

MAINE STATE LEGISLATURE

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L.D. 2162

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STATE OF MAINE
SENATE
115TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A " to COMMITTEE AMENDMENT "A" to S.P. 849,
L.D. 2162, Bill, "An Act to Correct Errors and Inconsistencies in
the Laws of Maine"

Amend the amendment by adding after Part C the following:

PART D

Sec. D-1. 14 MRSA §2401, sub-§3, as amended by PL 1991, c.
726, §1, is further amended to read:

3. Judgment required; recording and contents. ~~The court shall name the party or parties responsible for preparing and recording the judgment in the registry of deeds in the county or counties in which the subject property is located, and for paying the recording fees.~~ The judgment must be signed by the judge and contain the following provisions:

A. The names and addresses, if known, of all parties to the action, including the counsel of record;

B. The docket number;

C. A certification finding that all parties have received notice of the proceedings, ~~that the notice was given~~ in accordance with the applicable provisions of the Maine Rules of Civil Procedure and, if the notice was served or given pursuant to an order of a court, including service by publication, that the notice was served or given pursuant to the order;

D. An adequate description of real estate involved; and

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2 ~~E. A copy of any order that affects the property, with the~~
4 ~~applicable dates of that order, and~~

6 F. A certification to be signed by the clerk after the
8 appeal period has expired, certifying that any applicable
~~appeal period has expired without action or, if appealed by~~
~~any party, a certification of the appeal, either:~~

10 (1) Any applicable appeal period has expired without
12 action; or

14 (2) An appeal has been filed and naming the appellant.

16 Unless a proposed judgment with the provisions required in this
18 subsection is presented to the court at the time of the court's
20 decision, the court shall name the party responsible for
22 preparing a judgment with the required provisions. If an appeal
24 is not filed, an attested copy of the judgment with the signed
clerk's certification that an appeal has not been taken must be
recorded in the county or counties where the subject property is
located. The court shall also name the party responsible for
recording the attested copy of the judgment and for paying the
appropriate recording fees.

26 **Sec. D-2. Effective date.** That section of this Part that amends
28 the Maine Revised Statutes, Title 14, section 2401, subsection 3
30 takes effect 90 days after adjournment of the Second Regular
Session of the 115th Legislature.

32 **Sec. D-3. 17-A MRSA §806, sub-§1,** as amended by PL 1991, c.
34 559 and c. 565, is repealed and the following enacted in its
place:

36 1. A person is guilty of criminal mischief if that person
intentionally, knowingly or recklessly:

38 A. Damages or destroys the property of another, having no
40 reasonable grounds to believe that the person has a right to
42 do so; damages or destroys property to enable any person to
44 collect insurance proceeds for the loss caused; or tampers
with the property of another, having no reasonable grounds
to believe that the person has the right to do so, and
thereby impairs the use of that property;

46 B. Damages, destroys or tampers with property of a law
48 enforcement agency, fire department, or supplier of gas,
electric, steam, water, transportation, sanitation or
50 communication services to the public, having no reasonable
grounds to believe that the person has a right to do so, and

2 by such conduct recklessly creates a risk of interruption or
impairment of services rendered to the public; or

4 C. Drives or places in any tree or saw log, without the
prior consent of the owner, any iron, steel or other
6 substance sufficiently hard to damage saws or wood
manufacturing or processing equipment with intent to cause
8 inconvenience, annoyance or alarm to any other person.

10 **Sec. D-4. 28-A MRSA §1061, sub-§4, ¶A,** as amended by PL 1991,
c. 376, §53 and repealed and replaced by c. 583, is repealed and
12 the following enacted in its place:

14 A. The number of rooms required is based on the population
of the municipality in which the hotel is located, as
16 reported in the 1960 Federal Decennial Census. If the
population reported in the most recent Federal Decennial
18 Census is at least 20% less than the population reported in
the 1960 census, the most recent Federal Decennial Census
20 must be used to determine the number of rooms required.

22 (1) If the hotel is located in a municipality having a
population of 7,500 or less, the hotel must have at
24 least 12 adequate sleeping rooms.

26 (2) If the hotel is located in a municipality having a
population of more than 7,500, the hotel must have at
28 least 30 adequate sleeping rooms.

30 **Sec. D-5. 36 MRSA §4697,** as amended by PL 1991, c. 376, §60
and c. 446, Pt. B, §7, is repealed and the following enacted in
32 its place:

34 **§4697. Reports of production and payment of tax**

36 Every packer shall, on or before the last day of each month,
report to the State Tax Assessor the quantity of sardines,
38 kippers or steaks packed by the packer during the preceding
calendar month, on forms furnished by the State Tax Assessor, and
40 pay to the State Tax Assessor the tax of 35¢ per case on all
sardines reported as packed and 15¢ per case on all kippers or
42 steaks reported as packed. If the State Tax Assessor determines
that overpayment of tax has been made, the State Tax Assessor
44 shall make a refund. In making additional assessment or refund
determinations, the State Tax Assessor shall rely on the records
46 of the Maine Sardine Council concerning the quantity of sardines,
kippers or steaks packed in each sardine plant that is for sale
48 and suitable for human consumption. Any packer may pay to the
State Tax Assessor in advance a sum of money based on an estimate

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of the packer's tax for a given number of months and this sum is a credit against future monthly reports of that packer.

Sec. D-6. 36 MRSA §5200-A, sub-§1, ¶H, as repealed and replaced by PL 1991, c. 548, Pt. A, §27 and c. 591, Pt. N, §9 and affected by §10, is repealed and the following enacted in its place:

H. The absolute value of the amount of any net operating loss arising from tax years beginning on or after January 1, 1989 but before January 1, 1993 that, pursuant to the United States Internal Revenue Code, Section 172, is being carried back for federal income tax purposes to the taxable year by the taxpayer.'

STATEMENT OF FACT

This amendment adds a new Part D to the committee amendment.

Sections D-1 and D-2 clarify the court clerk's certification and recording process. They eliminate the need to attach copies of court orders to the judgment, because the judgment is usually the first order in any such proceeding.

Section D-3 consolidates changes in the Maine Revised Statutes, Title 17-A, section 806, subsection 1 that were made in Public Law 1991, chapter 559 and chapter 565. Public Law 1991, chapter 559 made technical corrections and placed tree spiking under the criminal mischief law. Public Law 1991, chapter 565 broadened the crime of criminal mischief and made technical corrections to that subsection.

Section D-4 corrects a conflict created by Public Law 1991, chapter 376 and chapter 583.

Section D-5 corrects a conflict created by Public Law 1991, chapter 376 and chapter 446 by incorporating the changes made in both public laws.

Section D-6 corrects a conflict created by Public Law 1991, chapter 548 and chapter 591. Public Law 1991, chapter 548 and chapter 591 repealed and replaced Title 36, section 5200-A, subsection 1, paragraph H. Public Law 1991, chapter 548 sets January 1, 1990 as the last date that can be used for any net

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operating loss and Public Law 1991, chapter 591 sets the date for
January 1, 1993. This section corrects the conflict by using the
1993 date.

(Senator GAUVREAU)

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SENATE AMENDMENT