

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
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Twin City Printery
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1987

PUBLIC LAWS

OF THE

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Sec. 7. 38 MRSA §§8, 9, 10 and 11 are enacted to read:

§8. Waiting list

Whenever there are more applicants for a mooring assignment than there are mooring spaces available, the harbor master or other town official shall create a waiting list. The town officials shall work out a reasonable procedure for persons to add their names to this list. The procedure shall be posted in a public place. The list shall be considered a public document under the freedom of access law.

§9. Abandonment of watercraft

No person may bring into or maintain in the harbor any derelict watercraft, watercraft for salvage, or abandon any watercraft in the harbor without a permit from the harbor master or, if there is no harbor master, the appropriate municipal official. Whoever does so without permit is guilty of a Class E crime. Watercraft which are to be salvaged by firms licensed by the State to do salvage work shall be excluded from this section. The municipal board or commission entrusted with harbor management shall be the sole determiner as to what constitutes a watercraft that is derelict and what constitutes a watercraft that is abandoned.

§10. Harbor master liability

In addition to the immunities from liability and the limitations and defenses provided under the Maine Tort Claims Act, Title 14, sections 8103, 8111 and 8112, a harbor master who, in the performance of his statutory duties as set forth in sections 4 and 5, causes any damage to property or any injury to a person shall not be liable for damage or injury, unless the damage or injury is a direct result of the gross negligence, recklessness or intentional misconduct of the harbor master.

§11. Definitions

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

1. Municipal resident. "Municipal resident" means any person who occupies a dwelling within the municipality for more than 180 days in a calendar year. A municipality may by ordinance include other persons in the definition of resident.

2. Parcel of land. "Parcel of land" means the larger of the minimal buildable lot size in the municipality or 20,000 square feet and, in either case, including 100 feet of shoreline frontage.

3. Watercraft. "Watercraft" means any type of vessel, boat, barge, float or craft used or capable of being used as a means of transportation on water other than a seaplane.

Sec. 8. **Effective date.** This Act shall take effect on April 1, 1988.

Effective April 1, 1988.

CHAPTER 413

S.P. 618 — L.D. 1819

AN ACT to Provide a Mechanism for Allocations of the State Ceiling on Private-activity Bonds.

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

Whereas, the Maine Revised Statutes, Title 10, section 363, as enacted by Public Law 1985, chapter 594, and amended by Public Law 1987, chapter 3, makes a partial allocation of the state ceiling on private-activity bonds to some issuers, but leaves a portion of the state ceiling unallocated and does not provide sufficient allocations for certain types of issues of private-activity bonds, particularly student-loan bonds, which may require an allocation prior to the effective date of this Act if not enacted on an emergency basis; and

Whereas, if such bond issues must be delayed due to lack of available state ceiling, the rates and terms under which such bonds may be issued may be adversely affected, resulting in increased costs to beneficiaries, including students, or even unavailability of financing for student loans; 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. 10 MRSA §361, sub-§2, as enacted by PL 1985, c. 594, §1, is amended to read:

2. Carryforward. "Carry-forward Carryforward" means that portion of the state ceiling for any calendar year which is unallocated to specific bond issues during that calendar year and which is available to be carried forward to be used in later years under applicable federal law the United States Code, Title 26.

Sec. 2. 10 MRSA §361, sub-§6, as enacted by PL 1985, c. 594, §1, is amended to read:

6. Tax-exempt bond. "Tax-exempt bond" means a bond the interest on which is exempt from federal taxation not included in the gross income of the owners for federal income tax purposes pursuant to the United States Code, Title 26, Section 103.

Sec. 3. 10 MRSA §362, as enacted by PL 1985, c. 594, §1, is amended to read:

§362. Legislative purpose

The Legislature finds and declares that the availability of financing through use of tax-exempt bonds is an effective and necessary tool for economic development, ensuring an adequate supply of affordable housing, providing for loans for higher education and promoting and improving the health, safety, welfare and quality of life of the people of the State. Because the availability of the financing is largely determined by the United States Internal Revenue Code, ~~to which significant changes have been proposed~~, and because there is a statewide need to assure that the limited amount of tax-exempt financing available is used in the most efficacious manner by issuers of bonds in the State to provide the greatest benefits to the State, the Legislature determines that the legislative purpose of promoting the best use of a limited resource can be best met by authorizing ~~the Governor and~~ Legislature and certain designated issuers of bonds to allocate available amounts of tax-exempt bond authority among issuers. This chapter is intended to apply to the federal formulas in effect on the effective date of this chapter, as well as to any unified volume limitation that may be enacted subsequently by the United States Congress. Any action by the ~~Governor~~ designated issuers pursuant to this chapter is expressly delegated to him those issuers by the Legislature for purposes of determining whether such action is authorized by the United States Code, Title 26.

~~For the purpose of expeditiously allocating tax exempt bond authority among issuers for 1986 only, the Legislature authorizes the Governor to allocate the state ceiling in accordance with section 363, subsection 1.~~

Sec. 4. 10 MRSA §363, as enacted by PL 1985, c. 594, §1, is repealed and the following enacted in its place:

§363. Allocation of the state ceiling

1-A. Procedure. For calendar year 1987 and each subsequent calendar year, the Legislature may establish a procedure for allocation of the entire amount of the state ceiling by allocating an amount of the state ceiling to the specific issuers designated in this section for further allocation by each specific issuer to itself or to other issuers for specific bond issues requiring an allocation of the state ceiling or for carryforward. This procedure shall supersede the federal formula to the full extent that the United States Code, Title 26, authorizes the Legislature to vary the federal formula. Allocations may be reviewed by the Legislature periodically and unused allocations may be reallocated to other issuers, provided that, notwithstanding the existence of legislation allocating or reallocating all or any portion of the state ceiling, at any time during the period from November 1st to and including December 31st of any calendar year, the issuers specifically identified in subsections 4 to 8 may, by unanimous written agreement executed by representatives of

each of the issuers, allocate amounts not previously allocated and reallocate unused allocations from one of the specific issuers designated in this section to another specific issuer for further allocation or carryforward, with respect to the state ceiling for that calendar year only.

2-A. Recommendation of Governor and issuers. At any time action of the Legislature under subsection 1-A is necessary or desirable, the Governor shall recommend to the appropriate committee of the Legislature a proposed allocation or reallocation of all or part of the state ceiling. This recommendation shall be considered by the Legislature prior to taking any such action. In recommending any allocation or reallocation of the state ceiling to the Legislature, the Governor shall consider the requests and recommendations of those issuers of bonds within the State designated in this section and shall explain the basis of any recommendation which varies from the requests and recommendation of those issuers.

4. Allocation to Maine State Housing Authority. That portion of the state ceiling allocated under this section to the category of bonds for housing or housing-related purposes shall be allocated to the Maine State Housing Authority, which may further allocate that portion of the state ceiling to bonds for housing-related projects which require an allocation in order to qualify as tax-exempt bonds.

5. Allocation to the Treasurer of State. That portion of the state ceiling allocated under this section to the category of general obligations bonds of the State shall be allocated to the Treasurer of State, who may further allocate that portion of the state ceiling to bonds of the State requiring an allocation in order to qualify as tax-exempt bonds.

6. Allocation to the Finance Authority of Maine. That portion of the state ceiling allocated to the category of bonds which are limited obligations of the issuer payable solely from the revenues of the projects financed with the proceeds of the bonds, other than for housing-related projects or issues included in an issue of the Maine Municipal Bond Bank, shall be allocated to the Finance Authority of Maine, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds.

7. Allocation to the Maine Municipal Bond Bank. That portion of the state ceiling allocated to the category of bonds which are general obligations of issuers within the State, other than the State; which are included in bond issues of the Maine Municipal Bond Bank; or which are qualified redevelopment bonds as defined in the United States Code, Title 26, shall be allocated to the Maine Municipal Bond Bank, which may further allocate that portion of the state ceiling to bonds requiring an allocation in order to qualify as tax-exempt bonds.

8. Allocation to the Maine Educational Loan Marketing Corporation. That portion of the state ceiling allo-

cated to the category of bonds providing funds for student loans shall be allocated to the Maine Educational Loan Marketing Corporation, which may further allocate that portion of the state ceiling to student loan bonds requiring an allocation in order to qualify as tax-exempt bonds.

9. Use of carryforward. In the event that any issuer has made a carryforward election under the United States Code, Title 26, Section 146(f), as amended, the issuer shall use, to the extent possible and consistent with the purpose for which the carryforward was elected, the carryforward for issues subject to the state ceiling prior to allocating any portion of the state ceiling for the applicable calendar year to the issue.

Sec. 5. 30 MRSA §4651, sub-§14, as enacted by PL 1985, c. 594, §9, is amended to read:

14. Allocation of federal ceilings. By rulemaking pursuant to Title 5, chapter 375, subchapter II, to establish a process that is different from the federal formula for allocating that portion of the ceiling on the issuance of certain tax-exempt bonds established by the United States Code, Title 26, which has been allocated to the state authority pursuant to Title 10, section 363, and may also limit the types of projects which are eligible to receive allocations or ~~carry-forward~~ carryforward designations from the state authority.

Sec. 6. 30 MRSA §5166-A, as enacted by PL 1985, c. 594, §12, is amended to read:

§5166-A. Allocation of state ceiling

By rulemaking pursuant to Title 5, chapter 375, subchapter II, the bank may establish a process for allocation and ~~carry forward~~ carryforward of that portion of the state ceiling on issuance of tax-exempt bonds allocated to the bank pursuant to Title 10, chapter 9.

Sec. 7. Allocation to the Treasurer of State. The \$20,000,000 of the state ceiling for calendar year 1988 is allocated to the Treasurer of State to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 5.

Sec. 8. Allocation to the Finance Authority of Maine. The \$58,000,000 of the state ceiling for the calendar year 1987 is allocated to the Finance Authority of Maine to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 6, provided that prior to any reallocation of this amount permitted under the Maine Revised Statutes, Title 10, section 363, this amount shall be used only for solid waste energy projects. Amounts previously allocated to the Finance Authority of Maine may be allocated by the authority to any bond issue for which the authority may issue allocations. The \$25,000,000 of the state ceiling for calendar year 1988 is allocated to the Finance Authority of Maine to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 6.

Sec. 9. Allocation to the Maine Municipal Bond Bank. The \$12,000,000 of the state ceiling for calendar year 1988 is allocated to the Maine Municipal Bond Bank to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 7.

Sec. 10. Allocation to the Maine Educational Loan Marketing Corporation. The \$60,000,000 of the state ceiling for calendar year 1987 is allocated to the Maine Educational Loan Marketing Corporation to be used in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 8. No portion of the calendar year 1988 state ceiling is allocated to the Maine Educational Loan Marketing Corporation.

Sec. 11. Allocation to the Maine State Housing Authority. No portion of the state ceiling for calendar year 1988 is allocated to the Maine State Housing Authority.

Sec. 12. Unallocated state ceiling. The \$93,000,000 of the state ceiling for calendar year 1988 is unallocated and shall be reserved for future allocation in accordance with applicable law.

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

Effective June 24, 1987.

CHAPTER 414

S.P. 397 — L.D. 1216

AN ACT to Implement Certain Recommendations of the Judicial Council's Committee on the Collection of Fines.

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

Sec. 1. 4 MRSA §173-A, as amended by PL 1985, c. 481, Pt. A, §5, is repealed and the following enacted in its place:

§173-A. Costs taxable for the State in civil violation or traffic infraction proceedings

Costs in the amount of \$25 shall be automatically taxable for the State in civil violation and traffic infraction proceedings for failure to pay a fine imposed for the commission of a civil violation or traffic infraction within 30 days of entry of judgment.

This section applies to all judgments imposing fines which remain unpaid and which predate the effective date of this section.

Sec. 2. 14 MRSA c. 502-A is enacted to read: