

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

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

Effective March 30, 1988.

CHAPTER 646

S.P. 952 — L.D. 2520

AN ACT to Reform Provisions of the Civil Justice System.

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

Sec. 1. 14 MRSA §52 is enacted to read:

§52. Ad damnum clause

No dollar amount or figure may be included in the demand in any civil case filed in Superior Court, but the prayer shall be for such damages as are reasonable in the premises. This section shall not apply to a demand for liquidated damages.

Sec. 2. 14 MRSA §158-A is enacted to read:

§158-A. Immunity for charitable directors, officers and volunteers

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

A. “Charitable organization” means any nonprofit organization organized or incorporated in this State or having a principal place of business in this State:

(1) That is exempt from federal income taxation under the United States Internal Revenue Code, Section 501(a), because it is described in Section 501(c)(3), (4), (6) as it pertains to chambers of commerce only, (10), (13) or (14)(A), including all subsequent amendments to those paragraphs. An organization is included in this subparagraph if it would be exempt from taxation under Section 501(c)(3) but for its engaging in attempting to influence legislation to the extent that it is disqualified from tax exemption under Section 501(c)(3); or

(2) That is:

(a) Organized under the Maine Nonprofit Corporation Act for any of the purposes listed in Title 13-B, section 201, subsection 1, paragraph A;

(b) Organized under the provisions set forth in Title 13-B, section 201, subsection 2, paragraph A; or

(c) Organized under the provisions of Title 13-B, section 201, subsection 3, paragraph D or E.

This subparagraph applies to all subsequent amendments to the statutes covered by divisions (a), (b) and (c).

B. “Director” means a person who serves without compensation, except that the person may be paid for expenses, on the board of trustees or board of directors of a charitable organization.

C. “Officer” means a person who serves without compensation, except that the person may be paid for expenses, as an officer of a charitable organization.

D. “Volunteer” means a person who provides services without compensation, except that the person may be paid for expenses, to a charitable organization.

2. Immunity. A director, officer or volunteer is immune from civil liability for personal injury, death or property damage, including any monetary loss:

A. When the cause of action sounds in negligence and arises from an act or omission by the director, officer or volunteer which occurs within the course and scope of the activities of the charitable organization in which the director, officer or volunteer serves; or

B. Arising from any act or omission, not personal to the director, officer or volunteer, which occurs within the course and scope of the activities of the charitable organization in which the director, officer or volunteer serves.

Sec. 3. 14 MRSA §1602, sub-§1, as amended by PL 1983, c. 583, §7, is further amended to read:

1. Prejudgment interest; rate; avoidance. In all civil actions, except those actions involving a contract or note which contains a provision relating to interest, prejudgment interest shall be assessed at the rate of 8% per year:

A. For actions in which the damages claimed or awarded do not exceed the jurisdictional limit of the District Court set forth in Title 4, section 152, subsection 2, of 8% per year; and

B. For other actions, equal to the coupon issue yield equivalent, as determined by the United States Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date from which the interest is calculated under section 1602-A, plus 1%.

Prejudgment interest shall accrue from the time of notice of claim setting forth under oath the cause of action, served personally or by registered or certified mail upon the defendant until the date on which an order of judgment is entered. If no notice of claim has been given to the defendant, prejudgment interest shall accrue from the date on which the complaint is filed. If the prevail-

ing party at any time requests and obtains a continuance for a period in excess of 30 days, interest shall be suspended for the duration of the continuance. On petition of the nonprevailing party and on a showing of good cause, the trial court may order that interest awarded by this section shall be fully or partially waived.

Sec. 4. 14 MRSA §1602-A, as enacted by PL 1983, c. 427, §2, is repealed and the following enacted in its place:

§1602-A. Interest after judgment

From and after the date of entry on an order of judgment, including the period of the pendency of an appeal, interest shall be allowed at a rate:

1. For actions in which the damages claimed or awarded do not exceed the jurisdictional limit of the District Court set forth in Title 4, section 152, of 15% per year; and

2. For other actions, equal to the coupon issue yield equivalent, as determined by the United States Secretary of the Treasury, of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date from which the interest is calculated, plus 3%.

If the prevailing party at any time requests and obtains a continuance for a period in excess of 30 days, interest shall be suspended for the duration of the continuance. On petition of the nonprevailing party and on a showing of good cause, the trial court may order that interest awarded by this section shall be fully or partially waived.

Sec. 5. 24 MRSA §2511, as repealed and replaced by PL 1987, c. 402, Pt. B, §20, is repealed and the following enacted in its place:

§2511. Immunity

Any person acting without malice, physician, health care provider, professional society or member of a professional competence committee, professional review committee or any board or appropriate authority is immune from civil liability:

1. Reporting. For making any report or other information available to any board, appropriate authority, professional competence committee or professional review committee pursuant to law;

2. Assisting in preparation. For assisting in the origination, investigation or preparation of the report or information described in subsection 1; or

3. Assisting in duties. For assisting the board, authority or committee in carrying out any of its duties or functions provided by law.

