

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

**Sec. 1. 36 MRSA §1815** is enacted to read:

**§1815. Tax from sales occurring on Passamaquoddy reservation**

**1. Passamaquoddy Sales Tax Fund.** The Passamaquoddy Sales Tax Fund, referred to in this section as the "fund," is established as a dedicated account to be administered by the Treasurer of State for the purpose of returning sales tax revenue to the Passamaquoddy Tribe pursuant to subsections 2 and 3.

**2. Monthly transfer.** By the 20th day of each month, the assessor shall notify the State Controller and the Treasurer of State of the amount of revenue attributable to the tax collected under this Part in the previous month on sales occurring on the Passamaquoddy reservation at either Pleasant Point or Indian Township reduced by the transfer to the Local Government Fund required by Title 30-A, section 5681. When notified by the assessor, the State Controller shall transfer that amount to the Passamaquoddy Sales Tax Fund.

**3. Monthly payment.** By the end of each month, the Treasurer of State shall make payments to the Passamaquoddy Tribe from the Passamaquoddy Sales Tax Fund equal to the amounts transferred into the fund.

**Sec. 2. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
<b>TREASURER OF STATE, OFFICE OF THE</b>		
<b>Passamaquoddy Sales Tax Fund</b>		
All Other	\$500	\$500
Provides allocations to authorize payments in the event that amounts are transferred to the Passamaquoddy Sales Tax Fund pursuant to the Maine Revised Statutes, Title 36, section 1815.		

See title page for effective date.

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**CHAPTER 478**

**H.P. 1333 - L.D. 1916**

**An Act Concerning the Regulation and Treatment of Time-shares**

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

**Sec. 1. 33 MRSA §592, sub-§7** is enacted to read:

**7. Completion of construction; escrow requirement.** Notwithstanding chapter 31, a developer of a time-share project may convey a time-share to a purchaser prior to the time-share unit containing the time-share being substantially completed, as long as the developer deposits all funds or other consideration received from or on behalf of the purchaser into an escrow account subject to an escrow agreement with an independent escrow agent.

A. The escrow agreement must provide that the funds or other consideration may be released only as provided in this paragraph.

(1) If the purchaser gives a valid notice of cancellation pursuant to this section or is otherwise entitled to cancel the sale, the funds or other consideration received from or on behalf of the purchaser must be returned to the purchaser.

(2) If the purchaser defaults in the performance of any obligation relating to the purchase or ownership of the time-share following the expiration of the cancellation period set out in subsection 1, the developer shall provide an affidavit to the escrow agent requesting release of the escrowed funds or other consideration and shall provide a copy of the affidavit to the purchaser who has defaulted. If, within 7 calendar days of mailing the affidavit, the developer has not received from the purchaser a written notice of a dispute between the purchaser and the developer or a claim to the escrowed funds or other consideration, the funds or other consideration received from or on behalf of the purchaser must be immediately released to the developer.

(3) If no cancellation or default has occurred, the escrow agent may release the funds or other consideration upon presentation of an affidavit by the developer that:

(a) The cancellation period has expired; and

(b) A certificate or statement of substantial completion has been executed by an engineer or architect or a certificate of occupancy has been issued by the municipal inspector of buildings for the time-share unit containing the time-share.

B. In lieu of any escrow required by this section, the escrow agent may accept a surety bond issued by a company authorized and licensed to do business in this State in an amount equal to or in excess of the funds that would otherwise be placed in the escrow account pursuant to this section.

C. As used in this subsection, "independent escrow agent" means a financial institution whose accounts are insured by a governmental agency or instrumentality; an attorney; or a licensed title insurance company, in which:

(1) The escrow agent is not a relative or an employee of the developer or managing entity or of any officer, director, affiliate or subsidiary of the developer or managing entity;

(2) There is no financial relationship, other than the payment of fiduciary fees or as otherwise provided in this section, between the escrow agent and the developer or managing entity or any officer, director, affiliate or subsidiary of the developer or managing entity; and

(3) Compensation paid by the developer to the escrow agent for services rendered is not paid from funds in the escrow account.

D. For purposes of paragraph C, an independent escrow agent may not be disqualified to serve as escrow agent solely because:

(1) The escrow agent provides the developer or managing entity with routine banking services that do not include construction or receivables financing or any other lending activities;

(2) A nonemployee, attorney-client relationship exists between the developer or managing entity and the escrow agent; or

(3) The escrow agent performs closings for the developer or issues owner's or lender's title insurance commitments or policies in connection with such closings.

**Sec. 2. 36 MRSA §701-A, first ¶,** as amended by PL 1985, c. 764, §13, is further amended to read:

In the assessment of property, assessors in determining just value are to define this term in a manner ~~which~~ that recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put. In determining just value, assessors must consider all

relevant factors, including without limitation, the effect upon value of any enforceable restrictions to which the use of the land may be subjected, current use, physical depreciation, sales in the secondary market, functional obsolescence, and economic obsolescence. Restrictions ~~shall~~ include but are not limited to zoning restrictions limiting the use of land, subdivision restrictions and any recorded contractual provisions limiting the use of lands. The just value of land is ~~deemed~~ determined to arise from and is attributable to legally permissible use or uses only.

**Sec. 3. 36 MRSA §4641, sub-§3,** as amended by PL 1993, c. 398, §1, is further amended to read:

**3. Value.** "Value" means the amount of the actual consideration therefor, except that in the case of a gift, or a contract or deed with nominal consideration or without stated consideration, "value" is to be based on the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

"Value" does not include the amount of consideration attributable to vacation exchange rights, vacation services or club memberships or the costs associated with those rights, services or memberships. Upon request of a municipal assessor or the State Tax Assessor, a developer of a time-share estate, as defined in Title 33, section 591, subsection 7, or an association of time-share estate owners shall provide an itemized schedule of fees included in the sales price of a time-share estate.

See title page for effective date.

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## CHAPTER 479

S.P. 834 - L.D. 2234

### An Act to Designate December 3rd as Organ Donor Awareness Day

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

**Sec. 1. 1 MRSA §137** is enacted to read:

**§137. Organ Donor Awareness Day**

December 3rd is designated as Organ Donor Awareness Day, and the Governor shall annually issue a proclamation inviting and urging the people of the State of Maine to observe the day with appropriate activity. The first annual Organ Donor Awareness Day will commemorate the life of Kate James, who was born December 3, 1980 and who passed away