

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1550

S.P. 487

In Senate, April 11, 2019

### **An Act To Create a Victims' Compensation Fund for Victims of Property Crimes**

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Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator LIBBY of Androscoggin.

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

2 **Sec. 1. 5 MRSA c. 316-C** is enacted to read:

3 **CHAPTER 316-C**

4 **VICTIMS' PROPERTY COMPENSATION FUND**

5 **§3360-S. Victims' Property Compensation Fund**

6 **1. Definitions.** As used in this chapter, unless the context otherwise indicates, the  
7 following terms have the following meanings.

8 A. "Board" means the Victims' Compensation Board established in section 12004-J,  
9 subsection 11.

10 B. "Crime" means a criminal offense committed under the laws of the State that  
11 resulted in verifiable property loss of a person other than a person who committed the  
12 crime.

13 C. "Fund" means the Victims' Property Compensation Fund established in subsection  
14 2.

15 D. "Property loss" means the value of property taken from a victim or of property  
16 destroyed or otherwise broken or harmed as a direct result of a crime. "Property loss"  
17 includes a deductible paid by the victim pursuant to an insurance claim related to the  
18 property loss.

19 **2. Victims' Property Compensation Fund established.** The Victims' Property  
20 Compensation Fund is established to provide for the payment of claims arising under this  
21 chapter and for the payment of all necessary and proper expenses incurred by the board in  
22 carrying out this chapter. The Attorney General shall administer the fund, which must be  
23 held separate and apart from all other money, funds and accounts. The fund receives  
24 proceeds from money collected pursuant to subsection 3 and may receive private  
25 donations, federal funds and state funds designated by law that may be used for the  
26 payment of claims and for reasonable administrative costs. Eligible investment earnings  
27 credited to the assets of the fund become part of the assets of the fund. Any unexpended  
28 balances remaining in the fund at the end of any fiscal year do not lapse and must be  
29 carried forward to the next fiscal year.

30 **3. Funding source.** In addition to an assessment under section 3360-I, the court  
31 shall impose an assessment of \$10 on any person convicted of murder or a Class A crime,  
32 Class B crime or Class C crime and \$5 on any person convicted of a Class D crime or  
33 Class E crime. Notwithstanding any other law, the court may not waive the imposition of  
34 the assessment required by this subsection. For purposes of collection and collection  
35 procedures, this assessment is considered part of the fine. At the time of commitment, the  
36 court shall inform the Department of Corrections or the county sheriff of any unpaid  
37 balances on assessments owed by the offender to the fund. All funds collected as a result  
38 of these assessments accrue to the fund. When compensation is awarded from the fund,  
39 the amount of any restitution ordered and paid as part of a sentence imposed that, when  
40 added to the award from the fund, exceeds the victim's actual property loss must be paid

1 to the fund, in an amount not to exceed the amount of the award. Similarly, the amount  
2 of any insurance, 3rd-party payment or recovery in a successful civil action against a  
3 person responsible for the property loss that, when added to the award from the fund,  
4 exceeds the victim's actual property loss must be paid to the fund, in an amount not to  
5 exceed the amount of the award.

6 **4. Eligibility.** The board may award compensation under this chapter to an  
7 individual who:

8 A. Suffers a property loss as a result of a crime;

9 B. Would otherwise be eligible for compensation, even though:

10 (1) The criminal conduct occurred in this State but within the exclusive  
11 jurisdiction of the United States;

12 (2) The property loss resulted from conduct that violates a criminal law of the  
13 United States; or

14 (3) The crime occurred in another state, but only if the person is a resident of this  
15 State and the other state does not have a victims' property compensation program  
16 for which residents of this State are eligible and the person would have been  
17 eligible under this chapter if the conduct had occurred in this State; or

18 C. Is a resident of this State and suffers property loss as a direct result of a crime  
19 specified in section 3360, subsection 3, paragraph F committed outside of the United  
20 States.

21 **5. Claim requirements.** The board shall consider a claim under this chapter if:

22 A. The underlying crime was reported to a law enforcement officer within 5 days of  
23 the occurrence or discovery of the crime or of the resultant property loss; and

24 B. The claim is filed with the board within 3 years of the occurrence of the property  
25 loss or within 60 days of the discovery of the property loss, whichever is later.

26 The board may waive the time requirements of this subsection for good cause shown.

27 **6. Cooperation.** Compensation under this chapter may not be paid:

28 A. To any claimant who does not fully cooperate with the board or with the  
29 reasonable requests of law enforcement officers or prosecution authorities; or

30 B. To or on behalf of any person who violated a criminal law that caused or  
31 contributed to the property loss for which compensation is sought.

32 **7. Submission of claims.** The board may provide forms for the submission of  
33 claims and claims information under this chapter. A claim must be submitted to the  
34 board and must:

35 A. Be in writing;

36 B. Specify the date, the nature and circumstances of the crime and the law  
37 enforcement agency to which the crime was reported; and

1           C. Include documentation of an eligible property loss for which the claimant seeks  
2           compensation, including the payment of any deductible paid by the victim pursuant to  
3           an insurance claim related to the property loss.

4           **8. Compensation.** The board may award compensation under this chapter to a  
5           claimant of up to \$5,000 for actual and unreimbursed property losses or in whole or in  
6           part for an insurance deductible paid by the victim pursuant to an insurance claim related  
7           to the property loss. The board, in its sole discretion, may disburse funds awarded  
8           directly to the claimant or to the individuals or entities who provided the services to  
9           restore, repair or replace property for which compensation was awarded. In the case of  
10           joint claimants, the board may apportion the total compensation as the board determines.

11           **9. Hearing; determination of compensation.** The board may hold a hearing on any  
12           claim under this chapter, and the board shall hold a hearing if requested by the claimant.  
13           The claimant may address the board at a hearing on the claim, and the board may take  
14           testimony under oath. A determination under this subsection must be conducted as  
15           follows.

16           A. In addition to the material and information required by law and by the board, the  
17           claimant may provide the board with any other information pertinent to the nature or  
18           the amount of the claim. The board shall receive and consider information provided  
19           by law enforcement agencies and prosecution authorities and, at its sole discretion,  
20           may receive and consider relevant information from any other source.

21           B. The board shall determine by a preponderance of the evidence whether a specified  
22           crime occurred, whether the property loss was the result of that criminal conduct, the  
23           amount of property loss suffered by the claimant, whether to award compensation and  
24           the amount of the compensation, if awarded. In determining the amount of  
25           compensation to be paid, the board shall consider the amount available to pay  
26           victims' property compensation claims, the history of claims paid by the board, the  
27           number and amount of currently pending claims and the nature and cost of expenses  
28           submitted by the claimant.

29           C. The board shall determine action on a claim with a quorum participating on that  
30           claim, but any award of compensation requires the unanimous concurrence of all  
31           members present.

32           D. The board's final decision must contain reasons for the determination.

33           **10. Appeal.** Only a claimant under this chapter may appeal a decision of the board.  
34           An appeal of the board's final decisions must be to the Superior Court as provided for  
35           other administrative actions under chapter 375, subchapter 7. Board decisions and the  
36           amount of awards must be upheld unless the court finds no rational basis for the decision  
37           or that the board abused its discretion.

38           **11. Implementation.** Notwithstanding the effective date of this chapter:

39           A. The assessments required by subsection 3 apply to penalties imposed for criminal  
40           conduct alleged to have occurred on or after January 1, 2020;

41           B. The board may not award compensation under this chapter for any crime that  
42           occurred prior to January 1, 2020; and

