

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Augusta, Maine
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PUBLIC LAWS
OF THE
STATE OF MAINE

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nicipal permit for the repair and maintenance of an existing road culvert or for the replacement of an existing road culvert, as long as the replacement culvert is:

- (1) Not more than one standard culvert size wider in diameter than the culvert being replaced;
- (2) Not more than 25% longer than the culvert being replaced; and
- (3) Not longer than 75 feet.

Ancillary culverting activities, including excavation and filling, are included in this exemption. A person repairing, replacing or maintaining an existing culvert under this paragraph shall ensure that erosion control measures are taken to prevent sedimentation of the water and that the crossing does not block fish passage in the water course.

Sec. 3. 38 MRSA §480-Q, sub-§2-A is enacted to read:

2-A. Existing road culverts. In any protected natural resource area, a permit is not required for the repair and maintenance of an existing road culvert or for the replacement of an existing culvert, as long as the replacement culvert is:

- A. Not more than one standard culvert size wider in diameter than the culvert being replaced;
- B. Not more than 25% longer than the culvert being replaced; and
- C. Not longer than 75 feet.

Ancillary culverting activities, including excavation and filling, are included in this exemption. A person repairing, replacing or maintaining an existing culvert under this subsection shall ensure that erosion control measures are taken to prevent sedimentation of the water and that the crossing does not block fish passage in the water course.

See title page for effective date.

CHAPTER 47

H.P. 135 - L.D. 195

An Act Regarding Zoning Variances

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

Sec. 1. 30-A MRSA §4353, sub-§4, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

4. Variance. ~~The~~ Except as provided in subsection 4-A, the board may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- A. The land in question ~~cannot~~ can not yield a reasonable return unless a variance is granted;
- B. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- C. The granting of a variance will not alter the essential character of the locality; and
- D. The hardship is not the result of action taken by the applicant or a prior owner.

Under its home rule authority a municipality may, in a zoning ordinance, adopt additional limitations on the granting of a variance, including but not limited to, a provision that a variance may be granted only for a use permitted in a particular zone.

Sec. 2. 30-A MRSA §4353, sub-§4-A is enacted to read:

4-A. Disability variance. The board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, section 4553.

See title page for effective date.

CHAPTER 48

H.P. 257 - L.D. 348

An Act to Amend Certain Provisions of the Laws Relating to Health Insurance

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

Sec. 1. 24 MRSA §2321, sub-§1, as amended by PL 1985, c. 648, §1, is further amended to read:

1. Filing of rate information. Every nonprofit hospital and medical service organization shall file with

the superintendent, except as to group subscriber and membership contracts; other than group Medicare supplement contracts as defined in Title 24-A, chapter 67 and group nursing home or long-term care contracts as defined in Title 24-A, chapter 68, every rate, rating formula and every modification of any of the foregoing ~~which~~ that it proposes to use. Every ~~such~~ filing ~~shall~~ under this subsection must state the effective date ~~thereof~~ of the filing. Every ~~such~~ filing ~~shall~~ under this subsection must be made not less than ~~60~~ 90 days in advance of the stated effective date unless ~~such~~ ~~60-day~~ the 90-day requirement is waived by the superintendent and the effective date may be suspended by the superintendent for a period of time not to exceed 30 days. In the case of nursing home and long-term contracts, rates filed prior to August 1, 1986, ~~shall be~~ are effective until no later than August 1, 1989. Rates filed on or after August 1, 1986, for these types of contracts ~~shall be~~ are effective for no more than 3 years, except that rates for contracts with guaranteed level premiums ~~shall be~~ are effective for the duration of the contract.

Sec. 2. 24 MRSA §2321, sub-§3 is enacted to read:

3. Three-year review. Every organization must submit the rate filings for contracts set forth in subsection 1 at least every 3 years.

Sec. 3. 24-A MRSA §5002, sub-§3 is enacted to read:

3. Open enrollment. All nonprofit hospital and medical service organizations that offer supplemental coverage to Medicare shall provide open enrollment for subscribers to Medicare supplemental coverage during the month of the subscriber's 65th birthday, for the 3 months preceding and the 3 months after the month of the birthday and during a one-month open enrollment period each calendar year, the month to be set by the nonprofit hospital and medical service organization. Nothing in this subsection precludes additional periods of open enrollment for subscribers to Medicare supplemental coverage.

See title page for effective date.

CHAPTER 49

H.P. 273 - L.D. 393

An Act to Prohibit Tie-in Sales in Insurance

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

24-A MRSA §2168-A is enacted to read:

§2168-A. Tie-in sales of insurance

1. Definition. As used in this section, "tie-in sales" means the practice of tying the sale of one product to another.

2. Prohibited tie-in sales. In the purchase of insurance, tie-in sales are an unfair trade practice when:

A. The consumer is required to place additional coverage with an insurer not of the consumer's choice in order to obtain a desired coverage; and

B. The consumer's alternative opportunities to purchase the desired coverage are severely limited or nonexistent.

3. Penalties. An insurance contract sold in violation of the provisions of this section is voidable at the option of the consumer. Violations of this section are enforceable through section 12-A.

See title page for effective date.

CHAPTER 50

H.P. 281 - L.D. 401

An Act to Increase the Availability of Funding for Health Care

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

Sec. 1. 22 MRSA §2052, as amended by PL 1979, c. 680, §2, is further amended to read:

§2052. Declaration of necessity

It is declared that for the benefit of the people of the State, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions, it is essential that hospitals, community mental health facilities and nursing homes within the State be provided with appropriate additional means to expand, enlarge and establish health care, hospital, community mental health, nursing home and other related facilities; that this and future generations of students be given the fullest opportunity to learn and to develop their intellectual capacities; and that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable hospitals, community mental health facilities, nursing homes and institutions for higher education in the State to provide the facilities and structures which are sorely needed to accomplish the purposes of this chapter, all to the public benefit and good, and the exercise of the powers, to the extent and manner provided in this chapter, is declared the exercise of an essential governmental function.

Sec. 2. 22 MRSA §2053, sub-§2, as amended by PL 1979, c. 680, §3, is further amended to read: