

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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**Sec. 3. 12 MRSA §6172**, as amended by PL 1985, c. 268, §1, is further amended to read:

**§6172. Contaminated or polluted flats**

**1. Commissioner's powers.** The commissioner may examine the coastal waters and the intertidal zone and adopt ~~regulations~~ rules to close coastal waters or intertidal zone areas if ~~he~~ the commissioner determines that any marine ~~mollusks~~ species are or may become contaminated or polluted. The commissioner may adopt or amend ~~regulations~~ rules as ~~he deems~~ the commissioner determines necessary, setting forth standards for closure of contaminated or polluted areas, giving consideration to established state water quality standards, the most recently adopted federal sanitation standards, or other state or federal public health standards, the most recent generally accepted research data and known sources of pollution in any area, in a manner ~~so as~~ to protect the public health and safety while allowing reasonable use of the ~~state's shellfish~~ State's marine species.

**2. Emergency rules.** The commissioner may adopt or amend ~~regulations~~ rules under the emergency procedures, if immediate action is necessary to prevent the taking of polluted or contaminated marine ~~mollusks~~ species.

**3. Repeal.** The commissioner shall repeal a ~~regulation~~ rule closing an area or waters when the marine ~~mollusks~~ species are no longer contaminated or polluted or when the waters meet the sanitary standards set forth in any department ~~regulations~~ rules. The commissioner may use emergency regulatory procedures to open areas or waters that have been closed under emergency procedures of this section.

**4. Procedure.** The procedures of subchapter II shall be used in adopting or amending ~~regulations~~ rules authorized by this section.

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

Effective June 2, 1989.

## CHAPTER 206

H.P. 601 - L.D. 825

### An Act Relating to the Sale of Fraternal Life Benefit Certificates and Life Insurance by Funeral Directors and Cemetery Corporations

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

**Sec. 1. 24-A MRSA §2175**, as enacted by PL 1969, c. 132, §1, is amended to read:

**§2175. Insurer's ownership of funeral establishment or cemetery prohibited**

No insurer ~~shall~~ may own or manage or supervise or operate or maintain a mortuary establishment ~~or, a funeral establishment, a cemetery, a cemetery corporation or association, a crematorium, a mausoleum or a columbarium.~~

**Sec. 2. 24-A MRSA §2176**, as enacted by PL 1969, c. 132, §1, is amended to read:

**§2176. Funeral and burial service contracts prohibited**

No insurer ~~shall~~ may contract or agree with any funeral director, funeral establishment ~~or, mortuary establishment, cemetery, cemetery corporation or association, crematorium, mausoleum or columbarium or any representative of any of these directors or establishments~~ to the effect that ~~such~~ the director or establishment shall conduct the funeral, burial, or cremation or other disposal of the remains of any individual insured by the insurer. Nothing in this section ~~shall prevent~~ prevents compliance with Title 39, section 59, or the use of an insurance policy to provide security for the payment for a funeral, burial or cremation.

**Sec. 3. 24-A MRSA §4139-A** is enacted to read:

**§4139-A. Funeral service contracts**

Every society is subject to the provisions of section 2176.

See title page for effective date.

## CHAPTER 207

S.P. 164 - L.D. 321

### An Act to Certify and Register Municipalities under the Site Location of Development Act

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

**Sec. 1. 38 MRSA §489**, as amended by PL 1987, c. 812, §§17 and 18, is repealed.

**Sec. 2. 38 MRSA §489-A** is enacted to read:

**§489-A. Municipal review of development**

The Department of Environmental Protection may register municipalities to grant permits required by section 483 under the following conditions.

**1. Kinds of projects.** The following kinds of projects may be reviewed by registered municipalities pursuant to this section:

A. Residential and nonresidential subdivisions of 20 or more acres but less than 100 acres;

B. Structures as described in section 482, subsection 6, paragraph A, which occupy a ground area in excess

of 60,000 square feet but less than 100,000 square feet;

C. Structures as described in section 482, subsection 6, paragraph A, which occupy a total floor area of 100,000 square feet or more but less than 150,000 square feet of floor area; or

D. Structures as described in section 482, subsection 6, paragraph B, which occupy a ground area in excess of 3 acres but less than 7 acres of nonvegetated land.

**2. Registration.** The department shall register municipalities to grant permits for projects under subsection 1 if the municipality meets all of the following criteria:

A. A municipal planning board or reviewing authority is established;

B. A comprehensive plan consistent with Title 30-A, chapter 187 has been adopted with standards and objectives determined by the department to be at least as stringent as this article;

C. Subdivision regulations have been adopted that are consistent with Title 30-A, chapter 187, and determined by the department to be at least as stringent as criteria set forth in section 484;

D. Site plan review regulations have been adopted with criteria which are determined by the department to be at least as stringent as section 484;

E. A professional planning staff to provide professional planning assistance and advice to the municipal reviewing authority has been retained or the municipality has otherwise arranged to provide professional planning assistance to advise the municipal reviewing authority on project review;

F. Procedures for public hearing and notification have been established including:

(1) Notice to the department upon receipt of an application, including a description of the project;

(2) Notice of issuance and denial to the applicant and department, including the reason for denial;

(3) Public notification of the application and any hearings; and

(4) Satisfactory hearing procedures;

G. Procedures for appeal by aggrieved parties of local decisions are defined; and

H. A registration form, provided by the department, has been completed and submitted by the municipal-

ity, demonstrating compliance with the criteria under this subsection.