Sec. 6. 24 MRSA §2961, sub-§3, as enacted by PL 1985, c. 804, §§16 and 22, is repealed and the following enacted in its place:

3. Review. If the plaintiff prevails in the action for professional negligence, the plaintiff's attorney may petition the court to review the reasonableness of the fees permitted under subsection 1. The court may award a greater fee than that permitted by subsection 1, provided that:

A. The court, considering the factors established in Maine Bar Rule 3 as guides in determining the reasonableness of a fee, finds that the fees permitted by subsection 1 are inadequate to compensate the attorney reasonably for the attorney's services; and

B. The court finds that the fee found reasonable under paragraph A does not exceed the percentages set forth in the contingent fee agreement between the attorney and plaintiff as the maximum amount of compensation the attorney may receive.

An attorney may petition the court under this subsection only if, prior to the signing of a contingent fee agreement by the attorney and client, the attorney informs the client, orally and in writing, of the provisions of this section.

Sec. 7. 32 MRSA §455 is enacted to read:

§455. Review committee immunity

Any member of a peer review committee of a state association composed of chiropractors licensed under this chapter, any staff member of such an association assisting a peer review committee and any witness or consultant appearing before or presenting information to the peer review committee is immune from civil liability for, without malice, undertaking or failing to undertake any act within the scope of the function of the committee.

Sec. 8. 32 MRSA §1094-A, as enacted by PL 1975, c. 484, §11, is repealed and the following enacted in its place:

§1094-A. Review committee immunity

Any dentist who is a member of a peer review committee of a state or local association or society composed of doctors of dentistry, any staff member of such an association or society assisting a peer review committee and any witness or consultant appearing before or presenting information to the peer review committee is immune from civil liability for, without malice, undertaking or failing to undertake any act within the scope of the function of the committee.

Sec. 9. 32 MRSA §2596, as repealed and replaced by PL 1975, c. 83, §1, is repealed and the following enacted in its place:

§2596. Review committee member immunity

Any physician licensed under this chapter who is a member of a utilization review committee or a peer review committee that is a requirement of accreditation by the American Osteopathic Association or is established and operated under the auspices of the physician's respective state or county professional society or the Board of Osteopathic Examinations and Registration is immune from civil liability for undertaking or failing to undertake any act within the scope of the function of the committee.

Sec. 10. 32 MRSA §3293, as repealed and replaced by PL 1975, c. 83, §2, is repealed and the following enacted in its place:

§3293. Review committee member immunity

Any physician licensed under this chapter who is a member of a utilization review committee, medical review committee, surgical review committee, peer review committee or disciplinary committee that is a requirement of accreditation by the Joint Commission on Accreditation of Hospitals or is established and operated under the auspices of the physician's respective state or county professional society or the Board of Registration in Medicine is immune from civil liability for undertaking or failing to undertake any act within the scope of the function of the committee.

Sec. 11. 32 MRSA §3296, as enacted by PL 1975, c. 137, §2, is amended to read:

§3296. Records of proceedings of medical staff review committees confidential

All proceedings and records of proceedings concerning medical staff reviews and, hospital reviews and other reviews of medical care conducted by committees of physicians and other health care personnel on behalf of hospitals located within the State or on behalf of individual physicians, when such the reviews are required by state or federal law, rule or regulations or as a condition of accreditation by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association Committee on Hospital Accreditation or are conducted under the auspices of the state or county professional society to which the physician belongs, are confidential and shall be exempt from discovery without a showing of good cause.

Sec. 12. 32 MRSA §3555 is enacted to read:

§3555. Review committee immunity

Any member of a peer review committee of a state association composed of podiatrists licensed under this chapter, any staff member of such an association assisting a peer review committee and any witness or consultant appearing before or presenting information to the peer review committee is immune from civil liability for

without malice, undertaking or failing to undertake any act within the scope of the function of the committee.

Sec. 13. 32 MRSA §3819 is enacted to read:

§3819. Review committee immunity

Any member of a peer review committee of a state association composed of psychologists licensed under this chapter, any staff member of such an association assisting a peer review committee and any witness or consultant appearing before or presenting information to the peer review committee is immune from civil liability for, without malice, undertaking or failing to undertake any act within the scope of the function of the committee.

Sec. 14. **Effective date.** Section 6 of this Act shall take effect on August 1, 1988.

Sec. 15. **Application.** Except for section 6, this Act applies to causes of action that accrue on or after the effective date of this Act. Section 6 applies to contingent fee agreements entered into on or after August 1, 1988.

Effective August 4, 1988, except as otherwise indicated.

CHAPTER 647

S.P. 888 — L.D. 2300

AN ACT to Capture Sales Tax Revenues on Manufactured Housing Purchased Outside the State.

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

Sec. 1. 30 MRSA §4965, sub-§3 is enacted to read:

3. Certification of payment of sales tax. No municipality may allow the construction or location of any form of new manufactured housing, as defined in subsection 1, within the municipality by any person other than a dealer licensed by the State with a sales tax certificate, without a valid bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the firm, corporation or person who sold or provided the manufactured housing to the buyer siting this housing in the municipality. If no such valid bill of sale is presented, the applicant for a building permit must present evidence of certification of payment of the sales tax in accordance with Title 36, section 1760, subsection 40, and section 1952-B.

A. In municipalities which require any type of permit for manufactured housing, the permit shall not be deemed approved or valid until payment of the sales tax has been certified.

Sec. 2. 30 MRSA §5622, sub-§1, ¶¶ A and B, as enacted by PL 1977, c. 390, §4, are amended to read: