

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
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

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ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph D, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

Sec. 3. 38 MRSA §482, sub-§5, ¶E, as repealed and replaced by PL 1987, c. 812, §§7 and 18, is amended to read:

E. Unless intended to circumvent this article, the following transactions ~~shall~~ may not be considered lots offered for sale or lease to the general public:

(1) Sale or lease of lots to an abutting owner or to a spouse, child, parent, grandparent or sibling of the developer; ~~or~~

(2) Personal, nonprofit transactions, such as the transfer of lots by gift or devise; ~~and or~~

(3) Grant of a bona fide security interest in the whole lot or subsequent transfer of the whole lot by the original holder of the bona fide security interest or that person's successor in interest; and

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

Effective June 24, 1991.

CHAPTER 501

H.P. 333 - L.D. 463

An Act to Exempt Substance Abuse and Psychiatric Patients from the Prohibition against Smoking in Hospitals

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

22 MRSA §1580-B, sub-§3, as repealed and replaced by PL 1989, c. 878, Pt. G, §1, is amended to read:

3. Exception. A patient or resident of a hospital may smoke in designated areas within the hospital if a licensed physician has written an order permitting the patient or resident to smoke or if the patient or resident is being treated in a psychiatric or substance abuse unit. Patients or residents in such a unit must have access to, and be permitted to smoke in, a designated smoking area. The smoking area for the patients or residents of a psychiatric or substance abuse unit must be enclosed and adequately ventilated.

Any patient or resident in a psychiatric or substance abuse unit who is allowed to smoke in a hospital under this subsection must be given access to a designated smoking area unless the patient's or resident's physician prescribes that having access to a designated smoking area presents an immediate danger to the patient or resident or to others.

See title page for effective date.

CHAPTER 502

H.P. 1156 - L.D. 1697

An Act to Encourage Increased Investment and Employment in the State

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

Sec. 1. 36 MRSA §5211, sub-§8, as amended by PL 1987, c. 841, §12, is further amended to read:

8. Formula for apportionment of income to State. All income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is 3 4.

Sec. 2. Application. This Act applies to tax years beginning on or after January 1, 1991.

See title page for effective date.

CHAPTER 503

H.P. 1147 - L.D. 1672

An Act to Establish the Maine Civil Legal Services Fund

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

4 MRSA §18-A is enacted to read:

§18-A. Maine Civil Legal Services Fund established

1. Creation of fund. The Maine Civil Legal Services Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support civil legal services to persons who otherwise are not able to pay for these services.

A. Money in the fund not needed to meet current obligations must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund.

B. Money in the fund must be disbursed by the administrator in accordance with allocations approved by the Legislature to legal service providers.

2. Administration. The Supreme Judicial Court, or a person or organization designated by the court, is the administrator and shall administer the fund. The administrator shall report at least annually to the Legislature on the previous year's income and expenditures.

3. Contribution. The Supreme Judicial Court may establish procedures to encourage all attorneys at law licensed to practice in this State to contribute annually a reasonable sum to the fund, which procedures may include automatic contributions as part of a registration or license fee that an individual may avoid by written objection. All fees collected under this subsection must be deposited into the fund on a quarterly calendar basis.

4. Other funds. The fund may receive money from any source, including grants, gifts, bequests and donations. Funds appropriated and money received for the benefit of the fund must be deposited to the fund.

5. Allocation. Each year, the administrator shall allocate from the fund as follows.

A. From funds received as contributions under subsection 3, the administrator shall first allocate to the Volunteer Lawyers Project, as organized and operated by Pine Tree Legal Assistance, Inc. and the Maine Bar Foundation, an amount not less than \$26,500.

B. The administrator shall allocate any funds received as contributions under subsection 3 not allocated under paragraph A and all other funds as follows:

(1) To Pine Tree Legal Assistance, Inc., 60%;

(2) To the Bureau of Elder and Adult Services, Legal Services for the Elderly, 35%; and

(3) To the Legal Aid Clinic of the University of Maine School of Law, 5%.

See title page for effective date.

CHAPTER 504

H.P. 783 - L.D. 1115

An Act Establishing Procedures for Notice of Proposed Zoning Changes

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

Sec. 1. 30-A MRSA §4352, sub-§8, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

8. Conditional and contract rezoning. A zoning ordinance may include provisions for conditional or contract zoning. All rezoning under this subsection must:

A. Be consistent with the local growth management program adopted under this chapter;

B. Establish rezoned areas ~~which~~ that are consistent with the existing and permitted uses within the original zones; and

C. Only include conditions and restrictions ~~which~~ that relate to the physical development or operation of the property.

The municipal reviewing authority shall conduct a public hearing before any property is rezoned under this subsection. Notice of this hearing ~~shall~~ must be posted in the municipal office at least 14 days before the public hearing. Notice ~~shall~~ must also be published at least 2 times in a newspaper having general circulation in the municipality. The date of the first publication must be at least 7 days before the hearing. Notice ~~shall~~ must also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property to be rezoned at the owners' last known addresses. This notice ~~shall~~ must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.

Sec. 2. 30-A MRSA §4352, sub-§9 is enacted to read:

9. Notice and hearing in rezoning. Before any property is rezoned, the municipal reviewing authority or the municipal officers shall conduct a public hearing as required by subsection 1. Notice of this hearing must:

A. Be posted in the municipal office at least 14 days before the public hearing;

B. Be published at least 2 times in a newspaper having general circulation in the municipality, the date of the first publication must be at least 7 days before the hearing;

C. For each parcel in and abutting the area to be rezoned, be mailed at least 14 days before the public hearing to the last known address of the person to whom property tax on each parcel is assessed. A municipality shall maintain a list of names and addresses of those persons to whom a notice is mailed under this paragraph. A notice must be sent under this paragraph only if the rezoning is a change of use that permits industrial, commercial or retail development in a zone where such uses were previously prohibited or that prohibits all such uses in a zone where