the county or registry district in which these premises are located setting forth a description of the property sufficiently accurate to identify it; the names of the owners; that the claimant is going to perform

or furnish, is performing or furnishing or has performed or furnished labor, materials or services; and that the claimant may claim a lien therefor; and [PL 2005, c. 311, §1 (NEW).]

B. If an action to enforce the lien has been commenced in accordance with this section, notice has been provided in accordance with section 3261. [PL 2005, c. 311, §1 (NEW).]

If the claimant is a real estate licensee, the claimant shall also send notice by certified mail, return receipt requested, or provide actual written notice as described in this subsection to the bona fide purchaser before the purchaser takes title to the premises on which the claimant's lien attaches. If notice is not provided, the purchaser takes title free of this lien. If notice provided by this subsection is filed, the lien claimant must also comply with the notice requirements of section 3253 and institute the legal action required by subsection 1 to the extent that this compliance is required in order to preserve the claimant's lien claim. The notice provided by this subsection is only effective relative to a bona fide purchaser for value for the period of 120 days from the date of recording thereof provided that this notice may again be recorded any number of times, but further notices are also only effective relative to a bona fide purchaser for value for the period of 120 days each from the date of their respective recordings.
[PL 2005, c. 311, §1 (RPR).]

3. Notice to owner. If the labor, materials or services were not performed or furnished by a contract with the owner of the property affected, the lien described in this chapter may only be enforced against the property affected to the extent of the balance due to the person with whom the owner has directly contracted to perform or furnish the labor, materials and services on which that lien claim is based. The defense established by this subsection shall only be available with respect to sums paid by the owner to the person with whom the owner has directly contracted where payment was made prior to commencement of an action to enforce such lien by the person performing or furnishing labor, materials or services without a contract with the owner or a written notice from the person performing or furnishing labor, materials or services without a contract with the owner which sets forth a description of the property sufficiently accurate to identify it; the names of the owners; that the person giving notice is going to perform or furnish, is performing or furnishing or has performed or furnished labor, materials or services; that the person giving notice may claim a lien therefor and which shall contain the following warning at the top of the notice:

Under Maine law, your failure to assure that ..... (name of the claimant giving notice) is paid before further payment by you to ..... (name of contractor) may result in your paying twice.

In no case shall the total amount due from the owner to those performing or furnishing labor, materials or services without a contract with the owner exceed the balance due from the owner to the person with whom he has directly contracted at the time of service of process on the owner in a lien action or receipt of the written notice described above, whichever occurs first.

If the owner does not reside in the place where the property is located, but has a known agent therein, notice may be given to the agent or to the owner at the place where he resides. If the notice provided by this subsection is given, the lien claimant must also comply with the notice requirements of section 3253 and commence the legal action required by subsection 1 to the extent that this compliance is required in order to preserve his lien claim.

This subsection shall not apply where labor, materials or services are performed or furnished to the premises for a business, commercial or industrial purpose unless the owner resides on the premises affected.
[PL 1975, c. 734 (NEW).]

SECTION HISTORY

PL 1973, c. 310 (AMD). PL 1975, c. 91, §2 (AMD). PL 1975, c. 734 (RPR). PL 1981, c. 585, §2 (AMD). PL 1993, c. 137, §2 (AMD). PL 2005, c. 287, §2 (AMD). PL 2005, c. 311, §1 (AMD).

§3256. Extension of lien

When the owner dies, is adjudicated a bankrupt or a warrant in insolvency issues against his estate within the 120 days and before the commencement of an action, the action may be commenced within 90 days after such adjudication, or after notice given of the election or appointment of the assignee in insolvency, executor or administrator, or the revocation of the warrant. The lien shall be extended accordingly. [PL 1975, c. 91, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 91, §3 (AMD).

§3257. Allegations of complaint; joinder of parties

The complaint shall state that the plaintiff claims a lien on the house, building or appurtenances, or on the wharf, pier or building thereon, as the case may be, described therein, and the land on which it stands, for labor or services performed or for labor, materials or services furnished, in erecting, altering, moving or repairing said house, building or appurtenances, or in constructing, altering or repairing said wharf, pier or building thereon, as the case may be; whether it was by virtue of a contract with or by consent of the owner, and if not, that the claimant has complied with section 3253. The complaint shall pray that the property be sold and the proceeds applied to the discharge of such lien. Two or more lienors may join in filing and prosecuting such a complaint. Other lienors may be made parties. Other lienors may become parties and preserve and enforce their liens on said property, provided their complaints therefor, setting forth their claims in substance as required in a complaint be filed with the clerk within 120 days after the last labor or services are performed or the last labor, materials or services are furnished by them or within the additional time prescribed in section 3256. If a court finds that in the interest of justice an action claiming a lien on property should be located in another court of this State, the court making the finding may transfer the action to the other court. The court may consolidate 2 or more actions claiming liens on the same property into one proceeding, if justice shall so require. Any mortgagee or other person having a claim upon, or interested legally or equitably in, said property may be made a party. The court shall have power to determine all questions of priority of lien or interest, if any, between parties to the proceeding. [PL 1981, c. 585, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 91, §4 (AMD). PL 1981, c. 585, §3 (AMD).

§3258. Determination of amount; jury trial

The court shall determine the amount for which each lienor has a lien upon the property by jury trial, if either party so requests in complaint or answer; otherwise in such manner as the court shall direct. Such determination shall be conclusive as to the fact and amount of the lien, subject to appeal as in other actions. Any lienor may contest another lienor's claim upon issues framed under direction of the court.

§3259. Sale of property; redemption; pro rata shares

If it is determined that the parties or any of them, claiming a lien, have a lien upon said building and land or upon said wharf, pier, building and land, the court may decree that said property, or such interest in it as is subject to the liens or any of them, shall be sold, and shall prescribe the place, time, terms, manner and conditions of such sale. The court may order an adjournment of such sale from time to time, or the manner and conditions of any adjournment of such sale may be prescribed in the decree. A deed of the officer of the court, appointed to make such sale, recorded in the registry of deeds where the land lies, within 3 months after the sale, shall convey all the title of the debtor and the owner in the property ordered to be sold. If justice requires, the court may provide in the order of sale that the owner

shall have a right to redeem the property from such sale within a time fixed in the order of sale. If the court shall determine that the whole of the land on which the lien exists is not necessary therefor, it shall describe in the order of sale a suitable lot therefor; and only so much shall be sold. The lienors shall share pro rata, provided their complaints or motions therefor are filed with the clerk of the court in which the order of sale is granted prior to the order of sale and within the time mentioned in sections 3255, 3256 and 3257. The court may make such decree in regard to costs as is equitable. [PL 1981, c. 585, §4 (AMD).]

SECTION HISTORY

PL 1981, c. 585, §4 (AMD).

§3260. Deficiency; judgment for balance

If the proceeds of the sale after payment of costs and expenses of sale are insufficient to pay the lien claims and costs in full, the court may render judgment against the debtor in favor of each individual lienor for the balance of his claim and costs remaining unpaid, and may issue executions therefor. If the proceeds of sale, after the payment of costs and expenses of sale, are more than sufficient to pay the lien claims and all costs in full, the balance remaining shall be paid to the person or persons legally or equitably entitled thereto.

§3261. Certificate to be filed with register of deeds

1. Certificate of court clerk. When a complaint provided for in chapters 601 to 631 in which a lien is claimed on real estate is filed with the Superior Court or District Court clerk, the clerk shall forthwith, upon written request of the plaintiff's attorney, file a certificate setting forth the names of the parties, the date of the complaint and of the filing of the complaint and a description of the real estate as described in the complaint in the registry of deeds for the county or district in which the land is situated.
[PL 2005, c. 311, §2 (NEW).]

2. Notice of lien complaint. When a complaint has been filed with the Superior Court or District Court pursuant to this chapter, the claimant shall, within 60 days of the date on which the complaint was filed, cause to be recorded in the registry of deeds for the county or district in which the land is situated either:

A. A certificate of the court clerk in accordance with subsection 1; [PL 2005, c. 311, §2 (NEW).]

B. An affidavit of the claimant or claimant's attorney setting forth the name of the court in which the complaint was filed, the names of the parties, the date of the complaint and of the filing of the complaint, a description of the real estate as described in the complaint and the name, address and telephone number of the claimant or the claimant's attorney; or [PL 2005, c. 311, §2 (NEW).]

C. An attested copy of the complaint. [PL 2005, c. 311, §2 (NEW).]
[PL 2005, c. 311, §2 (NEW).]

3. Failure to file notice of lien complaint. The failure to file notice of a lien complaint in accordance with subsection 2 does not invalidate a lien, but if notice of the filing of a lien complaint is not recorded in the registry of deeds in accordance with this section before a bona fide purchaser takes title to the premises, the bona fide purchaser for value takes title free of the lien.
[PL 2005, c. 311, §2 (NEW).]

SECTION HISTORY

PL 1967, c. 106 (AMD). PL 1981, c. 585, §5 (AMD). PL 2005, c. 311, §2 (RPR).

§3262. Enforcement by attachment

In addition to the remedy provided, the liens mentioned in sections 3251 to 3254 may be enforced by attachment in actions commenced in any court having jurisdiction in the county or division where

the property on which a lien is claimed is situated, which attachment shall be made within 180 days after the last of the labor or services are performed, or labor, materials or services are furnished, and not afterwards, except as provided in section 3256. [PL 1981, c. 585, §6 (AMD).]

SECTION HISTORY

PL 1975, c. 91, §5 (AMD). PL 1981, c. 585, §6 (AMD).

§3263. Petition for release

Any owner of a building, wharf, pier or real estate upon which a lien is claimed may petition in writing the judge or justice of the court in which the lien action is filed setting forth the name of the lienor, the court and county or division in which the action is pending, the fact that a lien is claimed thereon under sections 3251 to 3254, the particular building, wharf, pier or real estate, and his interests therein, its value and his desire to have it released from said lien. The judge or justice shall issue a written notice which shall be served on the lienor or his attorney 10 days at least prior to the time fixed therein for a hearing. At the hearing, the judge or justice may order such owner to give bond to the lienor in such amount and with such sureties as he may approve, conditioned to pay the amount for which such lienor may be entitled to a lien as determined by the court, with his costs in the action, within 30 days after final decree or judgment. The clerk shall give the plaintiff an attested copy of the complaint and proceedings, with a certificate under seal of the court attached thereto, that such bond has been duly filed in his office. The record of such copy and certificate in the registry of deeds, in the county or district where such real estate or interest therein lies, vacates the lien. [PL 1981, c. 585, §7 (AMD).]

SECTION HISTORY

PL 1981, c. 585, §7 (AMD).

§3264. Consolidation of actions

When 2 or more proceedings are pending at the same time, in whatever court or courts, to enforce liens on the same house, building or appurtenances, wharf, pier and building thereon, upon complaint of any lienor who has commenced such proceedings, or of the owner of the building, wharf or pier, a Justice of the Superior Court or Judge of the District Court after notice and hearing may, if justice requires it, order all such actions to be transferred to the Superior Court or District Court and require the parties in all such proceedings, in whatever court commenced, to plead substantially in the manner prescribed in section 3257, and thereafter all the proceedings shall be in accordance with said section and sections 3265, 3451, 3452, 3501 and 3601. While such complaint is pending all such actions shall stand continued. [PL 1981, c. 585, §8 (AMD).]

SECTION HISTORY

PL 1981, c. 585, §8 (AMD).

§3265. Sale on execution; several judgments; redemption

When a judgment is rendered in any action authorized by chapters 601 to 631 against any house, building or appurtenances, wharf, pier or building thereon, and the land on which it stands, or any interest that the owner of such house, building or appurtenances, wharf or pier has in such land, said property shall be taken and sold on execution in the same manner that rights of redeeming mortgaged real estate may be taken and sold. If 2 or more such judgments are rendered at the same term of the same court, the court shall direct in writing on which execution the property shall be sold, and in that event, and in the event that the officer holding any execution recovered under chapters 601 to 631 shall be notified in writing by any lienor who has caused said property to be attached or who has filed his action claiming a lien as provided, that he claims a portion of the proceeds of the sale, said officer, unless all owners of such judgments and all lienors so notifying such officer otherwise direct, shall thereupon sell said property and after deducting the fees and expenses of sale, shall return the balance

into the court of highest jurisdiction in which any such lien action is pending or in which such a lien judgment has been rendered, and such court shall distribute such fund pro rata among the lienors who shall satisfactorily prove their right to share in the same. The court issuing execution on which the sale is made may fix the time within which the owner shall have the right to redeem the property from such sale. The court distributing the fund may make such decree in regard to costs as is equitable. Any balance not required to pay such lien claims and costs shall be paid to the person or persons legally or equitably entitled thereto.

§3266. Action or lien

Any action or lien provided for or regulated under this chapter may be taken by an individual, or individuals, or may be taken on the behalf of individuals by a labor organization having the duty to represent such individual under federal law or by collective bargaining agreement. [PL 1973, c. 551 (NEW).]

SECTION HISTORY

PL 1973, c. 551 (NEW).

§3267. Liens for labor

Liens for labor described in this chapter shall include compensation for labor in the form of wages and all fringe benefits either payable to or on behalf of the laborer, including health plans, health and accident plans, retirement and retirement plans, vacation plans or funds, insurance of all kinds and all other fringe benefits. [PL 1973, c. 551 (NEW).]

SECTION HISTORY

PL 1973, c. 551 (NEW).

§3268. Action brought by labor organization

No action brought by a labor organization under this chapter shall be settled, dismissed or disposed of without the approval of the court. [PL 1973, c. 551 (NEW).]

SECTION HISTORY

PL 1973, c. 551 (NEW).

§3269. Limitations

Sections 3266, 3267 and 3268 shall not apply to: [PL 1973, c. 551 (NEW).]

1. Buildings. Any building designed for occupancy by not more than 4 families and its appurtenances;
[PL 1973, c. 551 (NEW).]

2. Claims. Any claim or a portion of a claim which does not meet the time requirements of sections 3253 and 3256.
[PL 1973, c. 551 (NEW).]

SECTION HISTORY

PL 1973, c. 551 (NEW).

CHAPTER 605

CANNED GOODS

§3301. Canned corn, grains and fruit

Whoever furnishes corn or other grain or fruit for canning or preservation otherwise has a lien on such preserved article and all with which it may have been mingled for its value when delivered, including the cans and other vessels containing the same and the cases, for 30 days after the same has been delivered and until it has been shipped on board a vessel or laden in a car, which lien may be enforced by attachment within that time.

CHAPTER 606

POTATO LIEN LAW

§3321. Purpose

The Legislature finds that the potato industry has a substantial and unique effect on the economy of the entire State and Aroostook County in particular. A large number of people in Maine are directly or indirectly dependent upon the potato industry. In the recent past, a number of potato producers have been very adversely affected by the failure of processors of potatoes to compensate producers for the raw product contracted and delivered to the processor. As a result, some producers have been forced out of business as a way of life and as a means of earning a livelihood. [PL 1975, c. 725 (NEW).]

The Legislature intends through this legislation to provide producers of potatoes with a limited guarantee of payment for the raw product contracted by and delivered to a processor. This legislation is designed to afford limited protection for producers and thereby promote the general welfare of the State which is dependent upon the potato industry and the producer. [PL 1975, c. 725 (NEW).]

SECTION HISTORY

PL 1975, c. 725 (NEW).

§3322. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [PL 1975, c. 725 (NEW).]

1. Commissioner. "Commissioner" shall mean the Commissioner of Agriculture, Conservation and Forestry.
[PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

2. Farm product or raw product. "Farm product or raw product" shall mean potatoes.
[PL 1975, c. 725 (NEW).]

3. Finished product. "Finished product" shall mean any manufactured or processed form of potatoes.
[PL 1975, c. 725 (NEW).]

4. Inventory. "Inventory" has the same meaning as defined in Title 11, section 9-1102, subsection (48).
[PL 1999, c. 699, Pt. D, §6 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

5. Processor. "Processor" means any person other than a consumer who purchases or contracts to purchase potatoes for processing or manufacturing which changes the physical form that the raw product possessed when harvested. The effects of the following operations shall be considered as changing the physical form possessed by such raw products when harvested: Chopping, slicing, cutting, dicing, mashing, removing skin or peel, frying or otherwise cooking, freezing, canning, dehydrating or comparable methods of preparation for marketing in what is generally considered to be a processed form.
[PL 1975, c. 725 (NEW).]

SECTION HISTORY

PL 1975, c. 725 (NEW). PL 1999, c. 699, §D6 (AMD). PL 1999, c. 699, §D30 (AFF). PL 2011, c. 657, Pt. W, §6 (REV).

§3323. Producer's lien attached to processed agricultural goods

Every producer of potatoes which the producer grows, harvests and sells to any processor under contract, express or implied, has a lien upon such product and upon all processed or manufactured forms of potatoes for his labor, care and expense in growing and harvesting the raw product. The producer's lien attached to the finished product shall be the full extent of the agreed price, if any, or the unpaid balance of the agreed price of the raw product delivered to the processor. If there is no agreed price or a method for determining it which is agreed upon, the extent of the lien shall be the full value of the raw product as of the date of delivery and shall be determined by the commissioner upon notice and opportunity for a hearing, provided in a manner consistent with the provisions as to adjudicatory proceedings of the Maine Administrative Procedure Act. [PL 1977, c. 694, §190 (AMD).]

SECTION HISTORY

PL 1975, c. 725 (NEW). PL 1977, c. 694, §190 (AMD).

§3324. Attachment of lien

Except as herein provided, the producer lien, attached to the finished product manufactured or processed by a processor shall take effect immediately upon notification by a producer within 10 business days from the date specified in the contract, express or implied, for payment of insufficient or no payment to the producer for the raw product delivered to the processor. If the producer fails to notify the commissioner within the time period specified in this section or if the commissioner, following an investigation finds that there is no evidence of insufficient payment or no payment to a producer, the lien established in this chapter shall not be in effect. [PL 1977, c. 1, §1 (AMD).]

1. Notice of lien. All producer liens against the inventories of all potato processors in this State shall be filed with the Department of Agriculture, Conservation and Forestry and shall be deemed public information for the purposes of this chapter.
[PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1975, c. 725 (NEW). PL 1977, c. 1, §1 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

§3325. Preference of liens

The producer's lien is a preferred lien attached to the finished product in inventory and to the proceeds thereof to the full extent of the price of the raw product delivered to the processor and shall be preferred to all other liens, claims or encumbrances except for the liens or security interests of financial institutions chartered by the Federal Government or by any state of the United States, including, without limitation, trust companies, commercial banks, savings banks and savings and loan associations, and commercial finance companies and other institutional lenders, granted upon the inventory of a processor and all proceeds and products thereof to secure existing and future loans, advances and all other indebtedness of the processor to financial institutions, as described when such liens are granted to such financial institutions prior to notification by the producer to the commissioner of insufficient or no payment for the product delivered to the processor. [PL 1977, c. 1, §2 (RPR).]

If any financial institution described in this section shall foreclose upon its lien, the proceeds realized after foreclosure shall be applied first to satisfy all producers' liens having priority over the lien of the financial institution and then to satisfy the lien of the financial institution. The balance of the proceeds, if any, shall be remitted to the Commissioner of Agriculture, Conservation and Forestry or his designee for distribution to producers having liens approved by the commissioner under section

3324 in the order of their priority. Any surplus remaining thereafter shall be remitted to the processor. [PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

PL 1975, c. 725 (NEW). PL 1977, c. 1, §2 (RPR). PL 2011, c. 657, Pt. W, §6 (REV).

§3326. Duration of lien

Except as herein provided in section 3324, the lien of a producer shall remain in effect until the producer receives payment that satisfies the total claim of the producer against the processor. [PL 1975, c. 725 (NEW).]

SECTION HISTORY

PL 1975, c. 725 (NEW).

§3327. Personal action to recover debt

This chapter does not impair or affect the right of any claimant that possesses a lien to maintain a personal action to recover such debt against a processor, either in an action to foreclose his lien or in a separate action. He is not required to state in his affidavit to procure an attachment that his demand is not secured by a lien. [PL 1975, c. 725 (NEW).]

1. Collections credited to claims. The judgment, if any, which is obtained by the plaintiff in such personal action, or personal judgment which is obtained in such lien action, does not impair or merge any lien right or claim which is held by such plaintiff. Any money which is collected on the judgment shall be credited on the amount of such lien or claims in any action which is brought to enforce the lien or in any action which is filed pursuant to this chapter by the commissioner.
[PL 1975, c. 725 (NEW).]

2. Posting of bonds. In an action that is filed by any such lien claimant, the defendant processor may file with the court in which the action is pending a surety bond which is approved by such court in an amount that is sufficient to cover the demand of plaintiff's complaint, including the costs, whereupon the court may order the release of a portion or the whole of any product or processed product upon which the lien of plaintiff has attached.
[PL 1975, c. 725 (NEW).]

3. Presentation of evidence to court. Such processor may also, on motion duly noticed, introduce evidence to the court before whom any such action is pending to the effect that he has sufficient security or money on deposit with the commissioner to protect the lien or other rights of plaintiff. If he does so, the court may order the release of a portion or the whole or such product upon which the lien of plaintiff is attached and deny to plaintiff any recovery in such action. Such action by the court does not prejudice any other rights or remedies which are possessed by the plaintiff.
[PL 1975, c. 725 (NEW).]

SECTION HISTORY

PL 1975, c. 725 (NEW).

§3328. Request for an injunction

The plaintiff in an action which is brought to foreclose any of the liens which are provided for in this chapter may, in a proper case, and upon proper allegations, secure an injunction against the processor to restrain the doing of any acts on the part of such processor which are designed to or which would, in effect, remove any processed product in his possession or under his control and upon which valid liens exist, beyond the process of the court, to plaintiff's injury. [PL 1975, c. 725 (NEW).]

SECTION HISTORY

PL 1975, c. 725 (NEW).

§3329. Insufficient security

If in a court proceeding to foreclose such lien it is found and determined by the court that there is no cash, bond or other deposit as security for the payment of any of the lien claims as set out in the complaint, the judgment of foreclosure shall be against a sufficient quantity in value of such farm product or processed product in the possession or under the control of the defendant processor, as may be necessary to satisfy such claim or render judgment and declare forfeited any bond which is deposited in the court by such processor to secure the lawful claims of the plaintiff as determined by the court. [PL 1975, c. 725 (NEW).]

SECTION HISTORY

PL 1975, c. 725 (NEW).

§3330. Consolidation of liens

All actions filed by the commissioner or producers against any processor for the foreclosure of the liens or other security which are provided for in this chapter may be consolidated by the court and all persons that are necessary, to a determination of such action may be made parties to such actions. Any judgment which is rendered shall determine the lawfulness of the amount of each claim as represented by the pleadings. [PL 1975, c. 725 (NEW).]

SECTION HISTORY

PL 1975, c. 725 (NEW).

§3331. Violations and penalty

1. Violation. A processor may not remove any farm product that is delivered to the processor or any processed form of the farm product upon which any of the liens that are provided for in this chapter are attached from this State or beyond the processor's ownership or control, except any farm product or processed form of the product as may be in excess of a quantity that is on hand of a value that is sufficient to satisfy all existing liens, provided, that neither this section and the penalties provided in this section or any other provision of this chapter may affect, impede or restrict the rights and remedies of a lienor or holder of a security interest having priority under section 3325 to enforce its liens or security interests against the inventory of a processor and the proceeds and products of the processor and the lienor or security interest holder or any person cooperating or acting in accordance with the request of the lienor or security interest holder may not be in violation of this section.
[PL 2001, c. 421, Pt. B, §9 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

2. Penalty. A person who violates a provision of this chapter commits a civil violation for which a forfeiture of not less than $100 nor more than $500 may be adjudged.
[PL 2001, c. 421, Pt. B, §9 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

PL 1975, c. 725 (NEW). PL 1977, c. 1, §3 (RPR). PL 2001, c. 421, §B9 (RPR). PL 2001, c. 421, §C1 (AFF).

CHAPTER 607

COLTS, ANIMALS FOR PASTURAGE, FOOD AND SHELTER

§3351. Service fee for colts

There shall be a lien on all colts foaled in the state to secure the payment of the service fee for the use of the stallion begetting the same. Such lien shall continue in force until the foal is 6 months old and may be enforced during that time by attachment of such foal.

§3352. Pasturage, food and shelter

Whoever pastures, feeds or shelters animals by virtue of a contract with or by consent of the owner has a lien thereon for the amount due for such pasturing, feeding or sheltering, and for necessary expenses incurred in the proper care of such animals and in payment of taxes assessed thereon, to secure payment thereof with costs, to be enforced in the same manner as liens on goods in possession and choses in action. The court rendering judgment for such lien shall include therein a pro rata amount for such pasturage, feed and shelter provided by the lienor from the date of the commencement of proceedings to the date of said judgment.

CHAPTER 609

HAY

§3401. Cutting

Whoever labors in cutting or harvesting hay has a lien on all the hay cut or harvested by him and his co-laborers for the amount due for his personal services and the services performed by his team, which takes precedence of all other claims except liens reserved to the State, continues for 30 days after the last of such services are performed, and may be enforced by attachment.

§3402. Pressing

Whoever presses hay or straw has a lien on all the hay or straw so pressed for the amount due for such pressing, which takes precedence of all other claims except liens reserved to the State and the lien specified in section 3401 continues for 30 days after said pressing is completed, and may be enforced by attachment.

CHAPTER 610

HOSPITAL SERVICES

§3411. Lien

Every individual, partnership, firm, association, corporation, institution or any governmental unit or combination or parts of a partnership, firm, association, corporation, institution or governmental unit maintaining and operating a hospital licensed in the State is entitled to a lien for the reasonable charges for hospital care, treatment and maintenance of an injured person upon any and all causes of action, suits, claims, counterclaims or demands accruing to the person to whom such care, treatment or maintenance was furnished, or to the legal representatives of such person, on account of injuries giving rise to such causes of action and which necessitated such hospital care, treatment and maintenance, except that no entitlement to such a lien may exist against the principal residence of any person in any 12-month period or periods during which that person is eligible for financial assistance under the catastrophic illness program, Title 22, section 3185. Such lien may not be applied or considered valid against anyone coming under the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992, and nothing enacted by this chapter may be construed so as to give such lien precedence over the claim or contract of an attorney for legal services rendered with respect to the claim of the injured party nor may this lien be applicable to any accident or health insurance policy, or the proceeds from the same, owned by or running to the benefit of the injured person. [PL 1995, c. 462, Pt. A, §25 (AMD).]

SECTION HISTORY

PL 1967, c. 373 (NEW). PL 1983, c. 824, §X1 (AMD). PL 1995, c. 462, §A25 (AMD).

§3412. Notice

No such lien shall be perfected unless a written notice containing the name and address of the injured person, as it shall appear on the records of the hospital, the date of the accident, the name and location of the hospital, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received, shall be filed under the name of the patient and under the name of all persons, firms or corporations liable for damages arising from such injuries with the clerk of the municipality in which such hospital is located not later than 10 days after the patient has been discharged from the hospital and prior to the payment of any moneys to such injured person, his attorneys or legal representatives as compensation for such injuries; nor unless the hospital shall mail, registered mail, return receipt requested, a copy of such notice with a statement of the date of filing thereof to: [PL 1967, c. 373 (NEW).]

1. Persons alleged to be liable. The person or persons, firm or firms, corporation or corporations, alleged to be liable to the injured patient for the injuries sustained prior to the payment of any moneys to such injured person, his attorneys or legal representatives, as compensation for such injuries and;
[PL 1967, c. 373 (NEW).]

2. Insurance carrier. To the home office, or district office handling the carrier's business within the State, of any insurance carrier which has insured such person, firm or corporation against such liability. The person or persons, firm or firms, corporation or corporations alleged to be liable to the injured patient shall upon written request of the hospital disclose the name of his or its insurance carrier which has insured such person, firm or corporation against such liability.
[PL 1967, c. 373 (NEW).]

3. Hospital records available. For the purposes of determining the reasonableness of the hospital charges, the hospital shall, at the written request of the person alleged to be liable, or his insurance carrier, make available any hospital records which may be pertinent to determining the reasonableness of the hospital charge, but in no event shall they disclose any other records which it may have; including but not limited to, records or reports with regard to the nature of the injury of the patient, the nature of his condition or the state of his recovery.
[PL 1967, c. 373 (NEW).]

SECTION HISTORY

PL 1967, c. 373 (NEW).

§3412-A. Limits on priority of hospital liens

1. Lien reduction; just and equitable basis. A hospital lien must be reduced by the patient's proportionate share of the patient's litigation or other recovery costs, including, but not limited to, reasonable attorney's fees. A hospital lien must be satisfied not on the basis of a priority lien but on a just and equitable basis, which means that any factors that diminish the potential value of the patient's claim against which the lien is asserted must likewise reduce the share in the claim by the hospital for reimbursement for services provided. Such factors include, but are not limited to:

A. Questions of liability and comparative negligence or other legal defenses; [PL 2019, c. 270, §1 (NEW).]

B. Exigencies of trial that reduce a settlement or award in order to resolve the claim; and [PL 2019, c. 270, §1 (NEW).]

C. Limits on the amount of applicable insurance coverage that reduce the claim to an amount recoverable by the insured. [PL 2019, c. 270, §1 (NEW).]
[PL 2019, c. 270, §1 (NEW).]

2. Dispute resolution. In the event of a dispute as to the application of this section or the amount available for payment to those claiming payment for services or reimbursement, that dispute must be

determined, if the action is pending, before the court in which it is pending; or if no action is pending, by filing an action in any court for determination of the dispute.
[PL 2019, c. 270, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 270, §1 (NEW).

§3413. Duration

No release of such causes of action, or any of them, or of any judgment thereon shall be valid or effectual as against such lien unless such lien holder shall join therein, or execute a release of such lien and any person or persons, firm or firms, corporation or corporations, including an insurance carrier, making any payment to such patient or to his attorneys or heirs or legal representatives, or to any other person as compensation for the injuries sustained, after the filing and receipt of such notice, without paying to such hospital the amount of its lien or so much thereof as can be satisfied out of the moneys due under any final judgment or compromise or settlement agreement after paying the amount of any prior liens, shall for a period of one year from the date of payment to such patient or his heirs, attorneys or legal representatives, or other person, as provided, be and remain liable to such hospital for the amount which such hospital was entitled to receive; and any such association, corporation or other institution maintaining such hospital may, within such period, enforce its lien by a civil action against such person or persons, firm or firms, corporation or corporations making any such payment. The assertion, claim or filing of such a lien shall in no way be deemed an election on behalf of the hospital, and the hospital shall retain all its rights to collect from the patient or from any other person legally liable for care, treatment and maintenance of the injured party. [PL 1967, c. 373 (NEW).]

SECTION HISTORY

PL 1967, c. 373 (NEW).

§3414. Index

Every municipal clerk shall, at the expense of the municipality, provide a book or card filing system to be called the hospital lien docket in which, upon the filing of any lien claim under this chapter, he shall enter the name of the injured person, the name of the person, firm or corporation alleged to be liable for the injuries, the date of the accident and the name of the hospital or other institution making the claim. The clerk shall make a proper index of the same in the name of the injured person and such clerk shall be entitled to be paid a fee of $5 by the lien claimant for such filing, which shall be prepaid. [PL 1977, c. 51 (AMD).]

SECTION HISTORY

PL 1967, c. 373 (NEW). PL 1977, c. 51 (AMD).

§3415. Application

This chapter shall apply only to such charges for medical or other services furnished to persons who were injured by reason of such accidents occurring on or after October 7, 1967. [PL 1973, c. 625, §57 (AMD).]

SECTION HISTORY

PL 1967, c. 373 (NEW). PL 1973, c. 625, §57 (AMD).

CHAPTER 611

LAND AND BUILDINGS; RENT DUE

§3451. Rent due on leased land

When a lease of land with a rent payable is made for the purpose of erecting a mill or other buildings thereon, such buildings and all the interest of the lessee are subject to a lien and liable to be attached for the rent due. Such attachment, made within 6 months after the rent becomes due, is effectual against any transfer of the property by the lessee.

§3452. Land rent

In all cases where land rent accrues and remains unpaid, whether under a lease or otherwise, all buildings upon the premises while the rent accrues are subject to a lien and to attachment for the rent due, as provided in section 3451, although other persons than the lessee may own the whole or a part thereof, and whether or not the land was leased for the purpose of erecting such buildings. If any person except the lessee is interested in said buildings, the proceedings shall be substantially in the forms directed for enforcing liens against vessels, with such additional notice to supposed or unknown owners as any justice of the court having jurisdiction of the proceedings orders, or the attachment and levy of execution shall not be valid except against the lessee.

CHAPTER 613

LANDSCAPE GARDENING

§3501. Labor, services and materials

Whoever performs labor or services or furnishes labor, materials or services in the laying out or construction of any road, path or walk, or in improving or beautifying any land in a manner commonly known as landscape gardening, by virtue of a contract with or by consent of the owner, has a lien on the lot of land over which such road, path or walk is laid out or constructed or on the land so improved and beautified, to secure payment thereof, with costs. Such lien may be preserved and enforced in the same manner and under the same restrictions as liens on buildings and lots are preserved and enforced under chapter 603, and is made subject to all the provisions of said chapter wherever applicable.

CHAPTER 615

LEATHER

§3551. Wages

Whoever performs labor in any tannery where leather of any kind is manufactured completely or partially, whether such labor is performed directly on the hides and skins or in any capacity in or about the establishment, has a lien for his wages on all leather so manufactured in such tannery for labor performed by him or his co-laborers, which continues for 30 days after such leather is made and manufactured, and until such leather is shipped on board a vessel or taken in a car, and may be enforced by attachment within that time.

CHAPTER 617

LOGS, LUMBER, WOOD AND BARK

§3601. Logs and lumber generally

Whoever labors at cutting, hauling, rafting or driving logs or lumber, or at cooking for persons engaged in such labor, or in shoeing horses or oxen, or repairing property while thus employed, has a lien on the logs and lumber for the amount due for his personal services and the services performed by

his team, and for the use of his truck, motor vehicle or other mechanical equipment, which takes precedence of all other claims except liens reserved to the State. Whoever both shores and runs logs by himself, his servants or agents has a lien thereon for the price of such shoring and running. Such liens continue for 60 days after the logs or lumber arrive at the place of destination for sale or manufacture and may be enforced by attachment.

§3602. Boomage paid by officer; lien not defeated by note; notice

The officer making such attachment may pay the boomage thereon, not exceeding the rate per thousand on the quantity actually attached by him, and return the amount paid on the writ of attachment, which shall be included in the damages recovered. The action or lien is not defeated by taking a note, unless it is taken in discharge of the amount due and of the lien. Such notice of the action as the court orders shall be given to the owner of the logs or lumber, and he may be admitted to defend it.

§3603. Logs driven by contract

Whoever drives logs or lumber by contract with the owner or with any other person has a lien on said logs or lumber for the amount payable under said contract, which takes precedence of all other claims, except liens for labor, for stumpage and for towing, continues for 60 days after the logs or lumber arrive at the place of destination for sale or manufacture and may be enforced by attachment. When the contract is made with any person other than the owner of the logs or lumber, actual notice in writing shall be given to the owner before work is begun, stating therein the terms of the contract. If the owner, at the time said notice is given him or immediately thereafter, notifies said contractor in writing that he will not be responsible for the amount payable or to become payable under said contract, then said contractor shall not have a lien on said logs or lumber so driven.

§3604. Logs towed

(REPEALED)

SECTION HISTORY

PL 1997, c. 623, §1 (RP).

§3605. Logs, lumber or pulpwood for advances of money or goods

(REPEALED)

SECTION HISTORY

PL 1981, c. 456, §A39 (RP).

§3606. Hemlock bark, cordwood and pulpwood

Whoever labors at cutting, peeling or hauling hemlock bark, or cutting, yarding or hauling cordwood, or cutting, peeling, yarding or hauling pulpwood or any wood used in the manufacture of pulpwood, or at cooking for persons engaged in such labor, has a lien thereon for the amount due for his personal labor and the services performed by his team, which takes precedence of all other claims, continues for 30 days after the contract is completed, and may be enforced by attachment.

§3607. Last blocks, shovel handle blocks, railroad ties and ship knees

Whoever labors in the manufacturing of last blocks, shovel handle blocks, railroad ties or ship knees, or is engaged in cooking for persons engaged in such labor, or cuts or furnishes wood for the manufacture of last blocks or shovel handle blocks, or furnishes a team for the hauling of last blocks or shovel handle blocks or the lumber from which they are made, or for the hauling of railroad ties or ship knees, has a lien on said last blocks, shovel handle blocks, railroad ties and ship knees, as the case may be, for the amount due him for his personal labor thereon and for the services of his team and for the amount due for wood so cut or furnished for the manufacture of said last blocks or shovel handle blocks, which takes precedence of all other claims, except liens reserved to the State, and continues for 30 days

after said last blocks are stored or housed for drying purposes, or for 30 days after said shovel handle blocks arrive at their destination either for shipment or to be turned, or for 30 days after said railroad ties are on the line of a railroad, or for 30 days after said ship knees are delivered in a shipyard. Such lien may be enforced by attachment.

§3608. Shingles, staves, laths, dowels and spool timber

Whoever labors at cutting, hauling or sawing shingle, stave, lath, dowel or spool timber, or in the manufacture of shingle, stave, lath, dowel or spool timber into shingles, staves, laths, dowels or spool bars, or at piling staves, laths, dowels or spool bars, or at bunching shingles or dowels, or at cooking for persons engaged in such labor, has a lien thereon for the amount due for his personal labor thereon and the services performed by his team, which takes precedence of all other claims and continues for 60 days after such shingles, staves, laths and dowels are manufactured, provided the same have not been sold and shipped, or for 60 days after such spool timber or spool bars arrive at the place of destination for sale or manufacture. Such lien may be enforced by attachment. [PL 1973, c. 625, §58 (AMD).]

SECTION HISTORY

PL 1973, c. 625, §58 (AMD).

CHAPTER 619

LIME, LIMEROCK, GRANITE AND SLATE

§3651. Lien for wages; preference

Whoever digs, hauls or furnishes rock for the manufacture of lime has a lien thereon for his personal service, and on the rock so furnished, for 30 days after such rock is manufactured into lime or until such lime is sold or shipped on board a vessel. Whoever labors in quarrying or cutting and dressing granite in any quarry has a lien for his wages on all the granite quarried or cut and dressed in the quarry by him or his co-laborers for 30 days after such granite is cut and dressed or until such granite is sold or shipped on board a vessel. Whoever labors in mining, quarrying or manufacturing slate in any quarry has a lien for the wages of his labor on all slate mined, quarried or manufactured in the quarry by him or his co-laborers for 30 days after the slate arrives at the port of shipment and until it has been shipped on board a vessel or laden in a car. Such liens take precedence over all other claims and may be enforced by attachment within the times aforesaid.

CHAPTER 621

MONUMENTAL WORK

§3701. Contract price; attachment

Whoever, under express contract fixing the price to be paid by the other party thereto, sells, erects or furnishes any monument, tablet, headstone, vault, posts, curbing or other monumental work has a lien thereon to secure the payment of such contract price, which continues for 2 years after the completion, delivery or erection of such monument, tablet, headstone, vault, posts, curbing or other monumental work. Such lien may be enforced by an action for damages with an attachment, which shall be recorded within said 2 years by the clerk of the town in which the property subject to the lien is then situated; or such lien may be enforced by complaint setting forth the names and residences of the parties to the contract, the contract price, the sum due, the description and location of the property on which the lien is claimed and such other facts as are necessary to make it appear that such plaintiff

is entitled to an enforcement of such lien, and praying for judgment for title and possession of the property therein described. Said complaint, before service thereof and within said 2 years, shall be recorded by the clerk of the town in which such property is situated and a certificate of such record indorsed thereon. The sum alleged to be due shall be deemed to be the damage and after the complaint has been recorded, an action may be commenced upon the complaint in any court of proper venue for a transitory action between the parties. Service shall be made as in other actions. If the plaintiff prevails, he shall recover judgment for title and possession of the property on which the lien is claimed, and for his costs, and a possessory execution may issue. By virtue of such judgment the judgment creditor, if unopposed, may take possession and remove the property described in his execution, otherwise any officer qualified to serve civil process, having said execution, may take possession of said property and deliver the same to the judgment creditor, and shall make his return on said execution accordingly. Said lien may be discharged at any time before final judgment by tendering the plaintiff the amount of the debt and costs.

CHAPTER 623

SAFE DEPOSIT BOXES

§3751. Right to open box; lien on contents

Whenever the amount due for the use of any safe or box in the vaults of any bank or safe deposit company shall not have been paid for one year, such bank or company may, at the expiration of such period, notify the person in whose name such safe or box stands on its books, by a notice in writing in a securely closed, postpaid, registered letter directed to such person at his post-office address as recorded upon the books of said bank or company, that if the amount then due for the use of such safe or box is not paid within 60 days from the date of such notice, said bank or company will then cause such safe or box to be opened in the manner provided. At the expiration of 60 days after the mailing of said notice, said bank or company may then cause such safe or box to be opened in the presence of any officer or branch manager of said bank or company, and of a notary public not an officer or in the employ of said bank or company, and the contents of said safe or box shall then be sealed up by such notary public in a package and a certificate of such sealing shall be indorsed thereon, signed by such notary and attested by his seal, and said package shall be distinctly marked with the name and address of the person in whose name such safe or box stands upon the books of said bank or company, and the estimated value thereof. Said package shall then be placed in one of the general safes or boxes of said bank or company, and shall be held subject to redemption by the owner thereof, who shall be required to pay the rent due for said safe or box and all costs and damages attending the opening thereof, together with reasonable charges for the custody of said package by said bank or company, and said bank or company shall have a lien upon said package to secure the payment of such rent, damages and charges.

The contents of an opened safe or box, if unclaimed, must be disposed of according to Title 33, chapter 45. [PL 2019, c. 498, §5 (AMD).]

SECTION HISTORY

PL 1977, c. 257 (AMD). PL 1977, c. 707, §3 (AMD). PL 2003, c. 20, §T4 (AMD). PL 2019, c. 498, §5 (AMD).

CHAPTER 625

VEHICLES

§3801. Vehicles, aircraft and parachutes

Whoever performs labor by himself or his employees in manufacturing or repairing the ironwork or woodwork of wagons, carts, sleighs and other vehicles, aircraft or component parts thereof, and parachutes, or so performing labor furnishes materials therefor or provides storage therefor by direction or consent of the owner thereof, shall have a lien on such vehicle, aircraft or component parts thereof, and parachutes for his reasonable charges for said labor, and for materials used in performing said labor, and for said storage, which takes precedence of all other claims and incumbrances on said vehicles, aircraft or component parts thereof, and parachutes not made to secure a similar lien, and may be enforced by attachment at any time within 90 days after such labor is performed or such materials or storage furnished and not afterwards, provided a claim for such lien is duly filed as required in section 3802. Said lien shall be dissolved if said property has actually changed ownership prior to such filing.

§3802. Filing in office of Secretary of State; inaccuracy does not invalidate lien

1. Filing. A lien described in section 3801 is dissolved unless the claimant files the following documents in the office of the Secretary of State within 90 days after providing the labor, storage or materials:

A. A financing statement in the form approved by the Secretary of State; and [PL 1999, c. 88, §1 (NEW).]

B. A notarized statement that includes an accurate description of the property manufactured or repaired; the name of the owner, if known; and the amount due the claimant for the labor, materials or storage, with any amount paid on account. [PL 1999, c. 88, §1 (NEW).]

[PL 1999, c. 88, §1 (NEW).]

2. Fees. The fee for filing a lien under this section is the same as under Title 11, section 9-1525.
[PL 1999, c. 699, Pt. D, §7 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

3. Inaccuracy. An inaccuracy in the notarized statement does not invalidate the proceedings unless it appears that the claimant willfully overstated the amount due.
[PL 1999, c. 88, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 117 (AMD). PL 1991, c. 225 (AMD). PL 1999, c. 88, §1 (RPR). PL 1999, c. 699, §D7 (AMD). PL 1999, c. 699, §D30 (AFF).

CHAPTER 627

VESSELS

§3851. Domestic vessels

All domestic vessels shall be subject to a lien to any part owner or other person to secure the payment of debts contracted and advances made for labor and materials necessary for their repair, provisions, stores and other supplies necessary for their employment, and for the use of a wharf, dry dock or marine railway. Such lien shall in no event continue for a longer period than 2 years from the time when the debt was contracted or advances made.

§3852. Labor and materials; owners of dry docks or marine railways

Whoever furnishes labor or materials for building a vessel has a lien on it therefor, which may be enforced by attachment thereof within 4 days after it is launched; but if the labor and materials have been so furnished by virtue of a contract not fully completed at the time of the launching of the vessel, the lien may be enforced within 4 days after such contract has been completed. He has a lien on the materials furnished before they become part of the vessel, which may be enforced by attachment. The owners of any dry dock or marine railway used for any vessel have a lien on said vessel for the use of

said dock or railway, to be enforced by attachment within 4 days after the last day in which the same is used or occupied by said vessel.

§3853. Writ for enforcement

The form of writ for enforcing such lien shall be in substance as follows:

"State of Maine. ...., ss.

To the sheriff of our County of ...., or either of his deputies:

We command you to attach the vessel" (here give such a description of the vessel as will identify it,) "in an action brought by" (name of plaintiff) "of" (plaintiff's place of residence including town and county) "against" (name of defendant) "of" (defendant's place of residence including town and county) "in the Superior Court for said County of ...., in which action the said" (name of plaintiff) "claims a lien on said vessel for" (here describe briefly the nature of the lien) "to the amount of .... dollars and .... cents, and make due return of this writ with your doings thereon. .... Clerk of said Superior Court (Seal of the court) Dated ...."

The action shall be brought in the county where the vessel is.

§3854. -- particulars; verification

The plaintiff shall annex to the complaint a just, true and particular account of the demand claimed to be due to him with all just credits, the names of the persons personally liable to him and names of the owners of the vessel if known to him. It shall be verified by the oath of one plaintiff, or of some person in his behalf, that the amount claimed in said account is justly due from the person named in the complaint and account as owing it, and that he believes that by the law of the State he has a lien on such vessel for the whole or a part thereof.

§3855. Attachment of vessels on stocks; sale

If the vessel at the time is on the stocks, the attachment shall be made by filing in the office of the clerk of the town in which such vessel is, within 48 hours thereafter, a copy of so much of his return on the writ of attachment as relates to the attachment, with the name of the plaintiff, the name of the person liable for the debt, the description of the vessel as given in the writ of attachment, the date of the writ of attachment, the amount claimed and the court to which it is returnable, and by leaving a copy of such certificate with one of the owners of the vessel, if known to him and residing within his precinct, or with the master workman thereon. If the attachment is so made, the officer need not take possession of the vessel before it is launched unless specially directed by the plaintiff or his attorney to do so; but he shall, as soon as may be, afterwards. He may take possession at any time before it is launched; but if he does, he shall not hinder the work thereon or prevent or delay the launching. If at the time of attachment the vessel is launched, it shall be attached like other personal property. Whenever a vessel has been attached and the expense of retaining possession of said vessel is great, or the vessel is liable to depreciate in value by reason thereof, any attaching creditor or an owner of said vessel may bring an action in the Superior Court by complaint praying that said vessel attached may be sold, and said court may order a hearing thereon. Due notice shall be given to all parties in interest of the time and place appointed for said hearing and a hearing on said complaint shall be had before said court. If it appears to said court to be for the benefit of all parties in interest that said vessel should be sold, it shall issue to the officer in possession of the same, or to the sheriff of the county in which said vessel has been attached, an order to sell it at public auction, and shall designate in said order the notice to be given of the time and place of said sale. Said vessel shall be sold pursuant to said order, and the proceeds of such sale, after deducting necessary expenses, shall be held by the first attaching officer or the sheriff, subject to the successive attachments, as if sold on execution. If said parties do not consent to a sale as provided, Title 14, sections 4158 and 4352 to 4355, so far as the same are applicable, shall apply to proceedings under this section.

§3856. Service of summons on debtors and owners

The summons and complaint shall be served as in other actions on persons named as personally liable for the plaintiff's claim. A copy of the summons and complaint and writ of attachment shall also be posted in some conspicuous place on the vessel attached and mailed to all owners whose identity and whereabouts are known if they have not been named as personally liable.

§3857. Subsequent writs to be served by same officer unless disqualified

On all writs of attachment made after the first attachment and while any lien attachment is pending, the attachment and services shall be made by the same officer, or, if he is disqualified, by any qualified officer, by his giving notice thereof to the first attaching officer.

§3858. Entry of action; who may defend; bond

The actions shall be entered on the docket as follows: The person claiming the lien, as plaintiff, the person alleged to be personally liable, as defendant, and the name or other description of the vessel attached. The owners or mortgagees of the vessel, or any plaintiff in an action wherein it is attached for a lien, may appear and defend any action so far as relates to the validity and amount of the lien claim; but no such plaintiff shall so defend until he gives bond, to the satisfaction of the court, to pay the costs awarded against him.

§3859. Offer of default; admission of sum due

The defendant may offer to be defaulted as in other cases. The owners of the vessel may admit, in writing filed with the clerk, that a certain sum is due the plaintiff as a lien on the vessel. If the plaintiff does not recover a greater sum as lien, he recovers no costs against such owner or the vessel or its proceeds after the admission is filed; but such owner recovers costs thereafter.

§3860. Apportionment of costs

The court, except as provided in section 3859, may decide all questions of costs and apportion them as they think proper.

§3861. Framing of issues

At the request of either party, the following questions of fact shall be submitted to a jury: "What amount claimed in the complaint is due from the defendant to the plaintiff?" and "For how much of such amount has the plaintiff a lien on the vessel attached?" The verdict shall be in answer to these questions. If the parties waive a jury trial, these questions shall be decided by the court on a hearing or report of a referee appointed by the court.

§3862. Judgment against defendant

Upon ascertaining the amount, judgment shall be rendered in his favor against the defendant as in other personal actions, for the amount found not to be a lien on the vessel, with such costs as the court awards. A separate judgment shall be rendered in his favor against said defendant and the vessel attached for the amount decided to be a lien, with such costs as the court awards. Separate executions shall be issued thereon.

§3863. Sale of vessel; proceeds paid into court

When judgment is recovered in any action on which a vessel was attached, the court may issue an order to the attaching officer to sell it at auction, and to pay the proceeds thereof into court after deducting the expenses of sale and for taking care of the vessel while under attachment. Such officer shall sell it as other personal property is sold on execution. The purchaser shall hold it free from any prior claim.

§3864. Distribution of proceeds or surplus

If such proceeds are more than all the judgments recovered against such vessel and the amounts claimed in the undecided actions, the court may order the judgments, as fast as they are recovered against said vessel, to be paid from said fund until all such actions are terminated and all judgments satisfied. The court may, on complaint, order the balance, if any, to be paid to the persons legally entitled thereto.

§3865. Pro rata distribution; prevention of double liens

If such proceeds are not enough to pay in full the judgments recovered and the claims still undecided, the court may order the money to remain until all the actions are terminated, and then divide pro rata; or it may direct a sufficient amount to be retained to pay on the undecided claims their proportion and divide the residue ratably among the judgments recovered, and if, after all the actions are terminated, and the judgments recovered subsequent to the first division have received the same proportion as prior judgments, there is any sum remaining, it shall be divided among the judgments pro rata, and in such division the court shall make such orders as will prevent the enforcement of a double lien and will secure the just rights of all.

§3866. Vessel under attachment attached on lien claim

If the vessel has been already attached by a sheriff or his deputy when a writ of attachment is issued for such lien claim, such writ of attachment shall be served by such officer. If attached by a constable, he shall give up to the officer having the lien writ of attachment the possession and the precept upon which he attached it with his return of the facts thereon. The attachment shall hold subject to the legal priorities of the lien claim.

§3867. Nonlien claims not prevented by lien claims

A vessel attached for a lien claim may be attached by the same officer in the ordinary manner in an action against the owners thereof, and such attachment shall be valid, subject to the legal priorities of the lien attachments.

§3868. Sale of vessels attached by lien and nonlien claims

When a vessel attached for liens and also in the ordinary manner is sold by order of the court and the proceeds are more than sufficient to satisfy the lien judgments, the surplus shall be paid to the officer to be held upon the writs of attachment not founded on the lien claims.

§3869. Admiralty powers of court

The court, like a court in admiralty, may make all orders necessary for carrying out this chapter according to their true intent and meaning.

CHAPTER 629

WATCHES, JEWELRY, CLOTHES, APPLIANCES AND MUSICAL INSTRUMENTS

§3951. Automatic lien

1. Lien established. A person, partnership or corporation engaged in one or more of the following activities has a lien on the item that the activity involves for a reasonable compensation for any labor or materials expended on that item:

A. Making, altering, repairing or cleaning any watch, clock, jewelry, electric motor, major and traffic appliance, small motor not to exceed 20 horsepower, radio, electronic equipment, musical instrument, furniture, photograph, artwork, sports equipment and photography equipment; and [PL 1991, c. 41, §1 (NEW).]

B. Cleaning, repairing or pressing clothes. [PL 1991, c. 41, §1 (NEW).]

[PL 1991, c. 41, §1 (NEW).]

2. Lien priority. A lien under this section takes precedence over all other claims and incumbrances.
[PL 1991, c. 41, §1 (NEW).]

3. Exemption from attachment. The item that is subject to a lien under this section is exempt from attachment or execution until the lien and the cost of enforcing it are satisfied.
[PL 1991, c. 41, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 63, §1 (AMD). PL 1991, c. 41, §1 (RPR).

§3952. Sale after 6 months

The lienholder shall retain any item subject to a lien under section 3951 for a period of 6 months, at the expiration of which time, if the lien is not satisfied, the lienholder may sell the item at public or private sale, after giving 30 days' notice in writing to the owner, specifying the amount due, describing the item to be sold and informing the owner that the payment of the amount within 30 days entitles the owner to redeem the item. The notice may be given by mail addressed to the owner's place of residence if known, or if the owner's place of residence is unknown, a copy of the notice may be posted by the holder of the lien in 2 public places in the town, village or city where the item is held. [PL 1991, c. 41, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 63, §2 (AMD). PL 1991, c. 41, §2 (AMD).

§3953. Disposal of residue

After satisfying the lien and the reasonable costs and expenses accrued, the residue must be disposed of according to Title 33, chapter 45. [PL 2019, c. 498, §6 (AMD).]

SECTION HISTORY

PL 1979, c. 641, §1 (RPR). PL 2003, c. 20, §T5 (AMD). PL 2019, c. 498, §6 (AMD).

CHAPTER 631

ENFORCEMENT AND SALE GENERALLY

§4001. Sale

Whoever has a lien on personal property in that person's possession which is not covered by Title 11, Article 9-A may enforce it by a sale thereof in the manner provided for in the contract creating such lien, if in writing, or as hereinafter provided for in this chapter. [PL 1999, c. 699, Pt. D, §8 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

SECTION HISTORY

PL 1999, c. 699, §D8 (AMD). PL 1999, c. 699, §D30 (AFF).

§4002. Complaint filed; contents

The person claiming the lien may file, in the Superior Court in the county where he resides a complaint briefly setting forth the nature and amount of his claim, a description of the article possessed and the names and residences of its owners, if known to him, and a prayer for enforcement of his lien.

§4003. Attachments have precedence; enforcement on death or insolvency

Actions to enforce any of the liens before named have precedence over attachments and encumbrances made after the lien attached and not made to enforce a lien, and may be maintained although the employer or debtor is dead and his estate has been represented insolvent. His executor or administrator may be summoned and held to answer to an action brought to enforce the lien. The complaint must show that the action is brought to enforce the lien; but all the other forms and proceedings therein shall be the same as in other actions.

§4004. Service on owners; known

If the names of the owners are set forth in the complaint, service shall be made as in other actions.

§4005. -- unknown

If the identity or whereabouts of the owners are not known, notice shall be given by publication as in other actions where publication is required.

§4006. Appearance by owner

In all lien actions, when the labor or materials were not furnished by a contract with the owner of the property affected, such owner may voluntarily appear and become a party to the action. If he does not so appear, such notice of the action as the court orders shall be given him and he shall then become a party to the action. Any person interested in the article as owner, mortgagee or otherwise may appear and defend. Questions of fact at the instance of either party shall be submitted to a jury on an issue framed under the direction of the court.

§4007. Bond for costs

If, in the opinion of the court, the article on which the lien is claimed is not of sufficient value to pay the plaintiff's claim with the probable costs of suit, the court may order the defendant to give bond to the plaintiff, with sufficient sureties approved by the court, to pay such costs as are awarded against him, so far as they are not paid out of the proceeds of the articles on which the lien is claimed.

§4008. Sale on court order

After trial and final adjudication in favor of the plaintiff, the court may order any competent officer to sell the article on which the lien is claimed, as personal property is sold on execution, and out of the proceeds, after deducting his fees and the expenses of sale, to pay to the plaintiff the amount and costs awarded him, and the balance to the person entitled to it, if he is known to the court, otherwise into court.

§4009. Disposal of proceeds

Money paid into court may be paid over to the person legally entitled to it, on motion and order of the court. If it is not called for at the first term after it is paid into court, it must be presumed unclaimed and disposed of according to Title 33, chapter 45. [PL 2019, c. 498, §7 (AMD).]

SECTION HISTORY

PL 1979, c. 641, §2 (AMD). PL 2003, c. 20, §T6 (AMD). PL 2019, c. 498, §7 (AMD).

§4010. Judgment; discontinuance as to any defendant; costs

In any such action, judgment may be rendered against the defendant and the property covered by the lien, or against either, for so much as is found due by virtue of the lien. If the amount due exceeds the amount so covered, then a separate execution shall be issued to the plaintiff against the defendant for such excess and the plaintiff may discontinue as to any defendant. The court may apportion costs as justice requires.

§4011. Discharge

All liens named herein may be discharged by tender of the sum due made by the debtor or owner of the property or his agents.

§4012. Priority

A security interest perfected in accordance with Title 11 has priority over any lien created or referred to by this Title unless the person claiming the lien has possession of the goods subject to the lien. [PL 1965, c. 306, §3 (NEW).]

SECTION HISTORY

PL 1965, c. 306, §3 (NEW).

§4013. Removal of lien

1. Removal within 60 days. Unless a specific time period is otherwise provided, a holder of a lien against property issued pursuant to the laws of this State shall remove the lien within 60 days of satisfaction or discharge of the lien by the debtor or owner of the property or agent of the debtor or owner.
[PL 2015, c. 210, §1 (NEW).]

2. Liability. A holder of a lien, other than the State, a municipality or other governmental entity, who fails to remove a lien as provided in subsection 1 is liable to the debtor or owner of the property for reasonable attorney's fees and costs incurred to cure the lien as a result of the failure to remove the lien.
[PL 2015, c. 210, §1 (NEW).]

3. Application. This section does not apply to a financing statement or other record governed by Title 11.
[PL 2015, c. 210, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 210, §1 (NEW).

PART 8

RECREATION

CHAPTER 701

GUARANTEE AUTHORITY

SUBCHAPTER 1

GENERAL PROVISIONS

§5001. Title

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

§5002. Purpose

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1967, c. 481, §§1,5 (AMD). PL 1973, c. 633, §7 (AMD). PL 1975, c. 566, §§17-A (RP).

§5003. Definitions

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1967, c. 481, §§2,5 (AMD). PL 1975, c. 566, §17-A (RP).

SUBCHAPTER 2

CREATION AND OPERATION OF AUTHORITY

§5051. Organization of authority

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1969, c. 6, §1 (AMD). PL 1973, c. 633, §8 (RP).

§5052. Powers

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1967, c. 481, §§3,5 (AMD). PL 1967, c. 518, §1 (AMD). PL 1973, c. 633, §9 (AMD). PL 1975, c. 566, §17-A (RP).

§5053. Credit of State pledged

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1973, c. 633, §10 (AMD). PL 1975, c. 566, §17-A (RP).

§5054. Expenses

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1969, c. 6, §2 (AMD). PL 1975, c. 566, §17-A (RP).

SUBCHAPTER 3

MORTGAGES AND INSURANCE

§6001. Mortgage Insurance Fund

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

§6002. Additions to

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

§6003. Insurance of mortgages

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1967, c. 481, §§4,5 (AMD). PL 1967, c. 518, §2 (AMD). PL 1969, c. 569, §2 (AMD). PL 1971, c. 100, §§1,2 (AMD). PL 1973, c. 633, §§11-13 (AMD). PL 1975, c. 566, §17-A (RP).

§6004. Contract of insurance

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

§6005. Mortgage insurance premiums

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

§6006. Acquisition and disposal of property

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

§6007. Default; temporary lease or rental

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

§6008. Mortgages eligible for investment

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

SUBCHAPTER 4

RECORDS

§6051. Records of account

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

§6052. Records confidential

(REPEALED)

SECTION HISTORY

PL 1965, c. 495, §1 (NEW). PL 1975, c. 566, §17-A (RP).

PART 9

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

CHAPTER 801

MOUNTAIN RESORTS AIRPORT AUTHORITY

SUBCHAPTER 1

GENERAL PROVISIONS

§7001. Title

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7002. Purpose

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7003. Definitions

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

SUBCHAPTER 2

CREATION AND OPERATION OF AUTHORITY

§7051. Organization of authority

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1973, c. 625, §59 (AMD). PL 1975, c. 771, §121 (AMD). PL 1977, c. 604, §4 (RP).

§7052. Powers

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1973, c. 515, §1 (AMD). PL 1977, c. 604, §4 (RP).

§7053. Conveyances

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7054. Revenue bonds

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7055. Payment of bonds

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7056. Trust funds

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7057. Remedies

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7058. Revenue refunding bonds

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7059. Transfer to governmental subdivision

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7060. Bonds eligible for investment

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7061. Additional method

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7062. Construction of chapter

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7063. Taxes

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

§7064. Municipal rights

(REPEALED)

SECTION HISTORY

PL 1969, c. 430 (NEW). PL 1977, c. 604, §4 (RP).

CHAPTER 901

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

§8001. Department; organization

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, grantors of consumer credit and to license and regulate professions and occupations. The mission of the department is to encourage sound, ethical business practices through high-quality, impartial and efficient regulation of insurers, financial institutions, creditors, investment providers and numerous professions and occupations for the purpose of protecting consumers. The department is composed of the following: [PL 1999, c. 687, Pt. C, §1 (AMD).]

1. Bureau of Financial Institutions. Bureau of Financial Institutions;
[PL 2001, c. 44, §9 (AMD); PL 2001, c. 44, §14 (AFF).]

2. Bureau of Consumer Credit Protection. Bureau of Consumer Credit Protection;
[PL 1995, c. 309, §26 (AMD); PL 1995, c. 309, §29 (AFF); PL 1995, c. 397, §4 (AMD); PL 2007, c. 273, Pt. B, §5 (REV); PL 2007, c. 695, Pt. A, §47 (AFF).]

3. Bureau of Insurance. Bureau of Insurance;
[PL 1995, c. 397, §4 (AMD).]

3-A. Office of Securities. Office of Securities; and
[PL 2001, c. 182, §5 (NEW).]

4. Maine Athletic Commission.

[PL 1995, c. 397, §5 (RP).]

5. Maine State Pilotage Commission.

[PL 1995, c. 397, §5 (RP).]

6. Real Estate Commission.

[PL 1995, c. 397, §5 (RP).]

7. Arborist Examining Board.

[PL 1995, c. 397, §5 (RP).]

8. Board of Licensing of Auctioneers.

[PL 1995, c. 397, §5 (RP).]

9. Board of Barbering and Cosmetology.

[PL 1995, c. 397, §5 (RP).]

10. Board of Commercial Driver Education.

[PL 1995, c. 397, §5 (RP).]

10. Board of Driver Education.

[PL 1995, c. 505, §4 (RP); PL 1995, c. 505, §22 (AFF).]

11. Board of Licensing of Dietetic Practice.

[PL 1995, c. 397, §5 (RP).]

12. Electricians' Examining Board.

[PL 1995, c. 397, §5 (RP).]

13. State Board of Licensure for Professional Foresters.

[PL 1995, c. 397, §5 (RP).]

14. State Board of Funeral Service.

[PL 1995, c. 397, §5 (RP).]

15. State Board of Certification for Geologists and Soil Scientists.

[PL 1995, c. 397, §5 (RP).]

16. Board of Hearing Aid Dealers and Fitters.

[PL 1995, c. 397, §5 (RP).]

17. Manufactured Housing Board.

[PL 1995, c. 397, §5 (RP).]

18. Nursing Home Administrators Licensing Board.

[PL 1995, c. 397, §5 (RP).]

19. Board of Occupational Therapy Practice.

[PL 1995, c. 397, §5 (RP).]

20. Oil and Solid Fuel Board.

[PL 1995, c. 397, §5 (RP).]

21. Board of Examiners in Physical Therapy.

[PL 1995, c. 397, §5 (RP).]

22. Plumbers' Examining Board.

[PL 1995, c. 397, §5 (RP).]

22-A. Board of Licensure of Podiatric Medicine.

[PL 1995, c. 397, §6 (RP).]

23. State Board of Examiners of Psychologists.

[PL 1995, c. 397, §7 (RP).]

24. Radiologic Technology Board of Examiners.

[PL 1995, c. 397, §7 (RP).]

25. Board of Respiratory Care Practitioners.

[PL 1995, c. 397, §7 (RP).]

26. State Board of Social Worker Licensure.

[PL 1995, c. 397, §7 (RP).]

27. Board of Examiners on Speech Pathology and Audiology.

[PL 1995, c. 397, §7 (RP).]

28. State Board of Substance Abuse Counselors.

[PL 1995, c. 397, §7 (RP).]

29. State Board of Veterinary Medicine.

[PL 1995, c. 397, §7 (RP).]

30. Acupuncture Licensing Board.

[PL 1995, c. 397, §7 (RP).]

31. Board of Commissioners of the Profession of Pharmacy.

[PL 1995, c. 397, §7 (RP).]

32. Board of Licensure for Professional Land Surveyors.

[PL 1995, c. 397, §7 (RP).]

32-A. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers.

[PL 1995, c. 397, §8 (RP).]

33. Board of Chiropractic Licensure.

[PL 1995, c. 397, §9 (RP).]

34. Board of Licensure of Railroad Personnel.

[PL 1993, c. 428, §2 (RP).]

35. Board of Counseling Professionals Licensure.

[PL 1995, c. 625, Pt. A, §17 (RP).]

36. Board of Real Estate Appraisers.

[PL 1995, c. 625, Pt. A, §17 (RP).]

37. Real Estate Commission.

[PL 1995, c. 502, Pt. H, §7 (RP).]

38. Office of Professional and Occupational Regulation. Office of Professional and Occupational Regulation. The Office of Professional and Occupational Regulation is composed of the following:

A. Board of Accountancy; [PL 1995, c. 397, §11 (NEW).]

B. [PL 1995, c. 671, §6 (RP).]

C. [PL 1999, c. 386, Pt. B, §1 (RP).]

D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers; [PL 1995, c. 397, §11 (NEW).]

E. [PL 2011, c. 286, Pt. B, §1 (RP).]

F. Board of Licensing of Auctioneers; [PL 1995, c. 397, §11 (NEW).]

G. [PL 2009, c. 369, Pt. A, §22 (RP).]

H. Board of Chiropractic Licensure; [PL 1995, c. 397, §11 (NEW).]

H-1. Board of Complementary Health Care Providers; [PL 1995, c. 671, §7 (NEW).]

I. [PL 2011, c. 286, Pt. B, §1 (RP).]

J. Board of Counseling Professionals Licensure; [PL 1995, c. 397, §11 (NEW).]

K. Board of Licensing of Dietetic Practice; [PL 1995, c. 397, §11 (NEW).]

L. Electricians' Examining Board; [PL 1995, c. 397, §11 (NEW).]

M. Board of Licensure of Foresters; [PL 1995, c. 397, §11 (NEW); PL 2001, c. 261, §5 (AMD).]

N. State Board of Funeral Service; [PL 1995, c. 397, §11 (NEW).]

O. State Board of Licensure for Geologists and Soil Scientists; [PL 2019, c. 285, §2 (AMD).]

P. [PL 2007, c. 369, Pt. B, §2 (RP); PL 2007, c. 369, Pt. C, §5 (AFF).]

Q. Board of Licensure for Professional Land Surveyors; [PL 1995, c. 397, §11 (NEW).]

R. Manufactured Housing Board; [PL 1995, c. 397, §11 (NEW).]

S. Nursing Home Administrators Licensing Board; [PL 1995, c. 397, §11 (NEW).]

T. Board of Occupational Therapy Practice; [PL 1995, c. 397, §11 (NEW).]

U. [PL 2009, c. 344, Pt. B, §1 (RP); PL 2009, c. 344, Pt. E, §2 (AFF).]

V. Maine Board of Pharmacy; [PL 1995, c. 397, §11 (NEW); PL 1997, c. 245, §19 (AMD).]

W. Board of Examiners in Physical Therapy; [PL 1995, c. 397, §11 (NEW).]

X. [PL 1997, c. 727, Pt. C, §1 (RP).]

Y. Plumbers' Examining Board; [PL 1995, c. 397, §11 (NEW).]

Z. Board of Licensure of Podiatric Medicine; [PL 1995, c. 397, §11 (NEW).]

AA. State Board of Examiners of Psychologists; [PL 1995, c. 397, §11 (NEW).]

BB. Radiologic Technology Board of Examiners; [PL 1995, c. 397, §11 (NEW).]

CC. Board of Real Estate Appraisers; [PL 1995, c. 397, §11 (NEW).]

DD. Board of Respiratory Care Practitioners; [PL 1995, c. 397, §11 (NEW).]

EE. State Board of Social Worker Licensure; [PL 1995, c. 397, §11 (NEW).]

FF. [PL 2007, c. 369, Pt. B, §3 (RP); PL 2007, c. 369, Pt. C, §5 (AFF).]

GG. State Board of Alcohol and Drug Counselors; [PL 1995, c. 502, Pt. H, §8 (AMD).]

HH. State Board of Veterinary Medicine; [PL 1995, c. 502, Pt. H, §8 (AMD).]

II. [PL 2009, c. 344, Pt. B, §2 (RP); PL 2009, c. 344, Pt. E, §2 (AFF).]

JJ. Real Estate Commission; [PL 1995, c. 560, Pt. H, §3 (AMD); PL 1995, c. 560, Pt. H, §17 (AFF).]

KK. [PL 2013, c. 70, Pt. B, §1 (RP).]

LL. [PL 2013, c. 70, Pt. B, §1 (RP).]

MM. Board of Speech, Audiology and Hearing; and [PL 2011, c. 286, Pt. B, §1 (AMD).]

NN. Maine Fuel Board. [PL 2009, c. 344, Pt. B, §5 (NEW); PL 2009, c. 344, Pt. E, §2 (AFF).]

The Office of Professional and Occupational Regulation also administers the following regulatory functions: licensure of athletic trainers; licensure of massage therapists; licensure of interpreters for the deaf and hard-of-hearing; licensure of persons pursuant to the Charitable Solicitations Act; licensure of transient sellers, including door-to-door home repair transient sellers; licensure of persons pursuant to the Barbering and Cosmetology Licensure Act; licensure of persons pursuant to the laws governing boiler and pressure vessel safety and elevator and tramway safety; and inspection and certification requirements for boilers, pressure vessels, elevators and tramways pursuant to the laws governing boiler and pressure vessel safety and elevator and tramway safety.
[PL 2019, c. 285, §2 (AMD).]

SECTION HISTORY

PL 1971, c. 488, §§1,3 (NEW). PL 1973, c. 537, §15 (RP). PL 1973, c. 585, §4 (RPR). PL 1973, c. 788, §43 (RPR). PL 1975, c. 134, §4 (AMD). PL 1975, c. 547, §4 (AMD). PL 1975, c. 579, §1 (AMD). PL 1975, c. 767, §9 (RPR). PL 1975, c. 770, §58 (AMD). PL 1975, c. 771, §122 (AMD). PL 1977, c. 78, §36 (RPR). PL 1977, c. 160, §2 (AMD). PL 1977, c. 466, §1 (AMD). PL 1977, c. 673, §1 (AMD). PL 1979, c. 606, §2 (AMD). PL 1981, c. 501, §37 (AMD). PL 1981, c. 703, §A2 (AMD). PL 1983, c. 553, §11 (AMD). PL 1983, c. 746, §1 (AMD). PL 1983, c. 758, §1 (AMD). PL 1985, c. 233, §2 (RPR). PL 1985, c. 288, §2 (RPR). PL 1985, c. 389, §6 (RPR). PL 1985, c. 737, §A21 (RPR). PL 1985, c. 748, §15 (RPR). PL 1985, c. 819, §§A15,16 (AMD). PL 1987, c. 395, §A34 (RPR). PL 1987, c. 488, §2 (RPR). PL 1989, c. 450, §4 (RPR). PL 1989, c. 465, §2 (RPR). PL 1989, c. 502, §A31 (RPR). PL 1989, c. 806, §2 (RPR). PL 1989, c. 878, §D6 (RPR). PL 1991, c. 396, §1 (AMD). PL 1991, c. 397, §3 (AMD). PL 1991, c. 548, §B1 (RPR). PL 1993, c. 389, §3 (AMD). PL 1993, c. 428, §2 (AMD). PL 1993, c. 600, §§A6,7 (AMD). PL 1995, c. 309, §26 (AMD). PL 1995, c. 309, §29 (AFF). PL 1995, c. 389, §§2,3 (AMD). PL 1995, c. 397, §§3-11 (AMD). PL 1995, c. 402, §§A3,47 (AMD). PL 1995, c. 502, §§H6-8 (AMD). PL 1995, c. 505, §4 (AMD). PL 1995, c. 505, §22 (AFF). PL 1995, c. 560, §§H3,4 (AMD). PL 1995, c. 560, §H17 (AFF). PL 1995, c. 625, §A17 (AMD). PL 1995, c. 671, §§6,7 (AMD). PL 1997, c. 727, §C1 (AMD). PL 1997, c. 749, §2 (AMD). PL 1999, c. 386, §B1 (AMD). PL 1999, c. 399, §2 (AMD). PL 1999, c. 399, §20 (AFF). PL 1999, c. 687, §C1 (AMD). PL 2001, c. 44, §9 (AMD). PL 2001, c. 44, §14 (AFF). PL 2001, c. 182, §5 (AMD). PL 2001, c. 261, §5 (AMD). PL 2007, c. 273, Pt. B, §5 (REV). PL 2007, c. 273, Pt. B, §7 (AFF). PL 2007, c. 369, Pt. B, §§2-6 (AMD). PL 2007, c. 369, Pt. C, §5 (AFF). PL 2007, c. 402, Pt. C, §1 (AMD). PL 2007, c. 695, Pt. A, §47 (AFF). PL 2009, c. 344, Pt. B, §§1-5 (AMD). PL 2009, c. 344, Pt. E, §2 (AFF). PL 2009, c. 369, Pt. A, §22 (AMD). PL 2011, c. 286, Pt. B, §1 (AMD). PL 2013, c. 70, Pt. B, §1 (AMD). PL 2019, c. 285, §2 (AMD).

§8001-A. Department; affiliation

The following boards and commissions are affiliated with the Department of Professional and Financial Regulation: [PL 1989, c. 450, §5 (NEW).]

1. State Board of Registration of Architects and Landscape Architects.

[PL 1991, c. 396, §2 (RP).]

2. State Board of Cosmetology.

[PL 1991, c. 397, §4 (RP).]

3. Board of Dental Practice. Dental Practice, Board of;
[PL 1989, c. 450, §5 (NEW); PL 2015, c. 429, §23 (REV).]

4. Board of Licensure in Medicine. Medicine, Board of Licensure in;
[PL 1993, c. 600, Pt. A, §8 (AMD).]

5. State Board of Nursing. Nursing, State Board of;
[PL 1989, c. 450, §5 (NEW).]

6. Board of Optometric Examiners. Optometric Examiners, Board of;
[PL 1989, c. 450, §5 (NEW).]

7. Board of Osteopathic Licensure. Osteopathic Licensure, Board of;
[PL 1993, c. 600, Pt. A, §9 (AMD).]

8. Board of Examiners of Podiatrists.

[PL 1993, c. 600, Pt. A, §10 (RP).]

9. State Board of Licensure for Professional Engineers. Professional Engineers, State Board of Licensure for.
[PL 2017, c. 475, Pt. A, §16 (AMD).]

SECTION HISTORY

PL 1989, c. 450, §5 (NEW). PL 1991, c. 396, §2 (AMD). PL 1991, c. 397, §4 (AMD). PL 1993, c. 600, §§A8,10 (AMD). PL 2015, c. 429, §23 (REV). PL 2017, c. 475, Pt. A, §16 (AMD).

§8002. Duties and authority of commissioner

The Commissioner of Professional and Financial Regulation, referred to in this chapter as the "commissioner," is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, and to confirmation by the Legislature. The commissioner serves at the pleasure of the Governor. Unless otherwise provided in law, the commissioner may not exercise or interfere with the exercise of discretionary regulatory authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department. As chief administrative officer of the department, the commissioner has the following duties and authority to: [PL 2011, c. 1, Pt. AA, §1 (AMD).]

1. Budget. Prepare the budget for the department;
[PL 1975, c. 767, §9 (RPR).]

2. Personnel. Except as otherwise specified, appoint and remove, subject to the Civil Service Law, all personnel considered necessary to fulfill the duties and functions of the department; appoint an assistant to the commissioner to serve at the commissioner's pleasure; and transfer personnel within the department to ensure efficient utilization of department personnel;
[PL 1995, c. 502, Pt. H, §9 (AMD).]

3. Purchases. Coordinate the purchase and use of all equipment and supplies within the department;
[PL 1995, c. 502, Pt. H, §9 (AMD).]

4. Review. Review the organization, functions and operation of bureaus, offices, boards and commissions within and affiliated with the department to ensure that overlapping functions and operations are eliminated and that each complies fully with its statutory and public service responsibilities;
[PL 1995, c. 502, Pt. H, §9 (AMD).]

5. Liaison. Act as a liaison among the bureaus, offices, boards and commissions within and affiliated with the department and act as liaison between them and the Governor;
[PL 1995, c. 502, Pt. H, §9 (AMD).]

6. Recommendations. Recommend to the Governor and Legislature those changes in the laws relating to the organization, functions, services or procedures of the bureaus, offices, boards and commissions of the department as the commissioner determines desirable;
[PL 1995, c. 502, Pt. H, §9 (NEW).]

7. Delegate authority. Authorize the heads of bureaus, offices, boards and commissions within the department to carry out the commissioner's duties and authority;
[PL 1997, c. 727, Pt. A, §4 (AMD).]

8. Adequate resources. Ensure that each bureau, office, board and commission has adequate resources to carry out regulatory functions and that the department's expenditures are equitably apportioned;
[PL 1999, c. 184, §12 (AMD).]

9. Licensing. Coordinate all administrative processes related to licensing functions of bureaus, offices, boards and commissions within the department, including but not limited to the frequency and form of applications and licenses;
[PL 2007, c. 466, Pt. C, §3 (AMD).]

10. Confidentiality of shared information. Keep confidential any information provided by or to the commissioner that has been designated confidential by the agency, bureau, board or commission within or affiliated with the department that furnished the information and that is the property of the agency, bureau, board or commission that furnished the information. Any information provided pursuant to this subsection may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency, bureau, board or commission that furnished the information;
[PL 2011, c. 603, §1 (AMD).]

11. Report on fees. By December 1st of each even-numbered year, conduct a review of the fees assessed by the department and provide a written report to the State Budget Officer and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, insurance and financial services matters and business, research and economic development matters identifying any fee changes the commissioner recommends for the next biennium; and
[PL 2011, c. 603, §2 (AMD).]

12. Recommend measures. Recommend legislation or other measures to the Governor and the Legislature for the purpose of assisting current and former members of the United States Armed Forces in obtaining any professional license within the provisions of the department related to their relevant training and experience from their military service.
[PL 2011, c. 603, §3 (NEW).]

SECTION HISTORY

PL 1973, c. 585, §4 (RPR). PL 1975, c. 134, §5 (AMD). PL 1975, c. 579, §2 (AMD). PL 1975, c. 767, §9 (RPR). PL 1975, c. 770, §59 (AMD). PL 1977, c. 78, §37 (AMD). PL 1977, c. 564, §49 (AMD). PL 1983, c. 489, §7 (AMD). PL 1983, c. 553, §12 (AMD). PL 1985, c. 748, §§16,17 (AMD). PL 1993, c. 659, §B1 (AMD). PL 1995, c. 502, §H9 (AMD). PL 1997, c. 727, §§A3-5 (AMD). PL 1999, c. 184, §§12-14 (AMD). PL 1999, c. 687, §§C2-4 (AMD). PL 2007, c. 466, Pt. C, §§3-5 (AMD). PL 2007, c. 539, Pt. T, §1 (AMD). PL 2011, c. 1, Pt. AA, §1 (AMD). PL 2011, c. 603, §§1-3 (AMD).

§8003. Departmental organization; duties

1. Division of Administrative Services. There is created a Division of Administrative Services, which is a division within the department under the commissioner's office, to provide assistance to the commissioner and to the agencies within and affiliated with the department in civil service matters, budgeting and financial matters, purchasing, and clerical and support services, and to perform other duties the commissioner designates. The commissioner may employ a Director of Administrative Services and clerical and technical assistants necessary to discharge the duties of the division and shall outline their duties and fix their compensation, subject to the Civil Service Law.

A. Within the Division of Administrative Services, there is a computer services section. It is the responsibility of the computer services section to provide technical assistance to the Office of Professional and Occupational Regulation to process and issue original and renewal licenses for the department and for bureaus, offices, boards and commissions within the department as the commissioner directs. The licenses may be processed and issued only upon authorization of the appropriate bureau, office, board or commission or upon the authorization of the commissioner in the case of licenses granted directly by the department. The computer services section shall maintain a central register containing the name and address of each person or firm licensed by profession, occupation or industry and such other information as the commissioner may direct for administration, information or planning purposes. The commissioner, with the advice of the respective bureaus, offices, boards and commissions, may determine the type and form of licenses issued by all agencies within the department. The computer services section shall perform such other administrative services for the agencies within the department as the commissioner directs. [PL 1995, c. 502, Pt. H, §10 (AMD); PL 2011, c. 286, Pt. B, §5 (REV).]

[PL 1995, c. 502, Pt. H, §10 (AMD); PL 2011, c. 286, Pt. B, §5 (REV).]

2. Office of Licensing and Registration.

[PL 1999, c. 687, Pt. C, §5 (RP).]

2-A. Office of Professional and Occupational Regulation. There is created an Office of Professional and Occupational Regulation, referred to in this subsection as the "office," composed of the boards, commissions and regulatory functions set forth in section 8001, subsection 38. The commissioner may appoint a Director of the Office of Professional and Occupational Regulation and those clerical and technical assistants who are necessary to discharge the duties of the office and shall outline their duties and fix their compensation, subject to the Civil Service Law. Notwithstanding any other provision of law granting authority to a board or commission, the Director of the Office of Professional and Occupational Regulation has the following superseding powers, duties and functions:

A. To administer the office and maximize and direct the use of personnel and financial resources to regulate professionals in the best interest of the public; [PL 1999, c. 687, Pt. C, §6 (NEW).]

B. To prepare and administer, with the advice of the boards and commissions, budgets necessary to carry out the regulatory purposes of the boards and commissions. The Director of the Office of Professional and Occupational Regulation shall maintain one office budget that includes a separate account for each board or commission. The Director of the Office of Professional and Occupational Regulation has the authority to disapprove expenditures by boards and commissions that are not necessary to protect the public health and welfare or that would seriously jeopardize a board's or commission's fiscal well-being; [PL 1999, c. 687, Pt. C, §6 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

C. To provide all staffing necessary and appropriate to administer the office and carry out the statutory missions of the boards, commissions and regulatory functions. All clerks, technical support staff and supervisors must be assigned to the office and allocated by the director to perform functions on behalf of the various boards, commissions and regulatory functions according to need; [PL 1999, c. 687, Pt. C, §6 (NEW).]

D. To establish by rule and after reasonable notice to the affected board all fees necessary and appropriate for all boards, commissions and regulatory functions within the office, subject to any fee cap established by statute and applicable to that board, commission or regulatory function. The Director of the Office of Professional and Occupational Regulation shall set the criteria for all fees. The criteria must include, but are not limited to, the costs, statutory requirements, enforcement requirements and fees and expenses of each board, commission or regulatory function. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [PL 2001, c. 323, §9 (AMD); PL 2011, c. 286, Pt. B, §5 (REV).]

E. To establish by rule, such processes and procedures necessary to administer the various boards, commissions and regulatory functions of the office, including, but not limited to, a uniform complaint procedure, a uniform procedure regarding protested checks, a uniform policy regarding the treatment of late renewals and a uniform procedure for substantiating continuing education requirements. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [PL 1999, c. 687, Pt. C, §6 (NEW).]

F. To keep records of public meetings, proceedings and actions and to make those records available to the public at cost upon request, unless otherwise prohibited by state or federal law; [PL 1999, c. 687, Pt. C, §6 (NEW).]

G. To enter into contracts to ensure the provision of goods and services necessary to perform regulatory functions and to fulfill statutory responsibilities. This authority includes the ability to employ and engage experts, professionals or other personnel of other state or federal regulatory agencies as necessary to assist the office in carrying out its regulatory functions and to contract office staff to other state and federal regulatory agencies to assist those agencies in carrying out their regulatory functions; [PL 1999, c. 687, Pt. C, §6 (NEW).]

H. To perform licensing functions for other state agencies on a fee-for-service basis; [PL 1999, c. 687, Pt. C, §6 (NEW).]

I. To enter into cooperative agreements with other state, federal or foreign regulatory agencies to facilitate the regulatory functions of the office, including, but not limited to, information sharing, coordination of examinations or inspections and joint examinations or inspections. Any information furnished pursuant to this paragraph by or to the office that has been designated confidential by the agency furnishing the information remains confidential and the property of the agency furnishing the information and may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency that furnished the information; [PL 1999, c. 687, Pt. C, §6 (NEW).]

J. To direct staff to review and approve applications for licensure or renewal in accordance with criteria established in statute or in rules adopted by a board or commission. Licensing decisions made by staff may be appealed to the full board or commission; [PL 1999, c. 687, Pt. C, §6 (NEW).]

K. To prepare and submit to the commissioner an annual report of the office's operations, activities and goals; [PL 2017, c. 173, §1 (AMD).]

L. To study jurisdictional overlap between the department's boards and commissions and other state agencies for purposes of streamlining and consolidating related legal authorities and administrative processes; [PL 2017, c. 173, §1 (AMD).]

M. To exercise discretionary authority, after consultation with licensing boards if applicable, to review and determine on a case-by-case basis examination and licensing eligibility for applications for licensure submitted by individuals who identify themselves as veterans with military service, experience and training; and [PL 2017, c. 173, §2 (NEW).]

N. To exercise discretionary authority to waive examination fees and license fees for applicants for licensure who identify themselves as veterans with military service, experience and training. [PL 2017, c. 173, §2 (NEW).]

[PL 2017, c. 173, §§1, 2 (AMD).]

3. License defined. For purposes of this section, the term "license" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

[PL 1991, c. 509, §1 (AMD).]

4. Licensing periods; renewal dates. The commissioner may establish expiration or renewal dates and establish whether licenses are issued annually or biennially for all licenses authorized to be issued by bureaus, offices, boards and commissions within the department, notwithstanding any other provisions of law. If an expiration or renewal date established by the commissioner has the effect of shortening the term of a license currently in effect, the bureau, office, board or commission, or the department in the case of a license that it issues directly, shall credit the fee paid, on a prorated basis, for the unexpired term of the current license toward the renewal fee of the renewal license. If a license is not renewed on the new expiration or renewal date established by the commissioner, the license remains in effect through its original term, unless suspended or revoked sooner under laws or regulations of the respective bureau, office, board or commission. Should a licensee seek to renew the license at the end of the original term, the law or regulations established by the respective bureau, office, board or commission for late renewals or reregistrations apply. For the purpose of implementing and administering biennial licensing, the commissioner may permit bureaus, offices, boards and commissions within the department to issue licenses and establish renewal fees for less than a 2-year term. This section may not change the term or fee for one-time licenses, except as specifically stated.

[PL 1999, c. 386, Pt. B, §3 (AMD).]

4-A. Disclosure and recording of social security numbers. An individual who applies for a license shall provide that individual's social security number on the application, which must be recorded.

[PL 1997, c. 537, §3 (NEW); PL 1997, c. 537, §62 (AFF).]

5. Authority of bureaus, offices, boards or commissions. In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, each bureau, office, licensing board and commission within or affiliated with the department may take one or more of the following actions, except that this subsection does not apply to the Bureau of Financial Institutions or the Office of Professional and Occupational Regulation, including the licensing boards and commissions and regulatory functions within the Office of Professional and Occupational Regulation.

A. [PL 1989, c. 450, §6 (RP).]

A-1. For each violation of applicable laws, rules or conditions of licensure or registration, the bureau, office, board or commission may take one or more of the following actions:

(1) Issue warnings, censures or reprimands to a licensee or registrant. Each warning, censure and reprimand issued must be based upon violations of different applicable laws, rules or conditions of licensure or must be based upon separate instances of actionable conduct or activity;

(2) Suspend a license or registration for up to 90 days for each violation of applicable laws, rules and conditions of licensure or registration or for instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion

of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's or registrant's record;

(2-A) Revoke a license or registration;

(3) Impose civil penalties of up to $1,500 for each violation of applicable laws, rules and conditions of licensure or registration or for instances of actionable conduct or activity; and

(4) Impose conditions of probation upon an applicant, licensee or registrant. Probation may run for such time period as the bureau, office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant, licensee or registrant; and other conditions as the bureau, office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant, licensee or registrant. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee or registrant. [PL 2001, c. 167, §1 (AMD).]

B. The bureau, office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of: the applicant, licensee or registrant; the bureau, office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license or registration. A consent agreement is not subject to review or appeal, and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [PL 2001, c. 167, §1 (AMD).]

C. The bureau, office, board or commission may:

(1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms;

(2) Except as provided in Title 37-B, section 390-A, require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate. Notwithstanding any contrary provision set forth in a bureau's, office's, board's or commission's governing law, continuing education requirements may coincide with the license or registration renewal period;

(3) Refuse to renew a license or registration or deny a license when the bureau, office, board or commission finds a licensee or registrant to be in noncompliance with a bureau, office, board or commission order or consent agreement;

(4) Allow licensees or registrants to hold inactive status licenses or registrations in accordance with each bureau's, office's, board's or commission's rules. The fee for an inactive license or registration may not exceed the statutory fee cap established for the bureau's, office's, board's or commission's license or registration renewal set forth in its governing law; or

(5) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules developed pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 111, §1 (AMD).]

D. The bureau, office, board or commission may require surrender of licenses and registrations. In order for a licensee's or registrant's surrender of a license or registration to be effective, a surrender must first be accepted by vote of the bureau, office, board or commission. Bureaus, offices, boards and commissions may refuse to accept surrender of licenses and registrations if the licensee or registrant is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this chapter. [PL 1995, c. 502, Pt. H, §10 (AMD).]

E. The bureau, office, board or commission may issue letters of guidance or concern to a licensee or registrant. Letters of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or registrant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The bureau, office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the bureau, office, board or commission in any subsequent action commenced against the licensee or registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the extent that confidentiality is required pursuant to Title 24, chapter 21, the Maine Health Security Act. [PL 1999, c. 386, Pt. B, §5 (AMD).]

F. A bureau, office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 402, Pt. C, §2 (AMD).]

G. Notwithstanding any other provision of law, any bureau, office, board or commission within or affiliated with the department may issue a temporary license for a period of 6 months and waive all licensing requirements, except for fees, to any applicant upon a showing of current, valid licensure in that profession in another state. [PL 2005, c. 474, §1 (NEW).]

The jurisdiction to suspend and revoke occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4, and, except for revocation actions, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

Any nonconsensual revocation of an occupational or professional license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this section.
[PL 2007, c. 402, Pt. C, §2 (AMD); PL 2011, c. 286, Pt. B, §5 (REV).]

5-A. Authority of Office of Professional and Occupational Regulation. In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, the Office of Professional and Occupational Regulation, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, have the following authority.

A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:

(1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;

(2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the occupation or profession for which the person is licensed;

(3) Conviction of a crime to the extent permitted by Title 5, chapter 341;

(4) Any violation of the governing law of an office, board or commission;

(5) Any violation of the rules of an office, board or commission;

(6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held;

(7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;

(8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;

(9) Noncompliance with an order or consent agreement of an office, board or commission;

(10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation;

(11) Any violation of a requirement imposed pursuant to section 8003-G; or

(12) Failure of an individual subject to Title 22, section 1711 or Title 22, section 1711-B to provide to a patient, upon written request, a copy of that patient's treatment records in accordance with the requirements of Title 22, section 1711 or Title 22, section 1711-B, whichever is applicable. [PL 2019, c. 503, Pt. A, §1 (AMD).]

B. The office, board or commission may impose the following forms of discipline upon a licensee or applicant for licensure:

(1) Denial or refusal to renew a license, or issuance of a license in conjunction with the imposition of other discipline;

(2) Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rules or condition of licensure or must be based upon a single instance of actionable conduct or activity;

(3) Suspension of a license for up to 90 days for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's record;

(4) Revocation of a license;

(5) Imposition of civil penalties of up to $1,500, or such greater amount as may be authorized by statute, for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity; or

(6) Imposition of conditions of probation upon an applicant or licensee. Probation may run for such time period as the office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant or licensee; practice restrictions; and other conditions as the office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee. [PL 2009, c. 112, Pt. B, §4 (AMD).]

C. The office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the applicant or licensee; the office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [PL 2007, c. 402, Pt. C, §3 (NEW).]

D. The office, board or commission may:

(3) Except as provided in Title 37-B, section 390-A, adopt rules requiring continuing professional or occupational education and require applicants for license renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with such rules. Failure to comply with the continuing education rules is punishable by nonrenewal of the license and other discipline authorized by this subsection. Notwithstanding any contrary provision set forth in the governing law of an office, board or commission, continuing education requirements may coincide with the license renewal period. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A;

(4) Issue continuing education deferments in cases of undue hardship;

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of Professional and Occupational Regulation if the license is reactivated on a date other than the ordinary renewal date of the license. Any rules of an office, board or commission regulating inactive status licensure must describe the obligations of an inactive status licensee with respect to any ongoing continuing education requirement in effect for licensees of the office, board or commission and must set forth any requirements for reinstatement to active status, which requirements may include continuing education. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A; and

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are

routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 286, Pt. B, §2 (AMD).]

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement. [PL 2007, c. 402, Pt. C, §3 (NEW).]

F. The office, board or commission may issue a letter of guidance or concern to a licensee as part of the dismissal of a complaint against the licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21. [PL 2013, c. 217, Pt. A, §1 (AMD).]

G. The office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 402, Pt. C, §3 (NEW).]

The jurisdiction to impose discipline against occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection other than denial or nonrenewal of a license may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 and is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

The office, board or commission shall hold a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 at the written request of any person who is denied an initial or renewal license without a hearing for any reason other than failure to pay a fee, provided that the request for hearing is received by the office, board or commission within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing.

The office, board or commission may subpoena witnesses, records and documents in any adjudicatory hearing it conducts.

Rules adopted to govern judicial appeals from agency action apply to cases brought under this subsection.

In the event of appeal to Superior Court from any form of discipline imposed pursuant to this subsection, including denial or nonrenewal of a license, the office, board or commission may assess the licensed person or entity for the costs of transcribing and reproducing the administrative record.

[PL 2019, c. 503, Pt. A, §1 (AMD).]

6. Funding. The commissioner may assess each internal bureau, office, board or commission served by the commissioner's office, the Division of Administrative Services or the Office of Professional and Occupational Regulation its reasonable share of an amount sufficient to cover the cost of operating those service agencies. The commissioner may assess any board affiliated with the department for the services the board receives from the department. The commissioner may assess other state agencies for licensing functions performed on behalf of those agencies by the Office of Professional and Occupational Regulation.
[PL 1999, c. 687, Pt. C, §8 (AMD); PL 2011, c. 286, Pt. B, §5 (REV).]

7. Evidentiary effect of certificate. Notwithstanding any provision of law or rule of evidence, the certificate of the commissioner under the seal of the State must be received by any court in this State as prima facie evidence of the issuance, suspension or revocation of any license issued by the department.
[PL 1991, c. 509, §3 (NEW).]

8. Display of license.
[PL 2009, c. 112, Pt. A, §2 (RP).]

9. Construction.

[PL 1999, c. 687, Pt. C, §9 (RP).]

10. National disciplinary record system. Within the limits of available revenues, all bureaus, offices, boards or commissions internal or affiliated with the department shall join or subscribe to a national disciplinary record system used to track interstate movement of regulated professionals who have been the subject of discipline by state boards, commissions or agencies and report disciplinary actions taken within this State to that system.
[PL 1995, c. 502, Pt. H, §10 (AMD).]

SECTION HISTORY

PL 1975, c. 556, §1 (NEW). PL 1975, c. 705, §3 (AMD). PL 1975, c. 767, §9 (RPR). PL 1977, c. 113 (AMD). PL 1977, c. 273, §§1,2 (AMD). PL 1983, c. 553, §13 (RPR). PL 1985, c. 748, §18 (AMD). PL 1985, c. 785, §B55 (AMD). PL 1987, c. 595, §2 (AMD). PL 1987, c. 609, §§1,2 (AMD). PL 1989, c. 450, §6 (AMD). PL 1991, c. 509, §§1-3 (AMD). PL 1993, c. 600, §A11 (AMD). PL 1993, c. 659, §§B2,3 (AMD). PL 1995, c. 397, §12 (AMD). PL 1995, c. 502, §H10 (AMD). PL 1997, c. 210, §§1-3 (AMD). PL 1997, c. 537, §3 (AMD). PL 1997, c. 537, §62 (AFF). PL 1997, c. 680, §A1 (AMD). PL 1999, c. 184, §§15-17 (AMD). PL 1999, c. 386, §§B2-5 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 1999, c. 687, §§C5-9 (AMD). PL 2001, c. 44, §10 (AMD). PL 2001, c. 44, §14 (AFF). PL 2001, c. 167, §1 (AMD). PL 2001, c. 323, §9 (AMD). PL 2003, c. 204, §B1 (AMD). PL 2005, c. 111, §1 (AMD). PL 2005, c. 474, §1 (AMD). PL 2007, c. 402, Pt. C, §§2, 3 (AMD). PL 2007, c. 621, §§2, 3 (AMD). PL 2009, c. 112, Pt. A, §2 (AMD). PL 2009, c. 112, Pt. B, §4 (AMD). PL 2011, c. 286, Pt. B, §2 (AMD). PL 2011, c. 286, Pt. B, §5 (REV). PL 2013, c. 217, Pt. A, §1 (AMD). PL 2017, c. 173, §§1, 2 (AMD). PL 2019, c. 503, Pt. A, §1 (AMD).

§8003-A. Complaint investigation

1. Affiliated boards. In aid of their investigative authority, the licensing boards and commissions affiliated with the department pursuant to section 8001-A may issue subpoenas in the name of the relevant licensing board or commission, in accordance with the terms of Title 5, section 9060, except that the authority applies to any stage of an investigation and is not limited to an adjudicatory proceeding.
[PL 2007, c. 402, Pt. C, §4 (NEW).]

2. Office of Professional and Occupational Regulation. The Office of Professional and Occupational Regulation, including the licensing boards and commissions and regulatory functions within the office, may receive, initiate and investigate complaints alleging any ground for disciplinary action set forth in section 8003, subsection 5-A. To assist with complaint or other investigations, or as otherwise considered necessary for the fulfillment of their responsibilities, the office, boards and commissions may hold hearings and may issue subpoenas for witnesses, records and documents in the name of the office, board or commission, as the case may be, in accordance with the terms of Title 5, section 9060, except that the subpoena authority applies to any stage or type of an investigation and is not limited to an adjudicatory hearing held pursuant to section 8003, subsection 5-A.

Investigative personnel of the Office of Professional and Occupational Regulation, during the normal conduct of their work for boards, commissions and regulatory functions within the office, may conduct investigations, issue citations, serve summonses and order corrections of violations in accordance with specific statutory authority. When specific authority does not exist to appeal an order to correct, that process must be established by rule by the respective board.
[PL 2007, c. 402, Pt. C, §4 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

3. Dispositions available to the public. Upon disposition of each complaint and investigation, the office and all boards and commissions shall make such disposition available to the public.
[PL 2007, c. 402, Pt. C, §4 (NEW).]

SECTION HISTORY

PL 1985, c. 748, §19 (NEW). PL 1991, c. 509, §4 (AMD). PL 1995, c. 502, §H11 (AMD). PL 2007, c. 402, Pt. C, §4 (RPR). PL 2011, c. 286, Pt. B, §5 (REV).

§8003-B. Confidentiality of investigative records

1. During investigation. Unless otherwise provided by Title 24, chapter 21, all complaints and investigative records of the licensing boards, commissions and regulatory functions within or affiliated with the Department of Professional and Financial Regulation are confidential during the pendency of an investigation. Those records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter 4 has been issued; [PL 2009, c. 465, §1 (AMD).]

B. [PL 1999, c. 687, Pt. C, §10 (RP).]

C. A consent agreement has been executed; or [PL 1989, c. 173 (NEW).]

D. A letter of dismissal has been issued or the investigation has otherwise been closed. [PL 1989, c. 173 (NEW).]

[PL 2009, c. 465, §1 (AMD).]

2. Exceptions. Notwithstanding subsection 1, during the pendency of an investigation, a complaint or investigative record may be disclosed:

A. To department employees designated by the commissioner; [PL 1989, c. 173 (NEW).]

B. To designated complaint officers of the appropriate board or commission; [PL 1989, c. 173 (NEW).]

C. By a department employee or complaint officer designated by the commissioner when, and to the extent, deemed necessary to facilitate the investigation; [PL 1989, c. 173 (NEW).]

D. To other state or federal agencies when the files contain evidence of possible violations of laws enforced by those agencies; [PL 1989, c. 173 (NEW).]

E. When, and to the extent, deemed necessary by the commissioner to avoid imminent and serious harm. The authority of the commissioner to make such a disclosure shall not be delegated; [PL 1989, c. 173 (NEW).]

F. Pursuant to rules which shall be promulgated by the department, when it is determined that confidentiality is no longer warranted due to general public knowledge of the circumstances surrounding the complaint or investigation and when the investigation would not be prejudiced by the disclosure; and [PL 1989, c. 173 (NEW).]

G. To the person investigated on request. The commissioner may refuse to disclose part or all of any investigative information, including the fact of an investigation, when the commissioner determines that disclosure would prejudice the investigation. The authority of the commissioner to make such a determination shall not be delegated. [PL 1989, c. 173 (NEW).]

[PL 1989, c. 173 (NEW).]

2-A. Certain client records confidential. Notwithstanding subsections 1 and 2, a treatment record provided to a licensing board or commission or in connection with a regulatory function within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance use disorder, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A treatment record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person; [PL 1993, c. 552, §1 (NEW).]

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions; [PL 1993, c. 552, §1 (NEW).]

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation; [PL 1993, c. 552, §1 (NEW).]

D. The disclosure is necessary under Title 22, section 4011-A concerning reports of suspected child abuse or neglect; or [PL 2001, c. 345, §1 (AMD).]

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect. [PL 1993, c. 552, §1 (NEW).]

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

[PL 2017, c. 407, Pt. A, §50 (AMD).]

3. Attorney General records. The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality of those records for any other purposes. Further disclosure of those investigative records is subject to Title 16, section 804 and the discretion of the Attorney General.

