

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

A. With the consent of the licensee, enter into a consent agreement ~~which~~ that fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, ~~which~~ that ensure protection of the public health and safety and ~~which~~ serve to rehabilitate or educate the licensee. These stipulations ~~shall~~ may be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

The board shall require a licensee to notify all patients of the licensee of any probation or stipulation under which the licensee is practicing as a result of board disciplinary action. This requirement does not apply to any physician participating in an alcohol or drug treatment program pursuant to Title 24, section 2505, any physician who retires following charges made or complaints investigated by the board or any physician under the care of a professional and whose medical practices and services are not reduced, restricted or prohibited by the disciplinary action.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect on September 15, 1991.

Effective September 15, 1991.

CHAPTER 535

H.P. 662 - L.D. 941

An Act to Amend the Requirement that Contracts Be in Writing

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

10 MRSA c. 202-B is enacted to read:

CHAPTER 202-B

COMMERCIAL LOAN AGREEMENTS

§1146. Writing required for commercial loans

1. Writing and signature required. A borrower may not maintain an action upon any agreement to lend money, extend credit, forbear from collection of a debt or make any other accommodation for the repayment of a debt for more than \$250,000 unless the promise, contract or agreement on which the action is brought, or some memorandum or note of the promise, contract or agreement, is:

A. In writing; and

B. Signed by the party to be charged with the promise, contract or agreement, or by some person lawfully authorized to sign for the party to be charged.

2. Notice. Subsection 1 does not apply if the person to be charged with the promise, contract or agreement failed to notify the borrower that the promise, contract or agreement must be in writing for an action to be maintained.

3. Application. This section applies only to promises, contracts and agreements entered into after the effective date of this section.

See title page for effective date.

CHAPTER 536

H.P. 1057 - L.D. 1546

An Act to Amend the Unfair Trade Practices Act to Allow Consumers to Recover Damages

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

Sec. 1. 5 MRSA §213, sub-§1, as amended by PL 1983, c. 29, §2, is further amended to read:

1. Court action. Any person who purchases or leases goods, services or property, real or personal, primarily for personal, family or household purposes and thereby suffers any loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by section 207 or by any rule or regulation issued under section 207, subsection 2 may bring an action either in the Superior Court or District Court for actual damages, restitution and for such other equitable relief, including an injunction, as the court ~~may deem~~ determines to be necessary and proper. There ~~shall~~ be a right to trial by jury in any action brought in Superior Court under this section.

Sec. 2. 5 MRSA §213, sub-§1-A is enacted to read:

1-A. Settlement offer. At least 30 days prior to the filing of an action for damages, a written demand for relief,

identifying the claimant and reasonably describing the unfair and deceptive act or practice relied upon and the injuries suffered, must be mailed or delivered to any prospective respondent at the respondent's last known address. A person receiving a demand for relief, or otherwise a party to any litigation arising from the claim that is the subject of the court action, may make a written tender of settlement or, if a court action has been filed, an offer of judgment. If the judgment obtained in court by a claimant is not more favorable than any rejected tender of settlement or offer of judgment, the claimant may not recover attorney's fees or costs incurred after the more favorable tender of settlement or offer of judgment.

The demand requirement of this subsection does not apply if the claim is asserted by way of counterclaim or cross claim.

Sec. 3. Application. The Maine Revised Statutes, Title 5, section 213, subsection 1-A applies only to actions for damages filed after the effective date of this Act.

See title page for effective date.

CHAPTER 537

S.P. 446 - L.D. 1190

An Act Regarding Investment of State Funds in Corporations Doing Business in Northern Ireland

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

5 MRSA §1955, sub-§3 is enacted to read:

3. Report. The Treasurer of State and the board shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on February 1, 1992 and each February 1st thereafter. The report, at a minimum, must contain the following information:

A. The names of United States corporations or their subsidiaries:

(1) That are currently doing business in Northern Ireland; and

(2) In which the assets of any state pension or annuity fund are invested;

B. Identification of the United States corporations or their subsidiaries listed in paragraph A that have signed agreements to abide by the standards set forth in subsection 1; and

C. A list and description of all actions taken by the Treasurer of State and the board to encourage cor-

porate adherence to this section, including shareholder petitions and initiatives.

See title page for effective date.

CHAPTER 538

S.P. 508 - L.D. 1346

An Act to Place Certain Lands Recommended by the Special Committee on the New Capitol Area Master Plan under the Jurisdiction of the Capitol Planning Commission

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

Sec. 1. 1 MRSA §814, as amended by PL 1989, c. 502, Pt. A, §1, is further amended to read:

§814. Purchase of real estate

Whenever the Governor determines that public exigencies require the construction of additional buildings, structures, parking spaces or other facilities for the expansion of State Government in the Capitol Area, ~~he~~ the Governor may purchase or take by eminent domain real estate in Augusta. The Capitol Area is ~~as defined in~~ as the following ~~description:~~ described premises.

1. West side of Kennebec River

Beginning at the intersection of the easterly line of Florence Street with the northerly line of Capitol Street; thence easterly along said northerly line of Capitol Street to a point of 150 feet westerly of the intersection of the westerly line of Federal Street projected northerly across said Capitol Street and said northerly line of Capitol Street; thence southerly and parallel to said westerly line of Federal Street about 800 feet to Kennedy Brook; thence following the thread of the stream generally easterly to its intersection with the northerly property line of the land of the State of Maine, being part of the Motor Vehicles premises; thence westerly about 60 feet along said property line; thence southerly along said property line about 155 feet; thence easterly along said property line about 140 feet; thence southerly along said property line about 120 feet to the northerly line of Manley Street; thence diagonally and southwesterly across Manley Street to its intersection with the northwesterly corner of other land of the State of Maine, thence southerly along said property line extended to the northerly line of Glenwood Street; thence along said Glenwood Street easterly to the westerly line of State Street; thence northerly along said State Street about 150 feet to a point opposite the northerly line of Britt Street; thence across State Street and along the northerly line of said Britt Street easterly to its intersection with property of Augusta Sanitary District; thence northerly and easterly as said property line may