

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 1963  
6

7 S.P. 717

In Senate, January 19, 1984

8 Approved for introduction by the Legislative Council pursuant to Joint  
9 Rule 26.

10 Reference to the Committee on Health and Institutional Service is  
suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Carpenter of Aroostook.

11 Cosponsors: Representative Nelson of Portland and Senator Gill of  
Cumberland.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FOUR  
16

17 AN ACT to Clarify Certain Provisions in the  
18 Recodification of the General Assistance Law.  
19

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

22 Sec. 1. 22 MRSA §4316, sub-§2, ¶A, as enacted by  
23 PL 1983, c. 577, §1, is amended to read:

24 A. Existing employment or participation in a vo-  
25 cational ~~training~~ rehabilitation or primary or  
26 secondary educational program which would assist  
27 the individual in securing employment;

28 Sec. 2. 22 MRSA §4316, sub-§4, ¶A, as enacted by  
29 PL 1983, c. 577, §1, is amended to read:

30 A. No person may, as a condition of general as-  
31 sistance eligibility, be required to do any  
32 amount of work that exceeds the value of the net  
33 general assistance that the person would other-

1 wise receive under state municipal general as-  
2 sistance standards. Any person performing work  
3 under this subsection shall be provided with net  
4 general assistance, the value of which is com-  
5 puted at a rate of at least the state's minimum  
6 wage.

7 Sec. 3. 22 MRSA §4320, as enacted by PL 1983, c.  
8 577, §1, is repealed and the following enacted in its  
9 place:

10 §4320. Liens on real estate

11 A municipality or the State may claim a lien  
12 against the owner of real estate for the amount of  
13 money spent by it to provide mortgage payments on be-  
14 half of an eligible person under this chapter on any  
15 real estate that is the subject of a mortgage, wheth-  
16 er land or buildings or a combination thereof.

17 The municipal officers or the State shall file a  
18 notice of the lien with the register of deeds of the  
19 county wherein the property is located within 30 days  
20 of making a mortgage payment. That filing shall se-  
21 ecure the municipality or state's lien interest for an  
22 amount equal to the sum of that mortgage payment and  
23 all subsequent mortgage payments made on behalf of  
24 the same eligible person. Not less than 10 days prior  
25 to the filing, the municipal officers or the State  
26 shall send notification of the proposed action by  
27 certified mail, return receipt requested, to the own-  
28 er of the real estate and any record holder of the  
29 mortgage. The lien shall be effective until enforced  
30 by an action for equitable relief or until dis-  
31 charged.

32 Interest on the amount of money secured by the  
33 lien may be charged by the State or a municipality,  
34 but in no event may the rate exceed the maximum rate  
35 of interest allowed by the Treasurer of State, pursu-  
36 ant to Title 36, section 186. For the State, the rate  
37 of interest shall be established by the department.  
38 For a municipality, the rate of interest shall be es-  
39 tablished by the municipal officers. Interest shall  
40 accrue from and including the date the lien is filed.

1           No lien may be enforced under this section while  
2 the person named in the lien is either currently re-  
3 ceiving any form of public assistance or, as a result  
4 of enforcement, would become eligible for general as-  
5 istance.

6           In no event may the lien be enforced prior to the  
7 death of the recipient of general assistance or the  
8 transfer of the property.

9           Sec. 4. 22 MRSA §4322, as enacted by PL 1983, c.  
10 577, §1, is amended to read:

11           §4322. Right to a fair hearing

12           Any person aggrieved by a decision, act, failure  
13 to act or delay in action concerning his application  
14 for general assistance under this chapter shall have  
15 the right to an appeal. If a person's application has  
16 been approved, there shall be no revocation of gener-  
17 al assistance during the period of entitlement until  
18 that person has been provided notice and an opportu-  
19 nity for hearing as provided in this section. After  
20 24 hours from the time a person applies for general  
21 assistance, or immediately after a person receives  
22 notice that an approved application has been revoked,  
23 that person may request an appeal within 5 working  
24 days. A hearing shall be held by the fair hearing  
25 ~~officer~~ authority within 7 ~~working~~ calendar days fol-  
26 lowing the receipt of a written request by the appli-  
27 cant for an appeal. The hearing may be conducted by  
28 ~~one or more fair hearing officers~~ the municipal offi-  
29 cers, a board of appeals, created under Title 30,  
30 section 2411, or one or more persons appointed by the  
31 municipal officers to act as a fair hearing  
32 authority. In no event may an appeal be held before a  
33 person or body responsible for the decision, act,  
34 failure to act or delay in relating to the applicant.

35           The person requesting the appeal shall be af-  
36 farded the right to confront and cross-examine any  
37 witnesses against him, present witnesses in his own  
38 behalf and be represented by counsel or other spokes-  
39 man, and be advised of these rights in writing. The  
40 decision of such an appeal shall be based solely on  
41 evidence adduced at the hearing. The person request-  
42 ing the appeal shall, within 5 days after the appeal,

1 be furnished with a written decision detailing the  
2 reasons for that decision. When any decision by a  
3 fair hearing ~~offiicer~~ authority or court authorizing  
4 assistance is made, that assistance shall be provided  
5 within 24 hours. Review of any action or failure to  
6 act under this chapter shall be pursuant to the Maine  
7 Rules of Civil Procedure, Rule 80-B. The municipality  
8 shall keep and provide a sufficient record of fair  
9 hearing for the court review.

10 STATEMENT OF FACT

11 This bill corrects inadvertent errors in the re-  
12 codification of the general assistance statute that  
13 occurred during the first session of the 111th Legis-  
14 lature.

15 Section 1 clarifies legislative intent that stu-  
16 dents of vocational-technical institutes are to be  
17 treated the same as college students as far as being  
18 required to fulfill work requirements in order to be  
19 eligible for general assistance.

20 Section 2 corrects a mistaken reference to state  
21 general assistance standards when it should have been  
22 municipal general assistance standards.

23 Section 3 clarifies how a municipality actually  
24 proceeds in claiming and enforcing a lien on real es-  
25 tate. The 1983 revision did not contain a procedure  
26 for municipalities to follow.

27 Section 4 changes references to a fair hearing  
28 officer to a fair hearing authority, clarifying that  
29 the body holding the fair hearing may consist of more  
30 than one person, as they usually do. Section 4 also  
31 changes the time during which a fair hearing must be  
32 held back to the original language of 7 calendar, as  
33 opposed to working, days.

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