

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Twin City Printery  
Lewiston, Maine  
1987

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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§4431. Burden of proof

The tax and penalties assessed by the State Tax Assessor are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity.

§4432. Confidentiality

No information contained in a report or return required by this chapter may be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making the return.

**Sec. 10.** 36 MRSA §5127, sub-§2, as repealed and replaced by PL 1985, c. 766, §1, is amended to read:

2. Income tax credit for child and dependent care expenses. A resident individual shall be allowed a credit against the tax otherwise due under this Part in the amount of 16% of the federal tax credit allowable for child care expenses in tax year 1986; 20% of the federal tax credit allowable for child and dependent care expenses in tax year 1987; and 25% of the federal tax credit allowable for child and dependent care expenses thereafter. In no case will may this credit reduce the Maine income tax to less than zero.

**Sec. 11.** 36 MRSA §5217 is enacted to read:

§5217. Employer-assisted day care

1. Credit allowed. A taxpayer constituting an employing unit is allowed a credit against the tax imposed by this Part for each taxable year equal to the lowest of:

- A. Five thousand dollars;
- B. Twenty percent of the costs incurred by the taxpayer in providing day care service for children of employees of the taxpayer; or
- C. One hundred dollars for each child of an employee of the taxpayer enrolled on a full-time basis, or each full-time equivalent, throughout the taxable year in day care service provided by the taxpayer or in the first year that the taxpayer provides day care services, for each child enrolled on a full-time basis, or each full-time equivalent, on the last day of the year.

2. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

- A. "Employing unit" has the same meaning as in Title 26, section 1043.
- B. "Providing day care services" means expending funds to build, furnish, license, staff, operate or subsidize a day care center licensed by the Department of

Human Services to provide day care services to children of employees of the taxpayer at no profit to the taxpayer or to contract with a day care facility licensed by or registered with the department to provide day care services to children of the employees of the taxpayer. "Providing day care services" also includes the provision of day care resource and referral services to employees and the provision of vouchers by an employer to an employee for purposes of paying for day care services for children of the employee.

3. Carryover; carry back. The amount of the credit that may be used by a taxpayer for a taxable year may not exceed the amount of tax otherwise due under this section. Any unused credit may be carried over to the following year or years for a period not to exceed 15 years or it may be carried back for a period not to exceed 3 years.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect July 1, 1987, except that section 6 takes effect October 1, 1988. Sections 1, 2, 7 and 10 apply to tax years beginning on or after January 1, 1987. Sections 8 and 11 apply to tax years beginning on or after January 1, 1988.

Effective July 1, 1987, unless otherwise indicated.

**CHAPTER 344**

**H.P. 1159 — L.D. 1585**

**AN ACT to Clarify the Requirements for the Payment of Insurance Claims.**

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

**24-A MRSA §2436**, as repealed and replaced by PL 1977, c. 357, is repealed and the following enacted in its place:

**§2436. Late payment**

1. A claim for payment of benefits under a policy of insurance against loss delivered or issued for delivery within this State is payable within 30 days after proof of loss is received by the insurer and ascertainment of the loss is made either by written agreement between the insurer and the insured or by filing with the insured of an award by arbitrators as provided for in the policy, and a claim which is neither disputed nor paid within 30 days is overdue, provided that if during the 30 days the insurer, in writing, notifies the insured that reasonable additional information is required, the undisputed claim shall not be overdue until 30 days following receipt by the insurer of the additional required information; except that the time period applicable to a standard fire policy and to that portion of a policy providing a combination of coverages, as described in section 3003, insuring against the peril of fire shall be 60 days, as provided in section 3002.

2. An insurer may dispute a claim by furnishing to the insured, or his representative, a written statement that the claim is disputed with a statement of the grounds upon which it is disputed.

3. If an insurer fails to pay an undisputed claim or any undisputed part of the claim when due, the amount of the overdue claim or part of the claim shall bear interest at the rate of 1 1/2% per month after the due date.

4. A reasonable attorneys fee for advising and representing a claimant on an overdue claim or action for an overdue claim shall be paid by the insurer if overdue benefits are recovered in an action against the insurer or if overdue benefits are paid after receipt of notice of the attorney's representation.

5. Nothing in this section prohibits or limits any claim or action for a claim which the claimant has against the insurer.

Effective September 29, 1987.

## CHAPTER 345

H.P. 1137 — L.D. 1547

### AN ACT to Create Immunity from Liability.

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

24-A MRSA §2183 is enacted to read:

#### §2183. Immunity from liability

1. Definition. For the purpose of this section, "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent of an insurer, any written statement as part of or in support of an application for the issuance of or the rating of an insurance policy for commercial insurance or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which he knows to contain materially false information concerning any material fact or conceals, for the purpose of misleading, information concerning any material fact.

2. Immunity from liability concerning fraudulent insurance acts. In the absence of fraud or bad faith, no person is subject to civil liability for libel, slander or any other relevant tort cause of action by virtue of filing reports, without malice, or furnishing other information, without malice, required by this Title or required by the superintendent under the authority granted in this Title, and no civil cause of action of any nature may arise against such person for any information relating to suspected fraudulent insurance acts furnished to or received

from law enforcement officials, their agents and employees; for any information relating to suspected fraudulent insurance acts furnished or received from other persons subject to this section; or for any such information furnished in reports to the Bureau of Insurance, the National Association of Insurance Commissioners or any organization established to detect and prevent fraudulent insurance acts, their agents, employees or designees, nor may the superintendent or any employee of the Bureau of Insurance, acting without malice, in the absence of fraud or bad faith, be subject to civil liability for libel, slander or any other relevant tort and no civil cause of action of any nature may arise against such person by virtue of the publication of any report or bulletin related to the official activities of the Bureau of Insurance. Nothing in this section is intended to abrogate or modify in any way any common law or statutory privilege or immunity previously enjoyed by any person.

Effective September 29, 1987.

## CHAPTER 346

H.P. 1319 — L.D. 1803

### AN ACT to Provide for Noise Generated by Developments.

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

Whereas, the Department of Environmental Protection has adopted rules under the site location of development law which provides for control of excessive noise from developments which are reviewed under that law; and

Whereas, those rules have proven to be difficult to interpret for applicants, the public and the department; and

Whereas, applicants have difficulty determining whether their developments will be found to produce excessive noise because of uncertainty in the rule as to how background and other noise levels will be measured; and

Whereas, applicants are unable to predict what noise controls will be required on their projects; and

Whereas, there is confusion as to the role of municipal noise ordinances and municipal zoning under the site location of development law; and

Whereas, recent Board of Environmental Protection decisions have resulted in added confusion and uncertainty regarding noise standards; and

Whereas, as a result of these circumstances, municipalities, permit applicants, property owners and others are unable to ascertain, plan and rely on consistent quantifiable and predictable noise standards; and