

# 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**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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

24-A MRSA §2808-A, sub-§5, as enacted by PL 1989, c. 422, §2, is amended to read:

5. **Sunset.** Unless continued or modified by law, this section is repealed on October 1, 1994 1992.

See title page for effective date.

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## CHAPTER 354

### H.P. 1029 - L.D. 1502

#### An Act to Provide for the Acquisition of Property for the Establishment, Preservation or Enhancement of Open Space and Recreation Corridors in the State

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

Sec. 1. 12 MRSA §602, sub-§20, as enacted by PL 1987, c. 769, Pt. A, §48, is amended to read:

20. **Management of ATV's.** To administer the ATV Recreational Management Fund, established under section 7854, subsection 4, for the purposes given in that subsection. The bureau may promulgate rules, in accordance with Title 5, chapter 375, subchapter II, for the issuance of grants-in-aid from the fund and to further define alpine tundra areas pursuant to section 7851, subsection 5; and

Sec. 2. 12 MRSA §602, sub-§21 is enacted to read:

21. **Acquisition of railroad rights-of-way for open space or recreation corridors.** For the purpose of establishing, preserving or enhancing corridors for use for open space or recreation, the bureau may acquire, with the consent of the Governor, by license, lease, purchase, gift or eminent domain, railroad rights-of-way upon which rail service is no longer operated. When railroad rights-of-way or other interests in railroad rights-of-way are taken by eminent domain, the proceedings must be in accordance with this subsection and are not subject to Title 35-A, chapter 65. For purposes of these acquisitions, the term "owner" as used in this subsection means the person holding the dominant rights in the property immediately prior to the termination of the operation of rail service, and that person's successors and assigns. Acquisitions pursuant to this subsection are not subject to any limitation in acreage.

If the bureau decides to acquire property by eminent domain, it must have the property appraised and offer to the owner just compensation for the interests acquired. The

bureau must file in the registry of deeds for each county in which the property lies a notice of the taking that contains a description of the property and of the interest taken and the name or names of the owner or owners. The bureau may join in the same notice one or more properties, whether those properties are in the same or different ownership. A check in the amount of the offer and a copy of the notice of taking must be served upon the owner or owners. If there is more than one owner, the check may be served upon any one of the owners of each separate property. The notice of the taking must be published once in a newspaper of general circulation in each county where the property lies and that publication constitutes service on any unknown owner or owners or other persons who may have a claim or interest in the property.

No railroad rights-of-way or other interest within the jurisdiction of the United States Interstate Commerce Commission may be acquired by eminent domain.

If any owner is aggrieved by the bureau's award, the owner may appeal from it to the Kennebec County Superior Court or the Superior Court in the county in which the land lies within 30 days after the date of service or publication of the notice of the taking. The appeal must be taken by filing a complaint setting forth the facts upon which the case will be tried according to the Maine Rules of Civil Procedure. The Superior Court shall determine damages by a jury verdict or, if all parties agree, by the court without a jury or by a referee or referees and shall render judgment for any damages, with interest when it is due.

Except in the case of an acquisition by license or lease, unless otherwise specifically excepted by the bureau, all reversionary and servient rights in and any other conflicting claims to property acquired pursuant to this subsection terminate and are extinguished forever as of the date of the acquisition by the bureau. Any person who makes a claim to the property must mail a written notice to the owner and the bureau. Any person damaged by the extinguishing of those rights may make claim for damages in accordance with the eminent domain appeal procedures of this subsection within 2 years of the date of the acquisition. The burden of proving the validity, compensability and value of any claim is upon the claimant. Notice of the acquisition must be given to the apparent holders of such interests as provided in this subsection. If the bureau determines that the property acquired may be subject to reversionary or servient interests or other conflicting claims, in order to avoid double or multiple liability, the bureau may make a blanket award of compensation for the acquisition and, instead of serving the award check on the owner, request that the Treasurer of State establish an interest-bearing account into which the full amount of that compensation is deposited and held. The funds and any interest accrued must be disposed of as follows.

A. If the 2-year period for filing a claim for damages for the extinguishment of a reversionary or servient right or other conflicting claim expires and no claim

has been made or action filed, then the Treasurer of State, upon request by the bureau, shall pay the funds deposited, including any interest accrued, to the owner as defined in this subsection.

B. If one or more claims have been made or an action filed prior to the expiration of the 2-year period for filing a claim for damages, then the owner as defined in this subsection must be made a party to those claims and the Treasurer of State shall distribute the deposited funds, including any interest accrued, in accordance with the final order entered in such proceedings, including any appeals.

As a result of the difficulty of determining the identities and addresses of the possible holders of reversionary or servient rights or other conflicting claims, personal notice to those holders and their mortgagees is deemed given if the bureau mails a notice of the acquisition, including a description of its effect of extinguishing those rights, first class postage prepaid, to each person shown in the real estate tax records of the municipality in which the property lies as the apparent owner of land abutting the property taken. Notice must be posted in the municipal office building, if any, for that municipality and must be published once in a newspaper of general circulation in the county in which the property lies.

See title page for effective date.

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## CHAPTER 355

H.P. 454 - L.D. 644

### An Act to Require Convicted Felons to Contribute to the Cost of Rehabilitation Programs

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

**Sec. 1. 17-A MRSA §1301, sub-§1-A**, as enacted by PL 1989, c. 872, §4, is amended to read:

**1-A.** A natural person who has been convicted of a Class A, Class B, Class C, Class D or Class E crime may be sentenced to pay a fine, unless the ~~statute~~ law that the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person must be sentenced to the imprisonment and required to pay the fine authorized in that ~~statute~~ law. Subject to these sentences and to section 1302, the fine may not exceed:

- A. ~~\$25,000~~ \$50,000 for a Class A crime;
- B. ~~\$10,000~~ \$20,000 for a Class B crime;
- C. ~~\$2,500~~ \$5,000 for a Class C crime;

D. ~~\$1,000~~ \$2,000 for a Class D crime;

E. ~~\$500~~ \$1,000 for a Class E crime; and

F. Regardless of the classification of the crime, any higher amount that does not exceed twice the pecuniary gain derived from the crime by the defendant.

**Sec. 2. 17-A MRSA §1301, sub-§3**, as repealed and replaced by PL 1981, c. 317, §27, is amended to read:

3. If the defendant convicted of a crime is an organization and the ~~statute which it law that the organization is convicted of violating expressly provides that the fine it authorizes may not be suspended, the organization shall must be sentenced to pay the fine authorized therein in that law.~~ Otherwise, the maximum allowable fine ~~which that~~ such a defendant may be sentenced to pay ~~shall be~~ is:

A. Any amount for murder;

B. ~~\$50,000~~ \$100,000 for a Class A crime;

C. ~~\$20,000~~ \$40,000 for a Class B crime;

D. ~~\$10,000~~ \$20,000 for a Class C crime;

E. ~~\$5,000~~ \$10,000 for a Class D crime or a Class E crime; and

F. Any higher amount ~~which that~~ does not exceed twice the pecuniary gain derived from the crime by the convicted organization.

**Sec. 3. 34-A MRSA §1402, sub-§10** is enacted to read:

**10. Rehabilitation programs.** Within the limits of available resources, the commissioner shall establish and maintain programs, inside and outside of correctional facilities, that provide rehabilitation services and opportunities for clients.

See title page for effective date.

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## CHAPTER 356

H.P. 1229 - L.D. 1793

### An Act to Ensure Notification of Guardians Ad Litem of Changes in Foster Care Placement of Children

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

**22 MRSA §4041, sub-§3**, as enacted by PL 1991, c. 161, is amended to read: