

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.

J.S. McCarthy Company
Augusta, Maine
1990

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

fluence with Munsungan Stream - Class AA.

(h) Munsungan Stream, from the outlet of Little Munsungan Lake to its confluence with Millinocket Stream - Class AA.

(i) Pattee Brook (Fort Fairfield) and its tributaries above the dam just upstream of the Route 167 bridge - Class A.

(j) Presque Isle Stream and its tributaries above its confluence with, but not including, the North Branch of Presque Isle Stream - Class A.

(k) St. Croix Stream from the outlet of St. Croix Lake to its confluence with Hall Brook in T.9, R.5, W.E.L.S. - Class A.

(l) St. Croix Stream from its confluence with Hall Brook in T.9, R.5, W.E.L.S. to its confluence with the Aroostook River - Class AA.

(m) St. Croix Stream tributaries - Class A.

(n) Salmon Brook, from the dam immediately above Washburn to its confluence with the Aroostook River - Class C.

(o) ~~Squa Pan~~ Squa Pan Stream and its tributaries above the B&A Railroad bridge - Class A.

(i) The Legislature recognizes that at certain times the waters of Squa Pan Stream may not meet either the antidegradation standards of section 464, subsection 4, paragraph F, or the water quality classification standards of section 465 due to the operation of the Squa Pan Hydro Project as a generator of hydroelectric peaking power. The Legislature further finds that there are currently no available modifications or alterations to the operation of this existing hydro project that would allow water quality standards to be met while allowing the Squa Pan Hydro Project to continue as a source of peaking power or to be altered and otherwise used as a source of power. Accordingly,

the board may not consider the impact to the waters of the Squa Pan Stream caused by the operation of the Squa Pan Hydro Project in the production of hydroelectric power in determining whether those waters satisfy any designated uses of water quality standards set forth in section 464, subsection 4, paragraph F or section 465. As used in this subdivision, "operation of the Squa Pan Hydro Project" means the actual, established use of that project's operation since January 4, 1965.

(p) Unnamed Stream (Presque Isle) near Vining Station on Washburn Road - Class C.

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

Effective March 30, 1990.

CHAPTER 747

H.P. 1661 - L.D. 2301

An Act to Amend the Law on Intermediate Sanctions in Long-term Care Facilities

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

Sec. 1. 22 MRSA §7944, sub-§1, ¶D is enacted to read:

D. The department may direct a long-term care facility to transfer residents in that facility to other locations in an emergency that threatens the health, safety or welfare of the residents of the facility and shall assist the facility in making arrangements for transfers.

Sec. 2. 22 MRSA §7946, sub-§2, as enacted by PL 1987, c. 774, §4, is amended to read:

2. Collection of penalties; interest. Long-term care facilities that are fined pursuant to this chapter are required to pay the department the amount of the penalties. Penalties may be collected by the department by the offset of any reimbursement due the facility, or by any other method authorized by law. An appeal of the department's decision to penalize a long-term care facility shall ~~stay~~ stays the collection of any penalties. ~~Interest will accrue on penalties that remain unpaid after any appeal period has passed at the rate described in Title 14, section 1602-A, subject to subsection 3.~~ All penalties are to be assessed for each day that the facility is or was out of

compliance and are to be collected with interest accruing at the rate set by Title 14, section 1602-A. An appeal of the department's decision to penalize a long-term care facility does not stay the assessment of any penalties or interest as long as the long-term care facility continues to be in violation of any requirement of section 7943.

See title page for effective date.

CHAPTER 748

H.P. 1639 - L.D. 2272

An Act to Clarify Eligibility Requirements for the Open Space Land Program

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

Whereas, a number of pending applications for the open space land program must be decided prior to April 1, 1990, based on the new guidelines established in this legislation; 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. 36 MRSA §1102, sub-§6, as enacted by PL 1975, c. 726, §2, is amended to read:

6. Open space land. "Open space land" means any area of land, including state wildlife and management areas, sanctuaries and preserves designated as such in Title 12, the preservation or restriction of the use of which would provides a public benefit in any of the following areas:

- A. ~~Conserve~~ Conserving scenic resources;
- B. ~~Enhance~~ Enhancing public recreation opportunities;
- C. ~~Promote~~ Promoting game management; or
- D. ~~Preserve~~ Preserving wildlife or wildlife habitat.

Sec. 2. 36 MRSA §1105, as repealed and replaced by PL 1987, c. 728, §4, is amended to read:

§1105. Valuation of farmland and open space land

The municipal assessor, chief assessor or State Tax Assessor for the unorganized territory shall establish the 100% valuation per acre based on the current use value of farmland used for agricultural or horticultural pur-

poses and open space land used for open space purposes. The values established ~~shall~~ must be based on such considerations as farmland rentals, farmer-to-farmer sales, soil types and quality, commodity values, topography, sales of land subject to permanent conservation restrictions, sales of land subject to enforceable deed restrictions, enhancement to unclassified appurtenant land areas under same ownership, before and after appraisals of permanently restricted land in the region and other relevant considerations. These values ~~shall~~ may not reflect development or market value purposes other than agricultural, horticultural or open space use. The values ~~shall~~ may not reflect value attributable to road frontage or shore frontage. In developing these values, local assessors may be guided by the Department of Agriculture, Food and Rural Resources as provided in section 1119 and by the State Tax Assessor as provided by section 1106.

The 100% ~~valuations~~ valuation per acre for farm ~~and open space~~ woodland within a parcel classified as farmland under this subchapter ~~shall be~~ is the 100% valuation per acre for each forest type established for each county pursuant to subchapter II-A. Areas other than woodland, agricultural land, horticultural land or open space located within any parcel of farmland or open space classified under this subchapter ~~shall be~~ are valued on the basis of just value.

Sec. 3. 36 MRSA §1106, as enacted by PL 1975, c. 726, §2, is amended to read:

§1106. Powers and duties; State Tax Assessor

The State Tax Assessor, working with representatives of municipal officials, appraisers and conservation organizations, shall prepare guidelines for valuation of open space and shall also establish recommended current use values by county for each classification of open space land established in section 1102, subsection 6. The municipal assessors ~~shall be~~ are required to use the values recommended, but must be prepared in any appeal to explain their systems of arriving at current use values and shall have the burden of proving the recommended values to be in error with regard to the parcel or parcels of land in question. For the purposes of this section "current use" ~~shall mean~~ means the valuation sale price per acre which that a particular parcel of land would command in the marketplace if it were required to remain henceforth in an open space qualifying use. When applicable, this value is adjusted by the valuation ratio then current in the municipality.

Sec. 4. 36 MRSA §1109, sub-§3, as amended by PL 1977, c. 467, §8, is repealed and the following enacted in its place:

3. Open space qualification. The owner or owners of land who believe that the owners' land falls within the definition of open space land contained in section 1102, subsection 6 shall submit a signed schedule in duplicate on or before April 1st of the year in which that land first