**3. Certification.** A municipality certified by the Department of Economic and Community Development under Title 30-A chapter 191, may be registered if the department finds the municipality has fulfilled the requirements of subsection 2 and applies to be registered.

**4. Suspension of registration.** If the commissioner finds that a municipality no longer meets the criteria set forth under subsection 2, the commissioner may suspend the registration and shall notify the municipality accordingly. If registration is suspended, the commissioner shall recommend actions for the municipality to come into compliance with this section.

**5. Transition.** Municipalities registered under former section 489 as it existed on October 1, 1975, shall be certified under this section for one year from the effective date of this section. Thereafter, the municipality must comply with the requirements under subsection 2.

**6. Central list of pending projects.** The department shall maintain and make available a list of projects pending municipal review under this section.

**7. Technical assistance.** The department and other state review agencies shall provide technical assistance to municipalities upon request for projects reviewed under this section.

**8. Review process.** Upon final action by the municipal reviewing authority of an application under this section:

A. The municipality shall submit to the department within 14 days of final action by the municipal reviewing authority, one copy of the project application, one copy of the record of review and action and one copy of the notification form provided by the department;

B. The department shall review the application and, within 45 days of final action by the municipal reviewing authority, notify the municipality if the department intends to exercise jurisdiction; and

C. If the department does not act within the 45-day period, this inaction constitutes its waiver of state jurisdiction and the municipal permits shall be effective as issued.

**9. State jurisdiction.** The department shall review projects for registered municipalities if:

A. The commissioner finds that the project will have a potentially significant environmental impact, may set a precedent or could impact more than one municipality. In making this finding, the commissioner shall consider all public comments submitted to the department;

B. The local reviewing authority in which the project is located petitions the board in writing;

C. The local reviewing authority, in a municipality adjoining the municipality in which a project is located, petitions the board in writing; or

D. The proposed project is located in more than one municipality.

State jurisdiction must be exerted within 45 days of final action by the municipal reviewing authority.

**10. Appeal of decision by commissioner to review.** An aggrieved party may appeal the decision by the commissioner to exert or not exert state jurisdiction over the proposed project to the board. Review and actions taken by the department or the board are subject to appeal procedures governing the department and board.

**11. Joint enforcement.** Any person who violates any permit issued under this section is subject to the provisions of section 349, in addition to any penalties which the municipality may impose. Any permits issued or conditions imposed by a local authority shall be enforced by the department and the municipality that issued the permit.

**Sec. 3. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1989-90	1990-91
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Maine Environmental Protection Fund		
All Other	\$(30,275)	\$(70,000)
Deallocates funds due to the anticipated reduction in subdivision and structure application fees.		

See title page for effective date.

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**CHAPTER 208**

**S.P. 375 - L.D. 999**

**An Act to Amend Department of Transportation Statutory Provisions Pursuant to the Surface Transportation and Uniform Relocation Assistance Act of 1987 Enacted by the Congress of the United States**

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

**Whereas,** Congress, in enacting the federal Surface Transportation and Uniform Relocation Assistance Act of 1987, Public Law 100-17, 101 Statute 132, requires changes to state law by April 2, 1989;

**Whereas,** it is necessary to enact these changes without delay in order to avoid any penalties imposed by the Surface Transportation and Uniform Relocation Assistance Act of 1987; 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. 23 MRSA §153, next to last ¶,** as amended by PL 1987, c. 735, §40 is further amended to read:

Where property is to be purchased or taken over and held for the State, the department shall first cause the property or interest ~~therein~~ in the property necessary to be acquired to be surveyed and described and a plan ~~thereof~~ of the property made and to be appraised by one or more appraisers. The owner or the owner's designated representative shall be given an opportunity to accompany the appraisers during the appraiser's inspection of the property. All persons employed by the department are authorized, to the extent necessary for surveys and preliminary engineering, to enter and cross all lands within, adjoining and adjacent to the area to be surveyed in carrying out the objectives of this section. The department may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property.

**Sec. 2. 23 MRSA §154-C,** as amended by PL 1971, c. 593, §22, is repealed and the following enacted in its place:

**§154-C. Uneconomic remnants**

If the acquisition of only a portion of a property would leave the owner of record with an uneconomic remnant the department may, or at the request of the owner shall, acquire by purchase or condemnation the entire property. An uneconomic remnant is a parcel of real property in which the owner would be left with an interest which the department has determined has little or no value or utility to the owner.

**Sec. 3. 23 MRSA §154-E,** as enacted by PL 1971, c. 333, §4 is repealed and the following enacted in its place:

**§154-E. Improvement**

Payment to tenants of record shall be made by the department pursuant to this section for any building, structure or other improvement which is owned by the tenant. The tenant shall be paid the fair market value which the building, structure or improvement contributes to the fair