

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.

J.S. McCarthy Company
Augusta, Maine
1991

PUBLIC LAWS
OF THE
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1991

15 MRSA §3402, sub-§5, as repealed and replaced by PL 1979, c. 512, §9, is amended to read:

5. **Time for appeals.** An appeal from the juvenile court to the Superior Court ~~shall~~ must be taken within 5 days of the entry of an order of disposition or other appealed order or such further time as the Supreme Judicial Court may provide pursuant to a rule of court.

See title page for effective date.

CHAPTER 203

H.P. 440 - L.D. 623

An Act to Improve the Regulatory Operations of the Board of Licensing of Auctioneers

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

Whereas, it is vital that the funds provided for in this legislation are available for the beginning of the fiscal year 1991-92; and

Whereas, the fiscal year 1991-92 begins before the expiration of the 90-day period; 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 immediately 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. 32 MRSA §271, first ¶, as amended by PL 1989, c. 503, Pt. B, §122, is further amended to read:

The Board of Licensing of Auctioneers, as established by Title 5, section 12004-A, subsection 5, ~~shall be~~ is composed of ~~3~~ 5 members, ~~2~~ 3 of whom ~~shall~~ must be auctioneers and ~~one~~ 2 of whom ~~shall~~ must be a public ~~member~~ members. ~~Members shall be compensated~~ are entitled to compensation according to Title 5, chapter 379.

Sec. 2. 32 MRSA §272, as amended by PL 1983, c. 413, §14, is repealed and the following enacted in its place:

§272. Prohibition

A person in this State who engages in the business of auctioneering, professes to be an auctioneer or advertises the sale of real, personal or mixed property by auction must hold a valid auctioneer's license. A person does

not require a license in order to auction personal or real property that the person has maintained for that person's use or personal property that the person's parents, spouse or children have maintained for their use.

Sec. 3. 32 MRSA §273, as amended by PL 1985, c. 748, §32, is further amended to read:

§273. Resident application; fee

Every resident person in this State desiring to do business as an auctioneer, who satisfies the board that ~~he~~ that person has knowledge of the laws of this State pertaining to auctions and sales, the ethics and practices of auctioneers, the laws relating to the record of sales of used merchandise and such other related subjects as the board may select, upon application in form designated by the board, ~~shall~~ must receive a license to conduct auctions. The original application ~~shall~~ must be accompanied by 2 letters of recommendation as evidence of ethical business practice.

The board may establish an application fee and an examination fee in amounts which are reasonable and necessary for their respective purposes.

~~The applicant shall furnish evidence of a surety bond payable to the Treasurer of State in the amount of \$10,000 issued by a surety company approved by the Bureau of Insurance and licensed to do business in the State of Maine.~~

The board may establish by rule the requirements and amount of a surety bond as the board determines necessary.

The application and supporting information ~~shall~~ must be kept on file together with a record of all licenses issued. The license fee ~~shall be \$50~~ may not exceed \$100 for a biennium and the original license ~~shall be~~ is effective from date of issue until March 31st of the biennial expiration or ~~at any date which the board when the Commissioner of Professional and Financial Regulation designates. Original licenses effective for less than one year for the biennial licensing period shall be \$25.~~

Sec. 4. 32 MRSA §274, first ¶, as enacted by PL 1979, c. 478, §2, is amended to read:

Notice of expiration ~~shall~~ must be mailed to each licensee's last known address at least 30 days in advance of the expiration of ~~his~~ the license. The renewal notice ~~shall~~ must include any requests for information necessary to update the individual's records. The biennial license fee ~~shall be \$50~~ may not exceed \$100.

Sec. 5. 32 MRSA §277, as enacted by PL 1979, c. 478, §2, is amended to read:

§277. Nonresident fee; renewal

The ~~applicant~~ applicant shall pay an initial license fee of ~~\$100~~ not to exceed \$200. The license ~~will~~ may be renewed biennially upon payment of a ~~\$100 fee~~ fees not to exceed \$200. ~~A \$50 fee will be charged for licenses effective for less than one year of the biennial licensing period.~~

Sec. 6. 32 MRSA §278-A, sub-§3, ¶C and D, as enacted by PL 1983, c. 413, §19, are amended to read:

C. Failure, within reasonable time, to account for or remit any moneys coming into ~~his~~ the licensee's possession which belong to others; ~~or~~

D. Any act in violation of this chapter; ~~;~~ or

Sec. 7. 32 MRSA §278-A, sub-§3, ¶E is enacted to read:

E. Unprofessional conduct.

Sec. 8. 32 MRSA §280, sub-§4 is enacted to read:

4. Contracts. A person may not conduct an auction in this State without first having a written contract with the owner of any property to be sold. The Board of Licensing of Auctioneers shall designate the format of the contract. The contract must contain the terms and conditions, including, but not limited to:

A. Listing or description of all items to be sold;

B. Reserves, if any;

C. Payment schedule;

D. Commission rate; and

E. Statement of other charges.

Sec. 9. 32 MRSA §282, as repealed and replaced by PL 1983, c. 413, §20, is amended by adding at the end a new paragraph to read:

The Board of Licensing of Auctioneers may take any action pursuant to Title 10, section 8003, subsection 5. Any person who purports to be or operates as a licensed auctioneer without obtaining a license commits a Class E crime.

Sec. 10. 32 MRSA §283, sub-§§7 and 8, as enacted by PL 1979, c. 478, §2, are amended to read:

7. Reserve. Whether or not the auction has a reserve; ~~and~~

8. Uniform Commercial Code. A statement that the Uniform Commercial Code, Title 11, section 2-328 applies to this auction sale; ~~;~~ and

Sec. 11. 32 MRSA §283, sub-§9 is enacted to read:

9. Statement of buyer's premium. A statement of buyer's premium.

Sec. 12. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1991-92	1992-93
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Board of Licensing of Auctioneers		
Personal Services	\$600	\$600
All Other	3,000	3,000
Provides funds for additional per diems and expenses related to 2 additional board members and for rule-making and administrative expenses.		
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION		
TOTAL	<u>\$3,600</u>	<u>\$3,600</u>

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

Effective May 29, 1991.

CHAPTER 204

H.P. 433 - L.D. 616

An Act to Establish a Budget Advisory Committee in Oxford County

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

Sec. 1. 30-A MRSA c. 3, sub-c. I, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER I

TAX ASSESSMENT AND BUDGET PROCESS

Sec. 2. 30-A MRSA c. 3, sub-c. I, art. 9 is enacted to read:

Article 9 OXFORD COUNTY BUDGET COMMITTEE

§871. Budget; appropriations and approval

Notwithstanding sections 2, 701 and 702, in Oxford County the county commissioners may appropriate money,