

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

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1977

PUBLIC LAWS
OF THE
STATE OF MAINE

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1977

The lien may, within said 5-year period, or within 5 years from the date of the last extension of the lien in the manner provided in this section, be extended by filing for record in the office of the register of deeds appropriate office a copy of said notice and from the time of such filing the lien shall be extended for 5 years, unless sooner released or otherwise discharged.

Effective October 24, 1977

CHAPTER 478

AN ACT to Regulate the Dispensing of Prescription Drugs.

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

32 MRSA § 2805, sub-§ 21, as enacted by PL 1971, c. 282, § 6 is amended to read:

21. **Prescription.** "Prescription" shall mean any order, written or verbal, for any drug, medicine or poison by a physician, dentist, veterinarian or other duly licensed and authorized medical practitioner, or his duly authorized legal agent for any drug, medicine or poison. Such a duly authorized agent includes at least a physician assistant authorized under section 2594-A or 3270-A or a nurse who is authorized to prescribe therapeutic or corrective measures under section 2102, subsection 2.

Effective October 24, 1977

CHAPTER 479

AN ACT to Amend or Repeal Certain Laws Relating to Local and County Government.

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

Whereas, Acts of this and previous Legislatures have resulted in certain errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies have created uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary to resolve these uncertainties and confusion to prevent any injustice or hardship on the people of Maine; and

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

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

Sec. 1. 1 MRSA § 72, sub-§ 12, is repealed and the following enacted in its place:

12. **Municipal officers.** "Municipal officers" means the mayor and aldermen or councillors of a city, the selectmen or councillors of a town and the assessors of a plantation.

Sec. 2. 19 MRSA § 92, 2nd sentence, as amended by PL 1977, c. 14, is further amended to read:

Then, if either party applies to enter such notice, the clerk shall withhold the certificate until a decision is made by the probate court judge from the ~~district~~ county involved, approving the marriage, after due notice to and hearing all concerned, provided the person filing the caution shall within 7 days thereafter procure the decision of such probate court judge unless he certifies that further time is necessary for the purpose.

Sec. 3. 20 MRSA § 226, sub-§ 5, as repealed and replaced by PL 1971, c. 611, § 5, is amended to read:

5. **Registration.** Registration of voters for the district budget meeting shall be held in each member municipality in accordance with the time schedule specified in Title 21, section 631 ~~subsection 3, regardless of population, notwithstanding any other provision of statute.~~

Sec. 4. 23 MRSA § 3028, as enacted by PL 1975, c. 711, § 8, is amended by adding after the 2nd sentence a new sentence to read:

A proceeding to discontinue a town or county way shall not prevent or stop a municipality from asserting a presumption of abandonment.

Sec. 5. 23 MRSA § 3029, 1st ¶, as enacted by PL 1975, c. 711, § 8, is amended to read:

Damages shall be determined using the methods in sections 154 through 154E, as far as practicable, except that references to the "commission" or the "board" shall mean the "municipal officers" and references to the "state" shall mean the "municipality."

Sec. 6. 26 MRSA § 968, sub-§ 5, ¶ D, 1st sentence, as last amended by PL 1975, c. 564, § 27, is further amended to read:

If after the issuance of an order by the board requiring any party to cease and desist or to take any other affirmative action, said party fails to comply with the order of the board then the party in whose favor the order operates or the board may file a civil action in the Superior Court of Kennebec County, or the county in which the prohibited practice has occurred, to compel compliance with the order of the board.

Sec. 7. 26 MRSA § 968, sub-§ 5, ¶ F, 1st sentence, as amended by PL 1975, c. 564, § 28, is further amended to read:

Either party may seek a review by the Superior Court of Kennebec County or of the county in which the prohibited practice is alleged to have occurred of a decision of the Maine Labor Relations Board by filing a complaint in accordance with the Rules of Civil Procedure, Rule 80B, provided the complaint shall be filed within 15 days of the effective date of the decision.

