

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
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PUBLISHED BY THE REVISOR OF STATUTES
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J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

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ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

may not include the area in which the game of bowling is conducted.

See title page for effective date.

CHAPTER 245

S.P. 457 - L.D. 1242

An Act to Amend the Maine Human Rights Act with Regard to Housing Discrimination against Families with Children

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

Whereas, the United States Congress recently passed amendments to Title VIII of the United States Civil Rights Act with regard to prohibiting discrimination against families with children; and

Whereas, Maine law already prohibits discrimination against families with children, but allows different exemptions; and

Whereas, there is need to bring Maine's laws into conformity with the new federal amendments which go into effect March 12, 1989, so that Maine landlords, building managers and realtors will not be in violation of Maine law while attempting to adhere to federal amendments; 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. 5 MRSA §4552, as amended by PL 1987, c. 478, §1, is further amended to read:

§4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of ~~such~~ these practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing or access to public accommodations on account of race, color, sex, physical or mental handicap, religion, ancestry or national origin; and in employment, discrimination on account of age and in housing because of familial status; and to prevent discrimination in the extension of credit on account of age, race, color, sex, marital status, religion, ancestry or national origin; and to prevent discrimination in education on account of sex or physical or mental handicap.

Sec. 2. 5 MRSA §4553, sub-§5-A is enacted to read:

5-A. Familial status. "Familial status" means that a family unit may contain one or more individuals who have not attained the age of 18 years and are living with:

A. A parent or another person having legal custody of the individual or individuals; or

B. The designee of the parent or other person having custody, with the written permission of the parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Sec. 3. 5 MRSA §4581, as repealed and replaced by PL 1975, c. 770, §35, is amended to read:

§4581. Decent housing

The opportunity for an individual to secure decent housing in accordance with ~~his~~ the individual's ability to pay, and without discrimination because of race, color, sex, physical or mental ~~handicap~~ handicap, religion, ancestry ~~or~~, national origin or familial status is hereby recognized as and declared to be a civil right.

1. Number of occupants. Nothing in this subchapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subsection regarding familial status apply with respect to housing for older persons.

2. Definition. As used in this section, "housing for older persons" means housing:

A. Provided under any state or federal program that is specifically designed and operated to assist elderly persons as defined in the state or federal program;

B. Intended for, and solely occupied by, persons 62 years of age or older; or

C. Intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this paragraph, regulations adopted by the United States Department of Housing and Urban Development shall be used which require at least the following factors:

(1) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of the facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older persons;

(2) That at least 80% of the dwellings are occupied by at least one person 55 years of age or older per unit; and

(3) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

3. Requirements. Housing shall not fail to meet the requirements for "housing for older persons" by reason of:

A. Persons residing in the housing as of the date of enactment of this subsection who do not meet the requirements of subsection 2, paragraph B or C, provided that new occupants of the housing shall meet the age requirements of subsection 2, paragraphs B and C; or

B. Unoccupied units, provided that the units are reserved for occupancy by persons who meet the age requirements of subsection 2, paragraphs B and C.

Sec. 4. 5 MRSA §4582, as amended by PL 1987, c. 730, §1, is further amended to read:

§4582. Unlawful housing discrimination

It shall be unlawful housing discrimination, in violation of this Act:

For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of any prospective purchaser, occupant or tenant of ~~such~~ the housing accommodation; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual ~~such~~ housing accommodation because of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such~~ the individual; or to issue any advertisement relating to the sale, rental or lease of ~~such~~ the housing accommodation which indicates any preference, limitation, specification or discrimination based upon race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status; or to discriminate against any individual because of race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status in the price, terms, conditions or privileges of the sale, rental or lease of any ~~such~~ housing accommodations or in the furnishing of facilities or services in connection therewith, or to evict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such~~ the tenant;

For any real estate broker or real estate sales person, or agent of one of them, to fail or refuse to show any applicant for a housing accommodation any ~~such~~ accommodation listed for sale, lease or rental, because of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~,

national origin or familial status of ~~such~~ the applicant or of any intended occupant of ~~such~~ the accommodation, or to misrepresent, for the purpose of discriminating on account of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such~~ the applicant or intended occupant, the availability or asking price of a housing accommodation listed for sale, lease or rental; or for such a reason to fail to communicate to the person having the right to sell or lease ~~such~~ the housing accommodation any offer for the same made by any applicant thereof; or in any other manner to discriminate against any applicant for housing because of race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of any intended occupant of the housing accommodation, or to make or cause to be made any written or oral inquiry or record concerning the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of any ~~such~~ applicant or intended occupant, or to cause or to cause to be made any housing accommodation when the person having the right to sell or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of their race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status, or when ~~he~~ the broker knows or has reason to know that the person having the right to sell or lease ~~such~~ the housing accommodation has made a practice of ~~such~~ discrimination since July 1, 1972;

For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of ~~such~~ the person, to make or cause to be made any oral or written inquiry concerning the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of any individual seeking ~~such~~ financial assistance, or of existing or prospective occupants or tenants of ~~such~~ housing accommodations; or to discriminate in the granting of ~~such~~ financial assistance, or in the terms, conditions or privileges relating to the obtaining or use of any ~~such~~ financial assistance, against any applicant because of the race or color, sex, physical or mental handicap, religion, ancestry ~~or~~, national origin or familial status of ~~such~~ the applicant or of the existing or prospective occupants or tenants;

For any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies primarily because of ~~such~~ the individual's status as ~~such~~ recipient; or

For any form of public housing or any housing that is financed in whole or in part with public funds offering housing accommodations, containing 20 or more units, constructed on or after January 1, 1984, or begun to be remodeled or enlarged at an estimated total cost of more than \$100,000 after January 1, 1984, to not have at least one unit for each multiple of 20 those units designed so as to be accessible to and useable by handicapped persons. Plans to reconstruct, remodel or enlarge an existing building when

the estimated total cost exceeds \$100,000 shall be subject to this section, when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public. For purposes of this section, a newly constructed housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the 1981 standards of construction, Section 4.34, Dwelling Units, adopted pursuant to Title 25, chapter 331. A remodeled, renovated or enlarged housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the following 4 parts of the 1981 standards of construction adopted pursuant to Title 25, chapter 331:

1. **Accessible route.** 4.3 accessible route;
2. **Doors.** 4.13 doors;
3. **Adaptable bathrooms.** 4.34.5 adaptable bathrooms; and
4. **Tactile warnings.** 4.29.3 tactile warnings on doors to hazardous areas.

With respect to any form of public housing or any housing that is financed in whole or in part with public funds offering housing accommodations containing 20 or more units for which construction is begun after October 1, 1988, no less than 10% of the ground level units and a minimum of 10% of the upper story units connected by an elevator shall be accessible to and useable by physically handicapped persons. For purposes of this section, a newly constructed housing unit is deemed accessible to and useable by handicapped persons if it meets the requirements of the 1986 standards set forth by the American National Standards Institute in the publication, "Specifications for Making Buildings Accessible to and Useable by Physically Handicapped People," ANSI A 117.1-1986. A remodeled, renovated or enlarged housing unit where the remodeling, renovating or enlarging is begun after October 1, 1988, is deemed accessible to and useable by handicapped persons if it meets the requirements of the following 4 parts of the 1986 American National Standards Institute standards: 4.3 accessible routes; 4.23 doors; 4.34.5 adaptable bathrooms; and 4.29.3 tactile warnings on doors to hazardous areas.

Sec. 5. 5 MRSA §4583, as repealed and replaced by PL 1975, c. 770, §37 is amended to read:

§4583. Application

Nothing in this Act shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting thereof or in the furnishings of facilities or services in connection therewith which are not based on the race, color, sex, physical or mental handicap, religion or country of ancestral origin, familial status or the receipt of public assistance payments of any prospective or actual purchaser, lessee, tenant or occupant thereof. Nothing in this Act contained shall be construed in any manner to prohibit or

limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations, to set standards and preferences, terms, conditions, limitations or specifications for the granting of such loans or financial assistance which are not based on the race, color, sex, physical or mental handicap, religion or country of ancestral origin, familial status or the receipt of public assistance payments of the applicant for such a loan or financial assistance or, of any existing or prospective owner, lessee, tenant or occupant of such housing accommodation.

Sec. 6. 14 MRSA §6027, as amended by PL 1987, c. 770, §§1,2 and 3, is repealed.

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

Effective June 6, 1989.

CHAPTER 246

H.P. 936 - L.D. 1304

An Act to Promote Energy Conservation and Load Management by Electric Utilities

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

35-A MRSA §3153-A, sub-§3 is enacted to read:

3. Implementation of rebate structures. The Public Utilities Commission may require an electric utility to implement rebate structures for installation or upgrade of an electric service entrance to encourage energy efficient buildings and discourage energy inefficient buildings. In designing these programs, the commission shall give due consideration to safety.

See title page for effective date.

CHAPTER 247

S.P. 237 - L.D. 567

An Act to Regulate the Installation of Fire Sprinklers

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

Sec. 1. 5 MRSA §12004-I, sub-§71-A is enacted to read:

<u>71-A. Occupations:</u>	<u>Fire Sprinkler</u>	<u>Expenses</u>	<u>32MRSA</u>
<u>Fire Protection</u>	<u>Advisory Council</u>	<u>Only</u>	<u>§1381</u>