

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 2016 to August 2, 2017

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 1, 2017

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

Augusta, Maine
2017

C. If the employer is self-insured for liability under this Act, any award received by the minor in an action permitted under this subsection must be reduced by the amount of compensation received under this Act.

D. If the employer is insured for liability under this Act, the employer is considered a 3rd party under section 107, and the employer's insurer is entitled to all rights of subrogation, contribution or other rights granted to an employer under section 107.

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

Effective July 9, 2017.

CHAPTER 287

H.P. 536 - L.D. 756

An Act To Clarify the Authority of an Affiliate of a Utility To Own Power Generation outside of the Utility's Territory

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

Sec. 1. 35-A MRSA §3204, sub-§11 is enacted to read:

11. Affiliated generation outside service territory permitted. Notwithstanding subsection 5, an affiliate of an investor-owned transmission and distribution utility may own generation or generation-related assets in accordance with standards of conduct adopted under this subsection as long as the generation or generation-related assets are not directly interconnected to the facilities owned or operated by that investor-owned transmission and distribution utility. The commission shall establish, by rule, standards of conduct governing the relationships permitted under this section between an investor-owned transmission and distribution utility and an affiliate of the investor-owned transmission and distribution utility that owns generation or generation-related assets that:

- A. Prohibit a transmission and distribution utility from taking any action that favors such an affiliate or adversely affects a competitor of such an affiliate in a manner that is unjust or unreasonable;
- B. Ensure the separation and independence of such affiliates; and
- C. Protect ratepayers.

For purposes of this subsection, "affiliate" means a person who has any direct or indirect ownership inter-

est in, or is a direct or indirect subsidiary of a person who has any ownership interest in, the investor-owned transmission and distribution utility, but does not include a wholly owned or partially owned direct or indirect subsidiary of the investor-owned transmission and distribution utility.

Any affiliate generation or generation-related assets permitted under this subsection that do not have a commission-approved long-term contract or term sheet under this Title as of July 1, 2017 are ineligible to participate in a long-term contract under this Title.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Existing affiliate. Prior to the adoption of rules by the Public Utilities Commission as required by the Maine Revised Statutes, Title 35-A, section 3204, subsection 11, an affiliate, as defined in section 3204, subsection 11, of an investor-owned transmission and distribution utility that owns generation or generation-related assets that are not directly interconnected to the facilities owned or operated by that investor-owned transmission and distribution utility may continue to own those generation or generation-related assets and upon adoption of those rules is subject to the standards of conduct adopted by the commission.

See title page for effective date.

CHAPTER 288

H.P. 1112 - L.D. 1616

An Act To Correct Errors and Inconsistencies in the Laws of Maine

Emergency preamble. Whereas, acts and resolves 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 technical errors and inconsistencies in the laws of Maine; and

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

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. 1 MRSA §408-A, sub-§4-A, as enacted by PL 2015, c. 248, §2, is amended to read:

4-A. Action for protection. A body, an agency or an official may seek protection from a request for inspection or copying that is unduly burdensome or oppressive by filing an action for an order of protection in the Superior Court for the county where the request for records was made within 30 days of receipt of the request.

A. The following information must be included in the complaint if available or provided to the parties and filed with the court no more than 14 days from the filing of the complaint or such other period as the court may order:

- (1) The terms of the request and any modifications agreed to by the requesting party;
- (2) A statement of the facts that demonstrate the burdensome or oppressive nature of the request, with a good faith estimate of the time required to search for, retrieve, redact if necessary and compile the records responsive to the request and the resulting costs calculated in accordance with subsection 8;
- (3) A description of the efforts made by the body, agency or official to inform the requesting party of the good faith estimate of costs and to discuss possible modifications of the request that would reduce the burden of production; and
- (4) Proof that the body, agency or official has submitted a notice of intent to file an action under this subsection to the party requesting the records, dated at least 10 days prior to filing the complaint for an order of protection under this subsection.

B. Any appeal that may be filed by the requesting party under section 409 may be consolidated with an action under this subsection.

C. An action for protection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require upon the request of any party.

D. If the court finds that the body, agency or official has demonstrated good cause to limit or deny the request, the court shall enter an order making such findings and establishing the terms upon which production, if any, must be made. If the court finds that the body, agency or official has

not demonstrated good cause to limit or deny the request, the court shall establish a date by which the records must be provided to the requesting party.

Sec. A-2. 4 MRSA §1610-I, as enacted by PL 2015, c. 472, §1, is reallocated to 4 MRSA §1610-J.

Sec. A-3. 5 MRSA §1585, sub-§4, as enacted by PL 2005, c. 12, Pt. T, §4, is amended to read:

4. Reorganization of departments. A state department or agency may not transfer Positions or Personal Services, All Other or Capital Expenditures funding between accounts when the expenditures will allow an action to take place that will cause an increased appropriation or allocation request in the ~~Part I~~ current services baseline budget for any program.

