

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**SECOND SPECIAL SESSION**

December 12, 1991 to January 7, 1992

**SECOND REGULAR SESSION**

January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR  
SECOND REGULAR SESSION  
NON-EMERGENCY LAWS IS  
JUNE 30, 1992

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  
1992

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**SECOND SPECIAL SESSION**

**of the**  
**ONE HUNDRED AND FIFTEENTH LEGISLATURE**

**1991**

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B. For more than 12 months in all other cases.

For purposes of this subsection, "use" does not include storage, but means actual utilization of the property for a purpose consistent with its design. Property, other than automobiles and watercraft, which snowmobiles and all-terrain vehicles, that is required to be registered for use in this State does not qualify for exemption unless it was registered by its present owner outside this State more than 12 months prior to its registration in this State.

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

Effective December 21, 1991.

## CHAPTER 621

H.P. 1407 - L.D. 1990

### An Act to Make Technical Corrections to the Laws Regarding Withholding Tax on Real Estate Transfers

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the law governing the withholding of real estate transfer tax was recently amended; and

**Whereas,** that recent amendment, which is scheduled to take effect January 1, 1992, contains technical problems; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 36 MRSA §5250-A, sub-§1, ¶C,** as enacted by PL 1991, c. 591, Pt. Y, §2 and affected by §3, is amended to read:

C. "Resident," when used in reference to an individual, estate or trust, means an individual, estate or trust that has established a domicile in the State as of the date of transfer of the Maine real property, or that was a resident for purposes of the previous income tax year, unless the individual, estate or trust has established a domicile outside of the State as of the date of transfer of the Maine real property. "Resident," when used in reference

to a corporation, means a corporation that, as of the date of transfer of the Maine real property, is incorporated in the State or maintains a permanent place of business in the State. "Resident," when used in reference to a partnership, means a partnership at least 75% of whose ownership interest, as of the date of the transfer of Maine real property, is held by residents of this State.

**Sec. 2. 36 MRSA §5250-A, sub-§3-A** is enacted to read:

**3-A. Foreclosure sales; transfers in lieu of foreclosure.** No tax is required to be withheld pursuant to this section by a buyer at a foreclosure sale when the consideration paid does not exceed the debt secured by the property held by a mortgagee or lienholder; if the consideration paid does exceed the secured debt, the amount of tax withheld pursuant to this section must be the lesser of the surplus over the secured debt or the amount otherwise required to be withheld by this section. When a mortgagor conveys the mortgaged property to a mortgagee in lieu of foreclosure and with no additional consideration, the mortgagee is not required to withhold tax pursuant to this section.

**Sec. 3. 36 MRSA §5250-A, sub-§5,** as enacted by PL 1991, c. 591, Pt. Y, §2 and affected by §3, is amended to read:

**5. False certificate.** If a buyer has actual knowledge that a certificate furnished under subsection 3, ~~paragraph B~~ is false and the buyer fails to withhold the prescribed amount, the buyer is liable for the amount that should have been withheld and any applicable interest and penalty.

**Sec. 4. 36 MRSA §5250-A, sub-§10** is enacted to read:

**10. Application of withholding.** The amount withheld pursuant to this section is deemed to be a payment against the tax imposed by this Part on income received by the seller.

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

Effective December 21, 1991.

## CHAPTER 622

H.P. 1402 - L.D. 1985

### An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Years Ending June 30, 1992 and June 30, 1993 and to Change Certain Provisions of Law