

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

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

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

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feree in a letter acknowledging receipt of a request for a certificate of need or waiver of the certificate of need for a nursing home transfer or in response to a request for an application for a license to operate a boarding home following a transfer.

6. Defenses preserved. If a transferee becomes liable for a debt pursuant to subsection 2, the transferee shall succeed to any defenses to the debt that could have been exercised by the former provider.

7. Liability of former provider. Nothing in this section may limit the liability of the former provider to the department for any debts whether or not they are identified at the time of sale. In addition, a transferee shall have a cause of action against a former provider to the extent that debts of the former provider are paid by the transferee, unless the transferee has waived the right to sue the former provider for those debts.

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

Effective April 12, 1989.

CHAPTER 35

H.P. 182 - L.D. 247

An Act Regarding Open Space and Recreational Lands under the Growth Management Act

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

Sec. 1. 30 MRS **A §4960-C, sub-§4, ¶C,** as enacted by PL 1987, c. 766, §4, is amended to read:

C. A comprehensive plan shall include an implementation strategy section which contains a timetable for the implementation program, including land use ordinances, that ensures that the goals established under this subchapter are met. These implementation strategies shall be consistent with state laws and shall actively promote policies developed during the planning process. The timetable shall identify significant ordinances to be included in the implementation program. Those ordinances shall be adopted within one year of the plan. The strategies shall guide the subsequent adoption of policies, programs and land use ordinances. In developing its strategies and subsequent policies, programs and land use ordinances, each municipality shall employ the following guidelines consistent with the goals of this subchapter:

(1) Identify and designate at least 2 basic types of geographic areas: Growth areas and rural areas.

(a) Growth areas are those areas suitable for orderly residential, commercial and industrial development forecast over the next 10 years. Each municipality shall:

(i) Establish standards for such developments;

(ii) Establish timely permitting procedures;

(iii) Ensure that needed public services are available within the growth area; and

(iv) Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion.

(b) Rural areas are those areas where protection should be provided for agricultural, forest, open space and scenic lands within the municipality. Each municipality shall adopt land use policies and ordinances to discourage incompatible development.

These policies and ordinances may include, without limitation, density limits; cluster or special zoning; acquisition of land or development rights; or performance standards;

(2) Develop a capital investment plan for financing the replacement and expansion of public facilities and services required to meet projected growth and development;

(3) Protect, maintain and, where warranted, improve the water quality of each water body pursuant to Title 38, chapter 3, subchapter I, article 4-A;

(4) Ensure that its land use policies and ordinances are consistent with applicable state law regarding critical natural resources. A municipality may adopt ordinances more stringent than applicable state law;

(5) Ensure the preservation of access to coastal waters necessary for commercial fishing, commercial mooring, docking and related parking facilities. Each coastal municipality shall discourage new development that is incompatible with uses related to the marine resources industry;

(6) Ensure the protection of agricultural and forest resources. Each municipality shall discourage new development that is incom-

patible with uses related to the agricultural and forest industry;

(7) Ensure that its land use policies and ordinances encourage the siting and construction of affordable housing within the community. The municipality shall seek to achieve a level of 10% of new residential development, based on a 5-year historical average of residential development in the municipality, meeting the definition of affordable housing. The municipality is encouraged to seek creative approaches to assist in the development of affordable housing, including, but not limited to, cluster zoning, reducing minimum lot and frontage sizes and increasing densities;

(8) Ensure that the value of historic and archeological resources is recognized and that protection is afforded to those resources that merit it; and

(9) Encourage the availability of and access to traditional outdoor recreation opportunities, including, without limitation, hunting, boating, fishing and hiking; and encourage the creation of greenbelts, public parks, trails and conservation easements. Each municipality shall identify and encourage the protection of undeveloped shoreland and other areas identified in the local planning process as meriting such protection.

Sec. 2. Planning Advisory Council report on recreation and open space lands. The Planning Advisory Council shall advise the Office of Comprehensive Land Use Planning on issues and needs for municipalities regarding the acquisition and management of open space and recreation lands. In addition, the council shall consider the need for developing within the office a program to help municipalities acquire conservation easements and protect recreation and open space lands. The council shall report to the Joint Standing Committee on Energy and Natural Resources by March 15, 1990, its recommendations, including any necessary implementing legislation. If the council establishes that there is a need for such a program, the report shall include recommendations on the program's structure.

See title page for effective date.

CHAPTER 36

S.P. 144 - L.D. 264

An Act to Amend the Interpreter Service for the Hearing Impaired

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

5 MRSA §48, sub-§3, ¶C, as repealed and replaced by PL 1979, c. 88, §4, is amended to read:

C. An interpreter appointed under this section shall be reimbursed by the Bureau of Rehabilitation, upon certification by the appropriate agency or court of services performed, at a fixed rate reflecting the current fee schedule as established by the Bureau of Rehabilitation, plus travel expenses; provided that ~~the rate shall not exceed \$15 an hour and that~~ employees of the State or any of its political subdivisions, public employees and public or private school, university and college teachers or administrators for interpreting services or anyone who receives salary during regular work hours shall not be reimbursed under this section for interpreter services performed during their regular working hours. Nothing in this section ~~shall~~ may be construed as preventing any agency or court from employing a qualified interpreter on a full-time basis or under contract at a mutually agreed upon compensation rate.

See title page for effective date.

CHAPTER 37

S.P. 146 - L.D. 266

An Act to Designate April 9 as Former Prisoner of War Recognition Day

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

Whereas, veterans' organizations in Maine and the nation are preparing to recognize and remember former prisoners of war on April 9, 1989; and

Whereas, the immediate official designation of April 9 as Former Prisoner of War Recognition Day would provide official status to the activities planned for the remembrance of former prisoners of war; 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:

1 MRSA §131 is enacted to read:

§131. Former Prisoner of War Recognition Day

April 9th of each year shall be designated as Former Prisoner of War Recognition Day and the Governor shall annually issue a proclamation inviting and urging the people