

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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J.S. McCarthy Company
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PUBLIC LAWS
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§25. Any amount received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances or any amounts received as a volunteer ~~fireman~~ firefighter, as a volunteer ~~emergency medical services person~~ or as elected members of the Legislature, ~~shall~~ is not be considered wages for the purpose of this subsection.

See title page for effective date.

CHAPTER 194

H.P. 528 - L.D. 756

An Act to Enhance the Protection of Children Who Have Been Removed from Their Homes

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

22 MRSA §4063-A is enacted to read:

§4063-A. Medical and psychological examination

1. Physical examination required. The department shall ensure that a child ordered into its custody receives an appointment for a medical examination by a licensed physician or nurse practitioner within 10 working days after the department's custody of the child commences.

2. Psychological assessment. If the physician or nurse practitioner who performs a physical examination pursuant to subsection 1 determines that a psychological assessment of the child is appropriate, the department shall ensure that an appointment is obtained for such an assessment within 30 days of the physical examination.

See title page for effective date.

CHAPTER 195

H.P. 275 - L.D. 395

An Act to Clarify Ownership of Public Ways

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

23 MRSA §3028, as amended by PL 1989, c. 395, is repealed and the following enacted in its place:

§3028. Abandonment of public ways

1. Presumption of abandonment. It is prima facie evidence that a town or county way not kept passable for the use of motor vehicles at the expense of the municipality or county for a period of 30 or more consecutive years has been discontinued by abandonment. A presumption

of abandonment may be rebutted by evidence that manifests a clear intent by the municipality or county and the public to consider or use the way as if it were a public way. A proceeding to discontinue a town or county way may not prevent or estop a municipality from asserting a presumption of abandonment. A municipality or its officials are not liable for nonperformance of a legal duty with respect to such ways if there has been a good faith reliance on a presumption of abandonment. Any person affected by a presumption of abandonment, including the State or a municipality, may seek declaratory relief to finally resolve the status of such ways. A way that has been abandoned under this section is relegated to the same status as it would have had after a discontinuance pursuant to section 3026, except that this status is at all times subject to an affirmative vote of the legislative body of the municipality within which the way lies making that way an easement for recreational use. A presumption of abandonment is not rebutted by evidence that shows isolated acts of maintenance, unless other evidence exists that shows a clear intent by the municipality or county to consider or use the way as if it were a public way.

2. Status of town way or public easement. The determination of the municipal officers regarding the status of a town way or public easement is binding on all persons until a final determination of that status has been made by a court, unless otherwise ordered by a court during the pendency of litigation to determine the status.

3. Removal of obstructions. If the municipal officers have determined under subsection 2 that the way is a town way or public easement and a court has not ordered otherwise, the municipality or an abutter on the way, acting with the written permission of the municipal officers, may remove any gates, bars or other obstructions in the way.

See title page for effective date.

CHAPTER 196

H.P. 903 - L.D. 1300

An Act Relating to the Employment of School Board Members

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

20-A MRSA §1002, sub-§3, as amended by PL 1983, c. 806, §11, is further amended to read:

3. Appointment to civil office and other employment. ~~Ne~~ A school board member may not, during the term for which the member ~~has been elected~~ serves on the board and for one year ~~thereafter~~ after the member ceases to serve on the board, be appointed to any civil office of profit or employment position, which ~~shall have~~ has been

created or the compensation of which ~~shall have~~ has been increased by the action of the school board during ~~such term~~ the time the member serves on the board.

See title page for effective date.

CHAPTER 197

H.P. 593 - L.D. 844

An Act Concerning Taxation of Time-share Condominiums

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

Sec. 1. 33 MRSA §593, sub-§4, as enacted by PL 1983, c. 407, §1, is amended to read:

4. Collection and receipt of money for taxes; tax bills. The managing entity may collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates.

If required by an ordinance enacted by the municipal officers, the managing entity shall collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates. The ordinance must also require that the municipality send the managing entity a tax bill and information necessary to identify the assessed value of each time-share unit. Nothing in this subsection prevents a municipality from sending separate tax bills to each time-share owner.

Any managing entity that collects taxes shall maintain an escrow account and pay the taxes as provided in subsection 5.

Sec. 2. 33 MRSA §593, sub-§5, as amended by PL 1987, c. 358, §2, is further amended to read:

5. Escrow account. If the managing entity collects money for taxes, it shall maintain an escrow account with a financial institution licensed by the State, and deposit any ~~moneys~~ money collected or received for taxes in the escrow account within 10 days after collection or receipt. The escrow account ~~shall~~ must be established in the names of both the managing entity and the municipality in which the time-share estates are located. No withdrawal may be made from the escrow account without the written agreement of the municipality.

Prior to the delinquency date established by the municipality in which the time-share estates are located, the managing entity shall pay to the municipal tax collector all money deposited in the escrow account for the purpose of tax payment. If the amount paid from the escrow account is not sufficient to discharge all taxes and tax-related costs, due and owing, the managing entity ~~may~~ shall either pay the difference and place a lien on those time-share estates whose owners

have not contributed to the escrow account as provided in section 594, or ~~the managing entity may~~ provide a list identifying those owners and their interests, including the periods of ownership, to the municipal tax collector who may then proceed to collect the taxes on those interests as allowed by law.

If the tax collector and treasurer use the lien procedure, described in Title 36, sections 942, 942-A and 943; to collect delinquent taxes on time-share estates, whenever a notice called for by Title 36, section 942, 942-A or 943 is sent to a time-share estate owner, the tax collector and treasurer shall give to the managing entity or leave at the managing entity's last and usual place of abode or send to the managing entity by certified mail, return receipt requested, either a copy of the notice sent to the time-share estate owner or a notice ~~which~~ that lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the tax collector or treasurer ~~shall be~~ is entitled to receive \$5 plus all certified mail, return receipt requested fees, plus the cost of any photocopying.

See title page for effective date.

CHAPTER 198

H.P. 480 - L.D. 674

An Act to Regulate the Construction of Chimneys and Fireplaces and to Amend the Oil and Solid Fuel Laws

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

Sec. 1. 25 MRSA §2354 is amended to read:

§2354. Inspection of buildings being repaired

~~The~~ Subject to Title 32, chapter 125, the inspector of buildings shall inspect all buildings while in process of being repaired, and see that all reasonable safeguards are used against the catching and spreading of fire and that the chimneys and flues are made safe. ~~He~~ The inspector may give ~~such~~ such directions in writing to the owner as ~~he~~ deems necessary concerning such repairs, ~~so as~~ to render ~~such~~ the building safe from the catching and spreading of fire.

Sec. 2. 25 MRSA §2432, as amended by PL 1971, c. 592, §35, is further amended to read:

§2432. Removal or repair of defective stoves, boilers and the like

On complaint of any citizen that a ~~chimney~~ chimney, stove, stovepipe, oven, furnace, boiler or appurtenance is defective, out of repair or so placed in any building as to endanger it or any other building, the Commissioner of