

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

civil violation for which a forfeiture not to exceed \$1,000 per violation may be adjudged.

See title page for effective date.

CHAPTER 704

H.P. 1412 - L.D. 2024

An Act to Clarify the Law Governing Contracts of Adhesion

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

14 MRSA §6030, as enacted by PL 1991, c. 361, §3 and affected by §3, is amended to read:

§6030. Unfair rental contracts

1. Illegal waiver of rights. It is an unfair and deceptive trade practice in violation of Title 5, section 207 for a landlord to require a tenant to enter into a rental agreement for a dwelling unit, as defined in section 6021, in which the tenant agrees to a lease or rule provision that has the effect of waiving a tenant right established in chapter 709, this chapter and chapter 710-A. This subsection does not apply when the law specifically allows the tenant to waive a statutory right during negotiations with the landlord.

2. Unenforceable provisions. The following rental agreement or rule provisions for a dwelling unit, as defined in section 6021, are specifically declared to be unenforceable and in violation of Title 5, section 207:

- A. Any provision that absolves the landlord from liability for the negligence of the landlord or the landlord's agent;
- B. Any provision that requires the tenant to pay the landlord's legal fees in enforcing the rental agreement;
- C. Any provision that requires the tenant to give a lien upon the tenant's property for the amount of any rent or other sums due the landlord; and
- D. Any provision that requires the tenant to acknowledge that the provisions of the rental agreement, including tenant rules, are fair and reasonable.

3. Exception. Notwithstanding subsection 2, paragraph B, a rental agreement or rule provision that provides for the award of attorney's fees to the prevailing party after a contested hearing to enforce the rental agree-

ment in cases of wanton disregard of the terms of the rental agreement is not in violation of Title 5, section 207 and is enforceable.

See title page for effective date.

CHAPTER 705

H.P. 1433 - L.D. 2045

An Act Concerning Funding of Indian Schools under the Act to Implement the Maine Indian Claims Settlement

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

Sec. 1. 30 MRSA §6211, sub-§2, as enacted by PL 1979, c. 732, §§1 and 31, is amended to read:

2. Limitation on eligibility. In computing the extent to which either the Passamaquoddy Tribe or the Penobscot Nation is entitled to receive state funds under subsection 1, other than funds in support of education, any moneys money received by the respective tribe or nation from the United States within substantially the same period for which state funds are provided, for a program or purpose substantially similar to that funded by the State, and in excess of any local share ordinarily required by state law as a condition of state funding, ~~shall~~ must be deducted in computing any payment to be made to the respective tribe or nation by the State. Unless otherwise provided by federal law, in computing the extent to which either the Passamaquoddy Tribe or the Penobscot Nation is entitled to receive state funds for education under subsection 1, the state payment must be reduced by 15% of the amount of federal funds for school operations received by the respective tribe or nation within substantially the same period for which state funds are provided, and in excess of any local share ordinarily required by state law as a condition of state funding. A reduction in state funding for secondary education may not be made under this section except as a result of federal funds received within substantially the same period and allocated or allocable to secondary education. This subsection is repealed June 30, 1998.

Sec. 2. 30 MRSA §6211, sub-§2-A is enacted to read:

2-A. Limitation on eligibility. In computing the extent to which either the Passamaquoddy Tribe or the Penobscot Nation is entitled to receive state funds under subsection 1, any money received by the respective tribe or nation from the United States within substantially the same period for which state funds are provided, for a program or purpose substantially similar to that funded by the State, and in excess of any local share ordinarily

required by state law as a condition of state funding, must be deducted in computing any payment to be made to the respective tribe or nation by the State. This subsection takes effect July 1, 1998, and applies to state education funding beginning in fiscal year 1998-99.

1992-93

Sec. 3. Report. On or before February 1, 1997, the school systems affected by this Act shall submit a report prepared by the system's independent financial auditor to the Department of Education and the joint standing committee of the Legislature having jurisdiction over education matters. The report must describe the effect of this Act during each of the fiscal years that have been completed since enactment of this Act by comparing how the affected schools were actually funded with how the same schools would have maximized combined federal and state funding under applicable laws without the amendment to the Maine Revised Statutes, Title 30, section 6211 made by this Act, listing for each alternative the number of students at each affected school for which federal financial support was or would have been received, the program under which it was or would have been received, the amount of the financial support and the impact of those federal funds upon the state educational subsidy computed under the then-existing state law governing school financing. The Department of Education shall also submit a report by February 1, 1997 to the joint standing committee of the Legislature having jurisdiction over education matters describing the effect of this Act in each of the fiscal years that have been completed since enactment of this Act.

Sec. 4. Application; retroactivity. The Maine Revised Statutes, Title 30, section 6211, subsection 2, as amended by this Act, applies to state education funding beginning in state fiscal year 1992-93. If this Act does not become effective before the beginning of that fiscal year, this Act applies retroactively to state education funding beginning in fiscal year 1992-93.

Sec. 5. Effective date. This Act does not take effect unless, within 60 days after adjournment of the Legislature, the Secretary of State receives written notification by the Joint Tribal Council of the Passamaquoddy Tribe and by the Governor and council of the Penobscot Nation that the tribe and nation have agreed to the provisions of this Act pursuant to 25 United States Code, section 1725(e)(1), copies of which must be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives. In no event may this Act become effective until 90 days after adjournment of the Legislature.

Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

EDUCATION, DEPARTMENT OF

General Purpose Aid for Local Schools

All Other (\$76,859)

Provides for the deappropriation of funds no longer needed due to the change in the Indian Land Claims offset adjustment.

See title page for effective date, unless otherwise indicated.

CHAPTER 706

H.P. 1465 - L.D. 2077

An Act to Correct an Inconsistency Between the Maine Employment Security Law and the Federal Unemployment Tax Act

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

26 MRSA §1043, sub-§11, ¶F, as amended by PL 1991, c. 173 and c. 193, §1, is further amended by amending subparagraph (21), division (i), subdivision (iv) to read:

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency or medical emergency; or

See title page for effective date.

CHAPTER 707

H.P. 1466 - L.D. 2078

An Act to Require a Right-to-cure Notice in Residential Mortgages

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

Sec. 1. 14 MRSA §6111 is enacted to read:

§6111. Notice of mortgagor's right to cure

1. Notice; payment. With respect to mortgages upon residential property located in this State when the mortgagor is occupying all or a portion of the property