[PL 2013, c. 267, Pt. B, §4 (AMD).]

4. Violation. A person who knowingly or intentionally makes a disclosure in violation of this section or who knowingly violates a condition of a release pursuant to subsection 2-A commits a civil violation for which a forfeiture not to exceed $1,000 may be adjudged.
[PL 1993, c. 552, §2 (AMD).]

SECTION HISTORY

PL 1989, c. 173 (NEW). PL 1993, c. 552, §§1,2 (AMD). PL 1993, c. 719, §4 (AMD). PL 1993, c. 719, §12 (AFF). PL 1999, c. 386, §B6 (AMD). PL 1999, c. 687, §§C10,11 (AMD). PL 2001, c. 345, §1 (AMD). PL 2009, c. 465, §§1, 2 (AMD). PL 2013, c. 267, Pt. B, §4 (AMD). PL 2017, c. 407, Pt. A, §50 (AMD).

§8003-C. Unlicensed practice

1. Complaints of unlicensed practice. A board or commission identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Professional and Occupational Regulation identified in section 8001, subsection 38 may receive or initiate complaints of unlicensed practice.
[PL 2009, c. 465, §3 (AMD); PL 2011, c. 286, Pt. B, §5 (REV).]

2. Investigation of unlicensed practice. Complaints or allegations of unlicensed practice may be investigated by the Office of Professional and Occupational Regulation, the Attorney General's office or a board's or commission's complaint officer or inspector. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office for prosecution.
[PL 1999, c. 687, Pt. C, §12 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

3. Unlicensed practice; criminal penalties. Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked commits a Class E crime; and [PL 2009, c. 465, §4 (AMD).]

B. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years. [PL 2009, c. 465, §4 (AMD).]

[PL 2009, c. 465, §4 (AMD).]

4. Unlicensed practice; civil penalties. Any person who practices or represents to the public that the person is authorized to practice a profession or trade or engage in an activity that requires a license without first obtaining a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than $1,000

but not more than $5,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.
[PL 2011, c. 286, Pt. B, §3 (AMD).]

5. Unlicensed practice; injunctions. The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4, whether or not proceedings have been or may be instituted in District Court or whether criminal proceedings have been or may be instituted, and to restore to any person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than $10,000 for each violation. In any action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In any action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to any person who has suffered any ascertainable loss of money or personal or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.
[PL 2007, c. 402, Pt. C, §5 (AMD).]

6. Unlicensed practice; private cause of action; repeal.

[PL 2005, c. 378, §1 (NEW); PL 2005, c. 378, §29 (AFF); MRSA T. 10 §8003-C, sub-§6 (RP).]

SECTION HISTORY

PL 1999, c. 687, §C12 (NEW). PL 2003, c. 452, §E10 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 378, §1 (AMD). PL 2005, c. 378, §29 (AFF). PL 2007, c. 402, Pt. C, §5 (AMD). PL 2009, c. 44, §1 (AMD). PL 2009, c. 465, §§3-5 (AMD). PL 2011, c. 286, Pt. B, §3 (AMD). PL 2011, c. 286, Pt. B, §5 (REV).

§8003-D. Investigations; enforcement duties; assessments

When there is a finding of a violation, a board affiliated with the department identified in section 8001-A may assess the licensed person or entity for all or part of the actual expenses incurred by the board or its agents for investigations and enforcement duties performed. [PL 2011, c. 286, Pt. B, §4 (AMD).]

"Actual expenses" include, but are not limited to, travel expenses and the proportionate part of the salaries and other expenses of investigators or inspectors, hourly costs of hearing officers, costs associated with record retrieval and the costs of transcribing or reproducing the administrative record. [PL 1999, c. 687, Pt. C, §12 (NEW).]

The board, as soon as feasible after finding a violation, shall give the licensee notice of the assessment. The licensee shall pay the assessment in the time specified by the board, which may not be less than 30 days. [PL 2011, c. 286, Pt. B, §4 (AMD).]

SECTION HISTORY

PL 1999, c. 687, §C12 (NEW). PL 2009, c. 465, §6 (AMD). PL 2011, c. 286, Pt. B, §4 (AMD).

§8003-E. Citations and fines

Any board or commission identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Professional and Occupational Regulation identified in section 8001, subsection 38 may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed $200. Citations

issued by employees of the Office of Professional and Occupational Regulation or an affiliated board must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission or the Office of Professional and Occupational Regulation with regard to a regulatory function identified in section 8001, subsection 38 administered by the office regarding the violation. [PL 2009, c. 465, §7 (AMD); PL 2011, c. 286, Pt. B, §5 (REV).]

SECTION HISTORY

PL 1999, c. 687, §C12 (NEW). PL 2009, c. 465, §7 (AMD). PL 2011, c. 286, Pt. B, §5 (REV).

§8003-F. Disposition of fees

All money received by the Office of Professional and Occupational Regulation on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Professional and Occupational Regulation to perform the regulatory functions listed in section 8001, subsection 38 must be paid to the Treasurer of State and credited to the account for that board, commission or regulatory function within the budget of the Office of Professional and Occupational Regulation. [PL 1999, c. 687, Pt. C, §12 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

Money received by the Office of Professional and Occupational Regulation on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Professional and Occupational Regulation to perform the regulatory functions listed in section 8001, subsection 38 must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony, procuring the attendance of witnesses, all legal proceedings initiated for enforcement and administering the office. [PL 1999, c. 687, Pt. C, §12 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years. [PL 1999, c. 687, Pt. C, §12 (NEW).]

SECTION HISTORY

PL 1999, c. 687, §C12 (NEW). PL 2011, c. 286, Pt. B, §5 (REV).

§8003-G. Duty to require certain information from applicants and licensees

The Office of Professional and Occupational Regulation, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, shall require: [PL 2007, c. 621, §4 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

1. Respond to inquiries. All applicants for license renewal to respond to all inquiries set forth on renewal forms; and
[PL 2007, c. 621, §4 (NEW).]

2. Report in writing. All licensees and applicants for licensure to report in writing to the office no later than 10 days after the change or event, as the case may be:

A. Change of name or address; [PL 2007, c. 621, §4 (NEW).]

B. Criminal conviction; [PL 2007, c. 621, §4 (NEW).]

C. Revocation, suspension or other disciplinary action taken in this or any other jurisdiction against any occupational or professional license held by the applicant or licensee; or [PL 2007, c. 621, §4 (NEW).]

D. Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the office. [PL 2007, c. 621, §4 (NEW).]

[PL 2007, c. 621, §4 (NEW).]

SECTION HISTORY

PL 2007, c. 621, §4 (NEW). PL 2011, c. 286, Pt. B, §5 (REV).

§8004. Annual reports

Notwithstanding any other provision of law, all annual reports or statements required of bureaus and offices within the department must be submitted to the commissioner not later than August 1st of each year and must summarize the operations and financial position of the bureau or office for the preceding fiscal year ending June 30th. After reviewing such reports and statements, the commissioner shall compile them into a report for submission to the Governor, together with such analysis as the Governor may direct. [PL 1999, c. 687, Pt. C, §13 (AMD).]

SECTION HISTORY

PL 1975, c. 767, §9 (NEW). PL 1999, c. 687, §C13 (AMD).

§8004-A. Legislative reports

The Director of the Office of Professional and Occupational Regulation shall report annually to the joint standing committee of the Legislature having jurisdiction over professional and occupational regulation on the status of licensing fees and fee caps. [PL 2011, c. 691, Pt. A, §4 (AMD).]

SECTION HISTORY

PL 2001, c. 323, §10 (NEW). PL 2011, c. 286, Pt. B, §5 (REV). PL 2011, c. 691, Pt. A, §4 (AMD).

§8005. Compliance with support orders; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of bureaus, boards or commissions that compose or are affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 19-A, section 2201. [PL 1995, c. 694, Pt. D, §7 (AMD); PL 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

PL 1993, c. 410, §V1 (NEW). PL 1995, c. 694, §D7 (AMD). PL 1995, c. 694, §E2 (AFF).

§8005-A. Licensees not in compliance with court-ordered fine, fee or restitution; license qualifications and conditions

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as required by bureaus, boards and commissions within or affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees may not hold any such license when there has been a court-ordered suspension of that license as provided by Title 14, sections 3141 and 3142. [PL 2003, c. 193, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 193, §1 (NEW).

§8006. Licensees not in compliance with court order of support and other court orders; enforcement of parental support obligations and suspensions

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

A. "Board" means any bureau, board or commission listed in section 8001 or 8001-A, other licensors that are affiliated with or are a part of the department and the Board of Overseers of the Bar. [PL 1993, c. 410, Pt. V, §1 (NEW).]

B. "Compliance with a support order" means that the support obligor has obtained or maintained health insurance coverage if required by a support order and is:

(1) No more than 60 days in arrears in making any of the following payments:

(a) Payments in full for current support;

(b) Periodic payments on a support arrearage pursuant to a written agreement with the Department of Health and Human Services; and

(c) Periodic payments as set forth in a support order; and

(2) No more than 30 days in arrears in making payments as described in subparagraph (1) if the obligor has been in arrears for more than 30 days in making payments as described in subparagraph (1) at least 2 times within the past 24 months. [PL 2003, c. 396, §1 (RPR); PL 2003, c. 689, Pt. B, §6 (REV).]

C. "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, that provides for monetary support, health care, arrearages or reimbursement and may include related costs and fees, interest and penalties, income withholding, attorney's fees and other relief. [PL 2003, c. 396, §1 (RPR).]

D. "Court-ordered suspension" means a suspension by a court of the right of a licensee to hold a professional license based on the contempt procedures pursuant to Title 14, sections 3141 and 3142. [PL 2003, c. 193, §2 (NEW).]

[PL 2003, c. 193, §2 (AMD); PL 2003, c. 396, §1 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

2. Noncompliance with a support order. An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who is not in compliance with a support order is subject to the requirements of Title 19-A, section 2201.

[PL 2003, c. 396, §2 (AMD).]

3. Court-ordered suspension. An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who has not paid a court-ordered fine, court-appointed attorney's fees or court-ordered restitution is subject to court suspension of all licenses as provided in Title 14, sections 3141 and 3142.

[PL 2003, c. 193, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 410, §V1 (NEW). PL 1995, c. 694, §D8 (AMD). PL 1995, c. 694, §E2 (AFF). PL 2003, c. 193, §2 (AMD). PL 2003, c. 396, §§1,2 (AMD). PL 2003, c. 689, §B6 (REV).

§8007. Board member candidate information

The Commissioner of Professional and Financial Regulation or the chief staff administrator for an occupational and professional regulatory board shall work with the Executive Department to prepare general information regarding the purpose of an occupational and professional regulatory board and the role, responsibility and perspective of a member of an occupational and professional regulatory board, including a public member. The material must also include information specific to the board for which the individual is a prospective member, including but not limited to the time commitment, remuneration and any other pertinent details. [PL 1993, c. 600, Pt. A, §12 (NEW).]

This information must be provided to all new candidates for membership on an occupational and professional regulatory board and to members seeking reappointment in order to fully inform the candidate or member about the nature of the position. Prior to gubernatorial appointment or reappointment, the candidate or member shall sign a statement indicating that the candidate or member has read the material and is prepared to properly discharge the duties of a member of an occupational and professional regulatory board. Failure to sign this statement disqualifies the candidate or member for appointment or reappointment on a board. [PL 1993, c. 600, Pt. A, §12 (NEW).]

SECTION HISTORY

PL 1993, c. 600, §A12 (NEW).

§8008. Purpose of occupational and professional regulatory boards

The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. Other goals or objectives may not supersede this purpose. [PL 1993, c. 600, Pt. A, §12 (NEW).]

SECTION HISTORY

PL 1993, c. 600, §A12 (NEW).

§8009. Standardized terms

Notwithstanding any other provision of law, upon expiration of a professional or occupational licensing board member's term, that member serves until a successor is appointed and qualified. The successor's term commences at the expiration of the preceding term, regardless of the date of appointment. A vacancy occurring prior to the expiration of a specified term must be filled by appointment of a similarly qualified individual as a replacement. The replacement member serves for the remainder of the unexpired term, regardless of the date of appointment. [PL 2013, c. 217, Pt. A, §2 (AMD).]

SECTION HISTORY

PL 2007, c. 402, Pt. C, §6 (NEW). PL 2013, c. 217, Pt. A, §2 (AMD).

§8010. Quorum; chair

Notwithstanding any provision of law to the contrary, a majority of the members serving on a board or commission under section 8001, subsection 38 constitutes a quorum. The board or commission shall elect its chair. [PL 2013, c. 246, Pt. A, §1 (NEW).]

REVISOR'S NOTE: §8010. Veterans and military spouses (As enacted by PL 2013, c. 311, §1, was repealed by PL 2013, c. 424, Pt. D, §1)

SECTION HISTORY

PL 2013, c. 246, Pt. A, §1 (NEW). PL 2013, c. 311, §1 (NEW). PL 2013, c. 424, Pt. D, §1 (RP). PL 2013, c. 424, Pt. D, §3 (AFF).

§8011. Veterans and military spouses

By January 1, 2014, each board, commission, office and agency within the department listed in section 8001 or affiliated with the department under section 8001-A shall adopt a process to facilitate qualified returning military veterans and qualified spouses of returning military veterans or of active duty service members to qualify for professional licenses granted by those boards, commissions, offices and agencies in an expeditious manner. For the purposes of this section, "returning military veteran" means a veteran of the Armed Forces of the United States who has been honorably discharged from active duty. Notwithstanding any other provision of law, the Director of the Office of Professional and Occupational Regulation and each licensing board within or affiliated with the department shall, upon presentation of satisfactory evidence by an applicant for professional or occupational licensure, accept education, training or service completed by the applicant as a member of the Armed Forces of the United States or Reserves of the United States Armed Forces, the national guard of any state, the military reserves of any state or the naval militia of any state toward the qualifications to receive the license. [PL 2013, c. 424, Pt. D, §2 (NEW); PL 2013, c. 424, Pt. D, §3 (AFF).]

1. Endorsement. The board, commission, office or agency may permit a returning military veteran or a spouse of a returning military veteran or of an active duty service member who holds a comparable

license in another state to acquire a license by endorsement in this State for the remainder of the term of the license from the other state or until a license is obtained in this State.
[PL 2013, c. 424, Pt. D, §2 (NEW); PL 2013, c. 424, Pt. D, §3 (AFF).]

2. Temporary license. The board, commission, office or agency may permit a returning military veteran or a spouse of a returning military veteran or of an active duty service member who holds a comparable license in another state to obtain a temporary license in this State for a period of time necessary to obtain a license in this State.
[PL 2013, c. 424, Pt. D, §2 (NEW); PL 2013, c. 424, Pt. D, §3 (AFF).]

3. Acceptance of military credentials. The board, commission, office or agency shall permit a returning military veteran whose military training qualifies the veteran for a license in a profession or occupation that requires a license in this State to acquire a temporary license until a license is issued.
[PL 2013, c. 424, Pt. D, §2 (NEW); PL 2013, c. 424, Pt. D, §3 (AFF).]

4. Continuing education requirements. The board, commission, office or agency may allow a full or partial exemption from continuing education requirements for a returning military veteran or the spouse of a returning military veteran or of an active duty service member. Evidence of completion of continuing education requirements may be required for a subsequent license or renewal. A board, commission, office or agency shall provide that continuing education requirements may be met by comparable military training.
[PL 2013, c. 424, Pt. D, §2 (NEW); PL 2013, c. 424, Pt. D, §3 (AFF).]

SECTION HISTORY

PL 2013, c. 424, Pt. D, §2 (NEW). PL 2013, c. 424, Pt. D, §3 (AFF).

PART 10

COMMERCE AND INDUSTRY

CHAPTER 903

DEPARTMENT OF COMMERCE AND INDUSTRY

§8101. Department; commissioner

(REPEALED)

SECTION HISTORY

PL 1971, c. 481 (NEW). PL 1971, c. 584, §2 (AMD). PL 1977, c. 78, §32 (RP).

PART 11

HOUSING

CHAPTER 951

MANUFACTURED HOUSING ACT

SUBCHAPTER 1

GENERAL PROVISIONS

§9001. Declaration of purpose

1. Declaration. It is found and declared that:

A. The production and utilization of manufactured housing and the use of new and improving technologies, techniques, methods and materials have and will increase the available supply of housing at prices that residents of this State can afford; [PL 1993, c. 642, §8 (AMD).]

B. It is in the interest of the people of this State that that housing be safe from hazardous defects and that its construction and installation include adequate regulation to establish minimum safety standards that can reduce defects, provide uniformity of standards to reduce costs and provide confidence in that housing; [PL 1993, c. 642, §8 (AMD).]

C. The production and use of manufactured housing utilizing production technologies, techniques, methods and materials require the application and enforcement of uniform building codes and installation standards within this State; [PL 2005, c. 678, §1 (AMD); PL 2005, c. 678, §13 (AFF).]

D. Manufactured housing may present hazards to the health, life and safety of persons and to the safety of property unless properly manufactured because vital parts, including but not limited to heating, plumbing, electrical and structural systems, are concealed and defects may not be readily ascertainable when inspected by a purchaser. Accordingly, it is the policy and purpose of this State to provide protection to the public against those possible hazards; and [PL 2017, c. 210, Pt. B, §1 (AMD).]

E. As a valued and important component of the housing industry in this State, manufactured housing is recognized as residential property, whether it is real property or personal property, notwithstanding the requirements of Title 29-A, and manufactured housing for which no certificate of title has been issued is considered real property when it has been permanently affixed to real property that is owned by the owner of the manufactured housing. [PL 2013, c. 125, §1 (AMD).]

[PL 2017, c. 210, Pt. B, §1 (AMD).]

2. Intent. It is therefore declared that the State, with the passage of this chapter, intends:

A. To provide protection to the public against hazards from poorly constructed or installed manufactured housing; [PL 1977, c. 550, §1 (NEW).]

B. To provide and enforce, with respect to its licensees and political subdivisions, uniform performance standards for construction and installation of manufactured housing that ensure durability and safety of manufactured housing; [PL 1999, c. 725, §1 (AMD).]

C. To eliminate all costly, duplicative regulations and to adopt rules that provide for the performance necessary to provide decent, safe and sanitary housing at prices that people of this State can afford and to establish regulations that govern those matters within this State; [PL 1993, c. 642, §8 (AMD).]

D. To establish an administrative board for the purpose of administering and enforcing this chapter and applicable warranties; [PL 1993, c. 642, §8 (AMD).]

E. To require this board to assume responsibilities as consistent with this chapter, including the enforcement of the provisions of this chapter, the administration and enforcement of rules, investigations of complaints and any other acts that are consistent with the purposes of this chapter; [PL 1999, c. 725, §1 (AMD).]

F. To have this board, in the administration of this chapter, give consideration to economic factors that may result in additional costs to home buyers and eliminate any unnecessary costs that may occur from the enforcement of this chapter or any other Act; and [PL 1993, c. 642, §8 (AMD).]

G. To grant to this board the investigative and regulatory powers it may reasonably require to accomplish the foregoing purposes and intent and to carry out the provisions of this chapter, including making decisions, in accordance with the Maine Administrative Procedure Act. [PL 1993, c. 642, §8 (AMD).]

[PL 1999, c. 725, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §1 (AMD). PL 1993, c. 642, §8 (AMD). PL 1999, c. 725, §1 (AMD). PL 2005, c. 678, §§1-3 (AMD). PL 2005, c. 678, §13 (AFF). PL 2013, c. 125, §1 (AMD). PL 2017, c. 210, Pt. B, §1 (AMD).

§9002. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and terms shall have the following meanings. [PL 1977, c. 550, §1 (NEW).]

1. Board. "Board" means the Manufactured Housing Board.

[PL 1977, c. 550, §1 (NEW).]

2. Dealer. "Dealer" means a person engaged in the sale, offering for sale, brokering or distribution of manufactured housing to a licensed dealer, developer dealer or consumer.

[PL 2005, c. 344, §1 (AMD).]

2-A. Developer dealer. "Developer dealer" means a person who purchases state-certified manufactured housing from a licensed manufacturer or dealer for placement on property owned by the developer dealer and who offers the manufactured housing for sale to the initial purchaser of the manufactured housing. The developer dealer may not install such manufactured housing but may contract with the manufacturer or dealer for the installation of such manufactured housing.

[PL 2005, c. 344, §2 (NEW).]

2-B. Educational facility. "Educational facility" means an academic institution providing education designed to provide career and technical training to its students through the construction of manufactured homes. "Educational facility" includes but is not limited to career or technical schools, high schools and postsecondary programs.

[PL 2017, c. 210, Pt. B, §2 (NEW).]

3. Federal manufactured home construction and safety standard. "Federal manufactured home construction and safety standard" means the standard for the construction, design and performance of a manufactured home that meets the needs of the public including the need for quality, durability and safety and that has been duly adopted by the Federal Government pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Improvement Act of 2000, 42 United States Code, Section 5401, et seq.

[PL 2017, c. 210, Pt. B, §3 (AMD).]

4. H.U.D. "H.U.D." means United States Department of Housing and Urban Development, a federal governmental agency.

[PL 1977, c. 550, §1 (NEW).]

5. Inspection agency. "Inspection agency" means an approved person or organization, public or private, determined by the board to be qualified by reason of facilities, personnel and demonstrated ability and independence of judgment to provide for inspection and approval of the design, construction or installation of manufactured housing in compliance with the standards and the rules adopted in accordance with this Act.

[PL 2017, c. 210, Pt. B, §4 (AMD).]

6. Installation. "Installation" means:

A. The placing of manufactured housing on a foundation or supports at a building site; and [PL 2017, c. 210, Pt. B, §5 (AMD).]

B. The assembly and fastening of structural components of manufactured housing, including the completed roof system, as specified by the manufacturer's installation instructions and in accordance with the rules of the board. [PL 2001, c. 260, Pt. A, §1 (NEW).]

For manufactured housing as defined in subsection 7, paragraphs A and C, "installation" also includes the connection to existing services, including but not limited to electrical, oil, gas, water, sewage and similar systems that are necessary for the use of the manufactured housing for dwelling purposes.
[PL 2017, c. 210, Pt. B, §5 (AMD).]

6-A. Installer. "Installer" means a person engaged in the installation or servicing of state-certified manufactured housing.
[PL 2005, c. 344, §3 (AMD).]

7. Manufactured housing. "Manufactured housing" means a structural unit or units designed to be used as a dwelling or dwellings and constructed in a manufacturing facility and then transported by the use of its own chassis or placement on an independent chassis to a building site. The term includes any type of building that is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and that may be purchased, sold, offered for sale or brokered by a licensee in the interim. For purposes of this Act, 3 types of manufactured housing are included. They are:

A. HUD-code homes, which are those units constructed after June 15, 1976 that the manufacturer certifies are constructed in compliance with the HUD standard, meaning structures, transportable in one or more sections that, in the traveling mode, are 8 body feet or more in width and 40 body feet or more in length or, when erected on site, are 320 or more square feet, and are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code 5401, et seq; [PL 2005, c. 344, §4 (AMD).]

B. State-certified modular homes, which are those units that the manufacturer certifies are constructed in compliance with this Act and rules, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein. "Manufactured housing" does not include modular homes constructed at an educational facility by students pursuant to rules adopted by the board; [PL 2017, c. 210, Pt. B, §6 (AMD).]

C. Pre-HUD-code homes, which are those units constructed prior to June 15, 1976, meaning structures, transportable in one or more sections, that are 8 body feet or more in width and are 32 body feet or more in length and are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein. [PL 2005, c. 344, §4 (AMD).]
[PL 2017, c. 210, Pt. B, §6 (AMD).]

8. Manufacturer. "Manufacturer" means any person engaged in manufacturing or producing manufactured housing and then selling it to a dealer.
[PL 1977, c. 550, §1 (NEW).]

9. Mechanic. "Mechanic" means an individual engaged in the installation or servicing of HUD-code or pre-HUD-code homes.
[PL 2005, c. 344, §5 (AMD).]

10. Mobile home.

[PL 1981, c. 152, §6 (RP).]

11. Modular home.

[PL 1981, c. 152, §7 (RP).]

12. Person. "Person" means an individual or entity, including but not limited to a corporation, partnership, firm, organization, company, homeowner, consumer or purchaser.
[PL 2017, c. 210, Pt. B, §7 (NEW).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1979, c. 365 (AMD). PL 1979, c. 436 (AMD). PL 1981, c. 152, §§2-7 (AMD). PL 1993, c. 642, §9 (AMD). PL 2001, c. 260, §A1 (AMD). PL 2005, c. 344, §§1-5 (AMD). PL 2017, c. 210, Pt. B, §§2-7 (AMD).

§9003. Manufactured Housing Board

1. Established. The Manufactured Housing Board, established by Title 5, section 12004-A, subsection 22, consists of 9 members appointed by the Governor.
[PL 2007, c. 402, Pt. D, §1 (AMD).]

2. Composition of board; terms of members. The members of the board include:

A. [PL 1997, c. 727, Pt. C, §2 (RP).]

B. Three public members, as defined in Title 5, section 12004-A, at least one of whom lives in manufactured housing; [PL 2007, c. 402, Pt. D, §1 (AMD).]

C. One member who is a professional engineer with demonstrated experience in construction and building technology; [PL 1995, c. 462, Pt. A, §26 (RPR).]

D. Two members who are dealers; [PL 2013, c. 217, Pt. B, §1 (RPR).]

E. [PL 2013, c. 217, Pt. B, §2 (RP).]

F. One member who is an owner or operator of a manufactured housing community; [PL 2017, c. 210, Pt. B, §8 (AMD).]

G. One member who is a builder of manufactured housing; and [PL 1995, c. 462, Pt. A, §26 (RPR).]

H. One member with a minimum of 2 years of practical experience in building code administration and enforcement and with current employment as a code enforcement officer. [PL 1995, c. 462, Pt. A, §26 (RPR).]

The term of office of the members is 4 years. Appointment of a member must comply with section 8009. A member of the board may be removed for cause by the Governor.
[PL 2017, c. 210, Pt. B, §8 (AMD).]

3. Vacancies.

[PL 1995, c. 462, Pt. A, §27 (RP).]

4. Duties.
[PL 2007, c. 402, Pt. D, §1 (RP).]

5. Compensation.

[PL 1995, c. 397, §13 (RP).]

6. Organization.
[PL 2007, c. 402, Pt. D, §1 (RP).]

7. Meetings; chair. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members.
[PL 2013, c. 246, Pt. B, §1 (AMD).]

8. Administration.
[PL 2007, c. 402, Pt. D, §1 (RP).]

9. Federal funds and other funding sources.
[PL 2007, c. 402, Pt. D, §1 (RP).]

10. Manufactured housing account.
[PL 2007, c. 402, Pt. D, §1 (RP).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1983, c. 553, §14 (AMD). PL 1983, c. 812, §§69,70 (AMD). PL 1987, c. 395, §§A35,A36 (AMD). PL 1989, c. 271, §§1,2 (AMD). PL 1991, c. 391, §1 (AMD). PL 1993, c. 600, §§A13,14 (AMD). PL 1993, c. 642, §10 (AMD). PL 1995, c. 397, §13 (AMD). PL 1995, c. 462, §§A26,27 (AMD). PL 1995, c. 502, §H12 (AMD). PL 1997, c. 727, §§C2,3 (AMD). PL 1999, c. 687, §F1 (AMD). PL 2007, c. 402, Pt. D, §1 (AMD). PL 2013, c. 217, Pt. B, §§1, 2 (AMD). PL 2013, c. 246, Pt. B, §1 (AMD). PL 2017, c. 210, Pt. B, §8 (AMD).

§9004. Employees

1. Executive director. The Commissioner of Professional and Financial Regulation may appoint or remove for cause, with the advice of the board, an executive director who is the principal administrative and supervisory employee of the Department of Professional and Financial Regulation for the board. The executive director shall supervise the personnel employed to carry out the purposes of this chapter.
[PL 2007, c. 402, Pt. D, §2 (AMD).]

2. Employees.
[PL 1999, c. 687, Pt. F, §2 (RP).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1983, c. 553, §46 (AMD). PL 1985, c. 785, §B56 (AMD). PL 1987, c. 395, §A37 (AMD). PL 1993, c. 642, §11 (AMD). PL 1995, c. 502, §H13 (AMD). PL 1999, c. 687, §F2 (AMD). PL 2007, c. 402, Pt. D, §2 (AMD).

§9005. Rules and regulations

(REPEALED)

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1977, c. 694, §§191-193 (AMD). PL 1993, c. 642, §12 (AMD). PL 1999, c. 687, §E1 (AMD). PL 2007, c. 402, Pt. D, §3 (RP).

§9005-A. Powers and duties

The board shall administer and enforce the provisions of this chapter. [PL 2007, c. 402, Pt. D, §4 (NEW).]

The board shall propose, revise, adopt and enforce rules necessary to carry out this chapter in accordance with the provisions of Title 5, chapter 375, subchapter 2. Rules adopted pursuant to this

section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The board may delegate the enforcement authority to employees. [PL 2007, c. 402, Pt. D, §4 (NEW).]

SECTION HISTORY

PL 2007, c. 402, Pt. D, §4 (NEW).

§9006. Installation standards

1. Standards. The board shall, by rule, set uniform reasonable standards for the installation of manufactured homes, including, but not limited to, standards for foundations, supports, anchoring, underpinning and skirting of manufactured homes installed in this State.
[PL 2017, c. 210, Pt. B, §9 (AMD).]

2. Exemption. Manufactured housing which is manufactured, sold, installed or serviced in compliance with this chapter shall be exempt from all state or other political subdivision codes, standards or regulations which regulate the same matters.
[PL 1981, c. 152, §8 (RPR).]

3. Exemption.

[PL 1981, c. 152, §8 (RP).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §8 (RPR). PL 1993, c. 642, §13 (AMD). PL 2017, c. 210, Pt. B, §9 (AMD).

§9006-A. Notice of installation

(REPEALED)

SECTION HISTORY

PL 1989, c. 271, §3 (NEW). PL 1991, c. 509, §5 (AMD). PL 1993, c. 642, §14 (AMD). PL 1997, c. 210, §4 (RP).

§9006-B. Formaldehyde emissions; disclosure

In addition to requiring that the "Health Notice on Formaldehyde Emissions" set out in 24 Code of Federal Regulations 53280.309 be prominently displayed in each manufactured housing unit sold in the State and provided as part of the Manufactured Home Consumer Manual provided to each purchaser of a new manufactured housing unit, the board shall require that a copy of that notice be provided to a purchaser of a new manufactured housing unit at the time of execution of the purchase and sales agreement, and that each purchaser sign a certification, provided at the bottom of that notice, that the purchaser has read and understood the contents of the notice before signing the purchase and sales agreement. [PL 2017, c. 210, Pt. B, §10 (AMD).]

SECTION HISTORY

PL 1993, c. 186, §1 (NEW). PL 2017, c. 210, Pt. B, §10 (AMD).

§9006-C. Warranty seals

The board shall issue warranty seals to be attached on manufactured housing sold in this State. The following provisions govern the attachment of warranty seals on manufactured housing. [PL 1993, c. 642, §15 (NEW).]

1. Manufacturer's warranty seal. Before manufactured housing may be installed in this State, the manufacturer shall first obtain from the board a Maine manufacturer's warranty seal. The warranty seal may be issued upon payment of the fee as set pursuant to section 9021, subsection 2-A. The manufacturer must attach the seal to the manufactured housing.
[PL 2009, c. 241, Pt. A, §1 (AMD).]

2. Installer's or mechanic's warranty seal. Before manufactured housing may be installed in this State, the installer or mechanic must obtain from the board a Maine installer's or mechanic's warranty seal. The warranty seal may be issued upon payment of the fee as set pursuant to section 9021, subsection 2-A. The installer or mechanic must attach the seal to the manufactured housing.
[PL 2009, c. 241, Pt. A, §2 (AMD).]

SECTION HISTORY

PL 1993, c. 642, §15 (NEW). PL 2005, c. 344, §6 (AMD). PL 2009, c. 241, Pt. A, §§1, 2 (AMD).

§9006-D. Notice of installation

1. Notice of installation. A manufacturer, dealer, mechanic and installer shall notify the board every month of the installations completed by that person that month. The notice must include the location of each unit of manufactured housing, the owner of each unit at the time of installation, the type or model of the unit, the manufacturer of the unit, written certification that the installation meets standards that conform to those required by the board and the name and address of the manufacturer, dealer, mechanic or installer. The information must be submitted within 10 days after the end of each month in the form and manner prescribed by the board by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 2001, c. 281, §1 (NEW).]

2. Failure to file. The board may require a manufacturer, dealer, mechanic or installer who fails to comply with this section to pay a fine of not less than $5 and not more than $100 for each day the notice is late.
[PL 2001, c. 281, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 281, §1 (NEW).

§9007. Reciprocity

(REPEALED)

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1977, c. 694, §§194,195 (AMD). PL 1981, c. 152, §9 (RP).

§9008. Prohibited practices

1. Licenses. A person may not manufacture, sell, broker, distribute, install or service any manufactured housing in this State regardless of the destination of the housing without first obtaining a license from the board as required in this chapter.
[PL 2017, c. 210, Pt. B, §11 (AMD).]

2. Violation of regulations and standards. A person may not knowingly manufacture, sell, broker, distribute, install or service manufactured housing in the State that is not in compliance with the regulations and standards authorized under this chapter.
[PL 2005, c. 344, §7 (AMD).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §10 (RPR). PL 2005, c. 344, §7 (AMD). PL 2017, c. 210, Pt. B, §11 (AMD).

§9009. Investigations; suspensions; revocations

1. Investigations. The board is authorized to conduct any inspections and investigations as may be necessary to carry out its responsibilities under this chapter. Fees for inspection of manufactured housing that must be paid by the manufacturer, dealer, developer dealer, installer or mechanic whose actions or failure to act gave rise to the necessity of the inspection are set pursuant to section 9021,

subsection 2-A. The board is authorized to contract with local governments and private inspection organizations to carry out such inspection functions to the extent not prohibited by federal law, rule or regulation.
[PL 2009, c. 241, Pt. A, §3 (AMD).]

2. Investigation of complaints; revocation or suspension of licenses.
[PL 2007, c. 402, Pt. D, §5 (RP).]

3. Remedies for manufacturing and building system defects. The board staff may investigate any complaints made to the board of noncompliance with or violation of chapter 213 or a warranty applicable to the sale of manufactured housing. If the board finds, after hearing, that a manufacturer, dealer or developer dealer has sold, or is making available for sale, manufactured housing that poses a threat to public health or safety or has failed to comply with chapter 213 or an applicable warranty, express or implied, the board may order the manufacturer, dealer or developer dealer or any combination thereof to take appropriate corrective action. Corrective action may include, but is not limited to, reimbursing consumers for repairs that are covered by warranty and made by the consumer if the consumer notifies the dealer, developer dealer or manufacturer in writing of the defect within a reasonable time prior to undertaking the repairs and the board finds that the repairs are or were necessary to correct or prevent an imminent threat to health or safety or to the structure of the manufactured housing. The board may also revoke or suspend the license of the manufacturer, dealer, developer dealer or any combination thereof to prevent any future threat to public health or safety. Notwithstanding the provisions of section 8003, subsection 5-A, revocations ordered by the board are subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7. This subsection applies to any new manufactured housing that is sold to a consumer after January 1, 1993.
[PL 2017, c. 210, Pt. B, §12 (AMD).]

4. Remedies for installation defects. The board staff may investigate all complaints made to the board of noncompliance with or violation of chapter 213 or a warranty applicable to the installation of manufactured housing. If the board finds, after hearing, that the installation of manufactured housing poses a threat to public health or safety or does not comply with the board's installation standards, chapter 213 or any applicable warranty, the board may order the installer to take appropriate corrective action. Corrective action may include, but is not limited to, reimbursing consumers for repairs that are covered by warranty and made by the consumer if the consumer notifies the installer or mechanic in writing of the defect within a reasonable time prior to undertaking the repairs and the board finds that the repairs are or were necessary to correct or prevent an imminent threat to health or safety or to the structure of manufactured housing. The board may also revoke or suspend the installer's or mechanic's license to install manufactured housing to prevent any future threat to the public health or safety. Notwithstanding the provisions of Title 10, section 8003, subsection 5-A, revocations ordered by the board are subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7. This subsection applies to any new manufactured housing that is sold to a consumer after January 1, 1993.
[PL 2007, c. 402, Pt. D, §5 (AMD).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1977, c. 694, §196 (AMD). PL 1989, c. 690, §1 (AMD). PL 1993, c. 642, §§16-19 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2005, c. 344, §§8-10 (AMD). PL 2007, c. 402, Pt. D, §5 (AMD). PL 2009, c. 241, Pt. A, §3 (AMD). PL 2017, c. 210, Pt. B, §12 (AMD).

§9010. Hearings and appeals

(REPEALED)

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1977, c. 694, §197 (RPR). PL 1993, c. 642, §20 (AMD). PL 2007, c. 402, Pt. D, §6 (RP).

§9011. Enforcement and penalties

1. Inspection of violations. The board may, upon complaint or probable cause, inspect the manufactured housing, manufacturing facilities, a licensee's business facilities or such records as may be necessary to verify whether a violation has occurred. If the board finds that a violation has occurred, it shall proceed pursuant to section 9009.
[PL 2017, c. 210, Pt. B, §13 (AMD).]

2. Petition to initiate legal action. The board may petition the Attorney General to initiate legal action in any court of competent jurisdiction for monetary or injunctive relief to enforce this chapter.
[PL 1993, c. 642, §21 (AMD).]

3. Penalties. Any person found guilty of violation of this chapter may be required to pay a civil penalty of not more than $1,000 for each such violation, but not more than $5,000 for an action consisting of separate violations.
[PL 1977, c. 550, §1 (NEW).]

4. Private actions. The private rights of action created by this subsection are in addition to any rights of enforcement and relief granted to the board in this chapter. The board shall notify all claimants of their right to seek remedy.

A. A person damaged as a result of a violation of this chapter also has a cause of action in court against the person responsible for the manufacture, brokering, distribution, sale, lease, installation or service, and the court may award appropriate damages and cost for litigation in its judgment. [PL 2005, c. 344, §11 (AMD).]

B. After exhausting all administrative remedies, a person damaged as a result of a violation of section 9042 also has a cause of action in court against the political subdivision of the State that fails to comply with the provisions of section 9042, and the court may award injunctive relief. [PL 1999, c. 725, §2 (NEW).]

[PL 2005, c. 344, §11 (AMD).]

5. Crime designated. An individual or a director, officer or agent of a corporation who knowingly and willfully violates section 9008 in a manner that threatens the health or safety of any purchaser commits a Class E crime.
[PL 1993, c. 642, §21 (AMD).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1993, c. 642, §21 (AMD). PL 1999, c. 725, §2 (AMD). PL 2005, c. 344, §11 (AMD). PL 2017, c. 210, Pt. B, §13 (AMD).

§9012. Confidential information

1. Reported information. All information reported to or otherwise obtained by the board, its director or any of its employees which contains or relates to a trade secret, or which, if disclosed would put the person furnishing the information at a substantial competitive disadvantage, shall be considered confidential, except that the information may be disclosed to other federal, state or local officials concerned with enforcement of this chapter or when relevant in any proceeding under this chapter or any related law, rule or regulation.
[PL 1977, c. 550, §1 (NEW).]

2. Refusal to release information. In any action brought against a member, officer or employee of the board pursuant to Title 1, section 410, for refusal to release information in the custody or control of the board, it shall be a defense if the defendant refused to release the information in the good faith belief that such information was rendered confidential by the terms of subsection 1.

[PL 1977, c. 550, §1 (NEW).]

3. State not liable. No action for damages shall accrue against the State or the board, or the members, officers or employees of the board:

A. For the mistaken release of information rendered confidential by subsection 1. [PL 1977, c. 550, §1 (NEW).]

[PL 1977, c. 550, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW).

§9013. Fees

(REPEALED)

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §11 (RP).

§9014. Authorized inspection agencies

(REPEALED)

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §12 (RP).

SUBCHAPTER 2

LICENSING

§9021. Licenses

The board shall adopt rules governing qualifications for each category of license under its jurisdiction. [PL 1993, c. 642, §22 (NEW).]

1. Licenses required. Any person who engages in the business of manufacturing, brokering, distributing, selling, installing or servicing manufactured housing, regardless of the destination of the housing, must first obtain a license issued by the board. The board shall, within a reasonable time, issue a license to any person who intends to manufacture, sell, install or service manufactured housing in this State subject to filing and approval of an application. Any person who is licensed to conduct these activities by other state or federal law is exempt from this requirement when the law provides for specific authority to provide a particular service or preempts the requirement for such a license. Active licensees of the Real Estate Commission are exempt from the licensing requirement for selling or brokering used manufactured housing and new manufactured housing if such housing is sold or offered for sale by a licensee of the board.

[PL 2017, c. 210, Pt. B, §14 (AMD).]

1-A. Initial training. All licensees and applicants for licensure must obtain initial training, including, but not limited to, the servicing and installation of manufactured housing. Applicants for initial licensure must complete the training before the board approves the application for licensure.

[PL 2007, c. 402, Pt. D, §7 (AMD).]

2. License fees.

[PL 2007, c. 402, Pt. D, §7 (RP).]

2-A. Fees. The Director of the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized

under this chapter in amounts that are reasonable and necessary for their respective purposes. The license fee to operate a manufactured housing community pursuant to subchapter 6 may not exceed a base fee of $60 plus an additional amount of up to $6 per manufactured home site. This fee must accompany each license application, including applications for manufactured housing community expansion and license renewal. The review and evaluation fees authorized by section 9083 may not exceed the actual cost of the review or evaluation. The fee for any inspection authorized by this chapter may not exceed the actual cost of the inspection. The fee for each warranty seal required by section 9006-C, subsections 1 and 2 and each new dwelling unit required by section 9045 may not exceed $200. The fee for any other purpose authorized by this chapter may not exceed $200 annually. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2017, c. 210, Pt. B, §15 (AMD).]

3. License term. A license expires on the date set by the Commissioner of Professional and Financial Regulation pursuant to section 8003, subsection 4 for the licensing period for which the license was issued. A license may be renewed upon receipt of an application for renewal and the payment of the renewal fee as set pursuant to subsection 2-A. A license may be renewed up to 90 calendar days after the date of expiration upon payment of a late fee in addition to the renewal fee. An applicant who submits an application for renewal more than 90 calendar days after the expiration date is subject to all requirements governing new applicants under this chapter.
[PL 2009, c. 241, Pt. A, §5 (AMD).]

4. Renewals. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under subsection 2-A. If any licensee fails to renew within 90 days after expiration, that licensee is required to make a new application.
[PL 2007, c. 402, Pt. D, §7 (AMD).]

5. Renewals.

[PL 1981, c. 152, §13 (RP).]

6. Financial responsibility. The board may require bonding or other reasonable methods to ensure that manufacturers, dealers, developer dealers and others licensed under this chapter are financially responsible to fully comply with this chapter.
[PL 2005, c. 344, §15 (AMD).]

7. Service of process.

[PL 2013, c. 217, Pt. B, §3 (RP).]

8. Licensing penalties.
[PL 2007, c. 402, Pt. D, §7 (RP).]

8-A. Denial or refusal to renew license; disciplinary action. In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the following reasons:

A. Accepting manufactured housing, directly or indirectly, from a manufacturer not licensed by the State pursuant to this chapter; [PL 2007, c. 402, Pt. D, §7 (NEW).]

B. Selling or delivering, directly or indirectly, manufactured housing to a dealer or developer dealer not licensed by the State pursuant to this chapter; or [PL 2007, c. 402, Pt. D, §7 (NEW).]

C. Violation of any of the provisions of chapter 213. [PL 2007, c. 402, Pt. D, §7 (NEW).]
[PL 2007, c. 402, Pt. D, §7 (NEW).]

9. Proof of sales tax registration. The board shall require that an applicant for a manufacturer, dealer or developer dealer license under this subchapter demonstrate that the applicant is registered

with the State Tax Assessor for the collection of sales and use tax under Title 36, chapter 211 or that the applicant is not required to register under that chapter.
[PL 2005, c. 344, §17 (AMD).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1979, c. 302, §§1,2 (AMD). PL 1981, c. 152, §13 (RPR). PL 1983, c. 553, §15 (AMD). PL 1991, c. 391, §§2-4 (AMD). PL 1993, c. 642, §§22-25 (AMD). PL 1999, c. 386, §§C1,2 (AMD). PL 2001, c. 281, §2 (AMD). PL 2005, c. 344, §§12-17 (AMD). PL 2007, c. 402, Pt. D, §7 (AMD). PL 2009, c. 241, Pt. A, §§4, 5 (AMD). PL 2011, c. 286, Pt. B, §5 (REV). PL 2013, c. 217, Pt. B, §3 (AMD). PL 2017, c. 210, Pt. B, §§14, 15 (AMD).

§9022. Service and installations

1. Dealers. Dealers who are licensed according to this chapter may install or service, or may have their employees install or service any manufactured housing in compliance with this chapter and the dealer and his employees shall be exempt from any requirements for trade or mechanic licenses of any other type. The dealer is not exempt from any requirements for a permit which any state or political subdivision may require.
[PL 1977, c. 550, §1 (NEW).]

2. Manufacturers. A manufacturer may manufacture or sell to dealers and developer dealers when licensed as a manufacturer of manufactured housing and may repair defects and is exempt from any licensing requirements of other state or political subdivisions.
[PL 2005, c. 344, §18 (AMD).]

3. Mechanics. Licensed mechanics may install or service HUD-code homes and pre-HUD-code homes and are exempt from any other licensing requirements of any state or political subdivisions, but must obtain any permits required.
[PL 2017, c. 210, Pt. B, §16 (AMD).]

4. Installers. Licensed installers may install and service state-certified modular homes and are exempt from any other licensing requirements of any state or political subdivisions but must obtain any permits required.
[PL 2017, c. 210, Pt. B, §17 (AMD).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1999, c. 386, §C3 (AMD). PL 2005, c. 344, §18 (AMD). PL 2017, c. 210, Pt. B, §§16, 17 (AMD).

SUBCHAPTER 3

STATE CERTIFIED MANUFACTURED HOUSING

§9041. General rules

The board shall adopt rules and establish standards as provided by section 9005-A to administer and enforce this subchapter. [PL 2007, c. 695, Pt. B, §3 (AMD).]

For purposes of this subchapter, manufactured housing includes only housing defined in section 9002, subsection 7, paragraph B. [PL 1993, c. 642, §26 (AMD).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §14 (RPR). PL 1991, c. 714, §4 (AMD). PL 1993, c. 642, §26 (AMD). PL 2007, c. 695, Pt. B, §3 (AMD).

§9042. Standards

1. Standards. The board shall, by rule, adopt standards in conformance with nationally recognized standards for the construction and the installation of manufactured housing.
[PL 1993, c. 642, §27 (AMD).]

2. Approval. The board shall approve for sale or installation all manufactured housing that complies with the rules and standards authorized by this chapter or shall delegate the authority to inspect and approve the manufactured housing by inspection agencies authorized by the board.
[PL 1993, c. 642, §27 (AMD).]

3. Exemption. Notwithstanding the provisions of Title 25, section 2357-A and Title 30-A, section 4358, new manufactured housing that is manufactured, brokered, distributed, sold, installed or serviced in compliance with this chapter is exempt from all state or other political subdivision codes, standards, rules or regulations that regulate the same matters. A building permit or certificate of occupancy may not be delayed, denied or withheld on account of any alleged failure of new manufactured housing to comply with any code, standard, rule or regulation from which the new manufactured housing is exempt under this subsection.
[PL 2011, c. 633, §4 (AMD).]

4. Certification.

[PL 1981, c. 152, §14 (RP).]

5. Local enforcement. Except as specifically set forth in this subsection, a certificate of occupancy for any certified manufactured housing may not be denied, delayed or withheld on account of any alleged failure to comply with this chapter or any building code or rule adopted by the board. For the purposes of this section, "certified manufactured housing" means new manufactured housing to which a label, seal or other device has been affixed, in accordance with rules adopted by the board, certifying the compliance of the housing with this chapter and all applicable rules.

A. The State or a political subdivision of the State may deny a certificate of occupancy for any certified manufactured housing when, in the exercise of reasonable judgment, the State or the political subdivision of the State determines that an imminent and direct risk of serious physical injury or death would exist in the normal use of the manufactured housing. [PL 1999, c. 725, §4 (NEW).]

B. If a certificate of occupancy for certified manufactured housing is denied, the State or a political subdivision of the State shall promptly provide the applicant for the certificate of occupancy with written notice of the denial. The notice must describe each reason for the denial of the certificate of occupancy in sufficient detail to allow the applicant to correct each deficiency noted. The State or a political subdivision of the State shall simultaneously provide a copy of the notice to the board. [PL 1999, c. 725, §4 (NEW).]

C. If the code enforcement or other inspection officer of the State or a political subdivision of the State identifies a failure of certified manufactured housing to comply with this chapter or any building code or rule adopted by the board, the officer may file a complaint with the board in accordance with section 9051. [PL 1999, c. 725, §4 (NEW).]

D. This chapter may not be construed to impose a duty on a code enforcement or other inspection officer of the State or a political subdivision of the State to inspect any certified manufactured housing for compliance with this chapter or any building code or rule adopted by the board. Unless a certificate of occupancy has been issued pursuant to the provisions of section 9043, subsection 2, paragraph A, a certificate of occupancy for certified manufactured housing does not constitute a representation by the State or a political subdivision of the State that the manufactured housing meets the standards established under this chapter. [PL 1999, c. 725, §4 (NEW).]

[PL 1999, c. 725, §4 (NEW).]

6. Review of denial; issuance of certificate of occupancy. Notwithstanding the provisions of Title 25, chapter 313, if a certificate of occupancy for certified manufactured housing is denied on account of any alleged failure of the manufactured housing to comply with this chapter or any building code or rule adopted by the board or any law, rule, regulation or ordinance from which the manufactured housing is exempt under this chapter, the applicant for the certificate of occupancy may petition the board to review the denial.

The board shall issue a certificate of occupancy for the manufactured housing if, after appropriate notice and administrative hearing in accordance with Title 5, chapter 375, subchapter IV, the board determines that:

A. The manufactured housing has been certified pursuant to the rules adopted by the board; [PL 1999, c. 725, §4 (NEW).]

B. The certificate of occupancy was not denied pursuant to subsection 5, paragraph A; and [PL 1999, c. 725, §4 (NEW).]

C. The notice of denial issued under subsection 5, paragraph B does not specify any violation of applicable law, rule, regulation or ordinance from which the manufactured housing is not exempted under this chapter. [PL 1999, c. 725, §4 (NEW).]

A certificate of occupancy issued under this subsection has the same validity, force and effect as if issued by the State or a political subdivision of the State in which the manufactured housing is located. [PL 1999, c. 725, §4 (NEW).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §14 (RPR). PL 1993, c. 642, §27 (AMD). PL 1999, c. 725, §§3,4 (AMD). PL 2005, c. 344, §19 (AMD). PL 2011, c. 633, §4 (AMD).

§9043. Approval alternatives

1. Inspection agency. Any manufacturer seeking inspection and approval of manufactured housing subject to the requirements of this subchapter may contract with an inspection agency authorized by the board to perform the necessary services in order to obtain approval of the manufactured housing.
[PL 1981, c. 152, §14 (RPR).]

2. Local option. The provisions of this subchapter must be waived by the board with respect to manufactured housing that is installed in a municipality that has adopted a building code and has a local building code enforcement agency if:

A. The manufactured housing is found by the local enforcement agency to comply with the applicable local building code; and [PL 1981, c. 152, §14 (NEW).]

B. The local enforcement agency reports the compliance to the board in such form and detail as the board may reasonably require. [PL 2017, c. 210, Pt. B, §18 (AMD).]

[PL 2017, c. 210, Pt. B, §18 (AMD).]

3. Program of approval. The board may provide a special program of approval to manufacturers who can demonstrate an unreasonable economic hardship resulting from the alternatives in subsections 1 and 2, except that in no case shall a program of unsupervised self-certification be authorized.
[PL 1981, c. 152, §14 (NEW).]

4. Certification. The manufacturer of that housing, regardless of the approval alternative used, shall certify that the manufactured housing conforms to all applicable standards whether adopted by the board or local enforcement agency, as the case may be, and that manufacturer's certification must be permanently affixed to the manufactured housing in accordance with such requirements as the board may by rule prescribe. Affixation of a certificate to manufactured housing signifies the manufacturer's

representation and warranty to all purchasers of the housing that the housing was manufactured in accordance with all applicable standards of the board or the local enforcement agency, as the case may be, in effect on the date of manufacture.
[PL 2017, c. 210, Pt. B, §19 (AMD).]

5. Documentation. The manufacturer shall provide to an agency in accordance with this section for review and approval any required documents necessary to define the design, assembly and installation of the manufactured housing to be produced, including the quality assurance practices to be applied by the manufacturer.
[PL 1981, c. 152, §14 (NEW).]

6. Inspection and certification. Manufactured housing produced by a manufacturer approved in subsection 5, shall be inspected by an approval agency in accordance with this section, and certified by that agency as having been constructed in accordance with the standards adopted by the board or local enforcement agency, as the case may be, provided the approval agency makes that determination.
[PL 1981, c. 152, §14 (NEW).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §14 (RPR). PL 2007, c. 402, Pt. D, §8 (AMD). PL 2017, c. 210, Pt. B, §§18, 19 (AMD).

§9044. Authorized inspection agencies

1. Establishment of procedures and standards. The board shall, by regulation, establish procedures and standards for the qualification of private or public agencies to perform evaluation and inspection services required by this subchapter. The current edition of the Criteria for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Buildings, ASTM-E 541, as adopted by the American Society of Testing and Materials shall be considered by the board in adopting these standards and procedures.
[PL 1981, c. 152, §14 (NEW).]

2. Inspection agencies. The board shall qualify as inspection agencies only those persons or organizations which it determines to comply with the standards adopted by the board pursuant to subsection 1. Inspection agencies qualified under this subsection may contract with manufactured housing manufacturers to provide inspection services required by this subchapter.
[PL 1981, c. 152, §14 (NEW).]

3. Suspension of qualification. Qualification of an inspection agency must be suspended by the board if, after appropriate notice and administrative hearing, it determines the agency is no longer qualified as meeting the standards adopted pursuant to subsection 1. The board may request information and documentation and may conduct such reviews and inspections of the work of a qualified agency as the board determines are necessary to reasonably ensure continuing compliance of the qualified agency with the standards adopted pursuant to subsection 1.
[PL 2017, c. 210, Pt. B, §20 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §14 (NEW). PL 2017, c. 210, Pt. B, §20 (AMD).

§9045. New unit and inspection fees

A fee for each new dwelling unit that is installed in the State and fees for inspection of manufactured housing that must be paid by the manufacturer, dealer, developer dealer, installer or mechanic whose actions or failure to act gave rise to the necessity of the inspection are set under section 9021, subsection 2-A. [PL 2007, c. 402, Pt. D, §9 (RPR).]

1. Fee for new units.
[PL 2007, c. 402, Pt. D, §9 (RP).]

2. Fee for inspection.
[PL 2007, c. 402, Pt. D, §9 (RP).]

SECTION HISTORY

PL 1981, c. 152, §14 (NEW). PL 1983, c. 553, §16 (AMD). PL 1991, c. 391, §§5,6 (AMD). PL 2005, c. 344, §20 (AMD). PL 2007, c. 402, Pt. D, §9 (RPR).

§9046. Complaint investigation

Upon complaint by any person concerning an alleged violation of this chapter, the board may investigate and determine, or may cause to be investigated and determined, whether the unit complies with established rules. The board shall notify the complainant of the complainant's right to relief under section 9011, subsection 4. If the board determines the defect occurred in other similar manufactured housing, the board shall notify all ascertainable purchasers of the housing, in accordance with the records obtained from the manufacturer and dealer of their possible right of action under this subchapter. Failure of the manufacturer, dealer or developer dealer to retain reasonable business records or to provide access to those records in response to a request by the board pursuant to this subchapter is a violation of this chapter. [PL 2017, c. 210, Pt. B, §21 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §14 (NEW). PL 2005, c. 344, §21 (AMD). PL 2017, c. 210, Pt. B, §21 (AMD).

§9047. Notification and correction of defects

1. Manufacturer. Every manufacturer of manufactured housing in this State and any manufacturer who offers manufactured housing for sale, lease, delivery, introduction or importation into this State shall furnish notification of any defect in manufactured housing produced by the manufacturer that the manufacturer or the board determines relates to a standard of the board that is applicable to the housing or that constitutes a safety hazard to an occupant of the housing. The notification must be accomplished in a manner and within a time the board by rule prescribes, except that the rules must at least provide the following:

A. Notification by mail to the first purchaser of the manufactured housing, other than a dealer or developer dealer of the manufacturer, and to any subsequent purchaser whose identity the manufacturer knows; [PL 2005, c. 344, §22 (AMD).]

B. Notification by mail or some expeditious means to the dealers and developer dealers of the manufacturer to whom the manufactured housing was delivered; and [PL 2005, c. 344, §23 (AMD).]

C. Notification by mail to the board. [PL 1981, c. 152, §14 (NEW).]
[PL 2005, c. 344, §§22, 23 (AMD).]

2. Dealers. Any person who sells, leases, delivers or transports manufactured housing that has been certified under this chapter shall notify the board and any present or prospective purchaser of the housing in writing of any defect resulting from damage or modification to the housing that the person determines relates to a standard of the board that is applicable to the housing or that constitutes a safety hazard to an occupant of the housing. This requirement does not apply to sales or leases of manufactured housing after the first purchase of the housing by a person for purposes other than resale and does not apply to deliveries or transportations of the manufactured housing that occur after the first installation of the housing on a permanent foundation.
[PL 1993, c. 642, §28 (AMD).]

3. Corrections. The licensed person responsible for noncompliance with the standards adopted by the board or for the creation of a safety hazard shall promptly make or cause to be made such repairs and modifications as may be necessary to correct the nonconformance or eliminate the safety hazard. Any licensed person who fails to make these repairs or modifications is subject to section 9009.

[PL 2017, c. 210, Pt. B, §22 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §14 (NEW). PL 1993, c. 642, §28 (AMD). PL 2005, c. 344, §§22,23 (AMD). PL 2017, c. 210, Pt. B, §22 (AMD).

§9048. Reciprocity

1. Standards. If the board finds that the standards for the manufacture and inspection of manufactured housing prescribed by statute or regulation of another state or governmental agency meet the objectives of this chapter and the rules adopted pursuant to this chapter and are enforced satisfactorily by that other state or other governmental agency, or by their agents, the board may accept manufactured housing that has been certified by that other state or governmental agency as being in compliance with this chapter. The standards of another state are not considered to be satisfactorily enforced unless that other state provides for notification to the board of suspensions or revocations of approvals issued by that other state in a manner satisfactory to the board and so notifies the board. Acceptance of this notification does not remove the board's right to pursue remedies outlined in sections 9009 and 9011.
[PL 1993, c. 642, §29 (AMD).]

2. Suspension or revocation. Notwithstanding Title 5, section 10051, the board may suspend or revoke the board's acceptance or certification, or both, of manufactured housing certified under the reciprocal provisions of this section, for the following causes:

A. If the board determines that the standards for the manufacture and inspection of the manufactured housing of another state or governmental agency do not meet the objectives of this chapter and the rules adopted pursuant to this chapter; [PL 1993, c. 642, §29 (AMD).]

B. The board determines that the standards for manufacture and inspection are not being enforced to the satisfaction of the board; or [PL 1981, c. 152, §14 (NEW).]

C. The other state or governmental agency suspends or revokes its approval or certification. [PL 1981, c. 152, §14 (NEW).]

[PL 1993, c. 642, §29 (AMD).]

3. Cooperation. In order to encourage reciprocity, the board shall cooperate with similar authorities in other jurisdictions, with national standards organizations and with model code procedures for testing, evaluating, approving and inspecting manufactured housing, and otherwise encouraging their production and acceptance.
[PL 1981, c. 152, §14 (NEW).]

4. Agreement. The board shall not grant this reciprocity unless the recipient state enters into an agreement with the board whereby manufactured housing manufactured within Maine and regulated under the provisions of this chapter shall be deemed approved for sale in that recipient state.
[PL 1981, c. 152, §14 (NEW).]

5. Formal agreements. The board, subject to the approval of the Commissioner of Professional and Financial Regulation, may enter into formal agreements with the agencies or authorities of other states, or other governmental agencies, or their agents, to carry out the purpose of this chapter.
[PL 2007, c. 402, Pt. D, §10 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §14 (NEW). PL 1993, c. 642, §29 (AMD). PL 2007, c. 402, Pt. D, §10 (AMD).

SUBCHAPTER 4

COMPLAINTS

§9051. General

1. Violation. The board may cause to be investigated any complaint of an alleged violation by any licensee or of any rules adopted by the board, either by its own inspector or any authorized agency to determine the validity of the complaint.

A. Within one year and 10 days after installation, any home buyer of new manufactured housing may file a complaint about any defective construction or installation defect. [PL 1981, c. 152, §15 (RPR).]

B. Any person having knowledge of a violation of this chapter may file a complaint within one year of that violation. [PL 1981, c. 152, §15 (RPR).]

[PL 2017, c. 210, Pt. B, §23 (AMD).]

2. Form. Complaints may be made in any form, as approved by the board, as long as the complaint includes all information the board considers necessary.

[PL 2017, c. 210, Pt. B, §23 (AMD).]

3. Notice for purposes of limitation of actions. If a consumer files a written complaint with the manufacturer, dealer, developer dealer, installer, mechanic or board within one year and 10 days after installation of new manufactured housing, receipt of the written complaint by the manufacturer, dealer, developer dealer, installer, mechanic or board tolls the statute of limitations for purposes of bringing an action to enforce any applicable warranty concerning the defect that is the subject of the written complaint.

[PL 2005, c. 344, §24 (AMD).]

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §15 (RPR). PL 1993, c. 642, §30 (AMD). PL 2005, c. 344, §24 (AMD). PL 2017, c. 210, Pt. B, §23 (AMD).

§9052. Complaint investigation

(REPEALED)

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §15 (RP).

§9053. Notification and correction of defects

(REPEALED)

SECTION HISTORY

PL 1977, c. 550, §1 (NEW). PL 1981, c. 152, §15 (RP).

SUBCHAPTER 5

STATE ADMINISTRATIVE AGENCY

§9061. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1981, c. 152, §16 (NEW).]

1. Board. "Board" means the Manufactured Housing Board or its employees.

[PL 1981, c. 152, §16 (NEW).]

2. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.
[PL 1987, c. 395, Pt. A, §38 (AMD).]

3. Dealer. "Dealer" means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale.
[PL 1981, c. 152, §16 (NEW).]

4. Department. "Department" means the Department of Professional and Financial Regulation or its employees.
[PL 1987, c. 395, Pt. A, §38 (AMD).]

5. Distributor. "Distributor" means any person engaged in the sale and distribution of manufactured homes for resale.
[PL 1981, c. 152, §16 (NEW).]

6. Manufacturer. "Manufacturer" means any person engaged in manufacturing or assembling manufactured homes, regardless of the destination of the homes, including any person engaged in importing homes for resale.
[PL 2017, c. 210, Pt. B, §24 (AMD).]

7. Manufactured housing. "Manufactured housing" means for the purpose of this subchapter, a structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width, and 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein; except that the term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code 5401, et seq.
[PL 1981, c. 152, §16 (NEW).]

8. Secretary. "Secretary" means the Secretary of the United States Department of Housing and Urban Development.
[PL 1981, c. 152, §16 (NEW).]

9. State administrative agency. "State administrative agency" means the department that has been approved or conditionally approved to carry out the state plan for enforcement of the standards pursuant to section 623 of the Housing and Community Development Act of 1974, Public Law 93-383, 42 United States Code, Section 5422 and 24 Code of Federal Regulations, Part 3282, Subpart G.
[PL 1993, c. 642, §31 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW). PL 1987, c. 395, §A38 (AMD). PL 1993, c. 642, §31 (AMD). PL 2017, c. 210, Pt. B, §24 (AMD).

§9062. Duties

The board shall delegate the responsibility for administering the state administrative agency program to the Commissioner of Professional and Financial Regulation. The commissioner may delegate or contract out the administration of the program at the commissioner's discretion. The board is vested with the authority upon appropriate notice to discontinue participation in the federal

enforcement program as a state administrative agency for this State. [PL 1995, c. 502, Pt. H, §14 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW). PL 1987, c. 395, §A39 (AMD). PL 1995, c. 502, §H14 (AMD).

§9063. Rules

The commissioner is authorized to issue, amend and revoke rules as necessary to implement all procedures required of a state administrative agency pursuant to 24 Code of Federal Regulations, Paragraph 3282 and 42 United States Code, Sections 5401 to 5426, including the implementation of a consumer complaint handling process and the holding of hearings. In the event of a conflict between this chapter and the National Manufactured Housing Construction and Safety Standards Act of 1974 involving the state administrative agency program, the National Manufactured Housing Construction and Safety Standards Act of 1974 prevails. [PL 1995, c. 353, §2 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW). PL 1993, c. 642, §32 (AMD). PL 1995, c. 353, §2 (AMD).

§9064. Standards

1. Adoption, administration and enforcement of standards. The department is charged with the adoption, administration and enforcement of manufactured housing construction and safety standards. The standards adopted must meet the standards adopted pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 United States Code, Sections 5401 to 5426.
[PL 1995, c. 353, §3 (AMD).]

2. Rules. The department may adopt rules necessary to enforce the standards adopted under subsection 1.
[PL 1995, c. 353, §3 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW). PL 1987, c. 395, §A40 (AMD). PL 1993, c. 642, §33 (AMD). PL 1995, c. 353, §3 (AMD).

§9065. Inspections

The department, by authorized representatives, may enter, at reasonable times, any factory, warehouse or establishment in which manufactured housing is manufactured, stored or held for sale for the purpose of ascertaining whether the requirements of the federal manufactured housing construction and safety standards and the rules of the department have been and are being met. [PL 1995, c. 353, §4 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW). PL 1993, c. 642, §34 (AMD). PL 1995, c. 353, §4 (AMD).

§9065-A. Preoccupancy inspection fee

The fee for a preoccupancy inspection of manufactured housing, as required pursuant to 24 Code of Federal Regulations, Part 3286, is set pursuant to section 9021, subsection 2-A. [PL 2009, c. 241, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 2009, c. 241, Pt. A, §6 (NEW).

§9066. Civil penalties

1. Violations. A person who violates any of the following provisions relating to manufactured housing or rules adopted by the department is subject to a civil penalty not to exceed $1,000 for each violation. Each violation constitutes a separate violation with respect to each manufactured housing unit, except that the maximum penalty may not exceed $1,000,000 for any related series of violations occurring within one year from the date of the first violation. It is a violation of this chapter for a person:

A. To manufacture for sale, lease, sell, offer for sale or lease or introduce, deliver or import into the State any manufactured housing that is manufactured on or after the effective date of any applicable federal manufactured home construction and safety standard that does not comply with that standard; [PL 2017, c. 210, Pt. B, §25 (AMD).]

B. To fail or refuse to permit access to or copying of records, fail to make reports or provide information or fail or refuse to permit entry or inspection as required by section 9065; [PL 1993, c. 642, §35 (AMD).]

C. To fail to furnish notification of any defect as required by 42 United States Code, Section 5414; [PL 1993, c. 642, §35 (AMD).]

D. To fail to issue a certification required by 42 United States Code, Section 5415 or to issue a certification to the effect that a manufactured home conforms to all applicable federal manufactured home construction and safety standards, if that person in the exercise of due care has reason to know that the certification is false or misleading in a material respect; [PL 2017, c. 210, Pt. B, §25 (AMD).]

E. To fail to establish and maintain records or make such reports and provide information as the department may reasonably require to enable it to determine whether there is compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974; or fail to permit, upon request of a person duly authorized by the commissioner, inspection of appropriate books, papers, records and documents relative to determining whether a manufacturer, distributor or dealer has acted or is acting in compliance with this chapter or with the National Manufactured Housing Construction and Safety Standards Act of 1974; or [PL 1995, c. 353, §5 (AMD).]

F. To issue a certification pursuant to 42 United States Code, Section 5403, Paragraph (a), if the person in the exercise of due care has reason to know that the certification is false or misleading in a material respect. [PL 1993, c. 642, §35 (AMD).]

[PL 2017, c. 210, Pt. B, §25 (AMD).]

2. Sale or offer for sale after first purchase. Subsection 1, paragraph A shall not apply to the sale or the offer for sale of any manufactured home after the first purchase of it in good faith for purposes other than resale.

[PL 1981, c. 152, §16 (NEW).]

3. Persons who did not have reason to know that the home is not in conformity with standards. Subsection 1, paragraph A does not apply to any person who establishes that the person did not have reason to know in the exercise of due care that the manufactured home is not in conformity with applicable federal manufactured home construction and safety standards or any person who, prior to the first purchase, holds a certificate by the manufacturer or importer of the manufactured home to the effect that the manufactured home conforms to all applicable federal manufactured home construction and safety standards, unless the person knows that the manufactured home does not so conform.

