

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

January 3, 1979 to June 15, 1979

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

Kennebec Journal
Augusta, Maine
1979

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
FIRST REGULAR SESSION
of the
ONE HUNDRED AND NINTH LEGISLATURE
1979

CHAPTER 425

H. P. 1248 — L. D. 1504

AN ACT to Revise and Correct Provisions of the Administrative Procedure Act.

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

Sec. 1. 4 MRSA § 175, as amended by PL 1975, c. 346, § 4, is repealed and the following enacted in its place:

§ 175. Fees of District Courts

The Supreme Judicial Court shall have the authority to prescribe rules establishing the fees of the District Courts.

Sec. 2. 4 MRSA § 555, as last amended by PL 1973, c. 355, § 1, is repealed and the following enacted in its place:

§ 555. Fee schedule

The Supreme Judicial Court shall have the authority to prescribe rules establishing the fees of clerks of the judicial courts.

Sec. 3. 5 MRSA § 8002, sub-§ 9, ¶ A, as amended by PL 1977, c. 694, § 30, is further amended by adding at the end a new sentence to read:

All rules promulgated after July 1, 1979, shall, to the maximum extent feasible, as determined by the affected agency, use plain and clear English, which can be readily understood by the public.

Sec. 4. 5 MRSA § 8052, sub-§ 6 is enacted to read:

6. Effective date. No rule, except emergency rules adopted under section 8054, shall become effective until at least 5 days after filing with the Secretary of State under section 8056, subsection 1, paragraph B.

Sec. 5. 5 MRSA § 8053, as last amended by PL 1977, c. 694, § 34-B, is repealed and the following enacted in its place:

§ 8053. Notice

1. Notice of rulemaking without hearing. At least 20 days prior to the adoption of any rule without hearing, the agency shall deliver or mail written notice to:

A. Any person specified by the statute authorizing the rulemaking;

- B. Any person who has filed within the past year a written request with the agency for notice of rulemaking;
- C. Any trade, industry, professional, interest group or regional publication that the agency deems effective in reaching the persons affected; and
- D. The Secretary of State, for publication in accordance with subsection 5.

Notification to subscribers under paragraph B shall be by mail or otherwise in writing to the last address provided to the agency by that person.

2. **Notice of rulemaking hearing.** When an agency holds a public hearing prior to adoption of a rule, notice of the hearing shall be given in the manner described in subsections 1 and 5, using the date of the hearing to calculate the time periods involved;

3. **Contents of notice.** The notice shall:

- A. Refer to the statutory authority under which the adoption of the rule is proposed;
- B. State the time and place of any scheduled public hearing or state the manner in which a hearing may be requested;
- C. State the manner and time within which data, views or arguments may be submitted to the agency for consideration, whether or not a hearing is held; and
- D. If possible, contain the express terms of the proposed rule or otherwise describe the substance of the proposed rule, stating the subjects and issues involved and indicate where a copy of the proposed rule may be obtained;

4. **Fee schedule.** The agency may establish a fee schedule for notice under subsection 1, paragraph B, imposing a cost reasonably related to the actual expense entailed;

5. **Publication.** The Secretary of State shall:

- A. Arrange for the weekly publication of a consolidated notice of rulemaking of all state agencies, which shall also include a brief explanation to assist the public in participating in the rule-making process. Notice of each rule-making proceeding shall be published twice, 14 days apart. The 2nd notice shall be published at least 3 and not more than 10 days prior to the public hearing on the proposed rule or the same period prior to adoption if no public hearing is scheduled;
- B. Designate certain newspapers, which together have general circulation throughout the State, as papers of record for the purpose of publishing notice under paragraph A. Notice of proposed rules affecting only a particular locality

or region need only be published in the designated newspapers having general circulation in the area affected.

C. Designate one weekday as rules day for publication of notices on rulemaking as set forth in this subsection; and

D. Be reimbursed for the cost of publication of rule-making notice by the agencies proposing the rulemaking. The total costs of each consolidated publication will be prorated by the Secretary of State among all agencies submitting notice for a particular week.

Sec. 6. 5 MRSA § 8054, sub-§ 2, as enacted by PL 1977, c. 551, § 3, is amended to read:

2. **Agency findings.** Any emergency rule shall include, with specificity, the agency's findings with respect to the existence of an emergency, and such findings shall be subject to judicial review under section 8058. **No emergency shall be found to exist when the primary cause of the emergency is delay caused by the agency involved.**

Sec. 7. 5 MRSA § 8055, sub-§ 3, as enacted by PL 1977, c. 551, § 3, is amended by adding at the end a new sentence to read:

Whenever a petition to adopt or modify a rule is submitted by 100 or more persons, the agency shall initiate appropriate rule-making proceedings within 60 days after receipt of the petition.

Sec. 8. 5 MRSA § 8056, sub-§ 3, ¶ A, as enacted by PL 1977, c. 551, § 3, is amended to read:

A. Maintain and make available at his office, for inspection at no charge and for copying or purchase at actual cost, current copies of complete rules for all agencies filed in accordance with subsection 1, paragraph B; and

Sec. 9. 5 MRSA § 8056, sub-§ 3, ¶ A-1 is enacted to read:

A-1. **Compile, edit, index and arrange for publication and distribution all current rules of state agencies. Compilations shall be supplemented or revised at least annually; and**

Sec. 10. 5 MRSA § 8057, sub-§ 2, as enacted by PL 1977, c. 551, § 3, is amended by inserting at the end the following new sentence:

Rules in effect prior to July 1, 1978, become void and of no legal effect on December 31, 1979, unless filed with the Secretary of State in accordance with section 8056, subsection 1, paragraph B.

Sec. 11. 5 MRSA § 9055, as enacted by PL 1977, c. 551, § 3, is amended to read:

§ 9055. Ex parte communications; separation of functions

1. **Communication prohibited.** In any adjudicatory proceeding, no agency members authorized to take final action or presiding officers designated by the agency to make findings of fact and conclusions of law shall communicate directly or indirectly in connection with any issue of fact, law of procedure, with any person party or other persons legally interested in the outcome of the proceeding, except upon notice and opportunity for all parties to participate.

2. **Communication permitted.** This section shall not prohibit any agency member or other presiding officer described in subsection 1 from:

- A. Communicating in any respect with other members of the agency or other presiding officers; or
- B. Having the aid or advice of those members of his own agency staff, counsel or consultants retained by the agency who have not participated and will not participate in the agency adjudicatory proceeding in an advocate capacity.

Effective September 14, 1979

CHAPTER 426

H. P. 1426 — L. D. 1633

AN ACT to Require Financial Institutions Either to Pay Taxes from Mortgage Escrow Accounts or to Pay Interest on Escrowed Sums.

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

9-B MRSA § 429, is enacted to read:

§ 429. Residential mortgage escrow accounts

1. **Definition.** For purposes of this section, an “escrow account” means any account established by agreement between a mortgagor and a financial institution acting as a mortgagee under which the mortgagor pays to the institution or its assignee sums to be used to pay taxes.

2. **Payment of interest or taxes.** If a financial institution maintains an escrow account in connection with a first purchase money mortgage on a dwelling of 4 or fewer living units located in this State, the financial institution shall:

- A. Pay the mortgagor quarterly dividends or interest on the account at a rate at least $\frac{1}{2}$ the highest annual interest rate paid on regular savings accounts at