

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 2, 2008 to March 31, 2008**

**FIRST SPECIAL SESSION**  
**April 1, 2008 to April 18, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 2008**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 18, 2008**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2008**

sider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected and the extent to which the creditor's failure of compliance was intentional.

**Sec. 14. 9-A MRSA §8-209, sub-§4**, as amended by PL 2007, c. 273, Pt. C, §§8 and 9, is repealed.

**Sec. 15. 9-A MRSA §8-209, sub-§4-A** is enacted to read:

4-A. Any person who purchases or is otherwise assigned a high-rate, high-fee mortgage is subject to all claims and defenses with respect to that mortgage that the consumer may assert against the creditor of the mortgage to the extent set forth in section 8-206-C, subsection 2.

**Sec. 16. 9-A MRSA §8-209, sub-§5, ¶A**, as enacted by PL 1995, c. 614, Pt. A, §14, is amended to read:

A. Except as otherwise provided in this Title, any civil action against a creditor for a violation of this Title and any proceeding under section 8-108 against a creditor, with respect to a consumer credit transaction secured by real property, may be maintained against any assignee of that creditor only if:

(i) The violation for which the action or proceeding is brought is apparent on the face of the disclosure statement provided in connection with the transaction pursuant to this Title section 8-206, subsection 1; and

(ii) The assignment to the assignee was voluntary.

**Sec. 17. 9-A MRSA §8-209, sub-§5, ¶B**, as enacted by PL 1995, c. 614, Pt. A, §14, is amended to read:

B. For the purposes of this subsection, a violation is apparent on the face of the disclosure statement if:

(i) The disclosure can be determined to be incomplete or inaccurate by a comparison among the disclosure statement provided pursuant to section 8-206, subsection 1, any itemization of the amount financed, the note or any other disclosure of disbursement; or

(ii) The disclosure statement provided pursuant to section 8-206, subsection 1 does not use the terms or format required under this Title.

**Sec. 18. Retroactivity.** This Act applies retroactively to January 1, 2008.

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

Effective January 8, 2008.

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**CHAPTER 472**  
**S.P. 780 - L.D. 1986**

**An Act To Expand the Pool of Qualified Mental Health Examiners for Purposes of Involuntary Treatment**

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

**Whereas**, Public Law 2007, chapter 446 requires, in cases of involuntary treatment of mental health patients, that one of the examiners, either a licensed physician or clinical psychologist, be licensed to prescribe medications for the patient's care; and

**Whereas**, the effect of this change was to require that at least one of the 2 examiners be a licensed physician since clinical psychologists are not licensed to prescribe medications; and

**Whereas**, under the other changes made to the involuntary treatment laws, it is expected that the number of mental health examinations will increase and more qualified examiners will be needed; and

**Whereas**, meeting that need will be a serious problem based on the current limitations; 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. 34-B MRSA §3864, sub-§4, ¶A**, as amended by PL 2007, c. 446, §3 and affected by §7, is further amended to read:

A. Upon receipt by the District Court of the application and the accompanying documents specified in subsection 1 and at least 3 days after the person who is the subject of the examination is notified by the psychiatric hospital of the proceedings and of that person's right to retain counsel or to select an examiner, the court shall cause the person to be examined by 2 examiners.

(1) ~~Each~~ Except as provided in subparagraph (1-A), each examiner must be either a li-

censed physician or a licensed clinical psychologist. ~~When involuntary treatment under subsection 1-A has been requested, one of the examiners must be a professional who is licensed to prescribe medications relevant to the patient's care.~~

(1-A) If the application requests an order for involuntary treatment pursuant to subsection 1-A, one examiner must be a licensed physician or a licensed clinical psychologist and one examiner must be a person who is qualified to prescribe medication relevant to the patient's care as a licensed physician, certified nurse practitioner or registered physician assistant.

(2-A) If the person under examination or the counsel for that person selects a qualified examiner who is reasonably available, then the court shall choose that examiner as one of the 2 designated by the court.

(3) Neither examiner appointed by the court may be the certifying examiner under section 3863, subsection 2 or 7.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**JUDICIAL DEPARTMENT**

**Courts - Supreme, Superior, District and Administrative 0063**

Initiative: Deappropriates funds in fiscal years 2007-08 and 2008-09 rendered unnecessary by expansion of the pool of less expensive professionals eligible to perform examinations and provide medication in cases of involuntary treatment of mental health patients.

GENERAL FUND	2007-08	2008-09
All Other	(\$40,000)	(\$40,000)
GENERAL FUND TOTAL	(\$40,000)	(\$40,000)

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

Effective January 10, 2008.

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**CHAPTER 473  
S.P. 828 - L.D. 2161**

**An Act To Clarify  
Confidentiality in Child  
Protective Proceedings**

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

**Whereas,** the Legislature established February 1, 2008 as the effective date of Public Law 2007, chapter 335 to provide sufficient time for the federal Department of Health and Human Services to review the provisions of Public Law 2007, chapter 335 to determine if there are inconsistencies between Maine information sharing authorizations and federal requirements; and

**Whereas,** the Maine Department of Health and Human Services has yet to receive written notification whether Public Law 2007, chapter 335 is in compliance with federal requirements; and

**Whereas,** the changes included in Public Law 2007, chapter 335 should be effectuated only if they are in compliance with federal requirements; and

**Whereas,** the Legislature prefers to rely on written communication from the federal Department of Health and Human Services before taking action; 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.** PL 2007, c. 335, §5 is amended to read:

**Sec. 5. Effective date.** This Act takes effect ~~February~~ March 1, 2008, except that section 4 of this Act, relating to the Maine State Plan, takes effect 90 days after adjournment of the First Regular Session of the 123rd Legislature.

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

Effective January 31, 2008.

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