

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 759

H.P. 562

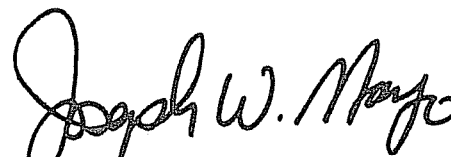
House of Representatives, March 2, 1993

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**Resolve, Authorizing the Merger of MCD Residential Care, Inc., a  
Maine For-profit Corporation, with Medical Care Development, Inc., a  
Nonprofit Corporation.**

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Reference to the Committee on Human Resources suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Speaker MARTIN of Eagle Lake.

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

Whereas, Medical Care Development, Inc., or MCD, a Maine  
nonprofit corporation is in the business of developing and  
operating homes for the elderly, infirm and mentally disabled  
throughout the State; and in 1988 MCD wanted to expand the range  
of services offered by acquiring York Manor, a nursing home  
facility in Biddeford, Maine, but due to uncertainty whether the  
nursing home services to be provided at York Manor qualified for  
tax-exempt charitable status under state and federal tax laws, as  
required by MCD's charter, MCD formed a wholly owned for-profit  
subsidiary, MCD Residential Care, Inc., to permit that  
acquisition without jeopardizing MCD's tax exempt status; and

Whereas, subsequent clarifications by the Internal Revenue  
Service together with modifications to MCD's Articles of  
Incorporation have made it clear that the operation of a nursing  
home is consistent with the nonprofit charitable goals of MCD and  
the restrictions placed on tax exempt corporations generally and,  
accordingly, MCD wishes to merge MCD Residential Care, Inc. with  
MCD to consolidate operations, reduce costs and enhance services;  
and

Whereas, Maine law does not expressly allow mergers between  
a for-profit corporation and a nonprofit corporation, the  
Secretary of State has indicated that the Secretary of State is  
not authorized to approve the merger; and

Whereas, the Secretary of State has indicated that the  
Secretary of State does not oppose the merger of MCD Residential  
Care, Inc. with MCD; and

Whereas, the merger of MCD Residential Care, Inc. and MCD  
will enable MCD, as a nonprofit charitable corporation, to take  
advantage of federal guaranty programs to replace commercial  
loans for York Manor and to take advantage of other incentives  
offered by the Federal Government to reduce the operating costs  
for York Manor; and

Whereas, the costs to operate York Manor are mostly  
reimbursed by the Department of Human Services, and the  
anticipated savings achieved through the merging of MCD  
Residential Care, Inc. and MCD and the resulting savings achieved  
in the refinancing of York Manor through the use of federal loan  
guarantees available only for tax exempt charitable organizations  
will create substantial and significant savings for the State; and

2           Whereas, the 90-day period for acts and resolves of the  
Legislature to become effective delays the benefits of the merger  
4 of MCD Residential Care, Inc., a Maine for-profit corporation,  
with MCD, a Maine nonprofit corporation; and

6           Whereas, legislative action is immediately necessary to  
ensure that the substantial financial benefits that will be  
8 gained by the State as a result of the merger of MCD Residential  
Care, Inc. and MCD are received as soon as possible; and

10           Whereas, in the judgment of the Legislature, these facts  
12 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
14 necessary for the preservation of the public peace, health and  
safety; now, therefore, be it

16           **Sec. 1. MCD Residential Care, Inc. authorized to merge into Medical**  
18 **Care Development, Inc. Resolved:** That notwithstanding any laws to  
the contrary, MCD Residential Care, Inc. is authorized to merge  
20 with Medical Care Development, Inc., and that corporation remains  
a Maine nonprofit corporation; and be it further

22           **Sec. 2. Merger to be completed within one year. Resolved:** That  
24 the merger of MCD Residential Care, Inc. and Medical Care  
Development, Inc. must be completed within one year of the date  
26 this resolve is approved by filing the Articles of Merger and the  
Plan of Merger with the Secretary of State in accordance with the  
28 Maine Revised Statutes, Title 13-B.

30           **Emergency clause.** In view of the emergency cited in the  
preamble, this resolve takes effect when approved.  
32

#### 34                                 STATEMENT OF FACT

36           This resolve authorizes MCD Residential Care, Inc., a Maine  
for-profit corporation created and owned by Medical Care  
38 Development, Inc., a Maine nonprofit corporation, to merge with  
Medical Care Development, Inc. for the purposes of enhancing the  
40 operations of Medical Care Development, Inc. and reducing the  
amount of state expenditures paid to fund the operation of the  
42 York Manor Nursing Home.