

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

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

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Twin City Printery  
Lewiston, Maine  
1988

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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C. Functional skills required to maximize the adult's abilities in activities of daily living, provided by a registered occupational therapist experienced in the rehabilitation of the severely physically disabled.

**Sec. 4. Personal care assistants; wages, benefits and overnight pay.** The Bureau of Rehabilitation, in establishing and administering a program of personal care assistance services for severely disabled adults, shall expand its present program to serve an additional 20 new consumers and shall provide through contract with providers of in-home personal care assistance for an average compensation rate of \$7 an hour for personal care assistants, payment of \$12 each night for each client to overnight attendants and the establishment of a pro rata group benefits package, not to exceed \$1,000 for each personal care attendant, including health insurance, vacation and sick leave for personal care assistants. In overseeing the use of funds for increased wages of personal care assistance workers, the Bureau of Rehabilitation shall take into account regional variations in the cost of living and competitive wage rates across the State.

**Sec. 5. State Medicaid plan.** The Bureau of Medical Services shall adopt personal care assistance services as part of the state Medicaid plan. These regulations shall be designed to allow for personal assistance services to be provided in a manner that allows the consumer to achieve maximum control over that consumer's life while minimizing the orientation to a medical model whenever possible, which will result in reducing the overall costs.

Effective August 4, 1988.

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## CHAPTER 846

S.P. 863 — L.D. 2251

### AN ACT to Assist Homeowners and Businesses to Comply with the Overboard Discharge Law.

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

**Sec. 1.** 10 MRS A §963-A, sub-§10, ¶I, as amended by PL 1987, c. 521, §1, is further amended to read:

I. Any water supply system project; or

**Sec. 2.** 10 MRS A §963-A, sub-§10, ¶J, as enacted by PL 1987, c. 521, §2, is amended to read:

J. Any underground oil storage facility replacement project; or

**Sec. 3.** 10 MRS A §963-A, sub-§10, ¶K is enacted to read:

K. Any overboard discharge replacement project.

**Sec. 4.** 10 MRS A §963-A, sub-§§42-A and 42-B are enacted to read:

42-A. Overboard discharge. "Overboard discharge" means the same as set forth in Title 38, section 466, subsection 9-A.

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.

**Sec. 5.** 10 MRS A §1023-E is enacted to read:

#### §1023-E. Overboard Discharge Replacement Fund

1. Creation. The Overboard Discharge Replacement Fund is created and established under the jurisdiction and control of the authority.

2. Sources of money. There shall be paid into the fund the following:

A. All money appropriated for inclusion in the fund;

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund;

C. Subject to any pledge, contract or other obligations, any money which the authority receives in repayment of advances from the fund; and

D. Any other money available to the authority and directed by the authority to be paid into the fund.

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 1026-G, 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. Money in the fund may be used for direct loans for all or part of overboard discharge replacement projects when the authority determines that:

A. Replacement, rehabilitation or removal of the overboard discharge is required by applicable law within 2 years from the date of application to the authority for a loan;

B. The applicant demonstrates a reasonable likelihood that it will not be able to obtain the funds necessary to undertake all or any part of the project from any other source, including a loan insured under section 1026-G;

C. There is a reasonable likelihood that the applicant will be able to repay the loan; and

D. The project will assist in creating or retaining jobs and will provide a more healthy environment.

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.

4. Accounts within fund. The authority may divide the fund into such separate accounts as it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds.

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 1026-G.

**Sec. 6. 10 MRSA §1024, sub-§1, as amended by PL 1987, c. 521, §5, is further amended to read:**

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 Facility Replacement Fund, exclusive of any amounts reserved by law or rule 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-F, 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 Facility Replacement Fund from the Ground Water Oil Clean-up Fund or the proceeds of bonds of the State issued pursuant to subsection 2. If at any time the money in the Overboard Discharge Replacement Fund, exclusive of any amounts reserved by law or rule for direct loans pursuant to section 1023-E, subsection 3, is insufficient to meet the expenses and obligations of the authority incurred pursuant to section 1026-G, as these expenses and obligations are projected by the authority to become due and payable, the authority shall request, in writing, the Governor to provide the necessary money. Within 30 days of receipt of the request, the Governor shall transfer sufficient money to the Overboard Discharge Replacement Fund from the State Contingent Account or the proceeds of bonds of the State issued pursuant to subsection 2.

**Sec. 7. 10 MRSA §1024, sub-§2, ¶B, as amended by PL 1987, c. 521, §6, is further amended to read:**

**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 shall not exceed in the aggregate at any one time outstanding the principal amount of ~~\$82,500,000~~ \$87,500,000; 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 shall not exceed in the aggregate at any one time outstanding the principal amount of \$4,000,000;

**Sec. 8. 10 MRSA §1025, first ¶, as amended by PL 1987, c. 521, §7, is further amended to read:**

When, in the opinion of the authority, the action is necessary to safeguard the Mortgage Insurance Fund, Loan Insurance Reserve Fund or , Underground Oil Storage Facility Replacement Fund or Overboard Discharge Replacement Fund and to maintain income from eligible projects, the authority may, in addition to its other powers:

**Sec. 9. 10 MRSA §1026-G is enacted to read:**

§1026-G. Mortgage insurance for overboard discharge replacement projects

1. Insurance. In addition to its other powers under this chapter, subject to the limitations of this subchapter, except sections 1026-B to 1026-D, the authority may insure up to 100% of mortgage payments with respect to mortgage loans for overboard discharge replacement projects when the authority determines that:

A. Such a project is necessitated by applicable law;

B. The applicant demonstrates a reasonable likelihood that it will not be able to obtain a loan for the project on reasonable terms without insurance pursuant to this section;

C. The applicant demonstrates a reasonable likelihood that it will be able to repay the insured loan; and

D. The project will assist in creating or retaining jobs and providing a more healthy environment.

2. Limitation on mortgage insurance. The authority shall not at any time have, in the aggregate amount of principal and interest outstanding, mortgage insurance obligations pursuant to this section exceeding \$5,000,000 less the outstanding balance of any bonds issued under section 1024, subsection 2, with respect to obligations incurred under this section.

3. Mortgage eligibility. The authority, pursuant to Title 5, chapter 375, subchapter II, may adopt rules for determining eligibility, project feasibility, terms, conditions and security for insured mortgage loans under this section. Without limitation, the authority may establish a system for giving priority to applicants for overboard discharge replacement projects based on when such projects are necessitated by applicable law. The authority may accept less than adequate collateral when necessary to implement an overboard discharge replacement project.

Sec. 10. 10 MRSA §1029, sub-§2, ¶A, as amended by PL 1987, c. 521, §9, is further amended to read:

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 pursuant to section 1026-F, to the Underground Oil Storage Facility Replacement Fund or, in the case of payments required under agreements issued pursuant to section 1026-G, to the Overboard Discharge Replacement Fund;

Sec. 11. 10 MRSA §1030, as amended by PL 1987, c. 521, §10, is further amended to read:

#### §1030. Incontestability

Any mortgage insurance commitment or contract executed and delivered by the authority under this subchapter shall be conclusive evidence of the eligibility of the mortgage for insurance subject to satisfaction of any conditions set forth in the mortgage insurance contract or commitment and that the requirements of sections 1026-A to 1026-F 1026-G have, to the extent determined applicable by the authority, been satisfied or made conditions of the mortgage insurance commitment or contract, and the validity of any mortgage insurance commitment or contract so executed and delivered shall be incontestable in the hands of an insured except for fraud or misrepresentation on the part of the insured.

Sec. 12. 30 MRSA §4552, sub-§19, as amended by PL 1981, c. 321, §2, is further amended to read:

19. Home improvement note. "Home improvement note" means an interest bearing obligation, secured in whole or in part by a mortgage, insurance or otherwise as may be agreed upon by the state authority from time to time, made to improve or rehabilitate single family or multi-unit residential housing in the State, including without limitation the replacement, removal or rehabilitation of malfunctioning waste water treatment systems.

Sec. 13. 30 MRSA c. 239, sub-c. II, art. 6-B is enacted to read:

#### ARTICLE 6-B

### OVERBOARD DISCHARGE ASSISTANCE PROGRAM

#### §4770-C. Overboard Discharge Assistance Fund

1. Creation. The Overboard Discharge Assistance Fund is established under the jurisdiction of the Maine State Housing Authority. For the purposes of this article, "authority" means the Maine State Housing Authority.

