

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
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1991

PUBLIC LAWS
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C. Develop rules of procedure necessary to carry out its duties;

D. Conduct public hearings, conferences, workshops and other such meetings to obtain information about, discuss and publicize the needs of and solutions to, problems concerning the State's criminal justice system; and

E. Prepare legislation for submission to the Legislature to implement any recommendations of the commission.

Sec. 2. 5 MRSA §12004-J, sub-§10 is enacted to read:

<u>10.</u>	<u>Maine Criminal</u>	<u>As Autho-</u>	<u>5 MRSA</u>
<u>Criminal</u>	<u>Justice</u>	<u>rized by</u>	<u>§3358</u>
<u>Justice</u>	<u>Commission</u>	<u>Commission</u>	

See title page for effective date.

CHAPTER 418

H.P. 1042 - L.D. 1515

An Act Concerning the Sale of Surplus State Property

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

Sec. 1. 5 MRSA §1813, sub-§6, as amended by PL 1989, c. 596, Pt. O, §1, is further amended to read:

6. **Surplus property.** Providing for transfer of supplies, materials and equipment ~~which that~~ are surplus from one state department or agency to another ~~which that~~ may need them, and for the disposal by private and public sale of supplies, materials and equipment ~~which that~~ are obsolete and unusable; ~~provided, however, that if any political subdivision in the State or any educational institution or homeless shelter sponsor enumerated in section 1813-A requests to purchase any such obsolete and unusable items, then the disposal shall be by private sale to that political subdivision, homeless shelter sponsor or educational institution; that. Political subdivisions, educational institutions or qualifying nonprofit organizations, as defined in section 1813-A, must be given an opportunity to purchase the surplus items through private sale. If 2 or more political subdivisions, educational institutions or qualifying nonprofit organizations are interested in any item, the sale must be the result of competitive bid. Any equipment to so purchased must be retained for a period of at least one year in a current ongoing program. Any item purchased by a political subdivision, homeless shelter sponsor or educational institution or qualifying nonprofit organization under~~

this section ~~shall~~ may not be sold or transferred by that political subdivision, ~~homeless shelter sponsor or educational institution or qualifying nonprofit organization~~ for a period of 6 months from the date of the private sale and the State reserves the right to refuse to sell additional equipment to a political subdivision, ~~homeless shelter sponsor or educational institution or qualifying nonprofit organization~~ if it is determined that the political subdivision, ~~homeless shelter sponsor or educational institution or qualifying nonprofit organization~~ has not retained the equipment for the required period of 6 months;

Sec. 2. 5 MRSA §1813-A, sub-§1, ¶B, as enacted by PL 1989, c. 596, Pt. O, §2, is repealed.

Sec. 3. 5 MRSA §1813-A, sub-§1, ¶C is enacted to read:

C. "Qualifying nonprofit organization" means a public or private nonprofit entity that owns or operates a project or facility for the homeless or a nonprofit organization that has been determined to be exempt from taxation under the United States Internal Revenue Code, Section 501 (c) and that provides services to persons with physical or mental handicaps as defined in section 4553, subsection 7-A.

See title page for effective date.

CHAPTER 419

H.P. 709 - L.D. 1014

An Act to Amend the Shoreland Zoning Laws

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

38 MRSA §438-A, sub-§1-A is enacted to read:

1-A. Minimum guidelines; limitations. The minimum guidelines adopted under subsection 1 may not require a municipality, in adopting an ordinance, to:

A. Treat an increase in hours or days of operation of a nonconforming use as an expansion of a nonconforming use; or

B. Treat as a single lot, 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of the municipal ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with state subsurface wastewater disposal rules, and;

(1) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

(2) Any lots that do not meet the frontage and lot size requirements of subparagraph (1) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

For purposes of this paragraph the term "nonconforming" means that a lot does not meet the minimum standards for lot area and shore frontage required by municipal ordinances adopted pursuant to this article.

See title page for effective date.

CHAPTER 420

S.P. 433 - L.D. 1154

An Act to Clarify the Tax Status of Nonprofit Nursing and Boarding Homes

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

36 MRSA §652, sub-§1, ¶A, as amended by PL 1971, c. 475, is further amended to read:

A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State, and none of these ~~shall~~ may be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit such funds are applied.

(1) Any such institution which is in fact conducted or operated principally for the benefit of persons who are not residents of Maine ~~shall~~ be is entitled to an exemption not to exceed \$50,000 of current just value only when the total amount of any stipends or charges which it makes or takes during any tax year, as defined by section 502, for its services, benefits or advantages divided by the total number of persons receiving such services, benefits or advantages during the same tax year does not result in an average rate in excess of \$30 per week when said weekly rate is computed by dividing the average yearly charge per person by the total number of weeks in a tax year during which such institution is in fact conducted or operated principally for the benefit of persons who are not residents of Maine. No such institution which is in fact conducted or

operated principally for the benefit of persons who are not residents of Maine and makes charges which result in an average weekly rate per person, as computed under this subparagraph, in excess of \$30 ~~shall~~ may be entitled to tax exemption. This subparagraph ~~shall~~ does not apply to institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research.

For the purposes of this paragraph, "benevolent and charitable institutions" include, but are not limited to, nonprofit nursing homes and nonprofit boarding homes and boarding care facilities licensed by the Department of Human Services pursuant to Title 22, chapter 1665 or its successor. For the purposes of this paragraph, "nonprofit" means a facility exempt from taxation under Section 501 of the Code.

See title page for effective date.

CHAPTER 421

H.P. 805 - L.D. 1159

An Act Concerning Nursing Assistants

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

Sec. 1. 22 MRSA §1812-F is enacted to read:

§1812-F. Maine Registry of Certified Nursing Assistants

1. Established. The Maine Registry of Certified Nursing Assistants is established in compliance with federal and state requirements. The Department of Human Services shall maintain the registry.

2. Contents. The Maine Registry of Certified Nursing Assistants must contain a listing of nursing assistants who have successfully completed a nursing assistant training program, hold a certificate of training and meet the eligibility requirements established by the State Board of Nursing. The listing must include, for any nursing assistant listed, a notation of:

A. Any convictions of abuse, neglect or misappropriation of property of a resident, client or patient; and

B. Any specific documented findings by the state survey agency of abuse, neglect or misappropriation of property of a resident, client or patient. For purposes of this section, "state survey agency" means the agency specified under 42 United States Code, Sections 1395aa and 1396 responsible for determining whether institutions and agencies meet require-