

# 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  
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ONE HUNDRED AND THIRTEENTH LEGISLATURE  
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Sec. 34. 36 MRSA §5220, sub-§2, as amended by PL 1985, c. 783, §38, is repealed and the following enacted in its place;

2. Nonresident individuals. Every nonresident individual who has Maine adjusted gross income from sources within this State equal to or greater than the income levels for which a federal income tax return is required pursuant to the United States Internal Revenue Code, Section 6012.

Sec. 35. 36 MRSA §5220, sub-§6 is enacted to read:

6. Certain taxable entities. Every taxable entity, as defined by section 5206-B, subsection 4, which is required to file a federal income tax return. The State Tax Assessor may, in his discretion, allow 2 or more taxable entities which are members of an affiliated group to file a consolidated return.

Sec. 36. 36 MRSA §5224-A, as repealed and replaced by PL 1985, c. 783, §41, is amended to read:

§5224-A. Return of part-year resident

If an individual changes his status as a resident individual or nonresident individual during his taxable year, he shall file a nonresident return pursuant to section 5220, subsection 2. His tax shall be computed, pursuant to section 5111, subsection 4, as if he were a nonresident individual, except that the numerator of the apportionment ratio shall be comprised of his Maine adjusted gross income, as defined in section 5102, subsection 1-C, paragraph A, for the portion of the taxable year during which he was a resident individual, plus his Maine adjusted gross income as defined in section 5102, subsection 1-C, paragraph B, for the portion of the taxable year during which he was a nonresident individual. The part-year resident shall also be entitled to the credit provided by ~~section 5127, subsection 1~~ section 5217, computed as if the individual's Maine adjusted gross income for the entire year were comprised only of that portion which is attributed to the portion of the year during which he was a resident individual.

Sec. 37. 36 MRSA §5250, sub-§1, as enacted by PL 1981, c. 371, §1, is amended to read:

1. General. Every employer maintaining an office or transacting business within this State and making payment of any wages taxable under this part to a resident or nonresident individual shall, if required to withhold federal income tax from such wages, deduct and withhold from such wages for each payroll period a tax computed in such manner as to result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee under this part with respect to the amount of such wages included in his adjusted gross income during the calendar year. The method of determining the amount to be withheld shall be prescribed by regulations of the asses-

sor. This section shall not apply to shares of a lobster boat's catch apportioned by a lobster boat operator to a sternman. This section does not apply to wages from which a tax is required to be deducted and withheld under the ~~United States Internal Revenue Code~~, Sections 1441 and 1442.

Sec. 38. 36 MRSA §5255-B, as amended by PL 1985, c. 535, §28, is further amended to read:

§5255-B. Certain items of income under the United States Internal Revenue Code

Any person maintaining an office or transacting business within this State and who is required to deduct and withhold a tax on items of income under the ~~United States Internal Revenue Code~~, other than wages subject to withholding as provided in section 5250, shall deduct and withhold from such items to the extent they constitute Maine net income a tax equal to 5% thereof, unless withholding pursuant to the ~~United States Internal Revenue Code~~ is based on other than a flat rate amount. In that event, the State's withholding procedure should estimate taxable income using the same approach to exemptions as the ~~United States Internal Revenue Code~~ and the amount of tax to be withheld should be calculated in accordance with withholding methods prescribed pursuant to section 5250.

Sec. 39. Application. This Act shall apply to taxable years ending on or after January 1, 1987.

Effective September 29, 1987.

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## CHAPTER 505

H.P. 1256 — L.D. 1714

### AN ACT to Clarify the Organizational Status of the Bureau of Lottery within the Department of Finance.

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

Sec. 1. 8 MRSA c. 14, as amended, is repealed.

Sec. 2. 8 MRSA c. 14-A is enacted to read:

#### CHAPTER 14-A

#### LOTTERY

#### §371. Definitions

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

1. Bureau. "Bureau" means the Bureau of Lottery within the Department of Finance to carry out the pur-

poses of this chapter.

2. Commission. "Commission" means the State Lottery Commission.

3. Commissioner. "Commissioner" means the Commissioner of Finance.

4. Director. "Director" means the State Lottery Director.

5. Person. "Person" means an individual, association, corporation, club, trust, estate, society, company, receiver, trustee, assignee, referee or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" means all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

#### §372. Director

The executive head of the bureau shall be the director.

1. Appointment; qualifications. The director must be a person qualified by training and experience to direct the state lotteries. The director shall be appointed by the commissioner, to be under his immediate supervision, direction and control, and shall serve at the pleasure of the commissioner. Any vacancy occurring in the office of the director shall be filled in the same manner as the original appointment. The director shall devote his entire time and attention to the duties of his office.

2. Powers and duties. The director shall have the following powers and duties:

A. Supervise the operation of lotteries in accordance with this chapter and with the rules promulgated under this chapter;

B. Act as the chief administrative officer, having general charge of the office and records and to employ such personnel as may be necessary to fulfill the purposes of this chapter. The personnel shall be employed with the approval of the commissioner and subject to the Civil Service Law, except for the deputy director who shall be appointed by and serve at the pleasure of the director;

C. Act as executive secretary of the commission;

D. In accordance with this chapter and the rules promulgated under this chapter, license as agents to sell lottery tickets such persons who, in his opinion, will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent in such amount as provided by rule. Every licensed agent shall prominently display his license, or a copy of his license, as provided by rule;

E. Confer regularly as necessary or desirable and not less than once each month with the commissioner on the operation and administration of the lotteries; make available for inspection by the commissioner, upon request, all books, records, files and other information and documents of the commission; advise the commissioner and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lotteries;

F. Recommend to the commission that it suspend or revoke, in accordance with section 376, any license issued pursuant to this chapter or the rules promulgated under this chapter;

G. Subject to the approval of the commission and to any applicable laws relating to public contracts, enter into contracts for the operation of the lotteries, or any part of the lotteries, and into contracts for the promotion of the lotteries. All contracts shall be awarded in accordance with rules adopted by the Department of Administration pursuant to Title 5, chapters 141 to 145, and Title 5, sections 1812 and 1813. No contract awarded or entered into by the director may be assigned by the holder of the contract, except by specific approval of the commission.

H. Certify monthly to the Treasurer of State, the commission and the commissioner a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month; submit an annual report, subject to the approval of the commission, which shall include a full and complete statement of lottery revenues, prize disbursements and expenses, to the Governor and the Legislature, together with recommendations for changes in this chapter; and

I. Carry on a continuous study and investigation of the lotteries throughout the State and the operation and administration of similar laws which may be in effect in other states or countries.

#### §373. State Lottery Commission

The State Lottery Commission, established by Title 5, section 12004, subsection 8, shall consist of 5 members, all of whom must be citizens and residents of this State and shall be appointed by the Governor, and shall be subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and confirmation by the Senate. No more than 3 of the 5 members may be members of the same political party. The members shall be appointed for terms of 5 years. The members shall annually elect one of them as chairman of the commission.

Any vacancy in the commission, occurring for any reason other than the expiration of term, shall be filled for the unexpired term in the same manner as the original appointment.

The members of the commission shall receive no salaries and shall be compensated as provided in Title 5, chapter 379. In addition, the commission members shall not be compensated for more than 20 meetings per year.

#### §374. Commission; powers and duties

The commission shall meet with the director, not less than once each month, to promulgate and amend rules, subject to the approval of the commissioner, relating to the lotteries; to make recommendations and set policy for state lotteries and to transact other business that may be properly brought before the commission. Rules adopted by the commission shall be adopted in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375.

1. Rules. The rules promulgated by the commission shall include, but not be limited to:

- A. The types of lotteries to be conducted;
- B. The price of tickets or shares in the lotteries;
- C. The number and size of the prizes on the winning tickets or shares;
- D. The manner of selecting the winning tickets or shares;
- E. The manner of payment of prizes to the holders of winning tickets or shares;
- F. The frequency of the drawings or selections of winning tickets or shares;
- G. The number or types of locations at which tickets or shares may be sold;
- H. The method to be used in selling tickets or shares;
- I. The licensing of agents to sell tickets or shares, but a person under the age of 18 shall not be licensed as an agent;
- J. The license fee to be charged to agents;
- K. The manner and amount of compensation to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the general public; and
- L. The apportionment of the total annual revenue accruing from the sale of lottery tickets or shares and from all other sources for the payment of prizes to the holders of winning tickets or shares; for the payment of costs incurred in the operation and administration of the lotteries, including the expenses of the commission and the costs resulting from any contract or contracts entered into for promotional, advertising, consulting or operational services or for the purchase

or lease of lottery equipment and materials; for the repayment of the money appropriated to the State Lottery Fund; and for transfer to the General Fund for distribution pursuant to section 387.

