

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.

J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

A. Ensure that no negative impact on existing gene pools results from the release of aquaculturally raised salmon;

B. Prohibit introduction of exotic species from the release of aquaculturally raised salmon;

C. Establish stock disease testing and monitoring procedures; and

D. Establish maximum stocking levels in state rivers. Notwithstanding subsection 1, the Atlantic Sea Run Salmon Commission is not required to accept salmon stock if maximum stocking levels are achieved, as long as those levels are maintained.

By March 1, 1993, the Atlantic Sea Run Salmon Commission shall report on this program to the joint standing committee of the Legislature having jurisdiction over marine resource matters.

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

Effective March 20, 1992.

CHAPTER 680

H.P. 1559 - L.D. 2197

An Act to Improve Disclosures of Automated Teller Machine Transactions

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

Sec. 1. 9-B MRSA §243-A is enacted to read:

§243-A. Electronic terminals; fees for and records of transactions

1. Fees for use of terminals. A financial institution authorized to do business in this State that operates electronic terminals may charge fees for the use of the terminals as specified in this section.

A. A financial institution may charge a reasonable foreign transaction fee for the use of an electronic terminal if the fee is disclosed:

(1) On a sign posted on the electronic terminal or in clear view of a customer while viewing the electronic terminal; or

(2) Electronically during the course of the transaction in a manner that permits a customer to cancel the transaction without incurring the transaction fee.

For the purposes of this paragraph, "foreign transaction fee" means a fee charged for the use of an electronic terminal to a noncustomer of the financial institution that owns the electronic terminal.

B. A financial institution may charge its own customers a reasonable fee for the use of an electronic terminal.

2. Records of terminal transactions. For each transaction processed by an electronic terminal, except for a transaction involving a negotiable instrument that is its own receipt, the electronic terminal must make available to the customer at the time of the transaction a record of each transaction. The record must include:

A. The amount of the transaction. A fee for the transaction may be included in this amount if the electronic terminal is owned or operated by a financial institution other than the financial institution that holds the customer's account if the fee is disclosed on the record of the transaction and in accordance with subsection 1;

B. The date of the transaction;

C. The type of transaction and the type of account to which or from which money is transferred. Codes may be used for this purpose if they are explained on the record of the transaction;

D. A number or code that identifies the customer, the customer's account number or the device used to access the electronic terminal;

E. The location of the electronic terminal or a number or code identifying that location; and

F. The name of each 3rd party to whom or from whom money is transferred, if the name provided by the customer can be reproduced by the electronic terminal on the record of the transaction. A code may be used for this purpose only if it is explained on the record of the transaction.

See title page for effective date.

CHAPTER 681

H.P. 1493 - L.D. 2105

An Act Regarding Loans to Stockholders, Directors or Officers of Financial Institutions

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

Sec. 1. 9-B MRSA §439-A, sub-§§2 and 4, as enacted by PL 1991, c. 34, §8, are amended to read:

2. Limitations. A financial institution subject to this Title or a service corporation established pursuant to section 445 may not make loans or extensions of credit outstanding at one time to a person in excess of 20% of its total capital and surplus. Total loans or other extensions of credit in excess of 10% of total capital and surplus must be approved by a majority of the board of directors or the executive committee of that institution or corporation. Any loan made in violation of this section is subject to the remedies prescribed in section 465-A.

4. Record of directors' actions. When loans in excess of 10% of total capital are approved, the records of the financial institution or service corporation must show who voted in favor of the loan. These records and those required by section 222 constitute prima facie evidence of the truth of all facts stated in the records in prosecutions and civil actions to enforce the provisions and penalties under section ~~465, subsection 3~~ 465-A.

Sec. 2. 9-B MRSA §465, as amended by PL 1991, c. 34, §9, is repealed.

Sec. 3. 9-B MRSA §465-A is enacted to read:

§465-A. Loans to stockholders, directors or officers

1. Authorization. A financial institution authorized to do business in this State may make loans to its principal stockholders, policy-making officers or directors, or to any related interest of those persons, subject to the limitations contained in this section.

2. Terms and credit worthiness. A financial institution may not make a loan to any of its principal stockholders, policy-making officers or directors, or to any related interest of that person, unless the loan is made on substantially the same terms, including interest rates and collateral, as those generally available to the public and does not involve more than the normal risk of repayment or present other unfavorable features.

3. Prior approval. A financial institution may not grant a loan to any of its principal stockholders, policy-making officers or directors, or to any related interest of that person, in an amount that, when aggregated with the amount of all other loans to that person and all related interests of that person, exceeds the higher of \$25,000 or 5% of the financial institution's capital or unimpaired surplus, unless:

A. The loan has been approved in advance by a majority of the entire board of directors of the financial institution; and

B. Any interested party has abstained from participating directly or indirectly in the voting.

A financial institution may not make a loan to any one of its principal stockholders, policy-making officers or

directors, or to any related interest of that person, in an amount that, when aggregated with the amount of all other loans to that person and all related interests of that person, exceeds \$500,000 except in compliance with the requirements of this subsection.

4. Participation in discussion. Participation by any principal stockholder, policy-making officer or director in the discussion or any attempt to influence the voting by the board of directors regarding a loan to the interested principal stockholder, policy-making officer or director, or any related interest of that person, constitutes indirect participation in the voting by the board of directors on the loan.

