

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

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

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PUBLIC LAWS
OF THE
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AS PASSED AT THE
SECOND REGULAR SESSION
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A claim submitted under this section shall not be disapproved solely because a claim based on the same facts was submitted under a different statutory procedure and was disallowed.

Sec. 3. 14 MRSA § 8107, sub-§4, as enacted by PL 1977, c. 2, § 2, is amended by adding at the end the following new sentence to read:

A claim filed under this section shall not be held invalid solely because a claim based on the same facts was filed under a different statutory procedure and was disallowed.

Sec. 4. 23 MRSA § 3655, 3rd sentence, is amended to read:

Any person who sustains injury or damage or some person in his behalf shall, within ~~14~~ 180 days thereafter, notify one of the county commissioners of such county or of the municipal officers of such town by letter or otherwise, in writing, setting forth his claim for damages and specifying the nature of his injuries and the nature and location of the defect which caused such injury.

Sec. 5. 23 MRSA § 3655, as last amended by PL 1977, c. 578, § 7, is further amended by inserting after the 4th sentence a new sentence to read:

In any action against a town for damages for loss of life permitted under this section, the claim for and award of damages, including costs, against a town and its employees shall be limited and disposed of as provided under Title 18, section 2552, but shall not exceed \$300,000 for any and all claims arising out of a single occurrence.

Sec. 6. PL 1977, c. 2, § 5, first ¶, 2nd sentence is amended to read:

This Act shall remain effective until ~~February 1, 1979~~ November 1, 1979.

Effective July 6, 1978

CHAPTER 592

AN ACT to Correct Certain Oversights in the Nonprofit Corporation Act.

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

Whereas, the First Regular Session of the 108th Legislature enacted the Maine Nonprofit Corporation Act, effective January 1, 1978; and

Whereas, the Maine Nonprofit Corporation Act contains certain oversights which may result in needless confusion and administrative difficulty; 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:

Sec. 1. 13 MRSA § 901, last sentence, as enacted by PL 1977, c. 525, § 3, is amended to read:

This section shall not apply to corporations which must be organized under Title 13-B or which elect to be organized under Title 13-B.

Sec. 2. 13 MRSA § 931, last sentence, as enacted by PL 1977, c. 525, § 4, is amended to read:

This section shall not apply to corporations organized under or ~~electing to be~~ governed by Title 13-B.

Sec. 3. 13 MRSA § 932, last sentence, as enacted by PL 1977, c. 525, § 5, is amended to read:

This section shall not apply to corporations organized under or ~~electing to be~~ governed by Title 13-B.

Sec. 4. 13 MRSA § 934, last sentence, as enacted by PL 1977, c. 525, § 6, is amended to read:

This section shall not apply to corporations organized under or ~~electing to be~~ governed by Title 13-B.

Sec. 5. 13 MRSA § 937, last sentence, as enacted by PL 1977, c. 525, § 8, is amended to read:

This section shall not apply to corporations organized under or ~~electing to be~~ governed by Title 13-B.

Sec. 6. 13 MRSA § 938, last sentence, as enacted by PL 1977, c. 525, § 9, is amended to read:

This section shall not apply to corporations organized under or ~~electing to be~~ governed by Title 13-B.

Sec. 7. 13 MRSA § 940, last sentence, as enacted by PL 1977, c. 525, § 10, is amended to read:

This section shall not apply to corporations organized under or ~~electing to be~~ governed by Title 13-B.

Sec. 8. 13 MRSA § 961, last sentence, as enacted by PL 1977, c. 525, § 11, is amended to read:

This section shall not apply to corporations organized under or ~~electing to be~~ governed by Title 13-B.

Sec. 9. 13 MRSA § 982, first sentence, as amended by PL 1977, c. 522, § 6, is further amended to read:

No charitable institution or association of a private or of a semipublic nature, incorporated by special Act of the Legislature or organized in conformity with Title 13-B or section 901 after the 11th day of July, 1913, shall use the name of the State in its title without the approval of the Secretary of State.

Sec. 10. 13 MRSA § 982, 3rd sentence, as amended by PL 1973, c. 653, is further amended to read:

The members of any existing voluntary association established prior to the 11th day of July, 1913, and theretofore using the name of the State in its title may, subsequent to said day, incorporate under the same title in conformity with said Title 13-B or section 901.

Sec. 11. 13 MRSA § 983, last sentence, as enacted by PL 1977, c. 525, § 12, is amended to read:

This section shall not apply to corporations organized under or ~~electing to be~~ governed by Title 13-B.

Sec. 12. 13-B MRSA § 102, sub-§ 4, as enacted by PL 1977, c. 525, § 13, is repealed and the following enacted in its place:

4. Corporation. "Corporation" or "domestic corporation" means a nonprofit corporation subject to this Act, including a nonprofit hospital and medical organization subject to Title 24, chapter 19. It shall not include:

A. A foreign corporation;

B. A corporation subject to the laws regulating banking and insurance companies; or

C. An instrumentality, agency, political subdivision or body politic and corporate of the State.

Sec. 13. 13-B MRSA § 102, sub-§ 8, as enacted by PL 1977, c. 525, § 13, is amended to read:

8. **Member.** "Member" includes persons by whatever name designated, including incorporators, and means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws. In the case of a corporation without members entitled to vote, references in this Act to acts of members shall be taken to mean acts of directors.

Sec. 14. 13-B MRSA § 103, sub-§ 1, ¶ C, as enacted by PL 1977, c. 525, § 13, is repealed and the following enacted in its place:

C. All nonstock corporations created by special Act of the Legislature, and all nonstock corporations located in Maine and created prior to the Articles of Separation by special Act of the General Court of the Commonwealth of Massachusetts; provided the purposes of the corporations are purposes for which a corporation may be organized under this Act.

Sec. 15. 13-B MRSA § 407, as enacted by PL 1977, c. 525, § 13, is amended by adding at the end the following new sentence:

Upon dissolution or liquidation, the assets of a corporation whose purposes and activities have been primarily charitable, religious, eleemosynary, benevolent or educational shall be transferred or conveyed only to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation.

Sec. 16. 13-B MRSA § 713, sub-§ 1, as enacted by PL 1977, c. 525, § 13, is repealed and the following enacted in its place:

1. **Transactions voided.** No transaction in which a director or officer has a personal or adverse interest, as defined in subsection 2, shall be void or voidable solely for this reason or solely because he is present at or participates in the meeting of the board, or of a committee thereof, which approves that transaction, or because his vote is counted, if the material facts as to his interest and as to the transaction are disclosed or are known to the board of directors or committee.

Sec. 17. 13-B MRSA § 1302-A is enacted to read:

§ 1302-A. Powers of Secretary of State

The Secretary of State shall have the power and authority reasonably necessary to enable him to administer this Act efficiently and to perform the duties therein imposed upon him. These powers shall include, without limitation:

1. **Make rules.** The power to make rules not inconsistent with this Act;
2. **Prescribe forms.** The power to prescribe forms for all documents required or

permitted to be filed with him and to refuse to file documents not utilizing those forms to the extent possible; and

3. Refuse to file. The power to refuse to file any document which is not clearly legible or which may not be clearly reproducible photographically.

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

Effective February 9, 1978

CHAPTER 593

AN ACT to Clarify the Statute Relating to Attorneys so that Nonattorneys may Appear in Small Claims Court on Behalf of Corporations.

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

Sec. 1. 4 MRSA § 807, 3rd sentence, is amended to read:

This section shall not be construed to apply to practice before any Federal Court by any person duly admitted to practice therein; nor to a person pleading or managing his own cause in court; nor to the officer or employee of a corporation, partnership or governmental entity, who is not an attorney, but is appearing for that organization in an action cognizable as a small claim under Title 14, chapter 737.

Sec. 2. 14 MRSA § 7452, as amended by PL 1977, c. 564, § 71, is further amended to read:

§ 7452. Procedure

There is established a simple, speedy and informal procedure which a plaintiff or his authorized attorney or representative may pursue in an action commenced before a Judge of a District Court for the determination of a small claim. Such procedure shall be alternative and not exclusive.

~~Notwithstanding Title 4, sections 807 to 811, a~~ A corporation, partnership or governmental entity may appear as a plaintiff or a defendant in such an action without an authorized attorney, as provided under Title 4, section 807.

Sec. 3. 14 MRSA § 7453, 1st sentence, is amended to read: