

# 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  
OCTOBER 9, 1991

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  
1991

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

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**1991**

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Sec. 8. 32 MRSA §10502, sub-§3, as amended by PL 1989, c. 542, §43, is repealed and the following enacted in its place:

3. Additional exemptions. The administrator is authorized to adopt rules exempting from section 10401 securities or classes of securities or certain transactions, including by adopting a limited offering exemption, if the administrator finds that the establishment of the exemption is consistent with the public interest and the protection of investors. For purposes of promoting uniformity, the administrator, in adopting, amending and repealing any rules pursuant to this subsection, shall take into consideration any relevant rules promulgated by the United States Securities and Exchange Commission and by administrators in other jurisdictions. In any rule establishing an exemption for which a filing is required, the administrator may provide for a filing fee of \$300.

Sec. 9. 32 MRSA §10602, sub-§3 is enacted to read:

3. Liability of control persons. In a civil action brought by the Attorney General for a violation of any provision of this Act or any rule or order adopted or issued by the administrator pursuant to this Act, every person who directly or indirectly controls another person liable for the violation, every partner, officer or director of that other person, every person occupying a similar status or performing similar functions, every employee of that other person who materially aids in the act or transaction constituting the violation and every broker-dealer or sales representative who materially aids in the act or transaction constituting the violation is liable to the same extent as that other person, unless the person otherwise secondarily liable under this Act proves that the person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. Any of the remedies authorized by section 10603, subsections 1 and 2 may be granted with respect to a person secondarily liable under this subsection. This subsection is not intended to abrogate any right to contribution that may exist at common law with respect to an award of restitution.

See title page for effective date.

CHAPTER 83

H.P. 224 - L.D. 315

An Act to Amend the Election Laws Dealing with Local Elections

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

Sec. 1. 30-A MRSA §2528, sub-§4, ¶B, as amended by PL 1989, c. 104, Pt. A, §18 and Pt. C, §§8 and 10, is further amended to read:

B. At the end of the list of candidates for each office, there shall must be left as many blank spaces as there

are vacancies to be filled in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

Sec. 2. 30-A MRSA §2528, sub-§6, ¶B, as amended by PL 1989, c. 104, Pt. A, §20 and Pt. C, §§8 and 10, is further amended to read:

B. At the end of the list of candidates for each office, there shall must be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

See title page for effective date.

CHAPTER 84

H.P. 550 - L.D. 787

An Act to Clarify Certain Provisions of the Hospital Care Financing System and Provide for Systematic Consideration of Consumer Viewpoints by the Maine Health Care Finance Commission

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

Sec. 1. 5 MRSA §12004-I, sub-§44-A is enacted to read:

<u>44-A.</u>	<u>Consumer</u>	<u>Not</u>	<u>22 MRSA</u>
<u>Human</u>	<u>Advisory</u>	<u>Authorized</u>	<u>§396-P</u>
<u>Services:</u>	<u>Committee</u>		
<u>Hospitals</u>			

Sec. 2. 22 MRSA §396-D, sub-§12, ¶B, as enacted by PL 1989, c. 588, Pt. A, §29, is amended to read:

B. A request that ~~meets the requirements of paragraph A, but that would result in a positive adjustment equal to less is not supported by proof of major reasonable increases in expenses, net of offsetting expense changes, that are equal to or greater than 1.5%~~ of a hospital's financial requirements for the previous year or \$1,000,000, whichever is less, shall may not be granted, unless the applicant establishes either of the following:

- (1) That the applicant's failure to receive the adjustment will immediately, seriously and irreparably impair its financial capacity to continue providing hospital services and that no alternative means of providing those services is available; or

(2) That denial of the adjustment would result in a groundless difference in regulatory treatment of similarly situated hospitals seeking relief under this subsection on the basis of essentially the same facts.

**Sec. 3. 22 MRSA §396-K, sub-§3, ¶F**, as amended by PL 1989, c. 588, Pt. A, §39, is further amended to read:

F. Debits and carry-overs ~~shall be~~ are determined as follows.

(1) Except as provided in subparagraph (2), the commission shall debit against the Hospital Development Account the full amount of the incremental annual capital and operating costs associated with each project for which an adjustment is approved under paragraph C. Incremental annual capital and operating costs ~~shall be~~ are determined in the same manner as adjustments to financial requirements are determined under section 396-D, subsection 5, for the 3rd ~~fiscal~~ year of implementation of the project.

(2) In the case of a project which is approved under paragraph C and which involves extraordinary incremental annual capital and operating costs, the commission may, in accordance with duly promulgated rules, defer the debiting of a portion of the annual costs associated with the project until a subsequent payment year cycle or cycles.

~~(4)~~ (3) Amounts credited to the Hospital Development Account for which there are no debits ~~shall be~~ are carried forward to subsequent payment year cycles as a credit.

**Sec. 4. 22 MRSA §396-P, sub-§1, ¶D** is enacted to read:

D. The commission shall appoint the Consumer Advisory Committee, authorized by Title 5, section 12004-I, subsection 44-A, consisting of 2 representatives of organizations or agencies concerned with the health care needs of the elderly, 2 representatives of employers who purchase hospital care benefits for their employees and 3 representatives of organizations representing the interests of consumers or individual purchasers of hospital care. This committee shall advise the commission and its staff concerning the effects of the health care financing system on consumers of health care services and the views of consumers concerning the quality, cost and accessibility of the hospital care that consumers receive.

**Sec. 5. 22 MRSA §396-P, sub-§5**, as enacted by PL 1985, c. 778, §6, is amended to read:

**5. Participation in rulemaking.** The ~~chairman~~ chair of each of the 3 ~~4~~ advisory committees or another committee

member designated by the ~~chairman~~ chair is entitled to participate, in the manner of an ex officio nonvoting member, solely with respect to deliberations and actions of the commission directly related to the formulation and adoption of rules, but including neither deliberations and actions which are properly conducted in executive session nor deliberations and actions with respect to which the commission determines that one or more of the advisory committee ~~chairmen~~ chairs have a conflict of interest. This section may not be construed to authorize participation in deliberations and actions of the commission related to the application or enforcement of rules.

See title page for effective date.

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## CHAPTER 85

S.P. 38 - L.D. 60

### An Act to Ensure Access to Boards of Directors

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

**13-B MRSA §701**, as enacted by PL 1977, c. 525, §13, is amended to read:

#### **§701. Board of directors**

The activities of a corporation ~~shall~~ must be managed by a board of directors. Directors need not be residents of this State or members of the corporation unless required by the articles of incorporation or the bylaws ~~so require~~. The articles of incorporation or the bylaws may prescribe other qualifications for the directors.

Boards of directors shall ensure that no employee of the corporation may be terminated for contacting a director or directors. Directors may not preclude contact between employees of the corporation and members of the board of directors.

See title page for effective date.

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## CHAPTER 86

H.P. 383 - L.D. 557

### An Act Concerning the Commission on Governmental Ethics and Election Practices

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

**1 MRSA §1002, sub-§2**, as enacted by PL 1975, c. 621, §1, is amended to read:

**2. Qualifications.** The members of the commission ~~shall~~ must be persons of recognized judgment, probity and