Sec. A-4. 5 MRSA §4651, sub-§2, ¶C, as amended by PL 2015, c. 410, Pt. C, §1 and c. 443, §1, is repealed and the following enacted in its place:

C. A single act or course of conduct constituting a violation of section 4681: Title 17, section 2931: or Title 17-A, section 201, 202, 203, 204, 207, 208, 209, 210, 210-A, 211, 253, 301, 302, 303, 506-A, 511, 511-A, 556, 802, 805, 806, 852 or 853.

Sec. A-5. 5 MRSA §4654, sub-§4, ¶G, as amended by PL 2015, c. 410, Pt. C, §3 and c. 443, §3, is further amended to read:

G. Having any direct or indirect contact with the plaintiff; ~~or~~

Sec. A-6. 5 MRSA §4654, sub-§4, ¶H, as enacted by PL 2015, c. 410, Pt. C, §4 and c. 443, §4, is repealed and the following enacted in its place:

H. Engaging in the unauthorized dissemination of certain private images as prohibited pursuant to Title 17-A, section 511-A; or

Sec. A-7. 5 MRSA §4654, sub-§4, ¶I is enacted to read:

I. Destroying, transferring or tampering with the plaintiff's passport or other immigration document in the defendant's possession.

Sec. A-8. 5 MRSA §4655, sub-§1, ¶F, as amended by PL 2015, c. 410, Pt. C, §5 and c. 443, §5, is repealed and the following enacted in its place:

F. Entering any other orders determined necessary or appropriate in the discretion of the court:

Sec. A-9. 5 MRSA §4655, sub-§1, ¶G, as enacted by PL 2015, c. 410, Pt. C, §6 and c. 443, §6, is repealed and the following enacted in its place:

G. With respect to unauthorized dissemination of certain private images as described in Title 17-A, section 511-A, ordering the defendant to remove, destroy or return or to direct the removal, destruc-

tion or return of the private images, ordering the defendant to cease the dissemination of the private images and prohibiting the defendant from disseminating the private images:

Sec. A-10. 5 MRSA §4655, sub-§1, ¶H, as enacted by PL 2015, c. 410, Pt. C, §6, is amended to read:

H. With respect to unauthorized dissemination of certain private images as described in Title 17-A, section 511-A, entering any orders determined necessary or appropriate in the discretion of the court, including but not limited to ordering the defendant to pay costs associated with removal, destruction or return of the private images; or

Sec. A-11. 5 MRSA §4655, sub-§1, ¶I is enacted to read:

I. Prohibiting the defendant from destroying, transferring or tampering with the plaintiff's passport or other immigration document in the defendant's possession.

Sec. A-12. 5 MRSA §5303, sub-§2, as amended by PL 2007, c. 369, Pt. A, §2 and affected by Pt. C, §5 and amended by PL 2015, c. 429, §23, is further amended to read:

2. Ten-year limits. For applicants to and licensees and registrants of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board on ~~Speech language Pathology of Speech~~, Audiology and Hearing Aid ~~Dealing and Fitting~~, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy, and the Emergency Medical Services' Board and applicants for massage therapy licensure or licensed massage therapists, the following apply.

A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system.

B. Beyond the 10-year period, ex-offender applicants or licensees with no additional convictions

must be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions.

C. There is no time limitation for consideration of a registrant's, an applicant's or licensee's conduct that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.

Sec. A-13. 9-B MRSA §213, sub-§2, ¶A, as amended by PL 1979, c. 663, §30, is further amended to read:

A. If the superintendent, a deputy superintendent, examiner or other professional personnel of the bureau or such person's spouse or such person's son or daughter residing at such person's home obtains a loan from any financial institution subject to supervision or regulation by the bureau, the fact of such loan, together with the terms and conditions thereof, ~~shall~~ **must** be disclosed immediately to the superintendent in writing by the person obtaining the loan and by the institution making such loan. If the superintendent is the borrower, such written disclosure ~~shall~~ **must** be made to the ~~Commissioner of Business Regulation~~ **commissioner**.

Sec. A-14. 11 MRSA §1-1101, as enacted by PL 2009, c. 325, Pt. A, §2 and affected by §4, is amended to read:

§1-1101. Short titles

(1). This Title may be cited as "the Uniform Commercial Code."

(2). This Article may be cited as "the Uniform Commercial Code - General Provisions."

Sec. A-15. 12 MRSA §12954, sub-§4-A, ¶A, as amended by PL 2013, c. 333, §7, is further amended to read:

A. A licensee shall:

(1) Keep a true and complete record, in such form as is required by the commissioner, to include the names and addresses of persons buying or selling heads, hides and bear gall bladders; and

(2) File that record with the commissioner on or before June 30th of each year.

All data submitted to the commissioner as part of the record ~~is~~ **are** for scientific purposes only and ~~is~~ **are** confidential and not a public record within the meaning of Title 1, chapter 13, subchapter 1, except that the commissioner may disclose data collected under this paragraph for law enforcement purposes or if the data ~~is~~ **are** released in a form that is statistical or general in nature.

Sec. A-16. 15 MRSA §2167, as enacted by PL 1993, c. 665, §1, is amended to read:

§2167. References to pardoned crime deleted from Federal Bureau of Investigation's identification record

In any criminal case in which the Governor grants a convicted person a full and free pardon, that person, after the expiration of 10 years from the date the person is finally discharged from any sentence imposed as a result of the conviction, may make written application to the State Bureau of Identification to have all references to the pardoned crime deleted from the Federal Bureau of Investigation's identification record. Following receipt of an application, the State Bureau of ~~Investigation~~ Identification shall make the necessary arrangements with the identification division of the Federal Bureau of Investigation to have all references to the pardoned crime deleted from the Federal Bureau of Investigation's identification record and any state materials returned to the contributing agency if the application is timely and the person has not been convicted of a crime in this State or any other jurisdiction since the full and free pardon was granted and has no formal charging instrument for a crime pending in this State or any other jurisdiction.

Sec. A-17. 19-A MRSA §4002, sub-§1, ¶F, as amended by PL 2015, c. 410, Pt. B, §1 and c. 443, §9, is further amended to read:

F. Repeatedly and without reasonable cause:

- (1) Following the plaintiff; or
- (2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; ~~or~~

Sec. A-18. 19-A MRSA §4002, sub-§1, ¶G, as enacted by PL 2015, c. 410, Pt. B, §2 and c. 443, §10, is repealed and the following enacted in its place:

G. Engaging in the unauthorized dissemination of certain private images as prohibited pursuant to Title 17-A, section 511-A; or

Sec. A-19. 19-A MRSA §4002, sub-§1, ¶H is enacted to read:

H. Engaging in aggravated sex trafficking or sex trafficking as described in Title 17-A, section 852 or 853, respectively.

Sec. A-20. 19-A MRSA §4006, sub-§5, ¶F, as amended by PL 2015, c. 410, Pt. B, §3 and c. 443, §12, is further amended to read:

F. Having any direct or indirect contact with the plaintiff; ~~or~~

Sec. A-21. 19-A MRSA §4006, sub-§5, ¶G, as enacted by PL 2015, c. 410, Pt. B, §4 and c. 443, §13, is repealed and the following enacted in its place:

G. Engaging in the unauthorized dissemination of certain private images as prohibited pursuant to Title 17-A, section 511-A; or

Sec. A-22. 19-A MRSA §4006, sub-§5, ¶H is enacted to read:

H. Destroying, transferring or tampering with the plaintiff's passport or other immigration document in the defendant's possession.

Sec. A-23. 19-A MRSA §4007, sub-§1, ¶N, as amended by PL 2015, c. 410, Pt. B, §6 and c. 443, §15, is repealed and the following enacted in its place:

N. Directing the care, custody or control of any animal owned, possessed, leased, kept or held by either party or a minor child residing in the household;

Sec. A-24. 19-A MRSA §4007, sub-§1, ¶O, as enacted by PL 2015, c. 410, Pt. B, §7 and c. 443, §16, is repealed and the following enacted in its place:

O. With regard to conduct described as aggravated sex trafficking or sex trafficking as described in Title 17-A, section 852 or 853, respectively, entering any other orders determined necessary or appropriate in the discretion of the court, including, but not limited to, requiring the defendant to pay economic damages related to the return or restoration of the plaintiff's passport or other immigration document and any debts of the plaintiff arising from the trafficking relationship;

Sec. A-25. 19-A MRSA §4007, sub-§1, ¶P, as enacted by PL 2015, c. 410, Pt. B, §7, is amended to read:

P. With respect to unauthorized dissemination of certain private images as described in Title 17-A, section 511-A, entering any orders determined necessary or appropriate in the discretion of the court, including but not limited to ordering the defendant to pay costs associated with removal, destruction or return of the private images; ~~or~~

Sec. A-26. 19-A MRSA §4007, sub-§1, ¶Q is enacted to read:

Q. With respect to unauthorized dissemination of certain private images as described in Title 17-A, section 511-A, ordering the defendant to remove, destroy or return or to direct the removal, destruction or return of the private images, ordering the defendant to cease the dissemination of the private images and prohibiting the defendant from disseminating the private images.

Sec. A-27. 20-A MRSA §952, sub-§6, ¶A, as enacted by PL 2015, c. 256, §1, is amended to read:

A. Data descriptive of a student in any ~~media~~ medium or format, including, but not limited to:

- (1) The student's first and last names;

- (2) The names of the student's parent and other family members;
- (3) The physical address, e-mail address, phone number and any other information that allows contact with the student or the student's family;
- (4) A student's personal identifier, such as the state-assigned student identifier, when used for identification purposes;
- (5) Other indirect identifiers, such as the student's date of birth, place of birth and mother's maiden name;
- (6) Results of assessments administered by the State, school administrative unit, school or teacher, including participation information;
- (7) Course transcript information, including, but not limited to, courses taken and completed, course grades and grade point average, credits earned and degree, diploma, credential attainment or other school exit information;
- (8) Attendance and mobility information between and within school administrative units within the State;
- (9) The student's gender, race and ethnicity;
- (10) Educational program participation information required by state or federal law;
- (11) The student's disability status;
- (12) The student's socioeconomic information;
- (13) The student's food purchases; and
- (14) The student's e-mails, text messages, documents, search activity, photos, voice recordings and geolocation information; and

Sec. A-28. 20-A MRSA §953, sub-§3, ¶A, as enacted by PL 2015, c. 256, §1, is amended to read:

A. Notwithstanding subsection 1, paragraph D, and in accordance with subsection 1, paragraphs A, B and C, an operator may disclose student data under the following circumstances:

- (1) If another provision of federal or state law requires the operator to disclose the student data and the operator complies with applicable requirements of federal and state law in protecting and disclosing that information;
- (2) For legitimate research purposes:
 - (a) As required by state or federal law and subject to the restrictions under applicable state and federal law; or

(b) As allowed by state or federal law and under the direction of a school, a school administrative unit or the department; or

(3) To a state agency, school administrative unit or school for kindergarten to grade 12 purposes, as permitted by state or federal law.

Sec. A-29. 22 MRSA §1826, sub-§2, ¶I, as amended by PL 2015, c. 247, §1, is further amended to read:

I. No contract or agreement may contain a provision that provides for the payment of attorney's fees or any other cost of collecting payments from the resident, except that attorney's fees and costs may be collected against any agent under a power of attorney who breaches the agent's duties as set forth in ~~section 1826-A~~ or Title 18-A, section 5-914 or against a conservator appointed under Title 18-A, section 5-404 for breach of the conservator's duties.

Sec. A-30. 23 MRSA §1917, sub-§3, as repealed and replaced by PL 1981, c. 318, §4, is amended to read:

3. Interpretation of chapter. Nothing in this chapter may be interpreted to alter, abridge or in any way interfere with any duty or obligation of a sign owner to remove signs ~~which~~ that were nonconforming and illegal prior to January 1, 1975, under the United States Code, Title 23, section 131, as enacted by Public Law 89-285, 89 Congress S. 2084, the "Agreement for carrying out National Policy relative to Control of Outdoor Advertising in Areas adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System" dated December 27, 1967, and as amended on January 3, 1968, executed by and between the United States of America and the State of Maine, under the Maine Revised Statutes, Title 32, former sections 2711 to 2723.

The intent of this subsection is to preclude any presumption that this chapter is intended to extend the period of use of any sign ~~which~~ that became nonconforming and illegal before January 1, 1975, under the state agreement of December 27, 1967, as amended January 3, 1968, and Title 32, former sections 2711 to 2723.

Sec. A-31. 24-A MRSA §2437, first ¶, as amended by PL 2015, c. 429, §10, is further amended to read:

Whenever the terms "physician" ~~or~~ and "doctor" are used in any policy of health or accident insurance issued in this State, these terms include within their meaning those persons licensed under and in accordance with the laws relating to the practice of dentistry, Title 32, chapter 143, in respect to any care, services, procedures or benefits covered by that policy

of insurance that those persons are licensed to perform, any provisions in any such policy of insurance to the contrary notwithstanding.

Sec. A-32. 29-A MRSA §2360-A, sub-§1, as enacted by PL 2005, c. 426, §5 and affected by PL 2007, c. 453, §2, is amended to read:

1. Axle fines waived; midwinter season. The fine is waived and the Violation Summons and Complaint is not issued for violations of axle and axle group weight limits or tolerances provided by sections 2352, 2353, 2354, ~~2354-A~~, 2357, 2364 and 2365 for vehicles traveling during the months of January and February.

Sec. A-33. 32 MRSA §2594-E, sub-§5, ¶C, as enacted by PL 2015, c. 242, §3, is amended to read:

C. Training and education requirements and scope of permissible clinical medical procedures of the physician assistant and the manner and methods by which the supervising physician ~~shall~~ must supervise the physician assistant's medical services;

Sec. A-34. 32 MRSA §3270-E, sub-§5, ¶C, as enacted by PL 2015, c. 242, §5, is amended to read:

C. Training and education requirements and scope of permissible clinical medical procedures of the physician assistant and the manner and methods by which the supervising physician ~~shall~~ must supervise the physician assistant's medical services;

Sec. A-35. 32 MRSA §18371, sub-§4, as enacted by PL 2015, c. 429, §21, is amended to read:

4. Delegation not authorized. A dentist may not delegate any dental activity not listed in ~~subsections~~ subsection 3 or 6 to an unlicensed person.

Sec. A-36. 36 MRSA §208, as amended by PL 1993, c. 395, §8, is further amended to read:

§208. Equalization

The State Tax Assessor has the duty of equalizing the state and county taxes among the several towns and unorganized territory. The State Tax Assessor shall equalize and adjust the assessment list of each town, by adding to or deducting from it such amount as will make it equal to its just value as of April 1st. Notice of the proposed valuations of municipalities within each county must be sent annually by certified mail to the chair of the board of assessors, and chair of the board of selectmen in municipalities having selectmen, of each municipality within that county on or before the first day of October. The valuation so determined is subject to review by the State Board of Property Tax Review pursuant to subchapter ~~H-A 2-A~~, but the valuation finally certified to the Secretary of State pursuant to section 381 must be used for all

computations required by law to be based upon the state valuation with respect to municipalities.

