

# 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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CHAPTER 803

S.P. 765 - L.D. 1990

An Act Regarding Certain Resource Protection Zones within Shoreland Zoning Areas

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

Sec. 1. 38 MRSA §439-A, sub-§5, as amended by PL 1989, c. 403, §8, is further amended to read:

5. Timber harvesting. Municipal ordinances shall regulate timber harvesting within the shoreland area. Notwithstanding any provision in a provision in a local ordinance to the contrary, timber harvesting activities shall be no less restrictive than the following:

A. Selective cutting of no more than 40% of the trees 4 inches or more in diameter, measured at 4 1/2 feet above ground level, in any 10-year period, provided that a well-distributed stand of trees and other natural vegetation remains; and

B. Within a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting within the strip of land extending 75 feet inland from the normal high-water line except to remove safety hazards; and

C. Any site within a shoreland area zoned for resource protection abutting a great pond, beyond the 75-foot strip restricted in paragraph B, where timber is harvested must be reforested within 2 growing seasons after the completion of the harvest, according to guidelines adopted by the board. The board shall adopt guidelines consistent with minimum stocking standards promulgated pursuant to Title 12, section 8869.

The board may adopt more restrictive guidelines consistent with the purposes of this subchapter, which shall then be incorporated into local ordinances.

Sec. 2. Allocation. The following funds are allocated from Other Special Revenue within the Lake Environmental Protection Fund to carry out the purposes of this Act.

1990-91

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Land Quality Control

All Other \$5,500

Provides funds for printing, postage, room rental and transcribing expenses associated with rulemaking.

Lake Environmental Protection Fund

All Other (\$5,500)

Provides for a deallocation of available funds.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

TOTAL -\$0-

See title page for effective date.

CHAPTER 804

S.P. 743 - L.D. 1947

An Act Related to Overcompensation

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

26 MRSA §635 is enacted to read:

§635. Overcompensation by employer

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Net amount" means the amount of money due an employee as compensation after any deductions or withholdings other than an employer's withholding for the purpose of recovering any overcompensation.

B. "Overcompensation" means any compensation paid to an employee that is greater than that to which the employee is entitled under the compensation system established by the employer, but does not include fringe benefits, awards, bonuses, settlements or insurance proceeds in respect to or in lieu of compensation, expense reimbursements, commissions or draws or advances against compensation.

2. Recovery of overcompensation. An employer who has overcompensated an employee through employer error may not withhold more than 10% of the net amount of any subsequent pay without the employee's written permission, except that, if the employee voluntarily terminates employment, the employer may deduct the full amount of overcompensation from any wages due.

3. Violation. If an employer with over 25 employees violates this section, that employer forfeits any claim to the overcompensation.

If an employer with 25 or fewer employees knows of the limitation established by subsection 2 and violates this section, that employer forfeits any claim to the overcompensation. Employers of 25 or fewer employees who do

not know of the limitation established by subsection 2 and who violate this section shall return all money withheld in excess of that permitted under subsection 2 within 3 days of written or oral demand by the employee, or forfeit any claim to the overcompensation.

**4. Application.** This section is applied as follows.

A. An employer has the burden of proof, except that, if the overcompensation amounts to less than 15% of the correct net amount of the employee's compensation, the employer must prove by clear and convincing evidence that the employee knowingly accepted the overcompensation.

B. If an employee knowingly accepts the overcompensation, this section does not apply.

C. This section, except for the forfeiture provisions in subsection 3, does not limit or affect an employer's general civil remedies against an employee.

See title page for effective date.

## CHAPTER 805

H.P. 1500 - L.D. 2077

### An Act to Provide Warranties for Manufactured Housing Purchased from Out-of-state Dealers

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

**Sec. 1. 10 MRSA §1401**, as amended by PL 1973, c. 788, §42, is repealed and the following enacted in its place:

#### §1401. Scope

All new mobile homes sold by a dealer are covered by the warranty established by this chapter.

**Sec. 2. 10 MRSA §1402, sub-§1**, as enacted by PL 1973, c. 435, is repealed and the following enacted in its place:

**1. Dealer.** "Dealer" includes a person who sells a mobile home and is subject to the jurisdiction of this State under Title 14, section 704-A.

**Sec. 3. 10 MRSA §1403**, as enacted by PL 1973, c. 435, is repealed and the following enacted in its place:

#### §1403. Application

The warranty established by this chapter applies to:

**1. Manufacturer.** The manufacturer of the mobile home;

**2. Dealer.** The dealer who sells the mobile home to the buyer; and

**3. Carrier; installer.** A person who, in the ordinary course of business and under contract with, or as an employee or agent of, a dealer located in another state, transports a mobile home into the State or installs a mobile home transported into the State.

**Sec. 4. Licensing out-of-state dealers.** The Manufactured Housing Board shall study the feasibility of requiring any out-of-state dealer to obtain a license issued by the board prior to selling a mobile home to be transported into and installed in this State and imposing sanctions on a dealer who sells a mobile home without a license or fails to comply with the warranty provisions of the Maine Revised Statutes, Title 10, chapter 213. The board shall report its findings to the Joint Standing Committee on Legal Affairs no later than January 1, 1991.

See title page for effective date.

## CHAPTER 806

S.P. 934 - L.D. 2365

### An Act to Provide for the Licensing and Certification of Real Estate Appraisers and to Create a Board of Real Estate Appraisers

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

**Whereas**, billions of dollars in loans that are secured by real estate are advanced every year to Maine consumers; and

**Whereas**, there are no uniform guidelines on how the appraised values or the qualifications of the individual conducting the appraisal are established; and

**Whereas**, consumers are occasionally swept up with enthusiasm over what may be an unrealistically inflated real estate market only to find that the resale value of their property is substantially lower in some future period; and

**Whereas**, Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101-73, requires that, after July 1, 1991, all real estate appraisals in connection with federally related transactions must be performed by appraisers certified or licensed by the State; and

**Whereas**, the State must establish a process for licensing real estate appraisers in order to assure that uniform, competent guidelines are established for the rendering of real estate appraisals and to fulfill the federal mandate; 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 legisla-