5. Lines of credit. Lines of credit to principal stockholders, policy-making officers or directors, or to any related interest of those persons, must be approved pursuant to the requirements of subsection 3. A loan granted under a line of credit approved pursuant to subsection 3 does not require prior approval pursuant to that subsection as long as the loan is granted within the term of the approved line of credit.

6. Liability for making. Every principal stockholder, officer, agent or employee of a financial institution who authorizes or assists in procuring or granting or who causes the granting of a loan in violation of this section or section 539-A or 854, to the extent that the financial institution is subject to the provisions of section 539-A or 854, or who pays or willfully permits the payment of any funds of that institution on such a loan; every director of a financial institution who votes on a loan in violation of any of the provisions of this section; and every director, principal stockholder, officer, agent or employee who knowingly permits or causes any of those actions to be done is personally responsible for payment of the loan and is guilty of a Class E crime. For purposes of this subsection, "agent" or "employee" does not include an individual who is incidentally involved in the preparation of documents or title work related to a loan.

7. Violations. A loan granted in violation of this section is due and payable immediately, without demand, whether or not it appears on its face to be a time loan. If the superintendent finds a loan outstanding in violation of this section or section 439-A or 854, the superintendent shall notify the president, clerk or treasurer of the financial institution to cause that loan to be paid immediately. If the loan is not paid within 30 days or such further time as the superintendent determines, the superintendent shall report the facts to the Attorney General, who shall commence a civil action in the name and for the benefit of the financial institution for the collection of the loan. The Attorney General may employ special counsel to prosecute the civil action. The financial institution shall pay all expenses of special counsel, to be recovered in a civil action in the name of the State.

8. Rulemaking. The superintendent may adopt rules to administer and carry out this section.

Sec. 4. 9-B MRSA §854, sub-§1, as repealed and replaced by PL 1983, c. 51, §8, is amended to read:

1. Authorization; limitations. It shall be is the duty of the board of directors to establish the policies of the credit union with respect to the granting of loans and the extending of lines of credit, including the maximum amount which that may be loaned to any one member. No A loan may not be made to any member in an aggregate amount in excess of 10% of the credit union's total assets. Any loan made in violation of this subsection is subject to the remedies prescribed in section 465-A.

See title page for effective date.

CHAPTER 682

S.P. 801 - L.D. 2000

An Act to Amend the Laws Concerning Certification of Educational Personnel

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

Sec. 1. 20-A MRSA §13012, sub-§1, as amended by PL 1985, c. 287, §2 and 8, is further amended to read:

1. Definition. A provisional teacher certificate is the entry level certificate issued to an individual who has not taught previously in the State, except as provided in section 13013, subsection 2-A, paragraph B.

Sec. 2. 20-A MRSA §13013, sub-§1, as enacted by PL 1983, c. 845, §4, is amended to read:

1. Definition. A professional teacher certificate is a renewable certificate issued to an individual who has held a provisional certificate and has met the qualifications of this section, except as provided in subsection 2-A, paragraph B.

Sec. 3. 20-A MRSA §13013, sub-§2, as enacted by PL 1983, c. 845, §4, is repealed.

Sec. 4. 20-A MRSA §13013, sub-§2-A is enacted to read:

2-A. Qualifications. State board rules governing the qualifications for a professional teacher certificate must require that the certificate may only be issued to an applicant who, at a minimum, either:

A. Holds a provisional teacher certificate or has held a professional teacher certificate that has

lapsed within the last 5 years and has taught in a classroom for 2 academic years. In this case an applicant must receive a recommendation to the commissioner by an approved support system pursuant to section 13015; or

B. Is a teacher with 2 or more years of experience teaching under a valid certificate in another state and who has graduated from a preparation program approved by a national association of state directors of teacher education and certification or a national council for accreditation of teacher education.

Sec. 5. 20-A MRSA §13033, as amended by PL 1989, c. 700, Pt. A, §70, is repealed.

Sec. 6. Study of appeals process. The Commissioner of Education, in consultation with the State Board of Education and statewide labor organizations representing teachers, shall conduct a study of the appeals process available to persons whose application for certification or endorsement is denied or whose certification or endorsement is revoked or voided. The study must examine the delays encountered in scheduling an appeals hearing and the rendering of a final decision, the causes of those delays, the staffing patterns in the Department of Education and the workload caused by appeals. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over education matters by January 1, 1993 findings and recommendations on the need to expedite the hearing and decision-making process and the advisability of reinstating the practice of employing an educator review committee to advise the commissioner on appeals. The committee may introduce related legislation to the First Regular Session of the 116th Legislature.

Sec. 7. Review of out-of-field teaching. The State Board of Education shall review the status of out-of-field teaching restrictions and present a report to the joint standing committee of the Legislature having jurisdiction over education matters by January 1, 1993. The report may include: statistics on and trends in the number of waivers and transitional endorsements requested and granted for out-of-field teaching; the subjects, grades, length and reasons for which waivers were sought; an assessment of an expedited waiver process for out-of-field teaching to be tested by the Department of Education during 1992; an evaluation of the impact of the waiver and transitional endorsement processes on school administrative units; and a summary of the progress made in providing credit for alternative, local in-service professional development programs or other alternatives to on-campus university level courses to achieve a full endorsement in a new field. The report may be combined with any other report on waivers made by the Department of Education to the Legislature.

See title page for effective date.