

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987

and the

SECOND REGULAR SESSION

January 6, 1988 to May 5, 1988

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

Twin City Printery
Lewiston, Maine
1988

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST AND SECOND SPECIAL SESSIONS
and
SECOND REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

Sec. 1. 4 MRSA §954-A is enacted to read:

§954-A. Conflict of interest if notary related

A notary public shall not perform any notarial act for any person if that person is the notary public's spouse, parent, sibling, child, spouse's parent or child's spouse. This section does not affect or apply to notarial acts performed before the effective date of this section.

Sec. 2. 4 MRSA §955-A, as amended by PL 1981, c. 456, Pt. A, §10, is repealed and the following enacted in its place:

§955-A. Removal from office

1. Complaint by Secretary of State. The Secretary of State may file a complaint with the Administrative Court to have a notary public removed from office.

2. Action by Administrative Court. If the Administrative Court, upon complaint by the Secretary of State, finds that the notary public has performed in an improper manner any duty imposed upon the notary public by law, or has performed acts not authorized by law, the Administrative Court may remove the notary public from office.

Sec. 3. 4 MRSA §955-B is enacted to read:

§955-B. Maintenance of records

The Secretary of State shall recommend that every notary public keep and maintain records of all notarial acts performed.

Effective August 4, 1988.

CHAPTER 574

S.P. 838 — L.D. 2175

AN ACT to Require Basic Written Contracts for Home Construction Work.

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

10 MRSA c. 219-A is enacted to read:

CHAPTER 219-A

HOME CONSTRUCTION CONTRACTS

§1486. Definitions

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

1. Change orders. "Change orders" means a writ-

ten amendment to the home construction contract which becomes part of and in conformance with the existing contract.

2. Down payment. "Down payment" means all payments to a home construction contractor prior to or contemporaneous with the execution of the home construction contract.

3. Materials. "Materials" means all supplies which are used to construct, alter or repair a residence.

4. Home construction contract. "Home construction contract" means a contract to build, remodel or repair a residence.

5. Residence. "Residence" means a dwelling structure with 3 or less living units and garages. Buildings used for commercial or business purposes are not subject to this chapter.

§1487. Home construction contracts

Any home construction contract for more than \$1,400 in materials or labor must be in writing and must be signed by both the home construction contractor and the homeowner or lessee. Both the contractor and the homeowner or lessee shall receive a copy of the executed contract prior to any work performance. This basic contract must contain the entire agreement between the homeowner or lessee and the home construction contractor and must contain at least the following parts:

1. Names of parties. The name, address and phone number of both the home construction contractor and the homeowner or lessee;

2. Location. The location of the property upon which the construction work is to be done;

3. Work dates. Both the estimated date of commencement of work and the estimated date when the work will be substantially completed;

4. Contract price. The total contract price, including all costs to be incurred in the proper performance of the work, or, if the work is priced according to a "cost-plus" formula, the agreed-upon price and an estimate of the cost of labor and materials;

5. Payment. The method of payment, with the initial down payment being limited to no more than 1/3 of the total contract price;

6. Description of the work. A general description of the work and materials to be used;

7. Warranty. A warranty statement which reads:

"In addition to any additional warranties agreed to by the parties, the contractor warrants that the work will be free from faulty materials; construct-

ed according to the standards of the building code applicable for this location; constructed in a skillful manner and fit for habitation. The warranty rights and remedies set forth in the Maine Uniform Commercial Code apply to this contract”;

8. Resolution of disputes. A statement allowing the parties the option to adopt one of 3 methods of resolving contract disputes. At a minimum, this statement must provide the following information:

“If a dispute arises concerning the provisions of this contract or the performance by the parties, then the parties agree to settle this dispute by jointly paying for one of the following (check only one):

(1) Binding arbitration as regulated by the Maine Uniform Arbitration Act, with the parties agreeing to accept as final the arbitrator’s decision (_____);

(2) Nonbinding arbitration, with the parties free to not accept the arbitrator’s decision and to seek satisfaction through other means, including a lawsuit (_____); or

(3) Mediation, with the parties agreeing to enter into good faith negotiations through a neutral mediator in order to attempt to resolve their differences (_____);”;

9. Change orders. A change order statement which reads:

“Any alteration or deviation from the above contractual specifications that involve extra cost will be executed only upon the parties entering into a written change order”;

10. Door-to-door sales. If the contract is being used for sales regulated by the consumer solicitation sales law, Title 32, chapter 69, subchapter V or the home solicitation sales law, Title 9-A, Part 5, a description of the consumer’s rights to avoid the contract, as set forth in these laws; and

11. Residential insulation. If the construction includes installation of insulation in an existing residence, any disclosures required by chapter 219, Insulation Contractors.

§1488. Change orders

Each change order to a home construction contract must be in writing and becomes a part of and is in conformance with the existing contract. All work shall be performed under the same terms and conditions as specified in the original contract unless otherwise stipulated. The change order must detail all changes to the original contract that result in a revision of the contract price. The previous contract price must be stated and the revised price shall also be stated. Both parties must sign the change order.

§1489. Exemption

Parties to a home construction contract may exempt themselves from the requirements of this chapter only if the contractor specifically informs the homeowner or lessee of his rights under this chapter and the parties then mutually agree to a contract or change order that does not contain the parts set forth in sections 1487 and 1488.

§1490. Penalties

1. Violation. Any violation of this chapter shall constitute prima facie evidence of a violation of the Unfair Trade Practices Act, Title 5, chapter 10.

2. Civil penalty. Each violation of this chapter constitutes a civil violation for which a forfeiture of not less than \$100 nor more than \$1,000 may be adjudged. No action may be brought for a civil violation under this subsection more than 2 years after the date of the occurrence of the violation. No home construction contractor may be held liable for a civil violation under this subsection if the contractor shows by a preponderance of the evidence that the violation was unintentional and a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

Effective August 4, 1988.

CHAPTER 575

S.P. 656 — L.D. 1879

AN ACT to Clarify the Authority for Judicial Suspension of Motor Vehicle Licenses.

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

Whereas, it is necessary to immediately clarify the authority of the court to suspend motor vehicle operators’ licenses for failure to appear in court; 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:

29 MRSA §2301-A, first ¶, as amended by PL 1987, c. 415, §29, is further amended to read:

If a person fails to appear in court on the day specified in response to a Uniform Traffic Ticket and Complaint, a summons, a condition of bail or order of court for any violation of Title 23, section 1980, Title 28-A, section 2052 or any provision of this Title, or for any