

# 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**

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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

became liquidated and whether any postliquidation events have affected the liability.

**3. Finalization of setoff.** If, within 90 days of the notice to the taxpayer of the intended setoff ~~or setoffs~~, the agency ~~or agencies~~ requesting setoff ~~certifies~~ certify to the State Tax Assessor either that the taxpayer did not make a timely request for hearing or that a hearing was held and a liquidated debt was determined after hearing to be due to that agency, the State Tax Assessor shall set off the liquidated debt against the refund due to the taxpayer. Otherwise, the State Tax Assessor shall release the entire refund to the taxpayer.

**7. Priority.** In the event that claims from more than one agency are received by the State Tax Assessor with respect to one taxpayer, the ~~claims shall be set off in the order of their receipt by the State Tax Assessor;~~ shall set off against the refund due the taxpayer as many claims of the agencies as is possible in the following order of priority:

A. Liquidated child support debts owed to the Department of Human Services;

B. Fines owed to any of the courts; and

C. All other claims in the order of their receipt by the State Tax Assessor.

See title page for effective date.

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## CHAPTER 565

H.P. 854 - L.D. 1220

### An Act to Broaden the Crime of Criminal Mischief

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

**17-A MRSA §806, sub-§1**, as amended by PL 1979, c. 289, is further amended to read:

1. A person is guilty of criminal mischief if; that person intentionally ~~or~~, knowingly; ~~he~~ or recklessly:

A. Damages or destroys the property of another, having no reasonable ground to believe that ~~he~~ the person has a right to do so; damages or destroys property to enable any person to collect insurance proceeds for the loss caused; or tampers with the property of another, having no reasonable grounds to believe that ~~he~~ the person has the right to do so, and thereby impairs the use of that property; or

B. Damages, destroys or tampers with property of a law enforcement agency, fire department; or supplier of gas, electric, steam, water, transportation, sanitation or communication services to the public, having

no reasonable ground to believe that ~~he~~ the person has a right to do so, and by such conduct recklessly creates a risk of interruption or impairment of services rendered to the public.

See title page for effective date.

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## CHAPTER 566

S.P. 638 - L.D. 1686

### An Act to Provide Additional Protection for Victims of Criminal Threatening, Terrorizing and Harassment

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

**Sec. 1. 17-A MRSA §15, sub-§1, ¶A**, as amended by PL 1989, c. 122, §2, is further amended to read:

A. Any person who ~~he~~ the officer has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, criminal threatening or terrorizing, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault, ~~criminal threatening, terrorizing~~ or reckless conduct, if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 15, section 321;

(6) Theft as defined in section 357, when the value of the services is \$1,000 or less, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(8) Negotiating a worthless instrument, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;