

# 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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**CHAPTER 284**

H.P. 596 - L.D. 814

**An Act to Clarify the Affirmative Defense of Breach of Warranty of Habitability**

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

14 MRSA §6002, sub-§3, as enacted by PL 1981, c. 428, §4, is amended to read:

3. **Breach of warranty of habitability as an affirmative defense.** In an action brought by a landlord to terminate a rental agreement on the ground that the tenant is in arrears in the payment of his rent, the tenant may raise as a defense any alleged violation of the implied warranty and covenant of habitability, provided that the landlord or the landlord's agent has received actual or constructive notice of the alleged violation, and has unreasonably failed under the circumstances to take prompt, effective steps to repair or remedy the condition and the condition was not caused by the tenant or another person acting under the tenant's control. Upon finding that the dwelling unit is not fit for human habitation, the court shall permit the tenant either to terminate the rental agreement without prejudice or to reaffirm the rental agreement, with the court assessing against the tenant an amount equal to the reduced fair rental value of the property for the period during which rent is owed. The reduced amount of rent thus owed shall be paid on a pro rata basis, unless the parties agree otherwise, and payments shall become due at the same intervals as rent for the current rental period. The landlord may not charge the tenant for the full rental value of the property until such time as it is fit for human habitation.

See title page for effective date.

**CHAPTER 285**

H.P. 486 - L.D. 666

**An Act Concerning Teacher Employment**

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

20-A MRSA §13201, first ¶, as amended by PL 1985, c. 797, §50, is further amended to read:

The superintendent shall nominate all teachers, subject to such regulations governing salaries and the qualifications of teachers as the school board shall make. Upon the approval of nominations, by the school board, the superintendent may employ teachers so nominated and approved for such terms as the superintendent may deem proper, subject to the approval of the school board. Prior to May 15th before the expiration of a first or 2nd year probationary teacher's contract, the superintendent shall notify the teacher in writing of the superintendent's decision to nomi-

nate or not nominate that teacher for another teaching contract. If, after receiving a complaint from a teacher, the commissioner finds that the superintendent has failed to notify a teacher of a decision not to nominate that teacher, the school administrative unit shall pay a forfeiture to the teacher. The amount of that forfeiture shall be equal to the teacher's per diem salary rate times the number of days between the notification deadline and the date on which notification is made or on which the complaint is filed, whichever occurs first. In case the superintendent of schools and the school board fail to legally elect a teacher, the commissioner shall have the authority to appoint a substitute teacher who shall serve until such election is made.

See title page for effective date.

**CHAPTER 286**

H.P. 484 - L.D. 664

**An Act to Increase the Residence Exemption for Elderly and Disabled Persons**

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

Sec. 1. 14 MRSA §4422, sub-§1, as enacted by PL 1981, c. 431, §2, is repealed and the following enacted in its place:

1. **Residence.** The exemption of a debtor's residence is subject to this subsection.

A. Except as provided in paragraph B, the debtor's aggregate interest, not to exceed \$7,500 in value, in real or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor, provided that if the debtor's interest is held jointly with any other person or persons, the exemption shall not exceed in value the lesser of \$7,500 or the product of the debtor's fractional share times \$15,000.

B. The debtor's aggregate interest, not to exceed \$60,000 in value, in property described in paragraph A, if the debtor or a dependent of the debtor is either a person 60 years of age or older or a person physically or mentally disabled and because of such disability is unable to engage in substantial gainful employment and whose disability has lasted or can be expected to last for at least 12 months or can be expected to result in death; provided that if the debtor's interest is held jointly with any other person or persons, the exemption shall not exceed in value the lesser of \$60,000 or the product of the fractional share of the debtor's interest times \$120,000. This paragraph does not apply to liens obtained prior to its effective date or to judgments based on torts

involving other than ordinary negligence on the part of the debtor.

C. That portion of the proceeds from any sale of property which is exempt under this section shall be exempt for a period of 6 months from the date of receipt of such proceeds for purposes of reinvesting in a residence within that period.

Sec. 2. 14 MRSA §4426, as enacted by PL 1981, c. 431, §2, is amended to read:

**§4426. Exemptions in bankruptcy proceedings**

Notwithstanding anything to the contrary in the United States Code, Title 11, Section 522(b), a debtor may exempt from property of his the debtor's estate under United States Code, Title 11, only that property exempt under the United States Code, Title 11, Section 522(b)(2)(A) and (B), except that any debtor eligible for a residence exemption under section 4422, subsection 1, paragraph B, may exempt the amount allowed in that paragraph.

See title page for effective date.

## CHAPTER 287

H.P. 389 - L.D. 520

**An Act to Expand the Jurisdiction of the District Courts to Include Violations within Municipal Harbors and to Impose the Same Penalties for Harbor Violations that Have Been Created for Land Use Violations**

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

Sec. 1. 4 MRSA §152, sub-§6, ¶¶R and S, as repealed and replaced by PL 1987, c. 737, Pt. C, §§2 and 106 and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, are amended to read:

R. The site location of development laws, Title 38, sections 481 to 485 and 488 to 490; and

S. The oil discharge prevention and pollution control laws, Title 38, sections 543, 545 and 560; and

Sec. 2. 4 MRSA §152, sub-§6, ¶Z is enacted to read:

Z. The laws pertaining to harbors in Title 38, chapter 1, subchapter I; local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2.

Sec. 3. 30-A MRSA §4452, sub-§5, ¶¶P and Q, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

P. Waste water discharge licenses issued pursuant to Title 38, section 413, subsection 8; and

Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those which were state-imposed; and

Sec. 4. 30-A MRSA §4452, sub-§5, ¶R is enacted to read:

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter I, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2.

Sec. 5. 38 MRSA §12, as enacted by PL 1987, c. 655, §8, is repealed and the following enacted in its place:

**§12. Violation of subchapter**

Notwithstanding any provision in this subchapter, a violation of this subchapter or any harbor ordinance may be prosecuted and relief, fees, fines and penalties granted and assessed pursuant to the provisions of Title 30-A, section 4452.

See title page for effective date.

## CHAPTER 288

H.P. 341 - L.D. 460

**An Act to Ensure the Confidentiality of Emergency Medical Services Quality Assurance and Peer Review Activities**

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

32 MRSA §92-A is enacted to read:

**§92-A. Records of quality assurance activities**

1. Immunity from suit. Any person who participates in the activities of any emergency medical services quality assurance committee approved by the Emergency Medical Services Board is immune from civil liability for undertaking or failing to undertake any act within the scope of the function of the committee.

2. Confidentiality. All proceedings and records of proceedings concerning the quality assurance activities of any emergency medical services quality assurance committee approved by the board are confidential and shall be exempt from discovery.

3. Assistance of information; immunity. Any person, health care facility or other emergency services organization which assists in the activities of an emergency medical services quality assurance committee approved by the board