

# 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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D. The water levels necessary to prevent the excessive erosion of shorelines;

E. The water levels necessary to accommodate precipitation and run off of waters;

F. The water levels necessary to maintain public and private water supplies;

G. The water levels and flows necessary for any ongoing use of the dam to generate or to enhance the downstream generation of hydroelectric or hydromechanical power; and

H. The water levels necessary to provide flows from any dam on the body of water to maintain public access and use, fish propagation and fish passage facilities, fish and wildlife habitat and water quality downstream of the body of water.

**Sec. 3. 38 MRSA §840, sub-§5**, as amended by PL 1987, c. 118, §11, is further amended to read:

5. **Order.** Based on the evidence solicited at the hearing, the board shall, within 80 days after the hearing, make written findings and issue an order to the owner, lessee or person in control of the dam establishing a water level regime for the body of water impounded by the dam and, if applicable, minimum flow requirements for the dam. The order shall, insofar as practical, require the maintenance of a stable water level, but shall include provision for variations in water level to permit sufficient draw down of the body to accommodate precipitation and run off of surface waters, minimum flow requirements and to otherwise permit seasonal and other necessary fluctuations in the water level of the body of water in order to protect public health, safety and welfare and the public and private resources identified in subsection 4. The board shall cause a copy of the order to be delivered to the owner, lessee or person in control of the dam, the municipal officers of any municipality in which the dam or the body of water it impounds is located and each petitioner, if any, and shall cause a copy of the order to be filed in the registry of deeds in the county where the dam is located.

See title page for effective date.

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## CHAPTER 324

H.P. 1106 - L.D. 1539

### An Act to Amend the Law Relating to Court Security

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

**4 MRSA §17, sub-§15**, as amended by PL 1987, c. 776, §2, is further amended to read:

**15. Provide for court security.** Plan and implement arrangements for safe and secure court premises to ensure

the orderly conduct of judicial proceedings. This includes the authority to contract for the services of qualified deputy sheriffs and other qualified individuals as needed on a per diem basis to perform court security-related functions and services. "Qualified deputy sheriffs and other qualified individuals" means those individuals who hold valid certification as law enforcement officers, as defined by the Maine Criminal Justice Academy, pursuant to Title 25, chapter 341, to include successful completion of such additional training in court security as provided by the academy or equivalent training. When under such contract and then only for the assignment specifically contracted for, the qualified deputy sheriffs or other qualified individuals shall have the same duties and powers throughout the counties of the State as sheriffs have in their respective counties. Qualified deputy sheriffs performing these contractual services shall continue to be employees of the counties in which they are deputized. ~~The persons~~ Other qualified individuals performing such contractual services shall not be considered employees of the State for any purpose, provided that the other qualified individuals shall be treated as employees of the State for purposes of the Maine Tort Claims Act and the Workers' Compensation Act. They shall be paid a reasonable per diem fee plus reimbursement of their actual, necessary and reasonable expenses incurred in the performance of their duties, consistent with policies established by the State Court Administrator. Notwithstanding any other provision of law, such plans, arrangements and files involving court security matters are confidential. Nothing in this section precludes dissemination of such information to another criminal justice agency.

See title page for effective date.

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## CHAPTER 325

H.P. 1179 - L.D. 1634

### An Act to Revise the Asbestos Certification Law

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

**Sec. 1. 38 MRSA §1272, sub-§2**, as enacted by PL 1987, c. 448, §1-C, is amended to read:

**2. Asbestos abatement activity.** "Asbestos abatement activity" means activity involving the removal, renovation, enclosure, repair, encapsulation, handling, transportation or disposal of friable asbestos-containing materials in an amount greater than ~~40~~ 3 square feet or ~~40~~ 3 linear feet.

**Sec. 2. 38 MRSA §1272, sub-§6**, as enacted by PL 1987, c. 448, §1-C, is amended to read:

**6. Asbestos abatement worker.** "Asbestos abatement worker" means ~~an employee of an any worker performing~~ asbestos abatement contractor engaged in asbestos abatement activity under the supervision of an asbestos abatement project supervisor for any employer.

**Sec. 3. 38 MRSA §1272, sub-§14**, as enacted by PL 1987, c. 448, §1-C, is repealed.

**Sec. 4. 38 MRSA §1273, sub-§3**, as enacted by PL 1987, c. 448, §1-C, is repealed.

**Sec. 5. 38 MRSA §1273, sub-§4**, as enacted by PL 1987, c. 448, §1-C, is amended to read:

**4. Exemption.** Asbestos abatement activities undertaken in single-unit residential buildings of 4 dwelling units or less shall be exempt from the requirements of this section if limited to heating equipment and performed by persons licensed by the Oil and Solid Fuel Board under Title 32, chapter 33, to install, repair, remove or service heating equipment. Asbestos abatement activities related to disposal undertaken at licensed asbestos disposal sites are exempt from the requirements of this section.

**Sec. 6. 38 MRSA §1274, sub-§5**, as enacted by PL 1987, c. 448, §1-C, is amended to read:

**5. Asbestos abatement worker.** All employees engaged in asbestos abatement activities and not otherwise certified under this chapter shall be certified as asbestos abatement workers. To qualify for certification, an applicant shall show evidence satisfactory to the commissioner that he the applicant has completed 32 hours of training in a training course certified by the commissioner as appropriate for the safe and proper removal, encapsulation or handling of asbestos. ~~The commissioner shall provide for interim certification for a period not to exceed 30 days upon completion of a worker orientation program approved by the commissioner.~~

See title page for effective date.

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## CHAPTER 326

H.P. 1159 - L.D. 1613

### An Act to Clarify Provisions of the Subdivision Law

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

**Sec. 1. 30-A MRSA §4401, sub-§4, ¶C**, as enacted by PL 1989, c. 104, Pt. A, §45, and Pt. C, §10, is amended to read:

C. A lot of 40 or more acres shall not be counted as a lot, except:

(1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance; or

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by

regulation, elected to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.

**Sec. 2. 30-A MRSA §4406, sub-§1, ¶B**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

(1) In the case of an amendment, if no amended plan is to be recorded, a certificate shall be prepared in recordable form and recorded in the registry of deeds. This certificate shall:

(a) Indicate the name of the current property owner;

(b) Identify the property by reference to the last recorded deed in its chain of title; and

(c) Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

(2) The variance is not valid until recorded as provided in this paragraph. Recording must occur within ~~30~~ 90 days of the final subdivision approval or the variance is void.

See title page for effective date.

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## CHAPTER 327

H.P. 1083 - L.D. 1505

### An Act to Amend the Maine Tort Claims Act

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

**14 MRSA §8107, sub-§1**, as amended by PL 1987, c. 740, §6, is further amended to read:

**1. Notice requirements for filing.** Within 180 days after any claim or cause of action permitted by this chapter accrues, or at a later time within the limits of section 8110, when a claimant shows good cause why notice could not have reasonably been filed within the 180-day limit, a claimant or