

# 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 REGULAR SESSION**

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

**1991**

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**Sec. 1. 14 MRSA §6321, 3rd ¶**, as amended by PL 1983, c. 447, §2, is further amended to read:

The foreclosure ~~shall~~ must be commenced in accordance with the Maine Rules of Civil Procedure, and the mortgagee shall also record a copy of the complaint or a clerk's certificate of the filing ~~thereof of the complaint~~ in each registry of deeds in which the mortgage deed is or by law ought to be recorded and such recording shall thereafter constitute constitutes record notice of commencement of foreclosure. The complaint ~~shall~~ must allege with specificity the plaintiff's claim by mortgage on such real estate, describe the mortgaged premises intelligibly, state the existence of public utility easements, if any, that were recorded subsequent to the mortgage and prior to the commencement of the foreclosure proceeding and without mortgagee consent, state the amount due on the mortgage, state the condition broken and by reason of such breach demand a foreclosure and sale. Service of process on all parties in interest and all proceedings shall must be in accordance with the Maine Rules of Civil Procedure. "Parties in interest" ~~shall~~ include mortgagors, holders of fee interest, mortgagees, lessees pursuant to recorded leases or memoranda thereof, lienors and attaching creditors all as reflected by the indices in ~~said~~ the registry of deeds and the documents referred to therein affecting the mortgaged premises, through the time of the recording of the complaint or the clerk's certificate. Failure to join any party in interest ~~shall~~ does not invalidate the action nor any subsequent proceedings as to those joined. Failure of the mortgagee to join, as a party in interest, the holder of any public utility easement recorded subsequent to the mortgage and prior to commencement of foreclosure proceedings is deemed consent by the mortgagee to such easement. Any other party having a claim to the real estate whose claim is not recorded in the registry of deeds as of the time of recording of the copy of the complaint or the clerk's certificate need not be joined in the foreclosure action, and any such party ~~shall have~~ has no claim against the real estate after completion of the foreclosure sale; provided that any such party may move to intervene in the action for the purpose of being added as a party in interest at any time prior to the entry of judgment.

**Sec. 2. 14 MRSA §6321**, as amended by PL 1983, c. 447, §2, is further amended by adding at the end a new paragraph to read:

For purposes of this section, "public utility easements" means any easements held by: public utilities, as defined in Title 35-A, section 102; sewer districts as defined in Title 38, section 1251; or sanitary districts as formed under Title 38, chapter 11.

**Sec. 3. 14 MRSA §6322, first ¶**, as repealed and replaced by PL 1977, c. 618, is amended to read:

After hearing, the court shall determine whether there has been a breach of condition in the plaintiff's

mortgage, the amount due thereon, including reasonable attorney's fees and court costs, ~~and~~ the order of priority and those amounts, if any, which that may be due to those other parties which that may appear and whether any public utility easements held by a party in interest survive the proceedings. For purposes of this section, "public utility easements" has the same meaning as set forth in section 6321.

See title page for effective date.

## CHAPTER 745

H.P. 1463 - L.D. 2075

### An Act to Protect Ground Water Supplies Near Automobile Dismantling, Salvage and Recycling Operations

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

**Sec. 1. 30-A MRSA §3752, sub-§1, ¶B** is enacted to read:

B. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

**Sec. 2. 30-A MRSA §3755, sub-§2-A** is enacted to read:

2-A. Public and private water supplies. No permit may be granted for automobile graveyard operations within 100 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after the effective date of this subsection if the automobile graveyard has already received a permit under section 3753.

**Sec. 3. 38 MRSA §1310-N, sub-§2-E** is enacted to read:

2-E. Automobile dismantling, recycling and salvage operations. The department may not issue a license for a solid waste facility that is larger than 3 acres in size and that is the location of automobile dismantling, recycling and salvage if the automobile dismantling, recycling and salvage operations take place within 100 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the facility or the owner's or operator's abutting residence.

**Sec. 4. Application.** Annual permits issued under the Maine Revised Statutes, Title 30-A, section 3753 remain in effect until those permits expire.

**Sec. 5. Costs not funded.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, any requirements of this Act that result in additional costs to local and county government are not state mandates subject to that section and the State is not required to fund those costs.

See title page for effective date.

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## CHAPTER 746

### H.P. 711 - L.D. 1016

#### **An Act Relating to the Division of a Member's Rights and Benefits under the Maine State Retirement System Pursuant to a Qualified Domestic Relations Order**

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

**Whereas,** retirement benefits in many domestic relations cases such as divorce are divided as part of the court decrees, but the Maine State Retirement System is not authorized to pay the benefits as awarded. Under current law, the Maine State Retirement System is authorized to pay benefits to members only; the limited exceptions do not include spousal awards in divorce; and

**Whereas,** authorizing the Maine State Retirement System to pay benefits to nonmembers awarded benefits pursuant to qualified domestic relations orders would help ensure proper and efficient implementation of divorce and other domestic relations action decrees and reduce the instances of parties not receiving benefits that have been awarded; and

**Whereas,** this legislation establishes a process for the Maine State Retirement System to administer domestic relations orders properly and provides requirements so that courts can begin immediately to structure domestic relations orders to comply with the law; 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. 3 MRSA §703,** as enacted by PL 1985, c. 507, §1, is repealed and the following enacted in its place:

#### **§703. Legal process and assignment**

The right of a person to a retirement allowance, the retirement allowance itself, the refund of a person's

accumulated contributions, any death benefit, any other right accrued or accruing to a person under this chapter and the money in the various funds created by this chapter are not subject to execution, garnishment, attachment or any other process and are unassignable except that:

**1. Retirement allowance available for child support.** A member's retirement allowance is available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;

**2. Accumulated contributions available for child support.** A member's accumulated contributions, which are refundable under section 805, are available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process; and

**3. Qualified domestic relations order.** The rights and benefits of a member or retiree under this chapter are subject to the rights of or assignment to an alternate payee, as defined in Title 5, section 17001, subsection 3-B, under a qualified domestic relations order in accordance with Title 5, section 17059.

**Sec. 2. 4 MRSA §1203,** as amended by PL 1983, c. 863, Pt. B, §§11 and 45, is repealed and the following enacted in its place:

#### **§1203. Legal process and assignment**

The right of a person to a retirement allowance, the retirement allowance itself, the refund of a person's accumulated contributions, any death benefit, any other right accrued or accruing to a person under this chapter and the money in the various funds created by this chapter are not subject to execution, garnishment, attachment or any other process and are unassignable except that:

**1. Retirement allowance available for child support.** A member's retirement allowance is available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;

**2. Accumulated contributions available for child support.** A member's accumulated contributions, which are refundable under section 1305, are available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process; and

**3. Qualified domestic relations order.** The rights and benefits of a member or retiree under this chapter are subject to the rights of or assignment to an alternate payee, as defined in Title 5, section 17001, subsection 3-B, under a qualified domestic relations order in accordance with Title 5, section 17059.