2. Sources of fund. The following shall be paid into the fund:

A. All money appropriated for inclusion in the fund;

B. Subject to any pledge, contract or other obligation, any money which the authority receives in repayment of loans or advances from the fund;

C. Subject to any pledge, contract or other obligation, all interest, dividends or other income from investment of the fund; and

D. Any other money, including federal money, deposited in the fund to implement the provisions of this article.

3. Application of fund. The authority may apply money in the fund for purposes authorized by this article. Money in the fund not needed currently for purposes of this article may be deposited with the authority to the credit of the fund or may be invested in such a manner as is provided by law.

4. Accounts within fund. The authority may divide the funds into such separate accounts as it determines necessary or convenient for carrying out this article.

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 article.

#### §4770-D. Maine Overboard Discharge Assistance Program

The Maine Overboard Discharge Assistance Program shall provide assistance to homeowners whose homes are serviced by standard or malfunctioning waste water treatment systems, including straight pipe discharges, individual overboard discharge systems, subsurface waste water disposal systems, septic tanks, leach fields and cesspools, which systems result in direct discharges of domestic pollutants to the surface waters of the State.

1. Operation. The authority shall administer the Maine Overboard Discharge Assistance Program which may be operated in conjunction with other programs of the authority and in cooperation with the Department of Environmental Protection. Other programs of the authority may be used to supplement or be used in conjunction with the Maine Overboard Discharge Assistance Program to achieve the purpose of this article.

A. Money in the fund may be used as security for or be applied in payment of principal, interest, fees and other charges due on loans made or insured under this program.

B. Money in the fund may be used as grants to assist homeowners who qualify for grant assistance under this program.

2. Provisions governing use of money. The fund shall be administered subject to the provisions in this section. Priority shall be given to homeowners who are or are likely to be in noncompliance with the state waste classification program, Title 38, article 4-A and who do not have access to adequate capital or credit to remove, rehabilitate or replace the waste water treatment system. For purposes of this article, homeowner includes the owner of a mobile home or manufactured housing unit and the owner of rental housing.

A. The authority, by rules adopted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall establish priorities of assistance to homeowners. These priorities shall be based on the assets of the homeowner; availability of credit or assistance or income from other sources, including financial institutions, investments, trust funds and other similar sources; the degree of environmental or public health hazard; the immediacy of the need for assistance; and any other variables deemed important by the authority.

B. Grants may be provided to a homeowner if:

(1) The grant is essential to providing housing to the homeowner;

(2) The income of the homeowner is insufficient to repay any loan or portion of a loan; and

(3) Grants shall not exceed \$5,000 per homeowner household.

C. Loans from the fund shall not exceed \$10,000 per homeowner household at rates of interest not to exceed 8% per year.

D. Loans from the fund may be made for periods of up to 30 years. In the event that a homeowner cannot repay a loan in full within the 30-year period, the authority may extend the repayment period if the authority determines that the loan can be repaid during the extension period. The authority may waive the payment of interest on any loan or portion of a loan for which the interest payment will be an undue hardship on a household.

E. Money in the fund may be used to reduce interest rates on loans provided by financial institutions located in this State to homeowners who meet the eligibility requirements of this program.

F. The program shall be directed primarily at households without access to adequate capital or credit and which meet the eligibility requirements of this program.

G. The program shall be directed secondarily at eliminating overboard discharges into shellfish growing areas designated by the Department of Marine Resources.

3. Loan insurance. The authority may insure payments due under a loan or lease and may pledge money in the fund as security for such loan or lease, which may be in addition to or in lieu of insurance provided under other provisions of this chapter. Loans or leases shall not constitute any debt or liability on the part of the authority or the State, except to the extent specifically provided by contract executed by the authority.

4. Use of loans and grants. Loans and grants provided in this article may be used for refinancing mortgages, or the payment of interest or a portion of the interest on loans.

5. Procedures. The authority may adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, by which the program shall be implemented.

§4770-E. Bonds; issuance; separability of provisions

The authority is hereby authorized to issue bonds from time to time to carry out the purposes of this article. These bonds shall be secured in such manner as the authority may by resolution provide. The bonds shall be known as overboard discharge assistance bonds. The authority to issue the bonds under this article shall constitute a complete, additional and alternative method for the issuance of bonds from that authority provided in any other article in this subchapter. No limitation or restriction as to use of proceeds or total authorized amount of obligations outstanding stated in this article may apply to bonds issued pursuant to any other article of this subchapter, nor may restrictions or limitations recited in other articles apply to bonds issued pursuant to this article. The provisions of sections 4756 to 4762 shall not be applicable to bonds issued pursuant to this article. All other provisions of this subchapter shall apply to bonds issued pursuant to this article.

The authority shall not at any time have, in the aggregate principal amount outstanding, overboard discharge assistance bonds in excess of \$10,000,000. In computing the total amount of bonds of the authority which may at any time be outstanding, 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.

Sec. 14. Implementation. The Finance Authority of Maine and the Maine State Housing Authority may begin to accept applications for loans and grants as

provided in this Act as of April 1, 1988. All other sections of this Act shall take effect on July 1, 1988.

Effective August 4, 1988.

## CHAPTER 847

H.P. 1643 — L.D. 2242

### AN ACT to Make Health Care More Accessible to Low-Income Elderly and Disabled Individuals, Children and Pregnant Women.

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

Sec. 1. 22 MRSA §396-D, sub-§9, ¶H is enacted to read:

H. In determining payment year financial requirements, the commission shall include an adjustment for the hospital's assessment under Title 36, section 2800.

Sec. 2. 22 MRSA §396-F, sub-§4 is enacted to read:

4. Adjustment, revenue deduction. Subsequent to the close of each payment year, in conjunction with the determinations made under section 396-I, subsection 3, the commission shall adjust the revenue deductions for charity care and bad debts for that payment year to the extent necessary to reflect the reduction in charity care and bad debt amounts resulting from the receipt by the hospital of payments for care of patients pursuant to section 3174-E.

Sec. 3. 22 MRSA §396-Q is enacted to read:

§396-Q. Quarterly report

By September 15, 1988, and quarterly thereafter, the commission shall report to the Bureau of Taxation the amount of financial requirements for the most recently completed quarter of each hospital's payment year, determined by dividing the financial requirements for the applicable payment year by 4.

Sec. 4. 22 MRSA §3174-E is enacted to read:

§3174-E. Medicaid coverage of certain elderly and disabled individuals, children and pregnant women

1. Delivery of services. The department shall provide for the delivery of federally approved Medicaid services to qualified pregnant women up to 60 days following delivery and infants up to one year of age when the woman's or child's family income is below 185% of the nonfarm income official poverty line and children under 5 years of age and qualified elderly and disabled persons, when the child's or person's family income is below 100%

of the nonfarm income official poverty line. The official poverty line shall be that applicable to a family of the size involved, as defined by the Federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2. These services shall be effective October 1, 1988.

2. Resource test. The department may not apply a resource test to those children and pregnant women who are made eligible under this section, unless these persons also receive Aid to Families with Dependent Children or United States Supplemental Security Income benefits.

3. Benefits authorized. The scope of medical assistance to be provided within this section shall be that authorized by the Federal Sixth Omnibus Budget Reconciliation Act, Public Law 99-509.

Sec. 5. 36 MRSA c. 369 is enacted to read:

## CHAPTER 369

### HOSPITALS

§2801. Hospital excise tax

Hospitals shall be subject to an excise tax for the fiscal year. The rate of tax shall be .002 of the hospital's financial requirements as determined in Title 22, chapter 107, subchapter III. The State Tax Assessor on or before September 30, 1988; December 30, 1988; March 30, 1989; and June 30, 1989, shall determine the amount of such tax on each hospital and shall give notice of the amount to the hospital upon which the tax is levied. The amount of tax on each quarterly notice shall be .002 of the hospital's financial requirements of the most recently completed quarter of the hospital's payment year.

Sec. 6. **Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1987-88</u>	<u>1988-89</u>
<u>HUMAN SERVICES, DEPARTMENT OF</u>		
Medical Care — Payment to Providers		
All Other		\$2,317,001
Provides funds for Medicaid coverage of certain elderly and disabled persons, children and pregnant women effective October 1, 1988.		
Medical Care — Payment to Providers		
All Other		\$(325,000)
Deappropriates funds for prenatal care.		