2. Meeting requirements. No action of the commission is binding unless taken at a meeting at which at least 3 of the 5 members are present and vote in favor of the action. The minutes of every meeting of the commission, including any rules promulgated by the commission or any amendments, revisions, supplements or repeals, shall be immediately transmitted, by and under the certification of the secretary, to the commissioner and to the Governor.

3. Limitation of authority. The commission and the bureau shall have no authority to regulate, control or otherwise supervise the operation or conduct of the amusement commonly known as "beano" or "bingo," as defined in Title 17, section 311.

#### §375. Lottery sales agent; licensing

1. Factors. A license as an agent to sell lottery tickets or shares may be issued by the director to any qualified person. Before issuing the license, the director shall consider such factors as:

- A. The financial responsibility and security of the person and his business or activity;
- B. The accessibility of his place of business or activity to the public;
- C. The sufficiency of existing licensees to serve the public convenience; and
- D. The volume of expected sales.

#### §376. Suspension and revocation of licenses

1. The commission may suspend or revoke, after notice and hearing in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, any license issued pursuant to this chapter. The license may be temporarily suspended by the commission without prior notice, pending any prosecution, investigation or hearing. A license may be suspended or revoked by the commission for just cause, including one or more of the following reasons:

- A. Failure to account for tickets received or the proceeds of the sale of tickets or to file a bond, if required by the commission, or to comply with instructions of the commission concerning the licensed activity;
- B. Conviction of any criminal offense;
- C. Failure to file any return or report, to keep records or to pay any tax;
- D. Engaging in fraud, deceit, misrepresentation or

conduct prejudicial to public confidence;

E. Insufficiency of the number of tickets sold by the sales agent; or

F. A material change, since issuance of the license, with respect to any of the matters required to be considered by the director under section 375.

2. Suspension; state license. Except in the case of suspension or revocation for the reasons set forth in section 412, subsection 1, paragraph E or F, any suspension or revocation of a tri-state license issued under chapter 16 shall automatically result in suspension of the state license.

### §377. Authority to act

Notwithstanding any other provision of law, any person licensed as provided in this chapter may act as a lottery sales agent.

### §378. Assignment of prizes

No right of any person to a prize drawn may be assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled. The bureau shall be discharged of all further liability upon payment of a prize pursuant to this section.

### §379. Sales above fixed price; unlicensed sales; gifts

No person may sell a ticket or share at a price greater than that fixed by rule of the commission. No person other than a licensed lottery sales agent may sell lottery tickets or shares, except that nothing in this section prevents any person from giving lottery tickets or shares to another as a gift.

Any person who violates this section commits a civil violation for which a forfeiture of not more than \$200 may be adjudged.

### §380. Sales to persons under 18 years; gifts

No ticket or share may be sold to any person under the age of 18 years, but this shall not be deemed to prohibit the purchase of a ticket or share for the purpose of making a gift by a person 18 years of age or older to a person less than that age. Any licensee who knowingly sells or offers to sell a lottery ticket or share to any person under the age of 18 commits a civil violation for which a forfeiture of not more than \$200 may be adjudged.

### §381. Persons prohibited from purchasing tickets or shares

No ticket or share may be purchased by, and no prize may be paid to, any of the following persons: Any officer

or employee of the commission or bureau or any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of these persons.

### §382. Unclaimed prize money

Unclaimed prize money for the prize on a winning ticket or share shall be retained by the director for the person entitled to it for one year after the drawing in which the prize was won. If no claim is made for the money within that year, the prize money shall be reallocated as prizes in the form of special promotions.

### §383. Deposit of receipts; reports

The director may require any lottery sales agents to deposit to the credit of the State Lottery Fund in banks designated by the Treasurer of State all money received by the agents from the sale of lottery tickets or shares, less the amount, if any, retained as compensation for the sale of tickets or shares and to file with the director or his designated agents reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as he may require. The director may make such arrangements for any person, including a bank, to perform the functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to this chapter and the rules of the commission and those functions, activities or services shall constitute lawful functions, activities and services of that person.

### §384. Other laws; applicability

No other law providing any penalty or disability for the sale of lottery tickets or any acts done in connection with a lottery applies to the sale of tickets or shares performed pursuant to this chapter.