Sec. 8. 29 MRSA § 354, sub-§ 5, 1st sentence, as repealed and replaced by PL 1975, c. 770, § 147, is amended to read:

No mobile home, as defined in Title 36, section 1481, shall be moved over the highways of this State unless the operator of the vehicle hauling such mobile home has in his possession a written certificate from the tax collector of the municipality from which the mobile home is being moved in which the mobile home is situated on the day of the move, identifying the mobile home and stating that all property taxes applicable to the mobile home, including those for the current tax year, have been paid or that the mobile home is exempt from such taxes.

Sec. 9. 30 MRSA § 1953, 1st sentence, is amended to read:

Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this State may be exercised and enjoyed jointly with any other public agency of this State, or of the United States to the extent that the laws of the United States permit such joint exercise.

Sec. 10. 30 MRSA § 1953, sub-§ 6, is enacted to read:

6. Limitation. Notwithstanding any other provision of this chapter:

A. No powers, privileges or authority may be jointly exercised unless each type of power, privilege or authority exercised is capable of being exercised by at least one of the parties within the entire jurisdictional area of the contract, or by each of the several of parties within each of their several jurisdictions if all of the several jurisdictions make up the total jurisdictional area of the contract; or

B. No essential legislative powers, taxing authority, or eminent domain power may be delegated by contract to a joint authority or administrative entity.

Sec. 11. 30 MRSA § 2061, sub-§ 3, ¶ D, is enacted to read:

D. Notwithstanding the provisions of this subsection, where the municipal officers determine to fill a vacancy under the terms of section 2253, which must be filled by election, the municipal officers may designate a shorter time period for the availability of nomination papers but not less than 10 days prior to the final date for filing, and may designate a shorter time period for the final date for filing nomination papers but not less than the 14th day next prior to the day of election. Notice of the designation shall be posted in the same place or places as town meeting warrants are posted and local representatives of the media shall be notified of the designation.

Sec. 12. 30 MRSA § 2311, sub-§ 2, 2nd sentence, as enacted by PL 1969, c. 590, § 58-B, is amended to read:

In addition ~~the following~~ town officials may be elected by ballot, including without limitation: Moderator, assessors, overseers of the poor, clerk and treasurer.

Sec. 13. 30 MRSA § 2411, sub-§ 4, as enacted by PL 1971, c. 455, § 1, is amended by adding at the end a new sentence to read:

No board created under this section may assert jurisdiction over any matter unless the municipality has by ordinance specified the precise subject matter that may be appealed to the board and the official or officials whose action or nonaction may be appealed to the board.

Sec. 13-A. 30 MRSA § 5056, sub-§ 2, as last amended by PL 1977, c. 98, § 7, is further amended by adding at the end the following new paragraphs to read:

The municipal officers may certify to the assessors the estimated amount to be received by the municipality under this section, and may direct the assessors to reduce the sum committed for collection by that amount. The assessors, if so directed, shall reduce the tax commitment in the manner provided in Title 36, section 714.

This section shall be effective retroactive to April 27, 1977. Any tax commitment made in calendar year 1977 that has been reduced by an amount anticipated to be received under this section is hereby validated notwithstanding the lack of formal certification by the municipal officers.

Sec. 14. 30 MRSA § 5110, 1st 2 sentences, as enacted by PL 1975, c. 651, § 3, are repealed and the following enacted in their place:

A municipality or plantation may raise one or 2 taxes during a single valuation if the taxes raised are based on appropriations made for a municipal fiscal year that does not exceed 18 months. A municipal or plantation fiscal year may extend beyond the end of the current tax year and the municipal officers or assessors of a plantation, when changing the municipality's or plantation's fiscal year, may for transition purposes adopt one or more fiscal years not longer than 18 months each.

Sec. 15. 36 MRSA § 841, 3rd ¶, is amended by adding after the first sentence the following new sentence:

If an abatement is made after a tax lien has been placed on real property, the amount of the abatement shall be used as a credit by the tax collector when computing the amount necessary to discharge the lien.

Sec. 16. 36 MRSA § 841-A, 2nd ¶, as amended by PL 1973, c. 788, § 185, is further amended by adding after the first sentence a new sentence to read:

If an abatement is made after a tax lien has been placed on real property, the amount of the abatement shall be used as a credit by the tax collector when computing the amount necessary to discharge the lien.

Sec. 17. 36 MRSA § 942, 2nd ¶, 1st sentence, as amended by PL 1975, c. 770, § 203, is further amended to read:

The tax collector may, after the expiration of 8 months and within one year after the date of original commitment of a tax, give to the person against whom said tax is assessed, or leave at his last and usual place of abode, or send by registered mail to his last known address, a notice in writing signed by said tax collector or bearing his facsimile signature, stating the amount of such tax, describing the real estate on which the tax is assessed, alleging that a lien is claimed on said real estate to secure the payment of the tax, and demanding the payment of said tax within 10 days after service or mailing of such notice with \$1 for said tax collector for making the demand together with the registered mail fee.

Sec. 18. 36 MRSA § 942, 3rd ¶, 1st sentence, is amended to read:

After the expiration of said 10 days and within 10 days thereafter, the tax collector shall record in the registry of deeds of the county or registry district where said real estate is situated a tax lien certificate signed by said tax collector or bearing his facsimile signature, setting forth the amount of such tax, a description of the real estate on which the tax is assessed and an allegation that a lien is claimed on said real estate to secure the payment of said tax, that a demand for payment of said tax has been made in accordance with this section, and that said tax remains unpaid.

Sec. 19. 36 MRSA § 1482, sub-§ 5, 1st ¶, as last amended by PL 1973, c. 588, § 10, is further amended to read:

5. Credits. Any owner who has paid the excise or property tax for a vehicle the ownership of which is transferred, or which is subsequently totally lost by fire, theft or accident or which is subsequently totally junked or abandoned, in the same calendar year or registration year, shall be entitled to a credit to the maximum amount of the tax previously paid in such year or period for any one vehicle toward the tax for ~~such other vehicles~~ any number of vehicles, regardless of the number of transfers which may be required of him in the same calendar year or registration year.

Sec. 19-A. Resolves, 1977, c. 18, §§ 4 and 5 are amended to read:

Sec. 4. Antirecessional fiscal assistance expenditures authorized. Resolved: That the following additional sums, based on the county budget filed in the Office of the Secretary of State, are authorized as expenditures by the county during the calendar year 1977, from antirecessional fiscal assistance funds received by the county, in specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for the accounts in the county budget:

Appropriation Account No.	Appropriations
1025—District Attorney	
Personal Services	\$1,950
1075—Sheriff	
Personal Services	6,491
TOTAL ANTIRECESSIONAL FISCAL ASSISTANCE	\$6,491
	\$8,441

; and be it further

Sec. 5. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the year 1977. The following is a summary of receipts and appropriations:

Total Appropriations		\$415,209	\$417,159
Available Credits:			
Estimated Revenue		\$42,087	
Federal Revenue Sharing		40,000	
Antirecessional Fiscal Assistance	6,491	8,441	
Total Available Credits		88,578	90,528
			<hr/>
Amount to be raised by taxation			\$326,631

Sec. 20. Resolves, 1977, c. 20, § 4 is repealed and the following enacted in its place:

Sec. 4. Antirecessional fiscal assistance expenditures authorized. Resolved: That the following additional sums, based on the county budget filed in the Office of the Secretary of State, are authorized as expenditures by the county during the calendar year 1977, from antirecessional fiscal assistance funds received by the county, in specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for the accounts in the county budget:

Appropriation Account No.	Appropriations
Project 7-A—Register of Deeds—Microfilm	
Capital Expenditures	\$ 4,500
Project 7-A—Buildings	
Capital Expenditures	7,247
Project 16-A	
Personal Services	12,000
Contractual Services	3,928
Project 16-B—Excess Property Program	
Capital Expenditures	2,500

Project 16-C—County Laborer Program

Personal Services 1,721

TOTAL ANTIRECESSIONAL FISCAL ASSISTANCE \$31,896

; and be it further

Sec. 21. Resolves, 1977, c. 20, § 5 is repealed and the following enacted in its place:

Sec. 5. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the calendar year 1977. The following is a summary of receipts and appropriations:

Total Appropriations \$768,968

Available Credits:

Estimated Revenue \$ 80,000

Transfer from Surplus 125,000

Federal Revenue Sharing 156,459

Antirecessional Fiscal Assistance 31,896

Total Available Credits 393,355

Amount to be raised by taxation \$375,613

Sec. 22. Resolves, 1977, c. 21, §§ 4 and 5 are amended to read:

Sec. 4. Antirecessional fiscal assistance expenditures authorized. Resolved: That the following additional sums, based on the county budget filed in the Office of the Secretary of State, are authorized as expenditures by the county during the calendar year 1977, from antirecessional fiscal assistance funds received by the county, in specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for the accounts in the county budget:

Appropriation Account No.	Appropriations
1030—County Commissioners	
Personal Services	\$ 1,300
1075—Sheriff	
Personal Services	25,570

2095—Telecommunications

Personal Services	1,797
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TOTAL ANTIRECESSIONAL FISCAL ASSISTANCE

	\$26,870 \$28,667
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; and be it further

Sec. 5. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the year 1977. The following is a summary of receipts and appropriations:

Total Appropriations	\$735,398 \$737,195
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Available Credits:

Estimated Revenue	\$ 59,620
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Federal Revenue Sharing	174,559
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Antirecessional Fiscal Assistance	26,870 28,667
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Total Available Credits	261,049 262,846
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Amount to be raised by taxation	\$474,349 \$474,349
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Sec. 23. Resolves, 1977, c. 23, §§ 4 and 5 are amended to read:

Sec. 4. Antirecessional fiscal assistance expenditures authorized. Resolved: That the following additional sums, based on the county budget filed in the Office of the Secretary of State, are authorized as expenditures by the county during the calendar year 1977, from antirecessional fiscal assistance funds received by the county, in specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for the accounts in the county budget:

Appropriation Account No.	Appropriations
1040—County Buildings	
Personal Services	\$ 5,586
Contractual Services	7,600 20,457
Commodities	7,500
1050—Jail—Support of Prisoners	
Contractual Services	2,000

Capital Expenditures 1,000

TOTAL ANTIRECESSIONAL FISCAL ASSISTANCE

~~\$17,686~~ \$36,543

; and be it further

Sec. 5. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the year 1977. The following is a summary of receipts and appropriations:

Total Appropriations ~~\$803,446~~ \$822,303

Available Credits:

Estimated Revenue \$ 56,200

Federal Revenue Sharing 130,454

Antirecessional Fiscal Assistance ~~17,686~~ 36,543

Total Available Credits ~~204,340~~ 223,197

Amount to be raised by taxation \$599,106

Sec. 24. Resolves, 1977, c. 24, §§ 4 and 5 are amended to read:

Sec. 4. Antirecessional fiscal assistance expenditures authorized. Resolved: That the following additional sums, based on the county budget filed in the Office of the Secretary of State, are authorized as expenditures by the county during the calendar year 1977, from antirecessional fiscal assistance funds received by the county, in specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for the accounts in the county budget:

Appropriation
Account No.

Appropriations

Unnumbered Account—Court Systems and Jail

Renovation of buildings ~~\$86,611~~ \$87,920

TOTAL ANTIRECESSIONAL FISCAL ASSISTANCE

~~\$86,611~~ \$87,920

; and be it further

Sec. 5. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the year 1977. The following is a summary of receipts and appropriations:

Total Appropriations	\$1,205,788 \$1,207,097
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Available Credits:

Estimated Revenue	\$150,360	
Federal Revenue Sharing	253,989	
Antirecessional Fiscal Assistance	86,611 87,920	
Transfer from Surplus	30,400	
Total Available Credits	521,360 522,669	

Amount to be raised by taxation	\$ 684,428
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Sec. 25. Resolves, 1977, c. 26, §§ 4 and 5 are amended to read:

Sec. 4. Antirecessional fiscal assistance expenditures authorized. Resolved: That the following additional sums, based on the county budget filed in the Office of the Secretary of State, are authorized as expenditures by the county during the calendar year 1977, from antirecessional fiscal assistance funds received by the county, in specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for the accounts in the county budget:

Appropriation Account No.	Appropriations
1075—Sheriff	
Personal Services	\$ 550
2090—Old Court Records	
Personal Services	14,910
2091—County Planner	
Personal Services	9,000 10,775

TOTAL ANTIRECESSIONAL FISCAL ASSISTANCE

\$28,910 \$26,235

; and be it further

Sec. 5. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the calendar year 1977. The following is a summary of receipts and appropriations:

Total Appropriations	\$773,329	\$775,654
Available Credits:		
Estimated Revenue	\$ 61,875	
Federal Revenue Sharing	68,000	
Antirecessional Fiscal Assistance	23,910	26,235
Total Available Credits	153,785	156,110
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Amount to be raised by taxation		\$619,544

Sec. 26. Resolves, 1977, c. 31, §§ 4 and 5 are amended to read:

Sec. 4. Antirecessional fiscal assistance expenditures authorized. Resolved: That the following additional sums, based on the county budget filed in the Office of the Secretary of State, are authorized as expenditures by the county during the calendar year 1977, from antirecessional fiscal assistance funds received by the county, in specific total amounts of expenditures for personal services, contractual services, commodities and capital expenditures for the accounts in the county budget:

Appropriation Account No.	Appropriations
1040—Court House	
Personal Services	\$15,208 \$17,700
Capital Expenditures	6,646
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TOTAL ANTIRECESSIONAL FISCAL ASSISTANCE

~~\$15,208~~ \$24,346

; and be it further

Sec. 5. Summary. Resolved: That the figures appearing in this resolve represent the total amount of taxes and the total specific expenditures authorized for the calendar year 1977. The county shall not expand any present programs or services or undertake any new programs or services that are to use county tax revenues or expenditures authorized under section 2 of this resolve. The expenditures for personal services in any account shall be determined by the county commissioners and shall be authorized by the final budget document adopted by the Cumberland County legislative delegation.

The following is a summary of receipts and appropriations:

Total Appropriations		\$3,008,079	\$3,017,217
Available Credits:			
Estimated Revenue		\$667,173	
Transfer from Surplus		170,000	
Federal Revenue Sharing		263,000	
Antirecessional Fiscal Assistance	15,208	24,346	
Total Available Credits		1,115,381	1,124,519
Amount to be raised by taxation			\$1,892,698

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

Effective July 8, 1977

CHAPTER 480

AN ACT to Amend the Powers and Duties of the Maine Committee on Aging.

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

Sec. 1. 22 MRSA § 5112, sub-§ 2, 2nd ¶, 1st sentence, as enacted by PL 1975, c. 530, is amended to read:

In order to serve as advocate and ombudsman for older people, the committee shall have the power to enter onto the premises of any residential boarding care facility licensed according to section 7801 and any nursing home facility licensed according to section 1817 in order to investigate complaints concerning such facilities.

Sec. 2. 22 MRSA § 5112, sub-§ 2, as enacted by PL 1975, c. 530, is amended by adding after the 2nd paragraph a new paragraph to read:

Any person, official or institution who in good faith participates in the registering of a complaint pursuant to this subsection about an act or practice in a boarding care facility or a nursing home licensed according to sections 7801 or 1817, respectively, or who participates in a judicial proceeding resulting from such a complaint, shall be immune from any criminal liability that otherwise might result by reason of such actions. For the purpose of any criminal