

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST SPECIAL SESSION**

August 21, 1989 to August 22, 1989

and

**SECOND REGULAR SESSION**

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
July 14, 1990

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  
1990

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

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

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

**January 3, 1990 to April 14, 1990**

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A. The person may elect to have the service retirement benefit continued during the period of time the person is restored to service and the person may not accumulate any additional service credits.

B. The person may elect to have the service retirement benefit terminated, again become a member of the retirement system and begin contributing at the current rate.

(1) The person is entitled to accumulate additional service credits during the period of time the person is restored to service.

(2) When the person again retires, the person is entitled to receive benefits computed on the person's entire creditable service and in accordance with the law in effect at the time.

C. Upon being restored to service, the person shall elect to have benefits either continued or terminated. If written notification of the person's election is not received by the executive director within 30 days of restoration to service, the person is deemed to have elected the provisions of paragraph B. The election, regardless of how it is made, is irrevocable during the period of restoration to services.

**Sec. 3. Application.** Section 1 of this Act retroactively applies to any member or retired member who has not completed making payments of money to the Maine State Retirement System. Any such member or retired member who has not completed making payments may request that the Board of Trustees of the Maine State Retirement System review the case. The board shall do so and grant whatever relief it finds appropriate. Section 2 of this Act does not apply to the restoration to service of any member before the effective date of this Act.

See title page for effective date.

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## CHAPTER 678

H.P. 1562 - L.D. 2168

### An Act Regarding Mobile Home Safety Standards

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

**Sec. 1. 10 MRSA §9094, sub-§2, ¶B-1** is enacted to read:

B-1. At the time of sale or change in the principal occupant of a mobile home, the park owner or operator may require the owner of the home, if built before June 15, 1976, to provide evidence that the home meets the Manufactured Housing Board's used manufactured home standard regard-

ing heating and electrical systems and fire safety. The mobile home owner may demonstrate compliance with the standard by providing the park owner with a report signed by the following persons and indicating that the home complies with the standard's specifications regarding those aspects of the home inspected:

(1) A licensed electrician who inspected the home's electrical system;

(2) A licensed oil burner repairer who inspected the home's heating system; and

(3) A licensed engineer who inspected the home for fire safety.

Signature of the report may not be construed for any purpose as an endorsement that the home meets provisions of the standard other than those for which the inspection was conducted. A park owner who receives a signed report may not require removal of a home under this section on the basis of fire safety or the safety of the home's heating and electrical systems.

This paragraph is repealed on January 1, 1993.

**Sec. 2. 10 MRSA §9094, sub-§2, ¶¶F-1 and F-2** are enacted to read:

F-1. The Manufactured Housing Board shall adopt rules under Title 5, chapter 375, establishing a used manufactured home standard no later than December 1, 1990. The standard must cover all equipment and installations in the construction, the plumbing, heat-producing and electrical systems and fire safety of used manufactured homes that are designed to be used as dwellings. The standard must seek to ensure that used manufactured homes do not present an imminent and unreasonable risk of death or serious personal injury.

F-2. The Manufactured Housing Board shall report to the joint standing committee of the Legislature having jurisdiction over legal affairs on the implementation of paragraph B-1 and any changes to the used manufactured home standard no later than January 1, 1992.

**Sec. 3. 10 MRSA §9094, sub-§2, ¶G,** as enacted by PL 1989, c. 104, Pt. B, §3 and Pt. C, §10, is repealed.

See title page for effective date.

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## CHAPTER 679

H.P. 1546 - L.D. 2131

### An Act to Amend the Laws Relating to the Maine Committee on Aging

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

**Sec. 1. 22 MRSA §5108-A, sub-§2, ¶¶D and E** are enacted to read:

D. No member of the committee or staff member or volunteer employed by the committee may have a conflict of interest as prohibited by the amended federal 1987 Older Americans Act (OAA), 42 United States Code, Section 3027 (a) (12) (F) (i, ii and iii).

E. The Director of the Bureau of Elder and Adult Services or the director's designee shall serve as a liaison between the bureau and the committee.

**Sec. 2. 22 MRSA §5108-A, sub-§5**, as enacted by PL 1987, c. 58, §2, is amended to read:

**5. Chair; number of meetings.** The Governor shall designate the chairman chair for a term of 2 years from among the members appointed to the committee. The chair may be reappointed by the Governor. The committee shall meet at the call of the chairman chair, but not less often than 4 times a year.

**Sec. 3. 22 MRSA §5112**, as amended by PL 1989, c. 68, Pt. C, §3 and c. 502, Pt. A, §78, is further amended to read:

**§5112. Powers and duties**

The committee shall have the power and duty to:

**1. Advise, consult and assist.** Advise, consult and assist the Executive and Legislative Branches of State Government, especially the Governor, on activities of State Government related to older people. The committee shall be solely advisory in nature. The committee may make recommendations regarding any function intended to benefit older people. If findings, comments or recommendations of the committee vary from or are in addition to those of ~~the~~ any state bureau or department, such statements of the committee shall be sent to the respective branches of State Government as attachments to those submitted by ~~the~~ that bureau or department. Recommendations may take the form of proposed budgetary, legislative or policy actions;

**2. Advocate.** Serve as an advocate on behalf of older people promoting and assisting activities designed to meet enhance at the national, state and community levels the problems well-being of older people. The committee shall serve as an ombudsman on behalf of individual citizens and older people as a class in matters under the jurisdiction of State Government. It shall be a spokesman voice on behalf of older people to ~~the director, commissioner~~ officers of State Government, Governor, Legislature, public-at-large and Federal Government.

In order to serve as advocate and ombudsman for older people, the committee shall have the power to enter onto the premises of any boarding care facility licensed according to section 7801 and any nursing home facility licensed according to section 1817 in order to investigate complaints concerning those facilities. In addition, the committee shall investigate complaints received on behalf of individuals receiving long-term care services provided by the home-based care programs, Medicaid waiver program, licensed home health agencies, certified home-maker agencies and licensed adult day care agencies. To carry out this function, ~~the any~~ committee member, staff, or volunteer who has been given such power, may enter onto the premises of any adult foster care facility, any boarding care facility or any nursing home during the course of an investigation, speak privately with any individual therein who consents to the conversation and inspect and copy all records pertaining to a resident ~~held by a facility or home~~, provided that the resident, or the legal representative of the resident, consents in writing to that inspection. The consent, where required and not obtainable in writing, may be conveyed orally or otherwise to the staff of the facility or home. Where a resident is not competent to grant consent and has no legal representative, the committee may inspect the resident's records and may make such copies that do not contain personally identifiable material without the written consent of a duly appointed legal representative. The committee may authorize up to 25 persons, including in addition to committee members; and staff of the committee and other citizens, to carry out this function ~~of the committee pursuant to this subsection~~. Appropriate identification shall be issued to all such persons. In accordance with the amended federal 1987 Older Americans Act (OAA), 42 United States Code, no one may serve as an ombudsman without training by committee staff as to the rights and responsibilities of ombudsmen, or without a specific plan of action under direction of committee staff. The committee shall renew the authorization and ~~reissue~~ issue identification annually. The findings of the committee shall be available to the public upon request.

No information or records maintained by the committee relating to complaints may be disclosed unless the ombudsman authorizes the disclosure; and the ombudsman shall not disclose the identity of any complainant or resident unless:

A. The complainant or resident, or a legal representative of either, consents in writing to the disclosure with respect to that complainant or resident respectively; or

B. A court orders the disclosure.

A complainant or resident, or legal representative thereof, in providing the consent, may specify to whom such identity may be disclosed and for what purposes, in which event no other disclosure is authorized.

Any person, official or institution who in good faith participates in the registering of a complaint pursuant to

this subsection, or in good faith investigates that complaint or provides access to those persons carrying out the investigation, about an act or practice in any licensed boarding care facility or any licensed nursing home licensed according to section 5154, 7801 or 1817, respectively, or who participates in a judicial proceeding resulting from that complaint, shall be immune from any civil or criminal liability that otherwise might result by reason of these actions. For the purpose of any civil or criminal proceedings, there shall be a rebuttable presumption that any person acting pursuant to this subsection did so in good faith. Any person, official or institution who in good faith participates in the registering of a complaint pursuant to this subsection, or in good faith investigates that complaint or provides access to those persons carrying out the investigation, about an act or practice in any licensed boarding care facility or any licensed nursing home licensed according to section 5154, 7801 or 1817, respectively, or who participates in a judicial proceeding resulting from that complaint, shall be immune from any civil or criminal liability that otherwise might result by reason of these actions. For the purpose of any civil or criminal proceedings, there shall be a rebuttable presumption that any person acting pursuant to this subsection did so in good faith;

**3. Advisory committee.** Serve as the advisory committee on behalf of the State of Maine elderly of the State to the pertinent state agency agencies relating to or as may be required by state or federal laws and regulations governing administration of programs authorized by this Part and so much of the several Acts, amendments and successors to them enacted by the people of the State of Maine and those authorized by the several United States Acts, amendments and successors to them as relate to older people their successors, including, but not limited to:

- A. The Priority Social Services Act of 1973 including only coordinated elderly programs, meals for older people and transportation for the elderly;
- B. The Elderly Householders Tax and Rent Refund Act of 1971;
- C. Chapter 470 of the public laws of 1969 creating the State Housing Authority;
- D. The United States federal Older Americans Act of 1965; and
- E. Title IV or Title VI, or their successors or amendments or additions thereto of the United States Social Security Act, as amended, including only so much thereof as relates to older people.

The committee shall advise regarding state and federal plans, policies, programs and other activities relating to the older people in Maine of the State. The committee shall submit to the federal or state agencies its recommendations and comments on the state plan and any revisions thereof and or other pertinent reports to the federal or

state agencies. Statements at variance with or in addition to those of the bureau or the department reports shall be attached to the plan or reports upon submission by the bureau to agencies of the United States Government or to state agencies;

**4. Review committee.** ~~Serve, through~~ Authorize a subcommittee of the ~~committee~~, consisting of 5 persons, ~~including the chairman and 4 other members~~ appointed by the ~~chairman with the advice and consent of the Governor, as the review committee on behalf of the State of Maine~~ chair to be responsible for analysis of proposals and submission of advisory recommendations to the director concerning the acceptability of proposals requesting award of state-administered grant funds under subsection 3, paragraphs A and D. In order to insure coordination and prevent duplication of services, the committee shall review and comment on, under its own initiative or at the request of any state or federal department or agency, any proposed agreement or agreements from any agency or organization within the State to a state or federal department or agency for assistance related to meeting the needs of older persons;

**5. Review and evaluation.** Review and evaluate, on a continuing basis in consultation with ~~the bureau for the purpose of determining the value and impact on the lives of older people~~ the appropriate state agency, state and federal policies regarding Maine's the elderly of the State and programs and other activities affecting the elderly conducted or assisted by any state departments or agencies; to determine the value of and impact of such programs or activities on the elderly of the State;

**6. Inform the public.** ~~Inform the public in~~ In consultation with the ~~bureau~~ Bureau of Elder and Adult Services, ~~to develop a firm public understanding of the current status of the survival of Maine's elderly, including information on effective programs elsewhere in the State or nation, by collecting and disseminating gather and disseminate information on effective programs elsewhere in the State or nation, conducting conduct or commissioning commission studies and publishing publish the results thereof and by issuing issue publications and reports for which a reasonable fee may be charged, in order to improve the public's understanding of the current status of Maine's elderly;~~

**7. Public forums.** Provide and sponsor public forums, ~~including the conduct of public hearings, sponsorship of conferences, workshops and other such meetings to obtain information about, discuss, or publicize the needs of and solutions to problems of older people. The committee shall hold a state-wide statewide~~ Blaine House Conference on Aging at least every 2 years and may hold regional conferences and meetings; and

**8. Administration.** Administer in accordance with current fiscal and accounting regulations of the State, and in accordance with the philosophy, objectives and authority of this Part, any funds appropriated for expenditure by

the committee or any grants or gifts which may become available, accepted and received by the committee; and make an annual report which shall be submitted directly to the director, commissioner, Governor and Legislature not later than September 1st of each year concerning its work, recommendations and interests of the previous fiscal year and future plans; ~~and.~~ The committee shall make such interim reports as it deems advisable or as requested by the Governor or Legislature. In addition, the long-term care ombudsman program shall submit reports on its activities as required by the bureau.

See title page for effective date.

## CHAPTER 680

H.P. 1503 - L.D. 2083

### An Act to Exempt Residential Developments and Construction Noise from Noise Control Provisions

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

38 MRSA §482-A, as enacted by PL 1987, c. 346, §2, is amended to read:

#### §482-A. Noise effect

~~The~~ Except as provided in subsection 4, the effect of noise from a commercial or industrial development may be regulated pursuant to section 484, subsection 3.

1. ~~Amended rules; adoption. On or before December 31, 1987, the Department of Environmental Protection~~ The board shall adopt amended rules for the control of noise generated by commercial or industrial developments. These rules shall must:

A. Reflect consideration of local zoning with regard to both the zone in which the development is located and the proximity of the development to residential areas;

B. Employ a consistent methodology to assess background and intrusive noise effects of developments of a similar nature;

C. Provide that the board may limit the hours of operation of the development to minimize the impact on surrounding uses; and

D. Contain an appropriate list of activities ~~which that~~, although connected with a development, are wholly or partially exempt from review by the ~~board~~ department.

2. **Consideration of local ordinance.** In determining whether a developer has made adequate provision for the control of noise generated by a commercial or industrial development, the board shall consider ~~its own~~

~~regulations~~ rules adopted under this section and the quantifiable noise standards of the municipality in which the development is located and of any municipality ~~which~~ that may be affected by the noise.

3. **Prohibition.** Nothing in this section may be construed to prohibit any municipality from adopting noise regulations stricter than those adopted by the ~~Department of Environmental Protection~~ board.

4. **Construction noise; residential developments.** Between 7 a.m. and 7 p.m. or during daylight hours, whichever is longer, noise generated by construction of developments approved under this article is exempt from regulation under this section. Noise from residential developments approved under this article is exempt from regulation under this section.

See title page for effective date.

## CHAPTER 681

H.P. 1391 - L.D. 1921

### An Act to Prevent Overutilization of Forest Resources

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

Sec. 1. 12 MRSA §685-B, sub-§2, as amended by PL 1989, c. 596, Pt. G, §1, is further amended to read:

2. **Application for approval.** The application forms for approval, as provided by the commission, ~~shall must~~ be completed and signed by the applicant and ~~shall must~~ be accompanied by the following:

A. A plan of the proposed structure, subdivision or development showing the intended use of the real estate, the proposed change, the details of the project and such other information as may be required by the commission to determine conformance with applicable land use standards; ~~and~~

B. The fee prescribed by the commission rules, ~~such that~~ fee to be a minimum of \$25 but no greater than 2/10 of 1% of the total construction costs. Zoning petitions submitted by other than a state or federal agency ~~will~~ range from \$50 to \$500 depending on size and complexity. The fees ~~shall~~ apply to all amendments except for minor changes to building permits; ~~and~~

D. Evidence of sufficient right, title or interest in all of the property ~~which that~~ is proposed for development or use. For purposes of this subsection, the written permission of the record owner or owners of flowed land ~~shall be~~ is deemed sufficient right, title or interest to confer standing for submission of a permit application, provided that the letter of permission specifically identifies the activities being