

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

January 5, 1977 to July 25, 1977

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

PORTLAND LITHOGRAPH COMPANY
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1977

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permits do not interfere with rights granted under section 3708. The minimum fee for these permits shall not be less than \$32.

Sec. 26. 12 MRSA § 2751-A, first ¶, last sentence, as amended by PL 1977, c. 191, § 2, is further amended to read:

This shall not apply to tropical fish which are for aquarium purposes, except piranhas (**Genus Serrasalmus**), walking catfish and white amur (grass carp) nor to the chemically preserved eggs of either the Atlantic sea run salmon or landlocked salmon.

Sec. 27. 12 MRSA § 2951, 2nd sentence is amended to read:

The warden shall investigate and, if he finds the damage has been done as alleged, he shall give a certificate to such person entitling such person to the ownership of the carcass ~~to be possessed and consumed only within the immediate family of the owner of said vehicle.~~

Sec. 28. 12 MRSA § 3060, sub-§ 4, as last amended by PL 1977, c. 78, § 97, is repealed and the following enacted in its place:

4. Lack of license. Whoever is convicted of not having a license issued under chapters 301 to 337 shall be guilty of a Class E crime.

Sec. 29. 30 MRSA § 1202, 2nd ¶, as enacted by PL 1975, c. 393, is repealed.

Effective October 24, 1977

CHAPTER 504

AN ACT to Clarify Actual Notice Under the Recording Laws in Regard to Exceptions and Reservations.

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

Whereas, under Maine Bar Association Title Standard # 30 and the case of Sanford v. Stillwell, 101 Me. 466, there are serious questions concerning the marketability of much real estate in the State of Maine; and

Whereas, these questions are preventing conveyances of this real estate, thus causing substantial expense and inconvenience to the sellers, purchasers and mortgagees of this real estate; 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 preservation of the public peace, health and safety; now, therefore,

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

33 MRSA §§ 201-A and 201-B are enacted to read:

§ 201-A. Conditions of actual notice

An exception, reservation, or recital in a conveyance, mortgage, devise or other transfer of real property or of any interest therein, shall not constitute actual notice within the meaning of section 201 of any other conveyance, mortgage, devise or other transfer of real property or of any interest therein unless it contains the following:

1. Reference to the volume and page of the registry or probate court record. A reference to the volume and page of the registry or probate court record of the deed or other instrument evidencing such other conveyance, mortgage, devise or other transfer, which record can be found at the time of the recording of the deed or other instrument containing the exception, reservation or recital; or
2. Adequate description. An adequate description by metes and bounds or by reference to the volume and page of the record of a survey plan of the property affected by the exception, reservation or recital, in which case the actual notice shall extend only to the property so described.

Any such exception, reservation or recital lacking such reference or adequate description shall not except, reserve or otherwise affect real property or any interest therein; provided that this section shall not prevent any such exception, reservation or recital from constituting a waiver, limitation or negation of a warranty of title in the document in which the exception, reservation or recital occurs, or from being taken into account in determining the existence of a contractual obligation or condition between the immediate parties to the document in which the exception, reservation or recital occurs.

§ 201-B. Notice; construction of provisions

1. Preservation of claims by filing of notice. Section 201-A shall apply to an exception, reservation or recital in a conveyance, mortgage, devise or other transfer of real property or of any interest therein made prior to the effective date of this section as well as to those made thereon or thereafter; provided that, if and to the extent constitutionally necessary to preserve rights, if any, existing at the effective date of section 201-A, that section shall not apply to such an exception, reservation or recital made previous to the effective date of that section, provided that within 2 years of the effective date of this section a person claiming such existing right, if any, shall have recorded in the registry of deeds for the county or district thereof in which the land is located the following:

A. The notice provided in subsection 2, and the deed or other instrument evidencing the previous conveyance, mortgage, devise or other transfer under which he claims, if such deed or instrument was not recorded previous to the effective date of this section; or

B. The notice provided in subsection 2, if such deed or other instrument under which he claims is lost or if such deed or instrument although recorded previous to the effective date of this section was not recorded previ-

ous to the deed or other instrument containing such exception, reservation or recital.

2. Filing of notice; recording fee; indexing. In order for the notice specified in subsection 1 to be effective, it shall contain an adequate description of the property in which the right, title or interest is claimed; a reference to the deed or other instrument on which the claim is based; the name of the current record owner of the property; a specific reference by date of recording and by volume and page numbers to the recorded deed or other instrument containing the exception, reservation or recital; and shall be duly verified by oath taken by any person authorized to perform notarial acts. The register of deeds for the county or district thereof in which the land is located shall accept all such notices presented that describe property located in such county or district and shall enter and record them in the same manner that deeds and other instruments are recorded and shall be entitled to charge the same fee for the recording thereof as is charged for recording deeds. In indexing such notice, the register of deeds shall enter it in the grantee index of deeds under the name of the claimant appearing in the notice and in the grantor index of deeds under the name of the record owner appearing in the notice. Within a reasonable time after recording such notice, the register of deeds shall enter upon the margin of the record of the previous instruments referred to by volume and page numbers in such notice the volume and page in which the record of such notice may be found. The person filing the notice shall deliver or mail a copy thereof to the current record owner of the property at the last known address of such owner.

3. Persons under disability; 2-year period not suspended. The notice provided in subsection 1 may be filed for record by the claimant or any other person acting on behalf of any claimant who is under a disability or unable to assert a claim on his own behalf, but no disability or lack of knowledge of any kind shall suspend or extend the period provided for such filing.

4. Statutes of limitations not extended. Nothing contained in section 201-A and in this section shall be construed to extend the period limited for the bringing of any action or for the doing of any other required act or to otherwise extend any statute of limitations; nor shall it be construed as legislative recognition of the existence of any claims that it may bar.

5. Liberal construction. Section 201-A and this section shall be liberally construed to effect the legislative purpose of enhancing the marketability of the title to real property by eliminating the possibility of interests under certain unrecorded or late recorded deeds.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective July 15, 1977

CHAPTER 505

AN ACT to Promote Direct-Marketing of Agricultural Commodities.