Sec. A-37. 36 MRSA §578, sub-§1, ¶C, as amended by PL 2011, c. 404, §1, is further amended to read:

C. The State Tax Assessor shall distribute reimbursement under this section to each municipality in proportion to the product of the reduced tree growth valuation of the municipality multiplied by the property tax burden of the municipality. For purposes of this paragraph, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Property tax burden" means the total real and personal property taxes assessed in the most recently completed municipal fiscal year, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State.

(2) "Undeveloped land" means rear acreage and unimproved nonwaterfront acreage that is not:

(a) Classified under the laws governing current use valuation set forth in chapter 105, subchapter 2-A, 10 or 10-A;

(b) A base lot; or

(c) ~~Waste land~~ Wasteland.

(3) "Average value of undeveloped land" means the per acre undeveloped land valuations used in the state valuation then in effect, or according to the current local valuation on undeveloped land as determined for state valuation purposes, whichever is less.

(4) "Reduced tree growth valuation" means the difference between the average value of undeveloped land and the average value of tree growth land times the total number of acres classified as forest land under this subchapter plus the total number of acres of forest land that is transferred from tree growth classification to farmland classification pursuant to section 1112 on or after October 1, 2011.

Sec. A-38. 36 MRSA §605, as amended by PL 1979, c. 540, §43, is further amended to read:

§605. Deceased persons

The personal property of a deceased person ~~shall~~ must be assessed to the personal representative in the place where the deceased last resided, and such assessment ~~shall continue~~ continues until the personal representative gives notice to the assessors that such property has been distributed. If the deceased at the

time of his death did not reside in the State, such personal property shall ~~shall~~ must be assessed to the personal representative in the place where such property is situated. Before the appointment of a personal representative, the personal property of a deceased person shall must be assessed to the estate of the deceased in the place where ~~he~~ the deceased last resided, if in the State, otherwise in the place where such property is situated, and the personal representative subsequently appointed ~~shall be~~ is liable for the tax.

Sec. A-39. 36 MRSA §606, as amended by PL 1979, c. 540, §44, is further amended to read:

§606. Tax priority; deceased's personal property

If a personal property tax has been assessed upon the estate of a deceased person, or if a person assessed for a personal property tax has died, the personal representative, after ~~he~~ the personal representative has satisfied the first 4 priorities set forth in Title 18-A, section 3-805, shall, from any estate ~~which that~~ that has come to ~~his~~ the personal representative's hands in such capacity, if such estate is sufficient therefor, pay the personal property tax so assessed to ~~him~~ the personal representative under Title 18-A, section 3-709. In default of such payment the personal representative shall ~~be~~ is personally liable for the tax to the extent of the estate that passed through ~~his~~ the personal representative's hands ~~which that~~ that was not used to satisfy claims or expenses with a higher priority. To the extent that the personal representative is not assessed, the successors to the ~~decedent's~~ decedent's taxed property shall pay the tax assessed.

Sec. A-40. 36 MRSA §655, sub-§1, ¶D, as repealed and replaced by PL 1973, c. 592, §13, is amended to read:

D. Livestock, including farm animals, neat; cattle and fowl;

Sec. A-41. 36 MRSA §943, 6th ¶ is amended to read:

Beginning with taxes that are assessed after April 1, 1985, the notice of impending automatic foreclosure shall must be substantially in the following form:

STATE OF MAINE
NOTICE OF IMPENDING AUTOMATIC
FORECLOSURE

Title 36, M.R.S.A. Section 943

IMPORTANT: DO NOT DISREGARD
THIS NOTICE. YOU WILL LOSE
YOUR PROPERTY UNLESS YOU PAY
YOUR ~~19 20~~ 20 PROPERTY TAXES,
INTEREST AND COSTS.

TO:

You are the party named on a tax lien certificate filed on 19 20, and recorded in Book , Page in the County Registry of Deeds. This filing has created a tax lien mortgage on the real estate described therein.

On 19 20, the tax lien mortgage will be foreclosed and your right to recover your property by paying the taxes, interest and costs that are owed will expire.

IF THE TAX LIEN FORECLOSES,
THE MUNICIPALITY WILL OWN
YOUR PROPERTY.

If you cannot pay the property taxes you owe please contact me to discuss this notice.

Municipal Treasurer

Sec. A-42. 36 MRSA §1105, 2nd ¶, as amended by PL 1993, c. 452, §7, is further amended to read:

The 100% valuation per acre for farm woodland within a parcel classified as farmland under this subchapter is the 100% valuation per acre for each forest type established for each county pursuant to subchapter ~~H-A 2-A~~. Areas other than woodland, agricultural land or horticultural land located within any parcel of farmland classified under this subchapter are valued on the basis of just value.

Sec. A-43. 36 MRSA §1106-A, sub-§2, as amended by PL 2011, c. 618, §6, is further amended to read:

2. Alternative valuation method. Notwithstanding any other provision of law, if an assessor is unable to determine the valuation of open space land under the valuation method in subsection 1, the assessor may value that land under the alternative method in this subsection. The assessor may reduce the ordinary assessed valuation of the land, without regard to conservation easement restrictions and as reduced by the certified ratio, by the cumulative percentage reduction for which the land is eligible according to the following categories.