[PL 2017, c. 210, Pt. B, §26 (AMD).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW). PL 1983, c. 553, §46 (AMD). RR 1993, c. 1, §28 (COR). PL 1993, c. 642, §35 (AMD). PL 1995, c. 353, §5 (AMD). PL 2017, c. 210, Pt. B, §§25, 26 (AMD).

§9067. Criminal penalties

Any person or officer, director or agent of a corporation, who willfully or knowingly violates any of the provisions enumerated in state law in any manner which threatens the health or safety of any purchaser, shall be fined not more than $1,000 or imprisoned for not more than one year, or both. [PL 1981, c. 152, §16 (NEW).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW).

§9068. Monitoring inspection fees

The department shall establish a monitoring inspection fee in an amount established by the Secretary of the United States Department of Housing and Urban Development. This monitoring inspection fee is an amount paid by the manufacturer for each home produced in this State. [PL 1995, c. 353, §6 (AMD).]

The monitoring inspection fee shall be paid by the manufacturer to the Secretary of the United States Department of Housing and Urban Development, who shall distribute the fees collected from all home manufacturers among the approved and conditionally approved states, based on the number of new homes whose first location after leaving the manufacturing plant is on the premises of a distributor, dealer or purchaser in that state. [PL 1981, c. 152, §16 (NEW).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW). PL 1993, c. 642, §36 (AMD). PL 1995, c. 353, §6 (AMD).

§9069. Reports

Each manufacturer, distributor and dealer of manufactured housing constructed under the federal standards shall establish and maintain the records, make the reports and provide such information as the Secretary of the United States Department of Housing and Urban Development may reasonably require in order for the secretary to be able to determine whether the manufacturer, distributor or dealer has acted or is acting in compliance with this chapter or the National Manufactured Housing Construction and Safety Standards Act of 1974 and shall, upon request of a person duly designated by the secretary, permit the person to inspect appropriate books, papers, records and documents relevant to determining whether the manufacturer, distributor or dealer has acted or is acting in compliance with this chapter or the National Manufactured Housing Construction and Safety Standards Act of 1974. [PL 1981, c. 152, §16 (NEW).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW).

§9070. Complaints

All complaints concerning units constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be handled in compliance with subpart I of the regulation established pursuant to the Act. [PL 1981, c. 152, §16 (NEW).]

SECTION HISTORY

PL 1981, c. 152, §16 (NEW).

§9071. Revenue

(REPEALED)

SECTION HISTORY

PL 1981, c. 152, §16 (NEW). PL 1993, c. 642, §37 (AMD). PL 1995, c. 353, §7 (AMD). PL 2007, c. 402, Pt. D, §11 (RP).

§9072. Hearings

(REPEALED)

SECTION HISTORY

PL 1981, c. 152, §16 (NEW). PL 1987, c. 395, §A41 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 402, Pt. D, §12 (RP).

SUBCHAPTER 6

MANUFACTURED HOUSING COMMUNITIES

§9081. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 553, §17 (NEW).]

1. Manufactured home. "Manufactured home" means a structure, transportable in one or more sections, that is 8 body feet or more in width and is 32 body feet or more in length and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.
[PL 2017, c. 210, Pt. B, §27 (AMD).]

2. Manufactured housing community. "Manufactured housing community" means a parcel or adjoining parcel of land, under single ownership, that has been planned and improved for the placement of 3 or more manufactured homes, but does not include a construction camp.
[PL 2017, c. 210, Pt. B, §28 (AMD).]

3. Sanitarian.
[PL 1991, c. 391, §8 (RP).]

SECTION HISTORY

PL 1983, c. 553, §17 (NEW). PL 1985, c. 600, §1 (AMD). PL 1991, c. 391, §§7,8 (AMD). PL 2017, c. 210, Pt. B, §§27, 28 (AMD).

§9082. License required

A person may not conduct, control, manage or operate, for compensation, directly or indirectly, any manufactured housing community unless licensed by the board. Licenses issued must be displayed in a place readily visible to customers or other persons using a licensed establishment. [PL 2017, c. 210, Pt. B, §29 (AMD).]

Any person desiring a license shall submit satisfactory evidence, in a form acceptable to the board, of that person's ability to comply with the minimum standards of this subchapter and all rules adopted under this subchapter. [PL 2017, c. 210, Pt. B, §29 (AMD).]

SECTION HISTORY

PL 1983, c. 553, §17 (NEW). PL 2017, c. 210, Pt. B, §29 (AMD).

§9083. Fees

Application and license fees for manufactured housing communities are set under section 9021, subsection 2-A, including applications for manufactured housing community expansion and license renewal. Fees are also set under section 9021, subsection 2-A for manufactured housing community inspections; for the cost of reviewing engineering and site plans; for costs incurred in evaluating an applicant's eligibility for licensure as a manufactured housing community; and for costs incurred in

evaluating a licensee's ongoing compliance with the requirements of this subchapter and the rules of the board. Failure to pay costs billed to an applicant or licensee within 90 days of the billing date constitutes grounds for license revocation, unless an extension for an additional period not to exceed 90 days is granted in writing by the board. [PL 2017, c. 210, Pt. B, §30 (AMD).]

SECTION HISTORY

PL 1983, c. 553, §17 (NEW). PL 1985, c. 389, §7 (RPR). PL 1985, c. 600, §2 (AMD). PL 1991, c. 714, §5 (AMD). PL 2007, c. 402, Pt. D, §13 (RPR). PL 2017, c. 210, Pt. B, §30 (AMD).

§9084. Issuance of licenses

The board shall, within 30 days following receipt of application, issue a license to operate any manufactured housing community that is found to comply with this subchapter and the rules adopted by the board. [PL 2017, c. 210, Pt. B, §31 (AMD).]

When any applicant is found, based upon an inspection by the board or by municipal inspection made according to section 9088, not in compliance with the requirements of this subchapter or rules adopted and approved pursuant to section 9085 or section 9088, subsection 1, the board may refuse issuance of the initial license but may issue a conditional license with such terms and conditions as required by the board except when conditions are found that present a danger to the health and safety of the public. A conditional license may not exceed 90 days. Failure by the conditional licensee to meet the terms and conditions specified permits the board to void the conditional license. [PL 2017, c. 210, Pt. B, §32 (AMD).]

The conditional license is void when the board has delivered in hand or by certified mail a written notice to the conditional licensee or, if the licensee cannot be reached for service in hand or by certified mail, has left notice thereof at the facility. [PL 2007, c. 402, Pt. D, §14 (AMD).]

Upon the written request of the board, the Department of Health and Human Services, Maine Center for Disease Control and Prevention shall provide such technical services as may be required by the board to assist with inspections and licensing of new manufactured housing communities. The department may assess the manufactured housing community owner a reasonable fee for these services. [PL 2017, c. 210, Pt. B, §33 (AMD).]

A license expires on the date set by the Commissioner of Professional and Financial Regulation pursuant to section 8003, subsection 4 for the licensing period for which the license was issued. A license may be renewed upon receipt of an application for renewal and payment of the renewal fee as set under section 9021, subsection 2-A, subject to compliance with rules of the board and with this subchapter. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under section 9021, subsection 2-A. An applicant who submits an application for renewal more than 90 calendar days after the expiration date is subject to all requirements governing new applicants under this chapter. [PL 2009, c. 241, Pt. A, §8 (AMD).]

The issuance of the license provided for in this subchapter does not provide exemption from other state or local laws, ordinances or regulations, notwithstanding any other provision of law. [PL 1983, c. 553, §17 (NEW).]

A license issued under this subchapter may not be assigned or transferred. [PL 2007, c. 402, Pt. D, §14 (NEW).]

SECTION HISTORY

PL 1983, c. 553, §17 (NEW). PL 1993, c. 642, §38 (AMD). PL 1995, c. 353, §8 (AMD). PL 1999, c. 386, §C4 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 402, Pt. D, §14 (AMD). PL 2009, c. 241, Pt. A, §§7, 8 (AMD). PL 2017, c. 210, Pt. B, §§31-33 (AMD).

§9085. Rules

The board may make and enforce all necessary rules for the administration of this subchapter, and may repeal or amend such rules from time to time as may be in the public interest, insofar as that action is not in conflict with any of the provisions of this subchapter. [PL 2017, c. 210, Pt. B, §34 (AMD).]

SECTION HISTORY

PL 1983, c. 553, §17 (NEW). PL 1995, c. 381, §1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2017, c. 210, Pt. B, §34 (AMD).

§9086. Right of entry and inspection

The board and any duly designated officer or employee thereof may enter upon the premises of any manufactured housing community licensed pursuant to this subchapter at any reasonable time in order to determine the state of compliance with this subchapter and any rules in force pursuant to this subchapter. The right of entry and inspection extends to any premises under its jurisdiction that the board has reason to believe are being operated or maintained without a license, but no such entry or inspection of any premises may be made without the permission of the owner or person in charge of the premises or, after hearing, upon order of the court. [PL 2017, c. 210, Pt. B, §35 (AMD).]

SECTION HISTORY

PL 1983, c. 553, §17 (NEW). PL 2017, c. 210, Pt. B, §35 (AMD).

§9087. Penalties

Any person who operates any manufactured housing community without first obtaining a license as required by this subchapter is guilty of a Class E crime. Each day any such person operates the manufactured housing community without obtaining a license constitutes a separate offense. [PL 2017, c. 210, Pt. B, §36 (AMD).]

In the event of any violation of this subchapter or any rule adopted under this subchapter the Attorney General may seek to enjoin further violation thereof, in addition to any other remedy. [PL 1983, c. 553, §17 (NEW).]

SECTION HISTORY

PL 1983, c. 553, §17 (NEW). PL 2017, c. 210, Pt. B, §36 (AMD).

§9088. Municipal inspections

Notwithstanding any other provisions of this subchapter, the board may issue a license to a manufactured housing community on the basis of an inspection performed by an inspector who works for and is compensated by the municipality in which the establishment is located, but only if the following conditions have been met. [PL 2017, c. 210, Pt. B, §37 (AMD).]

1. Adopted rules; code of standards. The municipality involved has adopted a set of rules, ordinances or other code of standards for the establishments which has been approved by the board and which is consistent with the rules used by the board for the issuance of the licenses in effect at the time of inspection.
[PL 1983, c. 553, §17 (NEW).]

2. Qualified to make inspections. No municipally employed sanitarians may make inspections under the provisions of this subchapter, unless certified as qualified by the Commissioner of Health and Human Services.
[PL 1983, c. 553, §17 (NEW); PL 2003, c. 689, Pt. B, §7 (REV).]

3. Inspection to ascertain intent. The board may from time to time inspect the municipally inspected establishment to ascertain that the intent of these statutes is being followed.
[PL 1983, c. 553, §17 (NEW).]

4. Inspection reports. The municipalities shall furnish the board copies of its inspection reports relating to the inspections on a monthly basis.
[PL 1983, c. 553, §17 (NEW).]

5. Charge. Municipalities may not charge the board for performing those inspections.
[PL 1983, c. 553, §17 (NEW).]

6. License fee. When a license is issued on the basis of a municipal inspection, as specified in this section, the requirement for payment of a license fee to the board, as set forth in section 9021, subsection 2-A, is waived.
[PL 2007, c. 402, Pt. D, §15 (AMD).]

7. Licenses. Licenses issued under this section shall be displayed, renewed and in every other way treated the same as licenses issued under this subchapter on the basis of inspection by the board.
[PL 1983, c. 553, §17 (NEW).]

8. Certification. Certification of municipally employed sanitarians shall be in accordance with standards set by the Commissioner of Health and Human Services and shall be for a period of 3 years.
[PL 1983, c. 553, §17 (NEW); PL 2003, c. 689, Pt. B, §7 (REV).]

SECTION HISTORY

PL 1983, c. 553, §17 (NEW). PL 2003, c. 689, §B7 (REV). PL 2007, c. 402, Pt. D, §15 (AMD). PL 2017, c. 210, Pt. B, §37 (AMD).

§9089. Denial or refusal to renew license; disciplinary action

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A. [PL 2007, c. 402, Pt. D, §16 (RPR).]

SECTION HISTORY

PL 1983, c. 553, §17 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 402, Pt. D, §16 (RPR).

§9090. Municipal foreclosure; unlicensed manufactured housing communities

Notwithstanding any other provision of law, a municipality that, as a result of the nonpayment of property taxes, forecloses and takes possession of real estate on which is located an unlicensed manufactured housing community may, if the municipality determines the manufactured housing community poses a risk to public health, welfare or safety, close the manufactured housing community and, with at least 30 days' prior written notice, evict the inhabitants of the community. A municipality that takes possession of real estate on which is located an unlicensed manufactured housing community does not enter a landlord and tenant relationship with any inhabitant of the community and is not subject to the provisions of chapter 953 or any other laws governing relations between a landlord and tenant. This section does not apply to a municipality that is or becomes the licensed operator of the manufactured housing community. [PL 2017, c. 210, Pt. B, §38 (AMD).]

SECTION HISTORY

PL 1999, c. 203, §1 (NEW). PL 2017, c. 210, Pt. B, §38 (AMD).

CHAPTER 953

REGULATION OF MOBILE HOME PARKS; LANDLORD AND TENANT

§9091. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §2 and Pt (AMD).]

1. Mobile home. "Mobile home" means a structure, transportable in one or more sections, which:

A. Is 8 body feet or more in width and 32 body feet or more in length; [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Is built on a permanent chassis; [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Includes the plumbing, heating, air- conditioning and electrical systems contained in the structure. [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Mobile home park. "Mobile home park" means any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate 2 or more mobile homes.

[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Normal wear and tear. "Normal wear and tear" means that deterioration which occurs, without negligence, carelessness, accident or abuse of the premises or equipment by the tenant, members of the tenant's household or their invitees or guests. The term does not include sums or labor expended by the landlord in removing articles abandoned by the tenant, such as trash, from the premises.

[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Security deposit. "Security deposit" means any advance or deposit of money, the primary function of which is to secure the performance of a rental agreement for a mobile home, including premises used solely for the storage or display of mobile homes.

[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Tenant. "Tenant" means a mobile home owner who rents a parcel of land in a mobile home park.

[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§B2,C8,C10 (AMD).

§9092. Purchase of equipment

No mobile home park owner or operator may require a resident of the park to purchase from the owner or operator any underskirting, equipment for tying down mobile homes or any other equipment required by law, local ordinance or rule of the mobile home park. [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Permitted regulations. The park operator may determine by rule the style or quality of the equipment which the tenant purchases from a vendor selected by the tenant.
[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD).

§9093. Fees; charges; assessments; rules

1. Duty to disclose. A mobile home park owner or operator shall disclose fully in writing all fees, charges, assessments and rules before a mobile home dweller assumes occupancy in the park.
[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Increases or changes. The park owner or operator must give at least 30 days' written notice to all tenants before changing any rules or increasing any fees, charges or assessments.
[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Failure to disclose charges. If the park owner or operator fails to fully disclose any fees, charges or assessments, those fees, charges or assessments may not be collected. The owner or operator may not use the mobile home dweller's refusal to pay any undisclosed charge as a cause for eviction in any court.
[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Rental payments. A mobile home park owner or operator may establish a park rule to require that all rental payments and other fees due to the mobile home park owner or operator be paid in full before the home is removed from the park, sold or occupied by a new tenant or owner. If the owner or occupant is a lienholder who has informed the mobile home park owner or operator of its lien on the home pursuant to section 9097, subsection 2-B, the terms of that subsection apply.
[PL 1999, c. 207, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1995, c. 365, §1 (AMD). PL 1999, c. 207, §1 (AMD).

§9094. Restrictions on sale or removal of mobile homes

1. Park acting as agent; advertising. No mobile home park owner or operator may:

A. Exact a commission or fee with respect to the price realized by the seller of the mobile home unless the park owner or operator has acted as agent for the mobile home owner in the sale under a written contract; [PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Require as a condition of tenancy or continued tenancy that a mobile home owner designate the park owner or operator or any other individual or agent to act as agent for the mobile home owner in the sale of the mobile home; or [PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Restrict in any manner the reasonable advertising for sale of any mobile home in that park, except that the mobile home owner shall notify the park owner or operator before placing a "for sale" sign or other form of advertising within the mobile home park. [PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 104, Pt. B, §3 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Rules. No mobile home park owner or operator may require a mobile home to be removed from the park except pursuant to a rule contained in the written copy of park rules given to the tenant under section 9097, subsection 4. The rules shall clearly describe the standards under which the park owner or operator may require a tenant to remove a mobile home from the park.

A. These standards shall specify, but are not limited to, fair and reasonable rules governing the conditions of:

(1) Protective exterior coating or siding;

(2) Roof;

(3) Windows and doors;

(4) Plumbing, heating and electrical systems;

(5) Anchoring system;

(6) Skirting around the base;

(7) Steps and handrails;

(8) Porches, decks or other additions to the home and the exterior structure;

(9) Width of home, if less than 11 feet, 6 inches;

(10) Aesthetic appearance;

(11) Smoke detectors wired into the electrical system; and

(12) Other aspects of the structural safety or soundness of the home. [PL 1989, c. 104, Pt. B, §3 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The park owner or operator has the burden of proof to show that the mobile home does not meet the standards of the rules adopted under this subsection. [PL 1989, c. 104, Pt. B, §3 (RPR); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B-1. [PL 1989, c. 678, §1 (NEW); MRSA T. 10 §9094, sub-§2, ¶ B-1 (RP).]

B-2. At the time of sale or change in the principal occupant of a mobile home, the mobile home park owner or operator may require the owner of the home, if built before June 15, 1976, to provide evidence that the home meets the Manufactured Housing Board's standard for used manufactured housing. The mobile home owner may demonstrate compliance with the standard by providing the park owner or operator with a report signed by the following persons and indicating that the home complies with the standard's specifications regarding those aspects of the home inspected:

(1) A licensed electrician who inspected the home's electrical system;

(2) A person licensed to repair the home's heating system who inspected the home's heating system; and

(3) A certified professional engineer who inspected the home for safety and structural soundness.

Signature of the report may not be construed for any purpose as an endorsement that the home meets provisions of the standard other than those for which the inspection was conducted. A park owner who receives a signed report indicating that the home complies may not require removal of a home under this section on the basis of fire safety or the safety of the home. [PL 1993, c. 642, §39 (NEW).]

C. No aesthetic standard may be applied against the mobile home if the standard relates to physical characteristics such as size, except as provided in paragraph A, subparagraph (9), original

construction materials or color which cannot be changed without undue financial hardship to the mobile home owner. [PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Neither age of the mobile home nor the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, shall by themselves be a sufficient standard for a park owner or operator to require removal of a mobile home. [PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. No mobile home park owner or operator may be liable for any claim or any damages of any kind arising from the presence in the park of a mobile home manufactured before June 15, 1976. [PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F. The Manufactured Housing Board, in conjunction with the State Fire Marshal, the Department of the Attorney General, representatives of the manufactured housing industry, representatives of mobile home park owners or operators and representatives of mobile home owners and tenants, shall develop recommendations concerning the standards for rules covered by this subsection. The recommendations shall include standards designed to ensure the safety of the mobile home and its occupants, while being objective and measurable to provide for enforcement. The recommendations shall be made to the joint standing committees of the Legislature having jurisdiction over legal affairs and business legislation by January 15, 1990. [PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

F-1. The Manufactured Housing Board shall adopt rules under Title 5, chapter 375, establishing a used manufactured home standard no later than December 1, 1990. The standard must cover all equipment and installations in the construction, the plumbing, heat-producing and electrical systems and fire safety of used manufactured homes that are designed to be used as dwellings. The standard must seek to ensure that used manufactured homes do not present an imminent and unreasonable risk of death or serious personal injury. [PL 1989, c. 678, §2 (NEW).]

F-2. The Manufactured Housing Board shall report to the joint standing committee of the Legislature having jurisdiction over legal affairs on the implementation of paragraph B-1 and any changes to the used manufactured home standard no later than January 1, 1992. [PL 1989, c. 678, §2 (NEW).]

G. [PL 1989, c. 678, §3 (RP).]

[PL 1993, c. 642, §39 (AMD).]

3. Buyer's right of rescission. The buyer of a mobile home located in a mobile home park may rescind the contract for the purchase of the mobile home within 30 days of execution of the contract if:

A. At the time of entering into the contract, the seller or the seller's agent represented to the buyer or the buyer's agent that the mobile home may remain in that mobile home park; and [PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The buyer is not permitted to keep the mobile home in that mobile home park or the buyer is not accepted as a tenant in that mobile home park. [PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 104, Pt. B, §3 (NEW); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Interference with sale. A mobile home park owner may not unreasonably interfere with or discourage a tenant's attempt to sell a mobile home situated on a park lot.

[PL 1997, c. 213, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §B3 (RPR). PL 1989, c. 104, §§C8,C10 (AMD). PL 1989, c. 678, §§1-3 (AMD). PL 1993, c. 642, §39 (AMD). PL 1997, c. 213, §1 (AMD).

§9094-A. Restrictions on sale when a mobile home park is sold

1. Notice of offer to purchase the mobile home park. Except as provided in subsection 3, if the owner of a mobile home park receives an offer to purchase the mobile home park and the park owner intends to accept that offer, the owner shall give 45 days' written notice to tenants of the mobile home park. The notice must indicate that the owner has received an offer to purchase the mobile home park and that the owner intends to accept that offer. During the 45-day notice period, the owner may not execute a contract for the purchase and sale of the mobile home park. The owner must mail by regular mail a separate notice to each park tenant.
[PL 1989, c. 768 (NEW).]

2. Option contract. Nothing in this subsection prohibits the owner of a mobile home park from obtaining at any time from a buyer an option to sell the mobile home park if:

A. The option does not bind the owner who obtains the option to sell the park to the buyer; and [PL 1989, c. 768 (NEW).]

B. The option of the owner may not be exercised prior to expiration of the 45-day notice provided for in subsection 1. [PL 1989, c. 768 (NEW).]

[PL 1989, c. 768 (NEW).]

3. Exception; no change of use for 2 years. The owner of a mobile home park may sell the park without notifying tenants in the manner provided by subsection 1 if the purchase and sale agreement for the mobile home park provides for a deed containing a covenant, enforceable by tenants of the mobile home park, that forbids the purchaser from changing the use of the mobile home park for 2 years after the transfer.
[PL 1989, c. 768 (NEW).]

4. Enforcement. A mobile homeowner, group of mobile homeowners or a mobile homeowners' association aggrieved by a violation of this section may bring an action in Superior Court against the violator for injunctive relief, damages and attorney's fees.
[PL 1989, c. 768 (NEW).]

5. Supplemental notice and use restrictions. Nothing in this section prohibits the owner of a mobile home park from providing notice or establishing use restrictions in addition to those required under this section.
[PL 1989, c. 768 (NEW).]

SECTION HISTORY

PL 1989, c. 768 (NEW).

§9095. Restrictions on the purchase of fuel oil or bottled gas

Except as provided in subsection 1, no mobile home park owner or operator may require, as a condition of tenancy or continued tenancy, that a mobile home owner or dweller purchase fuel oil or bottled gas from any particular fuel oil or bottled gas dealer or distributor. [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Centralized distribution system. This section does not apply to a mobile home park owner or operator who provides a centralized distribution system for fuel oil or bottled gas, or both, for residents in the park. No mobile home park owner or operator who provides such a centralized distribution system may charge residents more than the average retail price charged by other retail distributors for fuel oil or bottled gas in the county in which the mobile home park is located.

[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD).

§9096. Space for purchaser of mobile home from owner of park

A tenancy or other estate at will or lease in a mobile home park may not be terminated solely for the purpose of making the tenant's space in the park available for a person who purchased a mobile home from the owner of the mobile home park or the owner's agents. [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD).

§9097. Terms of rental agreement

1. Eviction of tenant. A tenancy may be terminated by a park owner or operator only for one or more of the following reasons:

A. Nonpayment of rent, utility charges or reasonable incidental service charges, except that no action for possession may be maintained if, prior to the expiration of a notice to quit, the tenant pays or tenders all arrearages due plus 5% of the outstanding rent or a maximum of $5 as liquidated damages; [PL 1997, c. 27, §1 (AMD).]

B. Failure of the tenant or the tenant's cohabitees, guests or invitees to comply with local ordinances or state or federal law, rules or regulations relating to mobile homes or mobile home parks, as long as the tenant first is given written notice of failure to comply with those restrictions and a reasonable opportunity to comply with the restrictions; [PL 1997, c. 27, §1 (AMD).]

C. Damage by the tenant or the tenant's cohabitees, guests or invitees to the demised property, except for reasonable wear and tear; [PL 1997, c. 27, §1 (AMD).]

D. Repeated conduct of the tenant or the tenant's cohabitees, guests or invitees upon the mobile home park premises that disturbs the peace and quiet or safety of other tenants in the mobile home park; [PL 1997, c. 27, §1 (AMD).]

E. Failure of the tenant or the tenant's cohabitees, guests or invitees to comply with reasonable written rules of the mobile home park as established by the park owner or operator in the rental agreement at the beginning of the tenancy or as subsequently amended, as long as the tenant first is given written notice of failure to comply and a reasonable opportunity to comply with those rules; [PL 1997, c. 27, §1 (AMD).]

F. Condemnation or change of use of the mobile home park, as long as, in the case of change of use, one year's notice is given in writing to the tenant, unless at the beginning of the tenancy the tenant is given notice of the scheduled change of use; [PL 1997, c. 27, §1 (AMD).]

G. Renovation or reconstruction of any portions of the park, if:

(1) In the case of a temporary eviction, the park owner or operator:

(a) Gives affected tenants 30 days' notice in writing, unless the temporary eviction is necessary to correct conditions posing an immediate threat to one or more tenants' health or safety; and

(b) Pays the removal and relocation costs of tenants, except for those tenants who agree otherwise in a signed writing separate from the lease; or

(2) In the case of a permanent eviction, other than an eviction due to reconstruction or renovation required by a federal, state or local governmental body, of one or more mobile homes currently located in the park, the park owner or operator:

(a) Gives each tenant one year's notice in writing; or

(b) To each tenant for whose home the park owner has found a reasonable alternative location acceptable to the tenant, gives 6 months' written notice and pays removal and relocation costs; [PL 1989, c. 662 (RPR).]

H. Under terms and expressed conditions in the original lease or rental agreement that is entered into by the tenant and landlord; or [PL 1997, c. 27, §1 (AMD).]

I. Violation by a tenant or the tenant's cohabitees, guests or invitees of paragraph A, B or E, 3 or more times in a 12-month period, notwithstanding the fact that the tenant in each case corrected the violation after being notified of the violation by the park owner or operator. For purposes of termination under this paragraph, the tenant or the tenant's cohabitees, guests or invitees must have engaged in at least 3 separate instances of misconduct. [PL 1997, c. 27, §1 (AMD).]

[PL 1997, c. 27, §1 (AMD).]

1-A. Retaliation. The court may not order the termination of any tenancy if the tenant proves that the eviction action is primarily in retaliation for:

A. The tenant's participation in establishing, or membership in, an organization concerned with landlord-tenant relationships; or [PL 1989, c. 650 (NEW).]

B. The tenant's assertion of any right under this chapter. [PL 1989, c. 650 (NEW).]

[PL 1989, c. 650 (NEW).]

1-B. Abandoned mobile home or manufactured housing. Manufactured housing that is abandoned or unclaimed by a tenant following the tenant's eviction in accordance with this section and section 9097-B must be disposed of by a mobile home park owner or operator as follows. For purposes of this subsection, "manufactured housing" includes all housing described in section 9002, subsection 7 located in a land lease community or mobile home park.

A. After a mobile home park owner or operator obtains a judgment for forcible entry and detainer, the mobile home park owner or operator shall send written notice by first-class mail, with proof of mailing, to the last known address of the tenant with a copy to the lienholder, if known. The notice must set forth the mobile home park owner's or operator's intent to dispose of the manufactured housing. The notice must advise the tenant and lienholder, if known, that if the tenant or lienholder does not respond to the notice within 14 calendar days the mobile home park owner or operator may dispose of the property as set forth in this subsection. If the tenant or lienholder does respond to the notice, the tenant or lienholder shall take possession of the property within 21 calendar days. Subsection 2-B applies with respect to the rights and responsibilities of the lienholder. [PL 2011, c. 127, §1 (NEW).]

B. If a tenant or lienholder claims ownership of the manufactured housing within 14 calendar days after the notice under paragraph A is sent, the tenant or lienholder shall take possession of the property within 21 calendar days of claiming ownership. If the tenant or lienholder timely claims the property but is not able to move the property within 21 days due to weather or posted road conditions, the mobile home park owner or operator shall allow the tenant or lienholder to remove the property after the 21-day period but the mobile home park owner or operator may charge for any additional costs incurred as a result of the delay. [PL 2011, c. 127, §1 (NEW).]

C. If a tenant or lienholder does not claim ownership of the property within 14 calendar days after the notice under paragraph A is sent or fails to take possession of the property after claiming ownership pursuant to paragraph B, the mobile home park owner or operator may take one or more of the following actions:

(1) Condition the release of the property to the tenant or lienholder upon payment of all rental arrearages, damages, costs of legal fees and costs of storage;

(2) Sell any property for a reasonable fair market price and apply all proceeds to rental arrearages, damages, costs of storage, marketing expenses, legal fees and outstanding taxes. Any balance must be sent to the tenant's or lienholder's last known mailing address and, if returned to the sender, the balance must be forwarded to the Treasurer of State; and

(3) Dispose of any property that has no reasonable fair market value. [PL 2011, c. 127, §1 (NEW).]

[PL 2011, c. 127, §1 (NEW).]

2. Notice. A tenancy in a mobile home park may be terminated only by:

A. The tenant giving at least 45 days' notice of termination to the park owner; or [PL 1987, c. 737, Pt. B, §1 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The park owner entitled under subsection 1 to the mobile home space giving at least 45 days' notice of termination in writing to the tenant. If the landlord or the landlord's agent has made at least 3 witnessed good faith efforts made on 3 separate days to serve the tenant, service may be accomplished by both mailing the notice by first class mail to the tenant's last known address and by leaving the notice at the tenant's space in the park.

(1) In cases where the reason for eviction is nonpayment of rent, the tenancy may be terminated by 30 days' notice given in the same manner provided that the notice for eviction contains notice of the amount owed and a statement indicating that the tenant can negate the effect of the notice of termination as it applies to rent arrearage if the tenant pays the full amount of rent due before the expiration of the notice.

(2) In cases in which the reason for eviction is one listed in subsection 1, paragraph B, C, D, E, H or I, the 45 days' notice of termination must refer to relevant provisions of the lease or mobile home park rules and must state the reasons for the termination. [PL 1993, c. 211, §1 (AMD).]

[PL 1993, c. 211, §1 (AMD).]

2-A. Notice to lienholders.

[PL 1999, c. 207, §2 (RP).]

2-B. Responsibilities of park operator and lienholder. The responsibilities of the mobile home park operator and the holder of a lien on the tenant's mobile home are as follows.

A. In the event the park operator moves to evict a tenant and there is a lien on the tenant's home, if the holder of the lien has provided the park operator with a notice of the lien and the notice includes the lienholder's mailing address, then prior to evicting the tenant who resides in that mobile home, the park operator shall give notice of the eviction in writing by certified mail to the lienholder at the time the park operator serves the tenant with a notice to quit. Following receipt of this notice from the park operator, the lienholder shall:

(1) Declare, in writing and by certified mail, to the park operator that the lienholder intends to take possession of the mobile home and assume tenancy in the park. The lienholder shall pay to the park operator:

(a) Any arrearage for rent and other recurring monthly fees owed the park operator by the tenant at the time of issuance of the notice to quit;

(b) Rent and other charges that become due subsequent to issuance of the notice to quit. Rent and charges imposed pursuant to this division may not exceed 3 months of those rents and charges; and

(c) Rent and other charges that become due subsequent to the issuance of a forcible entry and detainer or, if no forcible entry and detainer is issued, following abandonment by the tenant or possession of the home by the lienholder; or

(2) Declare, in writing and by certified mail, to the park operator that the lienholder intends to take possession of the mobile home but not assume tenancy in the park. The lienholder also shall:

(a) Pay to the park operator any arrearage for rent and other recurring monthly fees owed the park operator by the tenant at the time of issuance of the notice to quit; and

(b) Remove the mobile home from the mobile home park.

The arrearage for which the lienholder is responsible may not exceed 3 months rent and recurring fees. [PL 1999, c. 207, §3 (NEW).]

B. In the event that the holder of a lien on a mobile home in a mobile home park intends to repossess that home, the holder of the lien shall provide the park operator with a notice that it holds a lien, which notice must include the lienholder's mailing address and shall:

(1) Give notice in writing and by certified mail to the park operator of the lienholder's intent to repossess and that the lienholder intends to leave the mobile home in the park and assume tenancy in the park. The lienholder also shall pay to the park operator any arrearage for rent and other recurring monthly fees owed the park operator by the tenant at the time it takes possession of the mobile home and all rent and other charges that become due subsequent to the time it takes possession of the mobile home; or

(2) Give notice in writing and by certified mail to the park operator of the lienholder's intent to repossess and that it does not intend to leave the mobile home nor assume tenancy in the park. The lienholder also shall pay to the park operator any arrearage for rent and other recurring monthly fees owed the park operator by the tenant at the time it takes possession of the mobile home and all rent and other charges that become due subsequent to the time it takes possession of the mobile home until the lienholder physically removes the mobile home from the park.

The arrearage for which the lienholder is responsible may not exceed 3 months rent and other recurring fees. [PL 1999, c. 207, §3 (NEW).]

Notwithstanding this subsection, the lienholder and the park operator may agree to an alternative arrangement if they so choose.
[PL 1999, c. 207, §3 (NEW).]

3. Fees. The owner of a mobile home park or the owner's agents may not charge any fees to tenants other than charges for rent, utilities, reasonable incidental service charges, entrance fees or security deposits, unless otherwise provided for in the original lease or agreement. The owner of a mobile home park or the owner's agents may not charge any entrance fee, regardless of what that fee is called, to a tenant who is moving into a mobile home currently in the mobile home park that is greater than 2 times the amount of the monthly rent.
[PL 2005, c. 156, §1 (AMD).]

4. Rules. A mobile home park owner may adopt reasonable rules governing the conduct of tenants, if the rules are reasonably related to preserving the order and peace of other tenants and the mobile

home park. A park rule may not be unreasonable, unfair or unconscionable. Any rule or change in rent that does not apply uniformly to all park tenants creates a rebuttable presumption that the rule or change in rent is unfair unless the rule or change in rent is made by majority vote of all the members in a resident-owned cooperative. Any park rule that does not comply with this section is void. For purposes of this subsection, "resident-owned cooperative" means a corporation or other legal entity that owns the mobile home park, the ownership interest in which is held only by residents of the mobile home park.
[PL 1991, c. 738 (AMD).]

5. Tenant to be given copy of rules and applicable laws. Before any rental agreement is entered into, the owner must provide each tenant who resides in the park and all prospective tenants with:

A. A written copy of the rules of the mobile home park; and [PL 1987, c. 737, Pt. B, §1 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A written copy of this chapter. [PL 1989, c. 104, Pt. B, §5 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1989, c. 104, Pt. B, §5 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Enforcement. In addition to any other remedy under this chapter, any mobile home park resident may sue to enforce any provision of this section and the court may award damages or grant injunctive or other appropriate relief.
[PL 1989, c. 104, Pt. B, §6 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

7. Waiver prohibited. No lease or rental agreement, oral or written, may contain any provision by which the tenant waives any rights under this chapter. Any such waiver is contrary to public policy and unenforceable.
[PL 1989, c. 104, Pt. B, §7 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

8. Written or oral rental agreement. Nothing in this section may be construed to permit a park owner or operator to vary the terms of a written or oral rental agreement without the express written consent of the tenant.
[PL 1987, c. 737, Pt. B, §1 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

9. Rental agreements involving children.

[PL 1989, c. 104, Pt. B, §8 (RP); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

10. Discrimination against tenants with children prohibited. Discrimination against any tenant with children is prohibited in accordance with Title 5, chapter 337.
[PL 2005, c. 683, Pt. B, §7 (AMD).]

11. Breach of warranty of habitability as an affirmative defense. In an action brought by a mobile home park owner to terminate a rental agreement on the ground that the tenant is in arrears in the payment of rent, the tenant may raise, as a defense, any alleged violation of the implied warranty and covenant of habitability provided that:

A. The tenant gave the mobile home park owner, or the owner's agent has received, actual notice of the alleged violation while the tenant was current in rental payments; [PL 1989, c. 687 (NEW).]

B. The park owner or operator unreasonably failed under the circumstances to take prompt, effective steps to repair or remedy the condition; and [PL 1989, c. 687 (NEW).]

C. The condition was not caused by the tenant or another person acting under the tenant's control. [PL 1989, c. 687 (NEW).]

Upon finding that the leased premises is not fit for human habitation, the court shall permit the tenant either to terminate the rental agreement without prejudice or to reaffirm the rental agreement and the court shall assess against the tenant an amount equal to the reduced fair rental value of the property for the period during which rent is owed. The reduced amount of rent owed is to be paid on a pro rata basis, unless the parties agree otherwise, and payments are due at the same intervals as rent for the current rental period. The mobile home park owner may not charge the tenant for the full rental value of the property until the property is fit for human habitation.
[PL 1989, c. 687 (NEW).]

12. Application; mobile homes owned by park. If a park owner or operator owns a mobile home in the mobile home park and rents that mobile home, termination of the tenancy is governed by the terms of the lease. If there is no lease agreement, the tenancy is a tenancy at will and termination is governed by Title 14, section 6002.
[PL 1999, c. 287, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§B4-9,C8,10 (AMD). PL 1989, c. 650 (AMD). PL 1989, c. 652 (AMD). PL 1989, c. 662 (AMD). PL 1989, c. 687 (AMD). PL 1991, c. 738 (AMD). PL 1993, c. 180, §1 (AMD). PL 1993, c. 211, §1 (AMD). PL 1995, c. 365, §2 (AMD). PL 1997, c. 27, §1 (AMD). PL 1999, c. 207, §§2,3 (AMD). PL 1999, c. 287, §1 (AMD). PL 2005, c. 156, §1 (AMD). PL 2005, c. 683, §B7 (AMD). PL 2011, c. 127, §1 (AMD).

§9097-A. Unfair rental contracts

1. Illegal waiver of rights. It is an unfair and deceptive trade practice in violation of Title 5, section 207 for a park owner or operator to use a rental agreement or rule that has the effect of waiving a tenant right established in chapter 953 and, if applicable to mobile home park tenants, Title 14, chapters 709, 710 and 710-A. This subsection does not apply when the law specifically allows the tenant to waive a statutory right during negotiations with the park owner or operator.
[PL 1991, c. 361, §1 (NEW); PL 1991, c. 361, §3 (AFF).]

2. Unenforceable provisions. The following rental agreement or rule provisions are specifically declared to be unenforceable and in violation of Title 5, section 207:

A. Any provision that absolves the park owner or operator from liability for the negligence of the park owner or operator or the agent of the park owner or operator; [PL 1991, c. 361, §1 (NEW); PL 1991, c. 361, §3 (AFF).]

B. Any provision that requires the tenant to pay the legal fees of the park owner or operator in enforcing the rental agreement; [PL 1991, c. 361, §1 (NEW); PL 1991, c. 361, §3 (AFF).]

C. Any provision that requires the tenant to give a lien upon the tenant's property, including a tenant's mobile home, for the amount of any rent or other sums due the park owner or operator; and [PL 1991, c. 361, §1 (NEW); PL 1991, c. 361, §3 (AFF).]

D. Any provision that requires the tenant to acknowledge that the provisions of the rental agreement, including tenant rules, are fair and reasonable. [PL 1991, c. 361, §1 (NEW); PL 1991, c. 361, §3 (AFF).]

[PL 1991, c. 361, §1 (NEW); PL 1991, c. 361, §3 (AFF).]

SECTION HISTORY

PL 1991, c. 361, §1 (NEW). PL 1991, c. 361, §3 (AFF).

§9097-B. Entry and detainer

Process of forcible entry and detainer pursuant to Title 14, chapter 709 must be used in mobile home evictions. This process includes mediation under Title 14, chapter 709, subchapter 1. [PL 2007, c. 246, §1 (AMD); PL 2007, c. 246, §6 (AFF).]

SECTION HISTORY

PL 1995, c. 60, §1 (NEW). PL 2007, c. 246, §1 (AMD). PL 2007, c. 246, §6 (AFF).

§9097-C. Penalties for late payment of rent

The owner of a mobile home park or the owner's agents may assess a penalty against a tenant for late payment of rent under this section. [PL 2005, c. 156, §2 (NEW).]

1. Late payment. A payment of rent is late if it is not made within 15 days from the time the payment is due.
[PL 2005, c. 156, §2 (NEW).]

2. Maximum penalty. The owner of a mobile home park or the owner's agents may not assess a penalty for the late payment of rent that exceeds 4% of the amount due for one month.
[PL 2005, c. 156, §2 (NEW).]

3. Notice in writing. The owner of a mobile home park or the owner's agents may not assess a penalty for the late payment of rent unless the owner of a mobile home park or the owner's agents gives the tenant written notice at the time the owner of a mobile home park or the owner's agents and tenant enter into the rental agreement that a penalty, up to 4% of one month's rent, may be charged for the late payment of rent.
[PL 2005, c. 156, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 156, §2 (NEW).

§9098. Security deposits

1. Maximum security deposit. No lessor of a mobile home park lot may require a security deposit greater than 3 months' rent.
[PL 1987, c. 737, Pt. B, §1 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Return of security deposit. The following provisions apply to the retention and return of a security deposit.

A. A security deposit or any portion of a security deposit may not be retained to pay for normal wear and tear. [PL 1987, c. 737, Pt. B, §1 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A mobile home park operator shall return to a tenant the full security deposit deposited with the landlord by the tenant, with interest in accordance with subparagraph (4) or, if there is actual cause for retaining the security deposit or any portion of it, the mobile home park operator shall provide the tenant with a written statement, itemizing the reasons for the retention of the security deposit or any portion of it, within 21 days after the termination of the tenancy or the surrender and acceptance of the premises, whichever occurs first.

(1) The written statement itemizing the reasons for the retention of any portion of the security deposit must be accompanied by a full payment of the difference between the security deposit and the amount retained.

(2) The mobile home park operator is deemed to have complied with this section if the operator mails the statement and any payment required to the tenant's last known address.

(3) Nothing in this section precludes the mobile home park operator from retaining the security deposit for nonpayment of rent or nonpayment of utility charges which the tenant was required to pay directly to the mobile home park operator.

(4) The amount of interest that must be returned to a tenant must be either the amount that the mobile home park operator has earned on the security deposit if deposited in an individual segregated bank savings account or a reasonable amount of annual interest. For purposes of this subsection, "a reasonable amount of annual interest" means interest calculated at the Federal Reserve Bank, secondary market, annual interest rate on a 6-month certificate of deposit for each year in which the deposit has been held calculated as of the first business day of each year. [PL 2009, c. 128, §1 (AMD).]

C. If a mobile home park operator fails to provide a written statement or to return the security deposit within the time specified in paragraph B, the park owner or operator forfeits the right to withhold any portion of the security deposit. [PL 1987, c. 737, Pt. B, §1 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2009, c. 128, §1 (AMD).]

3. Wrongful retention; damages; burden of proof. The following provisions apply to the wrongful retention of a security deposit by a mobile home park operator.

A. If the mobile home park operator fails to return the security deposit and provide the itemized statement within 21 days as specified in subsection 2, paragraph B, the tenant must notify the mobile home park operator of the intention to bring a legal action at least 7 days before commencing the action. If the mobile home park operator fails to return the entire security deposit within the 7-day period, it is presumed that the landlord is willfully and wrongfully retaining the security deposit. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 502, Pt. A, §32 (AMD).]

B. A mobile home park operator who willfully retains a security deposit in violation of this chapter is liable for double the amount of that portion of the security deposit wrongfully withheld from the tenant, together with reasonable attorney's fees and court costs. [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. B, §10 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. In any court action brought by a tenant under this section, the mobile home park operator has the burden of proving that the operator's withholding of the security deposit, or any portion of it, was not wrongful. [PL 1987, c. 737, Pt. B, §1 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. B, §10 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 502, Pt. A, §32 (AMD).]

4. Return of security deposit to renter. Notwithstanding the definition of "tenant" in section 9091, subsection 5, this section applies to a person who rents a mobile home and rents the mobile home park lot on which the mobile home is located and from whom a mobile home park operator collects a security deposit.

[PL 1991, c. 661, §1 (NEW).]

5. Security deposits. During the term of a tenancy, a security deposit given to a mobile home park operator as part of a residential rental agreement may not be treated as an asset to be commingled with the assets of the landlord. All security deposits must be held in an account of a bank or other financial institution under terms that place the security deposit beyond the claim of creditors of the mobile home park operator, including a foreclosing mortgagee or trustee in bankruptcy, and that provide for transfer of the security deposit to a subsequent mobile home park operator. Upon the transfer of the mobile home park, the new operator shall assume all responsibility for maintaining and returning to tenants all security deposits accounted for and transferred. Upon request by a tenant, a landlord shall

disclose the name of the financial institution and the account number where the security deposit is being held. A mobile home park operator may use a single escrow account to hold security deposits from all of the tenants of the mobile home park.
[PL 2009, c. 128, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§B10,C8,C10 (AMD). PL 1989, c. 502, §A32 (AMD). PL 1991, c. 661, §§1,2 (AMD). PL 2009, c. 128, §§1, 2 (AMD).

§9099. Implied warranty and covenant of habitability

1. Implied warranty of fitness for human habitation. In any written or oral agreement for rental of a space in a mobile home park, the park owner or operator is deemed to covenant and warrant that the space and its associated facilities are fit for human habitation.
[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Complaints. If a condition exists in a space which renders the space unfit for human habitation, a tenant may file a complaint against the park owner or operator in the District Court or Superior Court. The complaint must state that:

A. A condition, which must be described, endangers or materially impairs the health or safety of the tenants; [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The condition was not caused by the tenant or another person acting under the tenant's control; [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Written notice of the condition was given without unreasonable delay to the park owner or operator or to the person who customarily collects rent on behalf of the park owner or operator.

(1) This notice requirement may be satisfied by actual notice to the person who customarily collects rents on behalf of the park owner or operator; [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The park owner or operator unreasonably failed under the circumstances to take prompt, effective steps to repair or remedy the condition; and [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. The tenant was current in rental payments owing to the park owner or operator when written notice was given. [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Remedies. If a complaint is filed under this section, the court shall enter any temporary restraining orders that are necessary to protect the health or well-being of tenants or of the public. If the court finds that the allegations in the complaint are true, the park owner or operator is deemed to have breached the warranty of fitness for human habitation established by this section as of the date when actual notice of the condition was given to the park owner or operator. In addition to any other relief or remedies which may otherwise exist, the court may take one or more of the following actions.

A. The court may issue appropriate injunctions ordering the park owner or operator to repair all conditions which endanger or materially impair the health or safety of the tenant. [PL 1987, c.

737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The court may determine the fair value of the tenant's use and occupancy of the space from the date when the park owner or operator received actual notice of the condition until the time that the condition is repaired and further declare what, if any, money the tenant owes the park owner or operator or what, if any, rebate the park owner or operator owes the tenant for rent paid in excess of the value of use and occupancy. In making this determination, there is a rebuttable presumption that the rental amount equals the fair value of the space free from any condition rendering it unfit for human habitation. [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The court may authorize the tenant to temporarily vacate the space if the space must be vacant during necessary repairs. No use and occupation charge may be incurred by a tenant until the tenant resumes occupation of the space. If the park owner or operator offers reasonable alternative housing accommodations, the court may not surcharge the park owner or operator for alternate tenant housing during the period of necessary repairs. [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The court may enter any other orders that it considers necessary to accomplish the purposes of this section. The court may not award consequential damages for breach of the warranty of fitness for human habitation. [PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Waiver. A written agreement under which the tenant accepts specified conditions which may violate the warranty of fitness for human habitation in return for a stated reduction in rent or other specified fair consideration is binding on the tenant and the park owner or operator.

Any agreement, other than as provided in this subsection, by a tenant to waive any of the rights or benefits provided by this section is void.

[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Municipal ordinance or rule. Municipalities may adopt or retain, by ordinances or rules, standards more stringent than those provided in this section. Any less restrictive municipal ordinance or rule establishing standards is invalid and suspended by this section.

[PL 1987, c. 737, Pt. C, §1 and Pt (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

6. Applicability to renter. Notwithstanding the definition of "tenant" in section 9091, subsection 5, this section applies to a person who rents a mobile home and rents the mobile home park lot on which the mobile home is located from a mobile home park operator.

[PL 1991, c. 661, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD).

§9100. Violations

A violation of this chapter is a violation of Title 5, chapter 10, the unfair trade practices laws. [PL 1989, c. 104, Pt. B, §11 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§B1,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§B11,C8,C10 (AMD).

PART 12

ENERGY

CHAPTER 1001

ENERGY TESTING LABORATORY OF MAINE

§9101. Establishment

(REPEALED)

SECTION HISTORY

PL 1979, c. 569, §1 (NEW). PL 1983, c. 320, §1 (RP).

§9102. Authority

(REPEALED)

SECTION HISTORY

PL 1979, c. 569, §1 (NEW). PL 1979, c. 606, §§3-5 (AMD). PL 1983, c. 320, §1 (RP).

§9103. Fees

(REPEALED)

SECTION HISTORY

PL 1979, c. 569, §1 (NEW). PL 1983, c. 320, §1 (RP).

§9104. Records

(REPEALED)

SECTION HISTORY

PL 1979, c. 569, §1 (NEW). PL 1983, c. 320, §1 (RP).

CHAPTER 1003

NORTHERN MAINE TRANSMISSION CORPORATION

§9201. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 513, §6 (NEW).]

1. Corporation. "Corporation" means the Northern Maine Transmission Corporation established in section 9202, subsection 1.
[PL 1999, c. 513, §6 (NEW).]

2. Fund. "Fund" means the Northern Maine Transmission Corporation Fund established in section 9204.
[PL 1999, c. 513, §6 (NEW).]

3. Authority. "Authority" means the Finance Authority of Maine.

[PL 1999, c. 513, §6 (NEW).]

SECTION HISTORY

PL 1999, c. 513, §6 (NEW).

§9202. Northern Maine Transmission Corporation established

1. Establishment and purpose. The Northern Maine Transmission Corporation is established as a body corporate and politic and public instrumentality of the State. The corporation is a special purpose corporation formed and managed as a subsidiary of the authority. The exercise by the corporation of the powers conferred by this chapter is deemed the performance of essential public functions. The purpose of the corporation is to:

A. Evaluate electric transmission interconnections between northern Maine and the rest of the United States and Canada, the transmission of natural gas or other energy resources in northern Maine and the construction of additional electric generation facilities in or adjacent to northern Maine; and [PL 2003, c. 506, §6 (NEW).]

B. Examine the need for and viability of and, in its discretion, finance, permit, construct, own in whole or in part, operate or otherwise facilitate the construction or operation of:

(1) Electric transmission lines necessary to connect electric utilities in northern Maine with the transmission grid of the United States or Canada; or

(2) Facilities for the transmission of natural gas and generation or production and transfer of any other energy resources in the northern region of the State. [PL 2003, c. 506, §6 (NEW).]

[PL 2003, c. 506, §6 (AMD).]

1-A. Construction; other approvals. This chapter may not be interpreted to exempt the construction, ownership or operation of any project or facility from any approval required by law or rule, including but not limited to any approval required pursuant to Title 35-A, chapter 21, or to alter the franchise rights of any transmission and distribution utility.

The corporation may not finance, permit, construct, own in whole or in part or operate any electric transmission line capable of operating at 69 kilovolts or more unless the Public Utilities Commission has issued a certificate of public convenience for the construction of the line pursuant to Title 35-A, section 3132.

[PL 2003, c. 506, §7 (NEW).]

1-B. Records disclosure and confidentiality. Records of the corporation, as a subsidiary of the authority, are subject to the disclosure and confidentiality provisions governing the records of the authority under section 975-A.

[PL 2003, c. 506, §7 (NEW).]

2. Board. The powers of the corporation are exercised by a board of directors, referred to in this section as the "board," that consists of 7 members.

[PL 1999, c. 513, §6 (NEW).]

3. Membership and appointment of directors. The directors of the board are the following 7 members:

A. The chief executive officer of the authority or the chief executive officer's designee; [PL 1999, c. 513, §6 (NEW).]

B. The Treasurer of State or the treasurer's designee; and [PL 1999, c. 513, §6 (NEW).]

C. Five people who have substantial knowledge of or experience in the electric utility industry, appointed by the Governor, including:

(1) A representative of the investor-owned electric utilities of the northern region of the State who must be experienced in electric transmission matters;

(2) A representative of the publicly owned and member-owned electric utilities of the northern region of the State, who must be experienced in financial matters;

(3) A representative of the residential consumers of the northern region of the State, who must be experienced in business matters;

(4) A representative of industrial customers of the northern region of the State, who must be experienced in the generation, transmission or purchase of electricity; and

(5) A member of the public with a demonstrated expertise in the economic development of the northern region of the State. [PL 1999, c. 513, §6 (NEW).]

[PL 1999, c. 513, §6 (NEW).]

4. Terms. Members designated under subsection 3, paragraphs A and B serve during their tenure in the position they fill on the board. A vacancy among members appointed by the Governor is filled in the same manner as the original appointment for the unexpired term of that position. Members appointed by the Governor serve an initial term of 4 years and, upon completion of the term, the members are appointed as follows:

A. One member for one year; [PL 1999, c. 513, §6 (NEW).]

B. One member for 2 years; [PL 1999, c. 513, §6 (NEW).]

C. One member for 3 years; and [PL 1999, c. 513, §6 (NEW).]

D. Two members for 4 years. [PL 1999, c. 513, §6 (NEW).]

[PL 1999, c. 513, §6 (NEW).]

5. Compensation. Directors are compensated according to Title 5, chapter 379.

[PL 1999, c. 513, §6 (NEW).]

SECTION HISTORY

PL 1999, c. 513, §6 (NEW). PL 2003, c. 506, §§6,7 (AMD).

§9203. Powers

The corporation has all the powers necessary or convenient to carry out this chapter including, without limitation, those general powers provided to a nonprofit corporation by the Maine Nonprofit Corporation Act, Title 13-B and including, but not limited to, the following powers. [PL 1999, c. 513, §6 (NEW).]

1. Receipt of money and property. The corporation may accept gifts, grants, bequests or devises from any source, including funds from the Federal Government or any of its political subdivisions, and may do any acts necessary, useful, desirable or convenient in connection with procuring acceptance or disposition of gifts, grants, requests or devises.

[PL 1999, c. 513, §6 (NEW).]

2. Cooperation with public and private entities. The corporation may cooperate fully with any public and private entities as necessary, useful, desirable or convenient to carry out this chapter.

[PL 1999, c. 513, §6 (NEW).]

3. Acceptance of proposals for connections. The corporation shall request and receive proposals from public and private entities to finance, permit, construct or operate any natural gas or electric transmission lines necessary to connect the facilities of any transmission and distribution utilities and natural gas customers in the northern part of the State with the transmission grid and natural gas transmission system outside of northern Maine in the United States or Canada, and may approve those proposals if they are in keeping with the intent of this chapter. If the corporation approves a project,

the authority may separately consider providing financing for the project pursuant to section 1053, subsection 6, paragraph F if the proponent of the project submits a completed application to the authority.
[PL 2003, c. 506, §8 (AMD).]

4. Conduct studies. The corporation may conduct or fund such studies, including, but not limited to, feasibility studies, as may be necessary and convenient to the performance of its duties.
[PL 2003, c. 506, §9 (NEW).]

5. Rulemaking. The corporation may adopt any rule, including rules establishing its bylaws, necessary or useful for carrying out any of its powers or duties. Rules adopted under this subsection may provide for fees charged for review of project applications. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2003, c. 506, §9 (NEW).]

6. Contracts. The corporation may enter into contracts with the authority for the provision of administrative and underwriting services.
[PL 2003, c. 506, §9 (NEW).]

SECTION HISTORY

PL 1999, c. 513, §6 (NEW). PL 2003, c. 506, §§8,9 (AMD).

§9204. Fund established

1. Establishment of fund. There is established the Northern Maine Transmission Corporation Fund, which must be used to provide funding for activities of the corporation to further its purpose under this chapter. The fund must be deposited with and maintained and administered by the authority and must contain appropriations provided for that purpose, interest accrued on the fund balance, funds received by the corporation to be applied to the fund and funds received in payment of loans. The fund is a nonlapsing revolving fund.
[PL 1999, c. 513, §6 (NEW).]

2. Administrative expenses. Costs and expenses of maintaining, servicing and administering the fund and of performing any powers or duties under this chapter may be paid out of amounts in the fund.
[PL 2003, c. 506, §10 (AMD).]

SECTION HISTORY

PL 1999, c. 513, §6 (NEW). PL 2003, c. 506, §10 (AMD).

§9205. Tax exemption

1. Bonds or notes. All bonds, notes or other evidences of indebtedness issued under this chapter are issued by a political subdivision or a body corporate and politic of the State and for an essential public and governmental purpose. Those bonds, notes or other evidences of indebtedness, the interest on them and the income from them, including any profit on their sale, and all activities of the corporation and fees, charges, funds, revenue, income and other money of the corporation, whether or not pledged or available to pay or secure the payment of those bonds, notes or other evidences of indebtedness or interest on them, are exempt from all taxation franchise fees or special assessments of whatever kind except for transfer, inheritance and estate taxes.
[PL 1999, c. 513, §6 (NEW).]

2. Property taxes. All real and personal property acquired by the corporation is subject to taxes to the same extent as real and personal property owned by other electric utilities.
[PL 1999, c. 513, §6 (NEW).]

SECTION HISTORY

PL 1999, c. 513, §6 (NEW).

PART 13

ELECTRONIC COMMERCE

CHAPTER 1051

UNIFORM ELECTRONIC TRANSACTION ACT

§9401. Short title

This chapter may be known and cited as the "Uniform Electronic Transactions Act." [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9402. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 762, §2 (NEW).]

1. Agreement. "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.
[PL 1999, c. 762, §2 (NEW).]

2. Automated transaction. "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course of forming a contract, performing under an existing contract or fulfilling an obligation required by the transaction.
[PL 1999, c. 762, §2 (NEW).]

3. Computer program. "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
[PL 1999, c. 762, §2 (NEW).]

4. Contract. "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.
[PL 1999, c. 762, §2 (NEW).]

5. Electronic. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
[PL 1999, c. 762, §2 (NEW).]

6. Electronic agent. "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances, in whole or in part, without review or action by an individual.
[PL 1999, c. 762, §2 (NEW).]

7. Electronic record. "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.
[PL 1999, c. 762, §2 (NEW).]

8. Electronic signature. "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
[PL 1999, c. 762, §2 (NEW).]

9. Governmental agency. "Governmental agency" means an executive, legislative or judicial agency, department, board, commission, authority, institution or instrumentality of the Federal Government or of a state or of a county, municipality or other political subdivision of a state.
[PL 1999, c. 762, §2 (NEW).]

10. Information. "Information" means data, text, images, sounds, codes, computer programs, software, databases or the like.
[PL 1999, c. 762, §2 (NEW).]

11. Information processing system. "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying or processing information.
[PL 1999, c. 762, §2 (NEW).]

12. Person. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity.
[PL 1999, c. 762, §2 (NEW).]

13. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
[PL 1999, c. 762, §2 (NEW).]

14. Security procedure. "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. "Security procedure" includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption or callback or other acknowledgment procedures.
[PL 1999, c. 762, §2 (NEW).]

15. State. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian tribe or band or Alaskan native village that is recognized by federal law or formally acknowledged by a state.
[PL 1999, c. 762, §2 (NEW).]

16. Transaction. "Transaction" means an action or set of actions occurring between 2 or more persons relating to the conduct of business, commercial or governmental affairs.
[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9403. Scope

1. General rule. Except as otherwise provided in subsection 2, this chapter applies to electronic records and electronic signatures relating to a transaction.
[PL 1999, c. 762, §2 (NEW).]

2. Exceptions. This chapter does not apply to a transaction to the extent it is governed by:

A. A law governing the creation and execution of wills, codicils or testamentary trusts; and [PL 1999, c. 762, §2 (NEW).]

B. The Uniform Commercial Code other than Title 11, section 1-1306 and Articles 2 and 2-A. [PL 2009, c. 325, Pt. B, §2 (AMD); PL 2009, c. 325, Pt. B, §27 (AFF).]
[PL 2009, c. 325, Pt. B, §2 (AMD); PL 2009, c. 325, Pt. B, §27 (AFF).]

3. Limitation of exception. This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection 2 to the extent it is governed by a law other than those specified in subsection 2.
[PL 1999, c. 762, §2 (NEW).]

4. Other law. A transaction subject to this chapter is also subject to other applicable substantive law.
[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW). PL 2009, c. 325, Pt. B, §2 (AMD). PL 2009, c. 325, Pt. B, §27 (AFF).

§9404. Prospective application

This chapter applies to any electronic record or electronic signature created, generated, sent, communicated, received or stored on or after the effective date of this chapter. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9405. Use of electronic records and electronic signatures; variation by agreement

1. Electronic means or form not required. This chapter does not require a record or signature to be created, generated, sent, communicated, received, stored or otherwise processed or used by electronic means or in electronic form.
[PL 1999, c. 762, §2 (NEW).]

2. Consent. This chapter applies only to transactions between parties, each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.
[PL 1999, c. 762, §2 (NEW).]

3. Other transactions. A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.
[PL 1999, c. 762, §2 (NEW).]

4. Variance by agreement. Except as otherwise provided in this chapter, the effect of any of the provisions of this chapter may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.
[PL 1999, c. 762, §2 (NEW).]

5. Conclusions of law. Whether an electronic record or electronic signature has legal consequences is determined by this chapter and other applicable law.
[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9406. Construction and application

This chapter must be construed and applied: [PL 1999, c. 762, §2 (NEW).]

1. Facilitation. To facilitate electronic transactions consistent with other applicable law;
[PL 1999, c. 762, §2 (NEW).]

2. Reasonable practices. To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and
[PL 1999, c. 762, §2 (NEW).]

3. General purpose. To effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.
[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9407. Legal recognition of electronic records, electronic signatures and electronic contracts

1. Form. An electronic record or electronic signature may not be denied legal effect or enforceability solely because it is in electronic form.
[PL 1999, c. 762, §2 (NEW).]

2. Formation. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
[PL 1999, c. 762, §2 (NEW).]

3. Writing. If a law requires a record to be in writing, an electronic record satisfies the law.
[PL 1999, c. 762, §2 (NEW).]

4. Signature. If a law requires a signature, an electronic signature satisfies the law.
[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9408. Provision of information in writing; presentation of records

1. Writing. If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.
[PL 1999, c. 762, §2 (NEW).]

2. Records. If a law other than this chapter requires a record to be posted or displayed in a certain manner; to be sent, communicated or transmitted by a specified method; or to contain information that is formatted in a certain manner, the following rules apply:

A. The record must be posted or displayed in the manner specified in the other law; [PL 1999, c. 762, §2 (NEW).]

B. Except as otherwise provided in subsection 4, paragraph B, the record must be sent, communicated or transmitted by the method specified in the other law; and [PL 1999, c. 762, §2 (NEW).]

C. The record must contain the information formatted in the manner specified in the other law. [PL 1999, c. 762, §2 (NEW).]
[PL 1999, c. 762, §2 (NEW).]

3. Unenforceable. If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.
[PL 1999, c. 762, §2 (NEW).]

4. Variance by agreement. The requirements of this section may not be varied by agreement, but:

A. To the extent a law other than this chapter requires information to be provided, sent or delivered in writing but permits that requirement to be varied by agreement, the requirement under subsection 1 that the information be in the form of an electronic record capable of retention may also be varied by agreement; and [PL 1999, c. 762, §2 (NEW).]

B. A requirement under a law other than this chapter to send, communicate or transmit a record by certified mail, return receipt requested; first-class mail, postage prepaid; or regular United States mail may be varied by agreement to the extent permitted by the other law. [PL 1999, c. 762, §2 (NEW).]

[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9409. Attribution and effect of electronic record and electronic signature

1. Attributable to person. An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

[PL 1999, c. 762, §2 (NEW).]

2. Effect of attribution to person. The effect of an electronic record or electronic signature attributed to a person under subsection 1 is determined from the context and surrounding circumstances at the time of its creation, execution or adoption, including the parties' agreement, if any, and otherwise as provided by law.

[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9410. Effect of change or error

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply. [PL 1999, c. 762, §2 (NEW).]

1. Security procedure used. If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure but the other party has not and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

[PL 1999, c. 762, §2 (NEW).]

2. Electronic agent. In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of a person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

A. Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person; [PL 1999, c. 762, §2 (NEW).]

B. Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and [PL 1999, c. 762, §2 (NEW).]

C. Has not used or received any benefit or value from the consideration, if any, received from the other person. [PL 1999, c. 762, §2 (NEW).]

[PL 1999, c. 762, §2 (NEW).]

3. Other law. If neither subsection 1 nor subsection 2 is applicable, the change or error has the effect provided by other law, including the law governing mistake, and the parties' contract, if any.

[PL 1999, c. 762, §2 (NEW).]

4. Variance by agreement. Subsections 2 and 3 may not be varied by agreement.

[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9411. Notarization and acknowledgment

If a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9412. Retention of electronic records; originals

1. Requirement. If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record that:

A. Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and [PL 1999, c. 762, §2 (NEW).]

B. Remains accessible for later reference. [PL 1999, c. 762, §2 (NEW).]

[PL 1999, c. 762, §2 (NEW).]

2. Transmission information. A requirement to retain a record in accordance with subsection 1 does not apply to any information whose sole purpose is to enable the record to be sent, communicated or received.

[PL 1999, c. 762, §2 (NEW).]

3. Agents. A person may satisfy subsection 1 by using the services of another person if the requirements of that subsection are satisfied.

[PL 1999, c. 762, §2 (NEW).]

4. Originals. If a law requires a record to be presented or retained in its original form or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection 1.

[PL 1999, c. 762, §2 (NEW).]

5. Checks. If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection 1.

[PL 1999, c. 762, §2 (NEW).]

6. Evidence; audits. A record retained as an electronic record in accordance with subsection 1 satisfies a law requiring a person to retain a record for evidentiary, audit or like purposes, unless a law enacted after the effective date of this chapter specifically prohibits the use of an electronic record for the specified purpose.

[PL 1999, c. 762, §2 (NEW).]

7. Governmental agencies. This section does not preclude a governmental agency of the State from specifying additional requirements for the retention of a record subject to the agency's jurisdiction. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9413. Admissibility in evidence

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9414. Automated transaction

In an automated transaction, the following rules apply. [PL 1999, c. 762, §2 (NEW).]

1. Interaction of electronic agents. A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.
[PL 1999, c. 762, §2 (NEW).]

2. Interaction of electronic agent and individual. A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including an interaction in which the individual performs actions that the individual is free to refuse to perform and that the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.
[PL 1999, c. 762, §2 (NEW).]

3. Substantive law. The terms of a contract are determined by the substantive law applicable to it.
[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9415. Time and place of sending and receipt

1. Sending. Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

A. Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; [PL 1999, c. 762, §2 (NEW).]

B. Is in a form capable of being processed by that information processing system; and [PL 1999, c. 762, §2 (NEW).]

C. Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient that is under the control of the recipient. [PL 1999, c. 762, §2 (NEW).]

[PL 1999, c. 762, §2 (NEW).]

2. Receipt. Unless otherwise agreed between a sender and the recipient, an electronic record is received when it:

A. Enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and [PL 1999, c. 762, §2 (NEW).]

B. Is in a form capable of being processed by that information processing system. [PL 1999, c. 762, §2 (NEW).]

[PL 1999, c. 762, §2 (NEW).]

3. Physical location. Subsection 2 applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection 4.

[PL 1999, c. 762, §2 (NEW).]

4. Place of business. Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply.

A. If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction. [PL 1999, c. 762, §2 (NEW).]

B. If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be. [PL 1999, c. 762, §2 (NEW).]

[PL 1999, c. 762, §2 (NEW).]

5. Actual receipt. An electronic record is received under subsection 2 even if no individual is aware of its receipt.

[PL 1999, c. 762, §2 (NEW).]

6. Contents. Receipt of an electronic acknowledgment from an information processing system described in subsection 2 establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

[PL 1999, c. 762, §2 (NEW).]

7. Legal effect. If a person is aware that an electronic record purportedly sent under subsection 1, or purportedly received under subsection 2, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9416. Transferable records

1. Definition. In this section, "transferable record" means an electronic record that:

A. Would be a note under Title 11, Article 3-A or a document under Title 11, Article 7-A if the electronic record were in writing; and [PL 2009, c. 324, Pt. B, §1 (AMD); PL 2009, c. 324, Pt. B, §48 (AFF).]

B. The issuer of the electronic record expressly has agreed is a transferable record. [PL 1999, c. 762, §2 (NEW).]

[PL 2009, c. 324, Pt. B, §1 (AMD); PL 2009, c. 324, Pt. B, §48 (AFF).]

2. Control. A person has control of a transferable record if an information processing system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

[PL 1999, c. 762, §2 (NEW).]

3. Compliance. An information processing system satisfies subsection 2, and a person is deemed to have control of a transferable record, if the transferable record is created, stored and assigned in such a manner that:

A. A single authoritative copy of the transferable record exists that is unique, identifiable and, except as otherwise provided in paragraphs D, E and F, unalterable; [PL 1999, c. 762, §2 (NEW).]

B. The authoritative copy identifies the person asserting control as:

(1) The person to which the transferable record was issued; or

(2) If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred; [PL 1999, c. 762, §2 (NEW).]

C. The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian; [PL 1999, c. 762, §2 (NEW).]

D. Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control; [PL 1999, c. 762, §2 (NEW).]

E. Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and [PL 1999, c. 762, §2 (NEW).]

F. Any revision of the authoritative copy is readily identifiable as authorized or unauthorized. [PL 1999, c. 762, §2 (NEW).]

[PL 1999, c. 762, §2 (NEW).]

4. Holders. Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in Title 11, section 1-1201, subsection (21), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the Uniform Commercial Code, including, if the applicable statutory requirements under Title 11, section 3-1302, subsection (1); Title 11, section 7-1501; or Title 11, section 9-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated or a purchaser, respectively. Delivery, possession and indorsement are not required to obtain or exercise any of the rights under this subsection.

[PL 2009, c. 652, Pt. A, §7 (RPR); PL 2009, c. 652, Pt. A, §8 (AFF).]

5. Obligors. Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the Uniform Commercial Code.

[PL 1999, c. 762, §2 (NEW).]

6. Proof. If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person seeking to enforce the transferable record is in control of the transferable record. Proof includes access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW). PL 2009, c. 324, Pt. B, §§1, 2 (AMD). PL 2009, c. 324, Pt. B, §48 (AFF). PL 2009, c. 325, Pt. B, §3 (AMD). PL 2009, c. 325, Pt. B, §27 (AFF). PL 2009, c. 652, Pt. A, §7 (AMD). PL 2009, c. 652, Pt. A, §8 (AFF).

§9417. Creation and retention of electronic records and conversion of written records by governmental agencies

Each governmental agency of the State shall determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9418. Acceptance and distribution of electronic records by governmental agencies

1. Option. Except as otherwise provided in section 9412, subsection 6, each governmental agency of the State shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.
[PL 1999, c. 762, §2 (NEW).]

2. Specifics. To the extent that a governmental agency uses electronic records and electronic signatures under subsection 1, the governmental agency, giving due consideration to security, may specify:

A. The manner and format in which the electronic records must be created, generated, sent, communicated, received and stored and the systems established for those purposes; [PL 1999, c. 762, §2 (NEW).]

B. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record and the identity of, or criteria that must be met by, any 3rd party used by a person filing a document to facilitate the process; [PL 1999, c. 762, §2 (NEW).]

C. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality and ability to be audited of electronic records; and [PL 1999, c. 762, §2 (NEW).]

D. Any other required attributes for electronic records that are specified for corresponding nonelectronic records or reasonably necessary under the circumstances. [PL 1999, c. 762, §2 (NEW).]

[PL 1999, c. 762, §2 (NEW).]

3. Not mandatory. Except as otherwise provided in section 9412, subsection 6, this chapter does not require a governmental agency of the State to use or permit the use of electronic records or electronic signatures.
[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9419. Interoperability

A governmental agency of the State that adopts standards pursuant to section 9418 may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this State and other states and the Federal Government and nongovernmental persons interacting with governmental agencies of the State. If appropriate, those standards may specify differing levels of standards from which governmental agencies of the State may choose in implementing the most appropriate standard for a particular application. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9420. Paperless billing

1. Prohibition of certain fees. Except as authorized by federal law and regulation, a customer of a person may not be penalized by that person for opting out of receiving from the person a billing statement by electronic record rather than in paper form. A person may offer an incentive to a customer to accept a billing statement from the person by electronic record rather than in paper form.
[PL 2011, c. 226, §1 (NEW).]

2. Exemption. Subsection 1 does not apply to a person that is a depository institution, as defined in Title 32, section 16102, subsection 5, an affiliate of a depository institution or a subsidiary that is owned and controlled by the depository institution and that is regulated by a state or federal banking agency.
[PL 2011, c. 226, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 226, §1 (NEW).

CHAPTER 1053

MAINE DIGITAL SIGNATURE ACT

§9501. Short title

This chapter may be known and cited as the "Maine Digital Signature Act." [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9502. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 762, §2 (NEW).]

1. Digital signature. "Digital signature" means a computer-created electronic signature that:

A. Is intended by the person using it to have the same force and effect as the use of a manual signature; [PL 1999, c. 762, §2 (NEW).]

B. Is unique to the person using it; [PL 1999, c. 762, §2 (NEW).]

C. Is capable of verification; [PL 1999, c. 762, §2 (NEW).]

D. Is under the sole control of the person using it; and [PL 1999, c. 762, §2 (NEW).]

E. Is linked to data in such a manner that it is invalidated if the data are changed. [PL 1999, c. 762, §2 (NEW).]

[PL 1999, c. 762, §2 (NEW).]

2. Electronic signature. "Electronic signature" has the same meaning as used in chapter 1051.
[PL 1999, c. 762, §2 (NEW).]

3. State agency. "State agency" means a state department, agency, office, board, commission, quasi-independent agency, authority or institution.
[PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9503. Rules adopted by Secretary of State

When a digital signature is used in a transaction involving a state agency, it must conform to rules adopted by the Secretary of State. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9504. Effect of use of digital signature

A digital signature may be accepted as a substitute for, and, if accepted, has the same force and effect as the use of, a manual signature. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9505. Effect of electronic filing with digital signature

A state agency may allow the electronic filing of information required by that agency. Information filed electronically with a state agency utilizing a digital signature has the same force and effect as if filed as a paper document with a manual signature. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9506. Use of digital signature

The use or acceptance of a digital signature is at the option of the parties. Nothing in this chapter requires a state agency to use or permit the use of a digital signature. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

§9507. Construction

Except as otherwise specifically provided, nothing in this chapter may be construed to preempt, replace or otherwise negate the requirements of chapter 1051. [PL 1999, c. 762, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 762, §2 (NEW).

CHAPTER 1055

MARKETING AND DATA COLLECTION PRACTICES

§9551. Definitions

(REPEALED)

SECTION HISTORY

PL 2009, c. 230, §1 (NEW). PL 2009, c. 560, §1 (RP).

§9552. Unlawful collection and use of data from minors

(REPEALED)

SECTION HISTORY

PL 2009, c. 230, §1 (NEW). PL 2009, c. 560, §1 (RP).

§9553. Predatory marketing against minors prohibited

(REPEALED)

SECTION HISTORY

PL 2009, c. 230, §1 (NEW). PL 2009, c. 560, §1 (RP).

§9554. Enforcement

(REPEALED)

SECTION HISTORY

PL 2009, c. 230, §1 (NEW). PL 2009, c. 560, §1 (RP).

PART 14

BUILDING CODE

CHAPTER 1101

MAINE MODEL BUILDING CODE

§9701. Definitions

(REPEALED)

SECTION HISTORY

PL 2003, c. 580, §1 (NEW). PL 2005, c. 200, §1 (AMD). MRSA T. 10 §9707 (RP).

§9702. Limitation on code adoption

(REPEALED)

SECTION HISTORY

PL 2003, c. 580, §1 (NEW). PL 2005, c. 200, §2 (AMD). MRSA T. 10 §9707 (RP).

§9703. Laws in conflict with Maine Model Building Code

(REPEALED)

SECTION HISTORY

PL 2003, c. 580, §1 (NEW). PL 2009, c. 344, Pt. B, §§6, 7 (AMD). PL 2009, c. 344, Pt. E, §2 (AFF). MRSA T. 10 §9707 (RP).

§9704. References within code

(REPEALED)

SECTION HISTORY

PL 2003, c. 580, §1 (NEW). MRSA T. 10 §9707 (RP).

§9705. Municipal codes adopted prior to effective date of chapter

(REPEALED)

SECTION HISTORY

PL 2003, c. 580, §1 (NEW). MRSA T. 10 §9707 (RP).

§9706. Additional training not required

(REPEALED)

SECTION HISTORY

PL 2003, c. 580, §1 (NEW). MRSA T. 10 §9707 (RP).

§9707. Repeal

(REPEALED)

SECTION HISTORY

PL 2007, c. 699, §5 (NEW). PL 2009, c. 261, Pt. A, §4 (AMD). MRSA T. 10 §9707 (RP).

CHAPTER 1103

MAINE UNIFORM BUILDING AND ENERGY CODE

§9721. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 699, §6 (NEW).]

1. Board. "Board" means the Technical Building Codes and Standards Board established in Title 5, section 12004-G, subsection 5-A.
[PL 2007, c. 699, §6 (NEW).]

1-A. Building code. "Building code" means any part or portion of any edition of a code that regulates the construction of a building, including codes published by the International Code Council or Building Officials and Code Administrators International, Inc. or the International Existing Building Code adopted pursuant to former section 9702, but does not include the fire and life safety codes in Title 25, section 2452.
[PL 2013, c. 588, Pt. D, §1 (AMD).]

2. Maine Uniform Building and Energy Code. "Maine Uniform Building and Energy Code" means the uniform statewide building and energy code adopted by the board pursuant to this chapter.
[PL 2007, c. 699, §6 (NEW).]

3. Maine Uniform Building Code. "Maine Uniform Building Code" means that portion of the Maine Uniform Building and Energy Code that does not contain energy code requirements as determined by the board pursuant to section 9722, subsection 6, paragraph B.
[PL 2019, c. 391, §1 (AMD).]

4. Maine Uniform Energy Code. "Maine Uniform Energy Code" means that portion of the Maine Uniform Building and Energy Code that contains only energy code requirements as determined by the board pursuant to section 9722, subsection 6, paragraph B.
[PL 2019, c. 391, §1 (AMD).]

SECTION HISTORY

PL 2007, c. 699, §6 (NEW). PL 2009, c. 261, Pt. A, §5 (AMD). RR 2011, c. 1, §9 (COR). PL 2011, c. 408, §1 (AMD). PL 2013, c. 120, §13 (AMD). PL 2013, c. 588, Pt. D, §1 (AMD). PL 2019, c. 391, §1 (AMD).

§9722. Technical Building Codes and Standards Board

(CONFLICT)

1. Establishment. The Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A and located within the Department of Public Safety, Office of the

State Fire Marshal, is established to adopt, amend and maintain the Maine Uniform Building and Energy Code, to resolve conflicts between the Maine Uniform Building and Energy Code and the fire and life safety codes in Title 25, sections 2452 and 2465 and to provide for training for municipal building officials, local code enforcement officers and 3rd-party inspectors.
[PL 2011, c. 633, §5 (AMD).]

2. Membership. The board consists of 12 members, including the Director of the Efficiency Maine Trust, who serves ex officio and may not vote, and the following 11 individuals, who are voting members appointed by the Governor:

A. The State Fire Marshal or a designee or a fire chief, recommended by the Maine Fire Chiefs' Association or its successor organization; [PL 2007, c. 699, §6 (NEW).]

B. A municipal code enforcement officer employed by a municipality that is not a service center community under Title 30-A, chapter 187, recommended by the Maine Municipal Association or its successor organization; [PL 2007, c. 699, §6 (NEW).]

C. A municipal code enforcement officer employed by a service center community under Title 30-A, chapter 187, recommended by the Maine Service Centers Coalition or its successor organization; [PL 2007, c. 699, §6 (NEW).]

D. A residential builder recommended by a statewide or regional association of home builders and remodelers; [PL 2007, c. 699, §6 (NEW).]

E. A commercial builder recommended by a statewide association of general contractors; [PL 2007, c. 699, §6 (NEW).]

F. An architect licensed in the State who is accredited by a nationally recognized organization that administers credentialing programs related to environmentally sound building practices and standards, recommended by a statewide chapter of a national institute of architects; [PL 2007, c. 699, §6 (NEW).]

G. A structural engineer licensed in the State, recommended by a statewide association of structural engineers; [PL 2007, c. 699, §6 (NEW).]

H. A historic preservation representative, recommended by the Maine Historic Preservation Commission, with experience implementing the standards for the treatment of historic properties set forth in 36 Code of Federal Regulations, Part 68 (2007), who is:

(1) An architect licensed in the State;

(2) A structural engineer licensed in the State; or

(3) A builder; [PL 2007, c. 699, §6 (NEW).]

I. An energy efficiency representative, recommended by the Director of the Governor's Energy Office within the Executive Department, who has experience or expertise in the design or implementation of energy codes or in the application of energy efficiency measures in residential or commercial construction; [PL 2011, c. 655, Pt. MM, §10 (AMD); PL 2011, c. 655, Pt. MM, §26 (AFF).]

J. A mechanical engineer licensed in the State, recommended by a statewide association of mechanical engineers; and [PL 2007, c. 699, §6 (NEW).]

K. A lumber material dealer or supplier, recommended by a statewide association of lumber dealers in the State. [PL 2007, c. 699, §6 (NEW).]

A member appointed under this subsection must have at least 5 years' experience in the field that member is nominated to represent and must be employed in that field.
[PL 2019, c. 391, §2 (AMD).]

3. Ex officio member; chair. The Commissioner of Public Safety, or the commissioner's designee, serves as an ex officio member and as the chair of the board. The chair is a nonvoting member, except in the case of a tie of the board. The chair is responsible for ensuring that the board maintains the purpose of its charge when executing its assigned duties, that any adoption and amendment requirements for the Maine Uniform Building and Energy Code are met and that training and technical assistance is provided to municipal building officials.
[PL 2007, c. 699, §6 (NEW).]

4. Terms; removal. Appointed members of the board are appointed for 4-year terms and are eligible for reappointment. If there is a vacancy for any cause among the appointed members, the Governor shall make an appointment immediately effective for the unexpired term. An appointed member of the board may be removed from the board for cause by the Governor.
[PL 2019, c. 391, §3 (AMD).]

5. Meetings; quorum. The board shall meet quarterly and at such other times as the board determines necessary. Seven voting members of the board constitute a quorum for the transaction of business under this chapter.
[PL 2007, c. 699, §6 (NEW).]

6. Duties and powers. In addition to other duties set forth in this chapter, the board shall:

A. Adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out its duties under this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; [PL 2007, c. 699, §6 (NEW).]

B. Adopt, amend and maintain the Maine Uniform Building and Energy Code. The board shall ensure that the Maine Uniform Building and Energy Code consists of the following codes and standards:

(1) International Building Code published by the International Code Council;

(2) International Existing Building Code published by the International Code Council;

(3) International Residential Code published by the International Code Council;

(4) International Energy Conservation Code published by the International Code Council;

(5) International Mechanical Code published by the International Code Council;

(6) ASHRAE Standard 62.1 Ventilation for Acceptable Indoor Air Quality;

(7) ASHRAE Standard 62.2 Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings;

(8) ASHRAE Standard 90.1 Energy Standard for Buildings Except Low-Rise Residential Buildings; and

(9) Standard Practice for Radon Control Options for the Design and Construction of New Low-Rise Residential Buildings published by the American Society for Testing and Materials.

For purposes of this paragraph, ASHRAE has the same meaning as in section 1413, subsection 1.

Codes and standards adopted under this paragraph are mandatory, except as provided in paragraph B-1. The board shall ensure that each new edition of a code or standard adopted under this paragraph is reviewed by the board, and that each code or standard adopted under paragraph B is either the most recent edition or the edition previous to the most recent edition of that code or standard; [PL 2019, c. 391, §4 (AMD).]

B-1. Ensure the following in adopting and amending the Maine Uniform Building and Energy Code:

(1) That historic preservation is a policy priority by ensuring that:

(a) Provisions of model codes and standards intended to facilitate the continued use or adaptive reuse of historic buildings are maintained in the adopted versions of the Maine Uniform Building and Energy Code; and

(b) The board proactively identifies additional or alternative compliance means and methods for historic buildings in the adoption and amendment of the Maine Uniform Building and Energy Code;

(2) That nontraditional or experimental construction, including but not limited to straw bale, mass timber and earth berm construction, is permissible under the Maine Uniform Building and Energy Code;

(3) That building materials from local sawmills, including but not limited to nongraded lumber, are permissible under the Maine Uniform Building and Energy Code; and

(4) That buildings used to house livestock or harvested crops are not subject to the Maine Uniform Building and Energy Code; [PL 2019, c. 391, §4 (NEW).]

C. Adopt rules for the review and adoption of amendments to the Maine Uniform Building and Energy Code, including:

(1) A process for consideration of amendment proposals submitted by municipalities, county, regional or state governmental units, professional trade organizations and the public;

(2) A requirement that amendments that are more restrictive than the national minimum standard be accompanied by an economic impact statement that includes:

(a) An identification of the types and an estimate of the number of the small businesses subject to the proposed amendment;

(b) The projected reporting, record-keeping and other administrative costs required for compliance with the proposed amendment, including the type of professional skills necessary for preparation of the report or record;

(c) A brief statement of the probable impact on affected small businesses; and

(d) A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed amendment;

(3) A process for reviewing and evaluating criteria to identify whether an amendment is needed to:

(a) Address a critical life or safety need, a specific state policy or statute or a unique character of the State;

(b) Ensure consistency with state rules or federal regulations; or

(c) Correct errors and omissions;

(4) Timelines governing the filing of amendments and a process to establish an annual adoption cycle; and

(5) A process for publication of adopted amendments within 30 days of adoption; [PL 2007, c. 699, §6 (NEW).]

D. Identify and resolve conflicts between the Maine Uniform Building and Energy Code and the fire safety codes and standards adopted pursuant to Title 25, section 2452. The board shall develop rules designed to resolve these conflicts, which must include:

(1) Notification to the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and a request for submission of proposed solutions for such conflicts;

(2) Procedures for consideration of proposed solutions submitted by the authority or authorities having jurisdiction over the code or standard that is in conflict with the Maine Uniform Building and Energy Code and consideration of new approaches to resolving the conflict; and

(3) Publication of resolution of the conflict within 30 days of adoption; [PL 2007, c. 699, §6 (NEW).]

E. On January 31st of each calendar year beginning in 2011, report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters any proposals for proposed conflict resolutions for codes and standards referenced in section 9725, subsections 2 to 7; proposals to improve the efficiency and effectiveness of those codes and standards; and alternative methods of funding for the board to create an equitable source of revenue; [PL 2009, c. 261, Pt. A, §6 (AMD).]

F. Develop technical advisory groups of experts and interest group representatives as necessary to provide the board with detailed information and recommendations on amendments to the Maine Uniform Building and Energy Code, national model codes revisions and conflict resolution with other building-related codes and standards adopted in the State. The board may direct the technical advisory groups to identify economic impacts on small businesses, housing affordability, construction costs, life-cycle costs or code enforcement costs of proposed changes to the code; [PL 2007, c. 699, §6 (NEW).]

G. In accordance with section 9723, ensure that training and certification regarding the Maine Uniform Building and Energy Code is readily available, affordable and accessible to municipal building officials; and [PL 2019, c. 391, §4 (AMD).]

H. [PL 2019, c. 391, §4 (RP).]

I. Approve methods of energy performance rating for use in generating any consumer information labels that may be required in the marketing and sale of residential and commercial buildings or units within buildings. [PL 2019, c. 391, §4 (AMD).]

J. [PL 2019, c. 391, §4 (RP).]

K. [PL 2019, c. 391, §4 (RP).]

L. [PL 2019, c. 391, §4 (RP).]

REVISOR'S NOTE: (Paragraph L as enacted by PL 2011, c. 408, §3 is REALLOCATED TO TITLE 10, SECTION 9722, SUBSECTION 6, PARAGRAPH M)

M. **(REALLOCATED FROM T. 10, §9722, sub-§6, ¶L) (CONFLICT: Text as repealed by PL 2019, c. 391, §4)** [PL 2019, c. 391, §4 (RP).]

M. **(REALLOCATED FROM T. 10, §9722, sub-§6, ¶L) (CONFLICT: Text as amended by PL 2019, c. 392, §1)** Adopt, amend and maintain the Maine Uniform Building Code and the Maine Uniform Energy Code; [PL 2019, c. 392, §1 (AMD).]

N. **(CONFLICT: Text as repealed by PL 2019, c. 391, §4)** [PL 2019, c. 391, §4 (RP).]

N. **(CONFLICT: Text as amended by PL 2019, c. 392, §2)** In the adoption and amendment of the Maine Uniform Building and Energy Code, ensure that buildings used to house livestock or harvested crops are not subject to the code; and [PL 2019, c. 392, §2 (AMD).]

O. No later than July 1, 2020, adopt, amend and maintain an appendix to the Maine Uniform Building and Energy Code as an optional part of the code that contains energy conservation and efficiency requirements that are based on established national voluntary efficiency standards that exceed the energy code requirements established in the Maine Uniform Building and Energy Code. As the code is updated, the board shall ensure that the energy conservation and efficiency requirements in the appendix continue to exceed the requirements established in the Maine Uniform

Building and Energy Code. The appendix must be made available for voluntary adoption by any municipality. The board shall maintain a list of municipalities that have voluntarily adopted the appendix to the Maine Uniform Building and Energy Code on its publicly accessible website. [PL 2019, c. 392, §3 (NEW).]

[PL 2019, c. 391, §4 (AMD); PL 2019, c. 392, §§1-3 (AMD).]

SECTION HISTORY

PL 2007, c. 699, §6 (NEW). PL 2009, c. 261, Pt. A, §6 (AMD). RR 2011, c. 1, §§10-12 (COR). PL 2011, c. 365, §§1-3 (AMD). PL 2011, c. 408, §§2, 3 (AMD). PL 2011, c. 633, §5 (AMD). PL 2011, c. 655, Pt. MM, §10 (AMD). PL 2011, c. 655, Pt. MM, §26 (AFF). PL 2015, c. 126, §§1-3 (AMD). PL 2019, c. 391, §§2-4 (AMD). PL 2019, c. 392, §§1-3 (AMD).

§9723. Training and certification program standards

1. Appoint committee; establish requirements. The board shall appoint a 5-member training and certification committee, referred to in this section as "the committee," to establish the training and certification requirements for municipal building officials, local code enforcement officers and 3rd-party inspectors. For purposes of this section, "3rd-party inspector" has the same meaning as set forth in Title 25, section 2371, subsection 6.

[PL 2007, c. 699, §6 (NEW).]

2. Training program standards; implementation. The committee shall direct the training coordinator of the Division of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors. The Department of Public Safety, Office of the State Fire Marshal, pursuant to Title 30-A, section 4451, subsection 3-A, shall implement the training and certification program established under this chapter.

[PL 2019, c. 517, §1 (AMD).]

3. Annual review. The committee shall annually review the training program developed pursuant to subsection 2 to confirm that training courses are regularly offered in geographically diverse locations and that training for municipal building officials is fully funded by the State.

[PL 2007, c. 699, §6 (NEW).]

SECTION HISTORY

PL 2007, c. 699, §6 (NEW). PL 2011, c. 633, §6 (AMD). PL 2011, c. 655, Pt. FF, §2 (AMD). PL 2011, c. 655, Pt. FF, §16 (AFF). PL 2013, c. 424, Pt. A, §3 (AMD). PL 2019, c. 517, §1 (AMD).

§9724. Application

1. Limitations on home rule authority. This chapter provides express limitations on municipal home rule authority. The Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 4,000 residents. The Maine Uniform Building and Energy Code must be enforced through inspections that comply with Title 25, section 2373.

[PL 2019, c. 391, §5 (AMD).]

1-A. Municipalities up to 4,000 residents. A municipality of up to 4,000 residents is not required to enforce, but may not adopt or enforce a building code other than the Maine Uniform Building Code, the Maine Uniform Energy Code or the Maine Uniform Building and Energy Code.

[PL 2019, c. 391, §6 (AMD).]

1-B. Residents. For the purposes of subsections 1 and 1-A, "residents" does not include persons held at a correctional facility, as defined in Title 34-A, section 1001, subsection 6, within the municipality.

[PL 2011, c. 505, §1 (NEW).]

2. Prior statewide codes and standards. Effective December 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, former section 121 and the Maine model radon standard for new residential construction set forth in Title 25, former section 2466.
[PL 2013, c. 588, Pt. D, §2 (AMD).]

3. Ordinances. Effective December 1, 2010, except as provided in subsection 5 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the Maine Uniform Building and Energy Code is void.
[PL 2011, c. 365, §4 (AMD).]

4. Exception.

[PL 2011, c. 365, §5 (RP).]

5. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth provisions for local enforcement of building codes. If such an ordinance does not provide for a process to appeal decisions made by building officials administering and enforcing the Maine Uniform Building Code, the Maine Uniform Energy Code or the Maine Uniform Building and Energy Code, an appeal may be taken in the same manner as provided under Title 30-A, section 4103, subsection 5. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth the swimming pool fencing standards, without amendment, contained in Appendix G of the 2nd edition of the 2009 International Residential Code.

A. The requirements of the Maine Uniform Building and Energy Code do not apply to:

(1) Log homes or manufactured housing as defined in chapter 951;

(2) Post and beam or timber frame construction; or

(3) Warehouses or silos used to store harvested crops. [PL 2011, c. 365, §6 (NEW).]

B. [PL 2011, c. 365, §6 (NEW); MRSA T. 10 §9724, sub-5, ¶B (RP).]
[PL 2011, c. 582, §1 (AMD).]

6. Adoption by reference. The Maine Uniform Building Code, the Maine Uniform Energy Code and the Maine Uniform Building and Energy Code may be adopted by reference by a municipality as specified in Title 30-A, section 3003.
[PL 2011, c. 582, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 699, §6 (NEW). PL 2009, c. 261, Pt. A, §§7-9 (AMD). PL 2011, c. 365, §§4-6 (AMD). PL 2011, c. 408, §§4, 5 (AMD). PL 2011, c. 505, §1 (AMD). PL 2011, c. 582, §§1, 2 (AMD). PL 2013, c. 588, Pt. D, §2 (AMD). PL 2019, c. 391, §§5, 6 (AMD).

§9725. Fire and building-related codes and standards remain

The codes and standards listed in this section remain in force in their entirety unless the board adopts and publishes a conflict resolution between the fire and safety codes and standards and the Maine Uniform Building and Energy Code. Conflict resolutions adopted pursuant to this chapter must also be incorporated into the fire and safety codes and standards by the appropriate authorities: [PL 2007, c. 699, §6 (NEW).]

1. Fire safety codes and standards. Fire safety codes and standards adopted pursuant to Title 25, sections 2452 and 2465;
[PL 2007, c. 699, §6 (NEW).]

2. Electrical standards. Electrical standards adopted pursuant to Title 32, section 1153-A;
[PL 2007, c. 699, §6 (NEW).]

3. Plumbing code. The plumbing code adopted pursuant to Title 32, section 3403-B;
[PL 2007, c. 699, §6 (NEW).]

4. Oil and solid fuel burning equipment standards. Oil and solid fuel burning equipment standards adopted pursuant to Title 32, section 18123, subsection 2;
[PL 2009, c. 344, Pt. B, §8 (AMD); PL 2009, c. 344, Pt. E, §2 (AFF).]

5. Propane and natural gas equipment standards. Propane and natural gas equipment standards adopted pursuant to Title 32, section 18123, subsection 2;
[PL 2009, c. 344, Pt. B, §9 (AMD); PL 2009, c. 344, Pt. E, §2 (AFF).]

6. Boiler and pressure vessel standards. Boiler and pressure vessel standards adopted pursuant to Title 32, section 15103-A; and
[PL 2013, c. 70, Pt. B, §2 (AMD).]

7. Elevator standards. Elevator standards adopted pursuant to Title 32, section 15205-A.
[PL 2013, c. 70, Pt. B, §3 (AMD).]

SECTION HISTORY

PL 2007, c. 699, §6 (NEW). PL 2009, c. 344, Pt. B, §§8, 9 (AMD). PL 2009, c. 344, Pt. E, §2 (AFF). PL 2013, c. 70, Pt. B, §§2, 3 (AMD).

PART 15

STATE OF EMERGENCY PROCEDURES

CHAPTER 1201

WAIVERS FOR OUT-OF-STATE BUSINESSES AND EMPLOYEES

§9901. Findings

The Legislature finds that in times of emergency in this State, such as during or after a storm, flood, fire, earthquake, hurricane or other disaster, businesses from other states provide assistance by bringing in resources and personnel to assist the State with the often enormous and overwhelming task of cleaning up, restoring and repairing damaged buildings, equipment and property. This provision of assistance may require out-of-state businesses, including out-of-state affiliates of businesses based in the State, to bring in resources, property or personnel that previously have had no connection to the State to perform activities in the State, including, but not limited to, repairing, renovating, installing, building, rendering services and engaging in other business activities, some of which may require that personnel from the businesses be located in the State for extended periods of time. [PL 2011, c. 622, §1 (NEW).]

The Legislature further finds that, while these businesses are operating in the State providing assistance on a temporary basis solely for the purpose of helping the State recover from the disaster or emergency, these businesses and their employees should not be burdened by requirements for certain business and employee taxes as a result of such temporary activities. [PL 2011, c. 622, §1 (NEW).]

To ensure that these businesses focus on responding quickly to the needs of the State and its citizens during a declared state disaster or emergency, the Legislature finds that it is appropriate to consider that such activity for a reasonable period of time during and after the disaster or emergency undertaken to repair and restore property and infrastructure in the State does not establish presence or residency in the State or constitute doing business in the State for purposes of subjecting the businesses to certain taxes or licensing and regulatory requirements. [PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW).

§9902. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2011, c. 622, §1 (NEW).]

1. Declared state disaster or emergency. "Declared state disaster or emergency" means a disaster or emergency event for which a Governor's state of emergency proclamation has been issued pursuant to Title 37-B, section 742 or that the President of the United States has declared to be a major disaster or emergency.
[PL 2011, c. 622, §1 (NEW).]

2. Disaster period. "Disaster period" means the period of time that begins no later than 10 days following the Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or emergency, whichever occurs first, and that extends for a period of 60 calendar days following the end of the declared disaster or emergency as proclaimed by the Governor pursuant to Title 37-B, section 743 or the President of the United States or pursuant to law, whichever occurs first.
[PL 2011, c. 622, §1 (NEW).]

3. Infrastructure. "Infrastructure" means:

A. Property and equipment, including related support facilities that provide service to more than one customer or person, owned or used by a public utility as defined in Title 35-A, section 102, subsection 13 or by a communications service provider as defined in Title 35-A, section 9202, subsection 4. "Infrastructure" includes, without limitation, real and personal property such as buildings, offices, power lines, poles, pipes, structures and equipment; and [PL 2011, c. 622, §1 (NEW).]

B. Public roads and bridges. [PL 2011, c. 622, §1 (NEW).]
[PL 2011, c. 622, §1 (NEW).]

4. Out-of-state business. "Out-of-state business" means a business entity:

A. That does not have a presence in the State; [PL 2011, c. 622, §1 (NEW).]

B. That does not conduct business in the State; and [PL 2011, c. 622, §1 (NEW).]

C. Whose assistance in performing work in this State, such as repairing, renovating, installing or building infrastructure, rendering services or engaging in other business activities, related to a declared state disaster or emergency is requested by the State, a county, city, town or other political subdivision of the State or a registered business. [PL 2011, c. 622, §1 (NEW).]

"Out-of-state business" includes a business entity that is affiliated with a registered business solely through common ownership as long as that business entity does not have any registrations, tax filings or nexus in the State prior to the declared state disaster or emergency.
[PL 2011, c. 622, §1 (NEW).]

5. Out-of-state employee. "Out-of-state employee" means an individual who performs services for an out-of-state business in return for compensation and who, prior to the declared state disaster or emergency, was not a resident of this State.
[PL 2011, c. 622, §1 (NEW).]

6. Registered business. "Registered business" means a business entity that is registered or licensed to do business in the State prior to the declared state disaster or emergency.
[PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW).

§9903. Status of out-of-state businesses and employees during disaster period

1. Out-of-state businesses. Notwithstanding any other provision of law to the contrary, during a disaster period an out-of-state business that conducts operations within the State for the purpose of performing work or providing services related to a declared state disaster or emergency is deemed to have not established a level of presence that would require that business or its out-of-state employees to be subject to any of the following state or local employment, licensing or registration requirements:

A. Business licensing or registration requirements; [PL 2011, c. 622, §1 (NEW).]

B. Unemployment insurance taxes or fees or workers' compensation insurance taxes or fees; and [PL 2011, c. 691, Pt. E, §1 (AMD); PL 2011, c. 691, Pt. E, §2 (AFF).]

C. Occupational licensing fees. [PL 2011, c. 622, §1 (NEW).]

[PL 2011, c. 691, Pt. E, §1 (AMD); PL 2011, c. 691, Pt. E, §2 (AFF).]

2. Status after disaster period. After the termination of a disaster period, an out-of-state business or out-of-state employee that remains in the State is fully subject to the state or local employment, licensing or registration requirements listed in subsection 1 or that were otherwise suspended under this chapter during the disaster period.

[PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW). PL 2011, c. 691, Pt. E, §1 (AMD). PL 2011, c. 691, Pt. E, §2 (AFF).

§9904. Notification

1. Notification by out-of-state businesses during disaster period. An out-of-state business shall provide notification to the Secretary of State as soon as practicable after entry to the State during a disaster period that the out-of-state business is in the State for purposes of responding to the declared state disaster or emergency. The out-of-state business shall provide to the Secretary of State information related to the out-of-state business including but not limited to the following:

A. Name; [PL 2011, c. 622, §1 (NEW).]

B. State of domicile; [PL 2011, c. 622, §1 (NEW).]

C. Principal business address; [PL 2011, c. 622, §1 (NEW).]

D. Federal employer identification number; [PL 2011, c. 622, §1 (NEW).]

E. The date when the out-of-state business entered the State; and [PL 2011, c. 622, §1 (NEW).]

F. Contact information while the out-of-state business is in this State. [PL 2011, c. 622, §1 (NEW).]

[PL 2011, c. 622, §1 (NEW).]

2. Registered businesses. A registered business shall provide the notification required in subsection 1 for an affiliate of the registered business that enters the State as an out-of-state business. The notification under this subsection also must include contact information for the registered business in the State.

[PL 2011, c. 622, §1 (NEW).]

3. Notification of intent to remain in the State. An out-of-state business that remains in the State after a disaster period shall notify the Secretary of State and shall meet all registration, licensing and filing requirements resulting from any business presence or activity in the State.

[PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW).

§9905. Rulemaking

The Secretary of State, in consultation with the Department of Professional and Financial Regulation, the Department of Economic and Community Development and the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency, may adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement the provisions of this chapter. Notification and registration procedures adopted by rule must allow a person to obtain and complete any required forms using a publicly accessible website on the Internet. [PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW).

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