

# 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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toring Fund exclusively for the collection of samples required under this section to monitor the level of paralytic shellfish toxin in mahogany quahogs. All money in the Toxin Monitoring Fund is subject to allocation by the Legislature. The Toxin Monitoring Fund may not lapse but must carry forward to be used for the same purpose. Nothing in this subsection prohibits the commissioner from using other funds budgeted by the department to carry out the purposes of this section.

Sec. 2. 36 MRSA §4718 is enacted to read:

**§4718. Contributions; Toxin Monitoring Fund**

The State Tax Assessor shall determine annually the total amount of tax revenue collected under this chapter. The State Tax Assessor shall deduct the cost of administering the mahogany quahog tax from those revenues and report the remainder to the Treasurer of State, who shall credit that amount to the Toxin Monitoring Fund established in Title 12, section 6731-A, subsection 5, except that not more than \$16,000 may be credited to the fund in any year. Revenues collected that are in excess of \$16,000 must be credited to the General Fund.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1991-92	1992-93
MARINE RESOURCES, DEPARTMENT OF		
Toxin Monitoring Fund		
All Other	\$12,500	\$16,000
Provides funds to collect samples for mahogany quahog toxin testing.		

See title page for effective date.

**CHAPTER 562**

**S.P. 646 - L.D. 1691**

**An Act to Assist Municipalities to Design Growth Management Strategies That Are Compatible with Rural Landscapes**

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

5 MRSA §13111, sub-§9 is enacted to read:

9. Contracts. The director may administer a contract or a series of contracts, within available resources, with a department in the University of Maine System that offers a degree program in New England studies

for the purpose of providing analysis and recommendations addressing the visual and pattern implications of land use standards on the landscape to rural municipalities in the development and evaluation of rural and growth district designations required under Title 30-A, section 4326, subsection 3, paragraph A.

See title page for effective date.

**CHAPTER 563**

**S.P. 273 - L.D. 732**

**An Act Providing a Procedure for the Termination of the Degree-granting Authority of Educational Institutions**

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

Sec. 1. 4 MRSA §1151, sub-§2, as repealed and replaced by PL 1989, c. 502, Pt. A, §9, is amended to read:

2. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 10, section 8003, subsection 5; Title 20-A, sections 10712 and 10713; Title 29; Title 32, chapter 113; and Title 35-A, section 3132, the Administrative Court ~~shall have~~ has exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency, and ~~shall have~~ has original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The Administrative Court ~~shall have~~ has original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, ~~no~~ a licensing agency may not reinstate or otherwise affect a license suspended, revoked or modified by the Administrative Court pursuant to a complaint filed by the Attorney General, without the approval of the Attorney General.

Sec. 2. 5 MRSA §10051, sub-§1, as amended by PL 1989, c. 203, §1, is further amended to read:

1. Jurisdiction. Except as provided in section 10004; Title 8, section 279-B; Title 10, section 8003; Title 20-A, sections 10712 and 10713; Title 29; and Title 35-A, section 3132, the Administrative Court ~~shall have~~ has exclusive jurisdiction upon complaint of any agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency and ~~shall have~~ has original jurisdiction upon complaint

of an agency to determine whether renewal or reissuance of a license of that agency may be refused.

**Sec. 3. 20-A MRSA §10701, sub-§3**, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**3. Educational institution.** "Educational institution" means any person, partnership, board, association, institution or corporation which other than the University of Maine System and the Maine Technical College System that offers academic, educational, literary or professional courses or programs.

**Sec. 4. 20-A MRSA §§10711 to 10714** are enacted to read:

**§10711. Prohibition**

The authority of an educational institution to confer degrees may not be sold, transferred, assigned or given as collateral. Any purported sale, transfer, assignment or encumbrance of this authority is void.

**§10712. Termination of degree-granting authority**

The authority of an educational institution to confer degrees terminates upon determination by the state board that any of the following has occurred:

**1. Discontinuance of instruction.** The substantial discontinuance of instruction by the educational institution;

**2. Sale of stock.** The sale, exchange or other transfer of all or a substantial part of the voting stock of an educational institution;

**3. Sale or lease of assets.** The sale, exchange, lease or other transfer of all or a substantial part of the assets of an educational institution; or

**4. Merger; consolidation; reorganization.** The merger or consolidation of the educational institution with any other entity, or the reorganization of the educational institution, including, but not limited to, reorganization in bankruptcy.

Upon termination of its degree-granting authority pursuant to this section, an educational institution may apply to the state board pursuant to section 10703 for a certificate of temporary approval to use the term "junior college," "college" or "university" in its name.

**§10713. Investigations; hearings**

**1. Investigations.** Whenever the state board believes that an event, transaction or condition within the scope of section 10712 may have occurred or may exist, it may conduct an investigation which may include, but is not limited to, an examination of the educational insti-

tion by a visiting committee convened by the state board for that purpose. As part of an investigation conducted under this subsection, the state board has the power to subpoena and examine under oath educational institutions, their trustees, directors, officers and employees, lenders, creditors and investors, together with their records, books and accounts. Any member of the state board may sign investigative subpoenas and administer oaths to witnesses. The state board may also require the educational institution to provide other written information relevant to the subject matter of the investigation in the format prescribed by the state board. The Superior Court has jurisdiction upon complaint filed by the state board to enforce any subpoena or request for other written information issued under this subsection.

**2. Hearings.** Before making any of the determinations authorized by section 10712, the state board shall give the educational institution an opportunity for a hearing pursuant to Title 5, chapter 375, subchapter IV.

**§10714. Application; retroactivity**

**1. Application.** Sections 10711 to 10713 apply to all educational institutions having degree-granting authority on or after the effective date of those sections, except that sections 10711 to 10713 do not apply to any educational institution if the action taken under those sections constitutes an impairment of contract that violates the United States Constitution, Article 1, Section 10, Clause 1.

**2. Retroactivity.** Any transaction described in section 10711 or 10712 occurring on or after December 4, 1990, is subject to sections 10711 to 10713.

See title page for effective date.

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**CHAPTER 564**

**S.P. 647 - L.D. 1692**

**An Act to Set Priorities in the Tax Setoff Program**

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

**36 MRSA §5276-A, sub-§§2, 3 and 7**, as enacted by PL 1981, c. 504, §4, are amended to read:

**2. Notice and hearing.** Before a setoff is made, the State Tax Assessor shall provide notice to the individual or corporate taxpayer of the intended setoff or setoffs and of the taxpayer's right to request, within 15 days of the taxpayer's receipt of that notice, a hearing before the creditor agency or agencies. The hearing shall be or hearings are held pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, but shall be are limited to the issues of whether the debt or debts