### §385. Persons under 18 years; payment of prizes

If the person entitled to a prize or any winning ticket is under the age of 18 years and the prize is less than \$5,000, the director may direct payment of the prize by delivery of a check or draft payable to the order of the minor to an adult member of the minor's family or a guardian of the minor. If the person entitled to a prize or any ticket is under the age of 18 years and the prize is \$5,000 or more, the director may direct payment to the minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or guardian as custodian for the minor. The person named as custodian has the same duties and powers as a person designated as a custodian in a manner prescribed by the "Maine Uniform Gifts to Minors Act." For purposes of this section, the terms "adult member of a minor's family," "guardian of a minor" and "bank" shall have the same meanings as set out in that Act. The director shall be relieved of all further liability upon payment of a prize to a minor pursuant to this section.

§386. State Lottery Fund; creation

There is created and established a separate fund to be known as the "State Lottery Fund," to be deposited in such depositories as the Treasurer of State may select. These funds shall consist of all revenue received from the sale of lottery tickets or shares, agents' license fees and all other money credited or transferred to that fund from any other fund or source pursuant to law.

§387. State Lottery Fund; appropriation of money

1. Appropriation. The money in the State Lottery Fund shall be appropriated only:

A. For the payment of prizes to the holders of winning lottery tickets or shares;

B. For the expense of the division in its operation of the lottery; and

C. For payment to the General Fund.

2. Apportionment. The money in the State Lottery Fund shall be apportioned so that not less than 45% of the total ticket sales received in the lottery will be disbursed as prizes to holders of winning tickets. All other money, less reasonable costs for the proper administration of the State Lottery, shall be the State's share.

§388. Maine state income tax; prizes exempt

The prizes received pursuant to this chapter shall be exempt from the Maine state income tax.

Sec. 3. Transition. The following provisions apply to the transition from the Maine Revised Statutes, Title 8, chapter 14 to chapter 14-A.

1. Personnel. This Act shall have no effect on terms of appointments of the commission members or employees of the commission or the bureau.

2. Funds and equipment. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in an account or fund or subdivision of an account or fund created by or administered under Title 8, chapter 14, shall be transferred to the proper place under this Act by the State Controller on the request of the commission and the State Budget Officer and with the approval of the Governor.

3. Agreements, leases, contracts, authorizations or licenses. All agreements, leases, contracts, authorizations or licenses issued under the Maine Revised Statutes, Title 8, chapter 14, prior to the effective date of this Act shall continue to be valid under the terms of issuance until they expire or are rescinded, amended or revoked.

4. Rules. All current rules of the commission shall remain in force and effect until rescinded, amended or otherwise changed by the commission.

Effective September 29, 1987.

**CHAPTER 506**

H.P. 995 — L.D. 1341

**AN ACT to Establish the Land for Maine's Future Fund.**

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

Sec. 1. 5 MRSA c. 353 is enacted to read:

**CHAPTER 353****LAND FOR MAINE'S FUTURE FUND**§6200. Findings

The Legislature finds that Maine is blessed with an abundance of natural resources unique to the north-eastern United States; that these natural resources provide Maine residents and visitors to the State with an unparalleled diversity of outdoor recreation opportunities during all seasons of the year and a quality of life unmatched in this nation; that the continued availability of public access to these recreation opportunities and the protection of the scenic and natural environment are essential for preserving the State's high quality of life; that public acquisition programs have not kept pace with the State's expanding population and changing land use patterns so that Maine ranks low among the states in publicly owned land as a percentage of total state area; that rising land values are putting the State's real estate in shoreland and resort areas out of reach to most Mainers and that sensitive lands and resources of statewide significance are currently not well protected and are threatened by the rapid pace of development; and that public interest in the future quality and availability for all Maine people of lands for recreation and conservation is best served by significant additions of lands to the public domain.

The Legislature further finds that Maine's private, nonprofit organizations, local conservation commissions, local governments and federal agencies have made significant contributions to the protection of the State's natural areas and that these agencies should be encouraged to further expand and coordinate their efforts by working with state agencies as "cooperating entities" in order to help acquire, pay for and manage new state acquisitions of high priority natural lands.

The Legislature declares that the future social and economic well-being of the citizens of this State depends upon maintaining the quality and availability of natural