

# 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**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

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~~are residents of the region and other qualified persons to serve on screening panels under this subchapter. The clerk in each judicial region shall place these names on a list from which the Chief Justice of the Superior Court will choose a panel chairman chair under subsection 2.~~

~~The Each clerk of each judicial region of the Superior Court shall maintain lists of health care practitioners, health care providers and attorneys recommended by the professions involved to serve on screening panels under this subchapter.~~

**Sec. 2. 24 MRSA §2852, sub-§2, ¶A**, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

A. Upon receipt of a notice of claim under section 2853, the clerk of the Superior Court who receives the notice shall notify the Chief Justice of the Superior Court. The Chief Justice shall choose a retired justice or judge or, a person with judicial experience or other qualified person from the list maintained by the clerk to serve as chairman chair of the panel to screen the claim. ~~The Chief Justice shall attempt to choose a chairman who is a resident of the judicial region in which the notice of claim was filed. If no resident chairman is available or appropriate, the Chief Justice shall choose a chairman from the lists maintained by clerks of other judicial regions.~~ If at any time a chairman chair chosen under this paragraph is unable or unwilling to serve, the chief justice Chief Justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chairman chair. Persons other than retired justices and judges or those with judicial experience may be appointed as chair based on appropriate trial experience. In the event that the Chief Justice seeks to appoint as chair a person who is not a retired justice or judge or does not have judicial experience, each side is entitled to exercise one challenge to the appointment of a chair by the Chief Justice.

**Sec. 3. 24 MRSA §2853, sub-§8, ¶B**, as enacted by PL 1989, c. 827, §3, is repealed and the following enacted in its place:

**B. Involuntary dismissal is governed as follows.**

(1) On failure of the plaintiff to prosecute or to comply with rules or any order of the chair, and on motion by the chair or any party, after notice to all parties has been given and the party against whom sanctions are proposed has had the opportunity to be heard and show good cause, the chair may order appropriate sanctions, which may include dismissal of the case. If any sanctions are imposed, the chair shall state the sanctions in writing and include the grounds for the sanctions.

(2) Unless the chair or the panel in an order for dismissal specifies otherwise, a dismissal under this paragraph is with prejudice for purposes of proceedings before the panel. A dismissal with

prejudice is deemed to be the equivalent of a finding for the defendant on all issues before the panel.

**Sec. 4. 24 MRSA §2853, sub-§9** is enacted to read:

**9. Default.** In addition to the sanctions set out in subsection 8, paragraph B, the following sanctions may be imposed against a defendant in a case pending before the panel.

A. On failure of a defendant to comply with the rules or any order of the chair, and on motion by the chair or any party, after notice to all parties has been given and the party against whom sanctions are proposed has had the opportunity to be heard and show good cause, the chair may order appropriate sanctions, which may include default. If any sanctions are imposed, the chair shall state the sanctions in writing and include the grounds for the sanctions.

B. Unless the chair or the panel in its order for default specifies otherwise, a default under this paragraph is deemed to be the equivalent of a finding against the defendant on all issues before the panel.

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

Effective May 9, 1991.

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## CHAPTER 131

### S.P. 340 - L.D. 930

#### An Act to Clarify the Certification of Correspondence Schools

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

**Sec. 1. 20-A MRSA §9201**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**§9201. Certificate of approval; exemptions**

**1. Requirement for certificate of approval.** Any privately owned post-secondary correspondence school located ~~either~~ within the State or outside the State ~~shall but~~ having a solicitor or agent in this State to recruit students or promote the school and its program must obtain a certificate of approval from the commissioner before soliciting or selling in Maine this State any correspondence course or collecting any tuition, fee or other charge. In addition, each correspondence school shall supply a listing of solicitors authorized by ~~it~~ that school to recruit in Maine this State.

**1-A. Residence component.** A privately owned correspondence school offering courses or programs that require a residence component must be classified as a proprietary

school and is subject to the licensing provisions of sections 9501 to 9504.

**2. Exemptions.** Public institutions ~~which that~~ are exempt from property taxation under Maine state laws; and courses or programs of instruction conducted under contract with an employer for employees exclusively; are exempt from the requirements of this chapter.

**Sec. 2. 20-A MRSA §9202, sub-§1**, as amended by PL 1983, c. 651, §1, is further amended to read:

**1. Application requirements; certification period; bonding and revocation of certificate.** The application for a certificate of approval required in section 9201 ~~shall must~~ be made on forms furnished by the commissioner and ~~shall~~ be accompanied by a fee of ~~\$50~~ \$100 and a surety bond in the penal sum of \$10,000.

A. A certificate ~~shall be is~~ valid for the calendar year in which it is issued.

B. The bond ~~shall must~~ be continuous and ~~shall~~ provide indemnification to any student suffering loss as a result of any fraud or misrepresentation by the school. ~~the~~ The bond shall must provide for written notification by the surety to the department in the event of cancellation. Cancellation of the bond by the surety ~~shall result~~ results in the revocation of the certificate of approval.

**Sec. 3. 20-A MRSA §9202, sub-§2**, as enacted by PL 1981, c. 693, §§5 and 8 is amended to read:

**2. Renewal.** A fee of ~~\$25.00 shall be~~ \$50 is charged for the renewal of a certificate.

See title page for effective date.

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## CHAPTER 132

H.P. 169 - L.D. 254

### An Act Regarding Court Deposits and Revenue Reporting

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

**Whereas**, current law requires that all cash bail paid to the District Court and the Superior Court be placed in interest-bearing accounts even though the amount of interest generated by small amounts often is less than the service charge on those accounts, needlessly wasting scarce judicial fiscal resources; 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 imme-

diately 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. 4 MRSA §116, 2nd ¶**, as enacted by PL 1989, c. 501, Pt. P, §1, is amended to read:

Funds received by the clerk as bail in criminal cases ~~shall must~~ be deposited daily in a special ~~interest-bearing~~ account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost effective to do so. Interest accrued in such an account ~~shall be is~~ the property of and ~~shall accrue~~ accrues to the State. The forfeiture and setoff of bail ~~shall be is~~ as otherwise provided by law.

**Sec. 2. 4 MRSA §163, sub-§1**, as amended by PL 1989, c. 501, Pt. P, §3, is further amended to read:

**1. District Court funds.** Except as otherwise provided by law, all fines, forfeitures and fees collected in any division of the District Court ~~shall must~~ be paid to the clerk ~~thereof of that District Court~~, who shall deposit them in a special account ~~within 72 hours of their receipt in a timely manner~~. Once each month, the clerk shall remit ~~such the~~ sums to the Treasurer of State, who shall credit them to the General Fund. At the same time, the clerk shall remit ~~such the~~ sums as ~~that~~ have been collected in accordance with section 1057. Funds received by the clerk as bail in criminal cases ~~shall must~~ be deposited daily in a special ~~interest-bearing~~ account. The clerk shall deposit the funds in an interest-bearing account unless the clerk determines that it is not cost effective to do so. Interest accrued in the account ~~shall be is~~ the property of and ~~shall accrue~~ accrues to the State. The forfeiture and setoff of bail ~~shall be is~~ governed as otherwise provided by law.

The court shall file a monthly report with the State Auditor itemizing the amount of fines imposed and to whom each is payable.

**Sec. 3. 4 MRSA §554**, as amended by PL 1985, c. 68, §2, is further amended to read:

**§554. Accounting by clerks**

Clerks of judicial courts shall account ~~quarterly~~ monthly under oath to the State Auditor for all fees received by them or payable to them by virtue of their office, except those portions of fees collected for passports and naturalization proceedings ~~which that~~ are payable to the ~~United States Federal~~ Government, ~~specifying~~ specify the items; and shall pay the whole amount of the same to the Treasurer of State at such times and in such manner as the Chief Justice of the Superior Court or ~~his~~ the Chief Justice's designee shall from time to time specify.

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

Effective May 9, 1991.

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