- A. All open space land is eligible for a reduction of 20%.
- B. Permanently protected open space land is eligible for the reduction set in paragraph A and an additional 30%.
- C. Forever wild open space land is eligible for the reduction set in paragraphs A and B and an additional 20%.
- D. Public access open space land is eligible for the applicable reduction set in paragraph A, B or C and an additional 25%.

E. Managed forest open space land is eligible for the reduction set in paragraphs A, B and D and an additional 10%.

Notwithstanding this section, the value of forested open space land may not be reduced to less than the value it would have under subchapter ~~H-A 2-A~~, and the open space land valuation may not exceed just value as required under section 701-A.

Sec. A-44. 36 MRSA §1482, sub-§6, ¶A, as amended by PL 1979, c. 666, §39, is further amended to read:

A. Where the person seeking to pay the excise tax owned the vehicle other than an automobile, truck or truck tractor on or before April 1st, the excise tax must be paid before property taxes for the year in question are committed to the collector, otherwise the owner is subject to a personal property tax.

Sec. A-45. 36 MRSA §1487, sub-§2-A, as enacted by PL 2001, c. 671, §34, is amended to read:

2-A. Agent for collecting excise tax. The State Tax Assessor may appoint the Secretary of State as an agent for the purpose of collecting excise tax for the unorganized ~~territories~~ territory.

Sec. A-46. 36 MRSA §1760, sub-§47-A, as corrected by RR 1995, c. 2, §95, is amended to read:

47-A. Emergency shelter and feeding organizations. ~~Beginning October 1, 1996, sales~~ Sales to incorporated nonprofit organizations that provide free temporary emergency shelter or food for underprivileged individuals in this State;

Sec. A-47. 36 MRSA §2513, 3rd ¶, as amended by PL 2003, c. 20, Pt. CC, §1 and affected by §3, is further amended to read:

Notwithstanding this section, for ~~income~~ tax years commencing on or after January 1, 1989, the tax imposed by this section upon all gross direct premiums collected or contracted for on long-term care policies, as certified by the superintendent pursuant to Title 24-A, section 5054, must be at the rate of 1% a year.

Sec. A-48. 36 MRSA §4604, sub-§2, as amended by PL 2005, c. 176, §3, is further amended to read:

2. Programs. The board may make studies; undertake research, development and investment in infrastructure, marketing and promotional programs; publish and disseminate information; and implement other programs in furtherance of its legislative purposes, provided that programs undertaken by the board must be designed to benefit the Maine potato industry at large or segments of the industry, but may not be designed to benefit exclusively any one person or entity involved in the industry. The board shall carry out the duties, as set out in Title 7, chapter 103, subchapter

10, article 4 and known as the "Maine Bag Program," and shall use any funds granted by the department to the board or obtained by the board from any other source for the Maine Bag Program to promote the sale of tablestock potatoes, except that revenues from the potato tax under section 4605 may not be used to undertake promotional activities of the board. The board may use funds derived from sources other than the potato tax to carry out advertising and promotional programs in support of the industry.

Sec. A-49. 36 MRSA §5217-D, sub-§1, ¶B-1, as repealed and replaced by PL 2015, c. 482, §1 and c. 494, Pt. A, §48, is repealed and the following enacted in its place:

B-1. "Financial aid package" means financial aid obtained by a student for attendance at an accredited Maine community college, college or university. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2013 but before January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (a), "financial aid package" may include financial aid obtained for up to 30 credit hours of course work at an accredited non-Maine community college, college or university earned prior to transfer to an accredited Maine community college, college or university, if the 30 credit hours were earned after December 31, 2007 and the transfer occurred after December 31, 2012. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (a-1), "financial aid package" may include financial aid obtained by a student for attendance at an accredited non-Maine community college, college or university after December 31, 2007. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (b), "financial aid package" may include financial aid obtained by a student for attendance at an accredited non-Maine community college, college or university after December 31, 2007. For purposes of a qualified individual claiming a credit under this section for tax years beginning on or after January 1, 2016 who is eligible for a credit under paragraph G, subparagraph (1), division (c), "financial aid package" may include financial aid obtained by a student for attendance at an accredited Maine college or university after December 31, 2007. For purposes of an employer claiming a credit under this section for tax years beginning on or after January 1, 2013, "financial aid package" may include financial aid obtained by a qualified employee for attendance at an accredited non-Maine

community college, college or university. "Financial aid package" may include private loans or less than the full amount of loans under federal programs, depending on the practices of the accredited Maine or non-Maine community college, college or university. Loans are includable in the financial aid package only if entered into prior to July 1, 2023.

Sec. A-50. 39-A MRSA §213, sub-§4, as amended by PL 2001, c. 448, §2, is further amended to read:

4. Extension of 260-week limitation. Effective January 1, 1998 and every January 1st thereafter, the 260-week limitation contained in subsection 1 must be extended 52 weeks for every year the board finds that the frequency of such cases involving the payment of benefits under this section or section 212 or 213 is no greater than the national average based on frequency from the latest unit statistical plan aggregate data for Maine and on a countrywide basis, adjusted to a unified industry mix. The 260-week limitation contained in subsection 1 may not be extended under this subsection to more than 520 weeks. For payments relating to injuries occurring before January 1, 2000, reimbursement to the employer, insurer or group self-insurer for the payment of all benefits for additional weeks payable pursuant to this subsection must be made from the Supplemental Benefits Fund created in section 355-A.

Sec. A-51. PL 2003, c. 673, Pt. HH, §6, first sentence is amended to read:

Notwithstanding any other provision of law, the tax imposed under the Maine Revised ~~Statutes~~ Statutes, Title 36, section 2892 must be terminated within 30 days of notification by the United States Department of Health and Human Services that the tax is not a permissible health care related tax.

Sec. A-52. P&SL 1963, c. 83, §4, 2nd sentence is amended to read:

When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective or uncertain, it may, at any time, correct and perfect such location and file a new description thereof; and in such case, the district is liable in damages only for property for which the owner had not previously been paid, to be ~~assessed~~ assessed as of the time of the original taking, and the district shall not be liable for any act which would have been justified if the original taking had been lawful.

PART B

Sec. B-1. 5 MRSA §1742, sub-§26, as corrected by RR 2011, c. 2, §2, is amended to read:

26. Rental income. To credit income from the rental of facilities in Limestone to the Department of Administrative and Financial Services, Bureau of

General Services, Other Special Revenue Funds account. These funds must be used for repairs, capital improvements and other costs of managing the facilities operated by the Maine Military Authority in Limestone.

Notwithstanding any other provision of law and except when the Governor in the case of an emergency pursuant to Title 37-B, section 742 or 744 needs money for disaster relief, in which case the Governor may transfer no more than 10% of the balance of the rental income, the department also may recommend that:

A. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the General Fund as undedicated revenue;

B. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Maine National Guard Education Assistance Pilot Program, Other Special Revenue Funds account for tuition assistance;

C. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Maine National Guard Education Assistance Pilot Program, Other Special Revenue Funds account for the reimbursement of the purchase of supplemental life insurance as provided for in the provisions of Title 37-B, section 390-B;

D. Beginning July 1, 2007, part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management for maintenance and repair of National Guard armories in the State; and

E. Part of the rental income collected by the Department of Administrative and Financial Services, Bureau of General Services pursuant to this subsection be transferred to the Department of Defense, Veterans and Emergency Management, Disaster Assistance Relief, Other Special Revenue Funds account for disaster assistance; and

Sec. B-2. 8 MRSA §1037, sub-§2, ¶E, as enacted by PL 2011, c. 358, §6 and amended by c. 657, Pt. W, §6, is further amended to read:

E. The amounts, reported separately, of revenue received in accordance with section 1036, subsection 2, paragraphs B and D; and from the Stipend Fund under Title 7, section 86 and from any other

source in accordance with rules adopted under section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the Commissioner of Agriculture, Conservation and Forestry or the State Harness Racing Commission; and

Sec. B-3. 8 MRSA §1037, sub-§3, as enacted by PL 2011, c. 358, §6 and amended by c. 657, Pt. W, §6, is further amended to read:

3. Agricultural fair that does not conduct harness racing. The report required by this section must include the following with regard to an agricultural fair:

A. The amount spent to pay fair premiums, to make capital improvements to fairground facilities and for labor costs and operating expenses;

B. The amounts, reported separately, received from slot machine revenue in accordance with section 1036, subsection 2, paragraph D, and from the Stipend Fund under Title 7, section 86 and from any other source in accordance with rules adopted under section 263-A, subsection 1, paragraph C and Title 7, section 82, subsection 5 by the Commissioner of Agriculture, Conservation and Forestry or the State Harness Racing Commission; and

C. An estimate of the number of people that attended the agricultural fair, including separate estimates of paid attendance, free-pass attendance, vendor attendance and attendance under a local campground pass.

Sec. B-4. 30-A MRSA §4722, sub-§1, ¶N, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

N. With respect to any bonds ~~which~~ that the Maine State Housing Authority is authorized to issue in accordance with the limitations and restrictions of this chapter, covenant and consent that the interest on the bonds will be includable, under the United States Internal Revenue Code of 1954, Title 26, Section 7701(a)(29) 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. The powers conferred by this paragraph are not subject to any limitations or restrictions of any law ~~which~~ that may limit the Maine State Housing Authority's power to so covenant and consent.

(1) Notwithstanding any other provision of this chapter, proceeds of bonds issued under

this subsection may be used for persons other than persons of low income.

(2) The income on any bonds issued by the Maine State Housing Authority ~~shall~~ must be included in gross income under the Maine Income Tax Law if the income on those bonds is includable in the gross income of the holders of the bonds under the United States Internal Revenue Code of 1954, Title 26, Section 7701(a)(29) 1986, or any subsequent corresponding revenue law of the United States;

Sec. B-5. 36 MRSA §191, sub-§2, ¶ZZ, as repealed and replaced by PL 2015, c. 490, §3 and c. 494, Pt. A, §42, is repealed and the following enacted in its place:

ZZ. The disclosure by the State Tax Assessor to a qualified Pine Tree Development Zone business that has filed a claim for reimbursement under section 2016 of information related to any insufficiency of the claim, including records of a contractor or subcontractor that assigned the claim for reimbursement to the qualified Pine Tree Development Zone business and records of the vendors of the contractor or subcontractor;

Sec. B-6. 36 MRSA §191, sub-§2, ¶AAA, as enacted by PL 2015, c. 490, §4 and c. 494, Pt. A, §43, is repealed and the following enacted in its place:

AAA. The disclosure of information by the State Tax Assessor or the Associate Commissioner for Tax Policy to the Office of Program Evaluation and Government Accountability under Title 3, section 991 for the review and evaluation of tax expenditures pursuant to Title 3, chapter 37;

Sec. B-7. 36 MRSA §653, sub-§1, ¶I, as amended by PL 1989, c. 501, Pt. Z, is further amended to read:

I. No property conveyed to any person for the purpose of obtaining exemption from taxation under this subsection may be so exempt, except property conveyed between ~~husband and wife spouses~~, and the obtaining of exemption by means of fraudulent conveyance ~~shall~~ must be punished by a fine of not less than \$100 and not more than 2 times the amount of the taxes evaded by the fraudulent conveyance, whichever amount is greater.

Sec. B-8. 36 MRSA §4641-C, sub-§4, as amended by PL 2005, c. 519, Pt. SSS, §1 and affected by §2, is further amended to read:

4. Deeds between certain family members. Deeds between ~~husband and wife spouses~~, parent and child or grandparent and grandchild, without actual consideration for the deed, and deeds between spouses in divorce proceedings;

Sec. B-9. PL 1987, c. 735, §73, amending clause is amended to read:

Sec. 73. P&SL 1865, c. 532, §4, sub-§3, as enacted by P&SL 1983, c. 33, §1 and amended by PL 1985, c. 779, §§90 and 91, is repealed and the following enacted in its place:

Sec. B-10. P&SL 2007, c. 22, Pt. A, §3, sub-§6 is amended to read:

6. The district shall maintain its books and records in a manner that creates separate divisions for its water and wastewater operations. These divisions must maintain the assets, liabilities, operating revenues and expenses in a manner that allows the Public Utilities Commission to set rates for the district's water operations. The assets and liabilities of the Augusta Water District must be maintained in the books of the water division of the Greater Augusta ~~Utilities~~ Utility District. The assets and liabilities of the Augusta Sanitary District and Hallowell Water District's wastewater division must be maintained in the books and records of the Greater Augusta Utility District's wastewater division.

PART C

Sec. C-1. 9-B MRSA §864, sub-§2, ¶B, as amended by PL 1993, c. 655, §1, is further amended to read:

B. The service corporation primarily serves credit unions and the membership of affiliated credit unions. A service corporation formed after July 31, 1994 primarily serves credit unions and the membership of affiliated credit unions within the meaning of this paragraph if at least 75% of the services provided within this State are to credit unions and members of credit unions; except that for a service corporation formed after October 1, 2017, when determining whether a service corporation primarily serves credit unions and the membership of affiliated credit unions within the meaning of this paragraph, the superintendent shall consider the relevant federal laws and regulations in effect at the time of formation of the service corporation.

Sec. C-2. 20-A MRSA §12706, sub-§9, as amended by PL 2017, c. 179, §5, is further amended to read:

9. Contracts and agreements. To enter into any contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter, except that in any such agreement other than an employment agreement that contains the following provisions against the system is are void:

A. Any requirement that the system must waive its governmental immunity or limited liability;

B. Any requirement that the system must carry insurance in addition to or in excess of its existing insurance;

C. Any requirement that the system must defend, indemnify or hold harmless any other party;

D. Any requirement that the system must submit to the law of a state other than this State;

E. Any requirement that the system must waive its insurer's rights of subrogation;

F. Any requirement that the system must pay another party's attorney's fees; and

G. Any requirement that the agreement is subject to an automatic renewal other than month to month;

Sec. C-3. 32 MRSA §18134-A, as enacted by PL 2015, c. 207, §1, is amended to read:

§18134-A. Exception; bleeding of a residential home heating oil burner

Notwithstanding ~~section 18134, paragraph C section 18102~~, a home heating oil delivery driver may bleed a residential home heating oil burner without direct supervision if the delivery driver has documentation of having completed a board-approved training course in bleeding oil burners. If the oil burner fails to operate after bleeding, the delivery driver shall refer the problem to a journeyman oil and solid fuel burning technician or master oil and solid fuel burning technician.

Sec. C-4. Effective date. Those sections of this Part that amend the Maine Revised Statutes, Title 9-B, section 864, subsection 2, paragraph B and Title 20-A, section 12706, subsection 9 take effect 90 days after adjournment of the First Regular Session of the 128th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

Effective July 15, 2017, unless otherwise indicated.

CHAPTER 289

S.P. 201 - L.D. 586

An Act To Implement the Recommendations of the Commission To Study the Public Reserved Lands Management Fund

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