

# 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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**3-A. Negligence; fraud.** Any person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to negligence or intentional disregard of this Title or rules issued pursuant to this Title, but is not attributable to fraud with intent to evade the tax, is liable for a penalty in the amount of \$25 or 25% of that portion of the underpayment, whichever is greater. Any person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to fraud with intent to evade the tax, is liable for a penalty in the amount of \$75 or 75% of that portion of the underpayment, whichever is greater. For the purposes of this section, the term "negligence" means any failure to make a reasonable attempt to comply with the provisions of this Title.

This subsection takes effect July 1, 1993.

**Sec. 7. 36 MRSA §187-B, sub-§4-A** is enacted to read:

**4-A. Substantial understatement.** Any person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to a substantial understatement of tax, without negligence or intentional disregard of this Title or rules or regulations issued under this Title and without fraud with intent to evade the tax, is liable for a penalty of \$5 or 1% of that portion of the underpayment, whichever is greater, for each month or fraction of a month during which the failure to pay that portion of the underpayment continues, to a maximum in the aggregate of \$25 or 25% of the underpayment, whichever is greater.

There is a substantial understatement of tax if the amount of the understatement on the return or returns for the period covered by the assessment exceeds 10% of the total tax required to be shown on the return or returns for that period or \$1,000, whichever is greater. For purposes of calculating whether an understatement is substantial and the amount of any substantial understatement that is subject to penalty under this subsection, the amount of any understatement is reduced by that portion of the understatement that is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment.

This subsection takes effect July 1, 1993.

**Sec. 8. Effective date.** Sections 4 and 5 of this Act takes effect August 1, 1992.

**Sec. 9. Application dates.** Section 5 of this Act is applicable to the assessment, accrual, waiver or abatement of penalties beginning on or after August 1, 1992, irrespective of the fact that the date as of which a penalty could have been assessed, accrued, waived or abated precedes August 1, 1992. Sections 6 and 7 of this Act

are applicable to the assessment of penalties beginning on or after July 1, 1993, irrespective of the fact that the date as of which a penalty could have been assessed precedes July 1, 1993.

See title page for effective date,  
unless otherwise indicated.

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## CHAPTER 874

S.P. 798 - L.D. 1997

### An Act to Amend the Law Regarding the Responsibilities of Code Enforcement Officers to Approve Plans or Technical Submissions by Architects

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

**Whereas,** delay in implementing changes in the law will result in undue burden on the citizens of the State and municipal code enforcement officers; and

**Whereas,** delay in implementing changes in the law will result in unnecessary confusion by people who are attempting to comply with Maine 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. 32 MRSA §225, last ¶,** as enacted by PL 1991, c. 396, §20, is repealed.

**Sec. 2. 32 MRSA §226, sub-§1, ¶E,** as repealed and replaced by PL 1991, c. 396, §21, is repealed and the following enacted in its place:

E. Any person who is qualified under section 1251 to use the title "professional engineer" from performing any professional engineering service as authorized in section 1251. Such service includes, but is not limited to consultation, investigation, evaluation, planning, design and responsible supervision and administration of construction contracts in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works or projects, and technical submissions, provided the person does only architectural or landscape architectural work that is incidental to the person's engineering work;

**Sec. 3. 32 MRSA §226, sub-§2, ¶¶A to C**, as repealed and replaced by PL 1991, c. 396, §21, are amended to read:

A. Single Detached single or 2-family dwellings, including those to be utilized for home occupations, as defined by local ordinances, and sheds, storage buildings and garages incidental to the dwellings;

B. Farm buildings, including barns, silos, sheds or housing for farm equipment and machinery, livestock, poultry or storage, if the structures are designed to be occupied by no more than 10 persons; ~~and~~

C. Alterations, renovations or remodeling of a building when the ~~alteration, renovation or remodeling does not affect structural or other safety features of the building and when the cost of the work contemplated by the design does not exceed 15% of the assessed value of the building or \$50,000, whichever is the lesser, or does not require the issuance of a permit under applicable building codes or when the work involves those structures as provided in paragraphs A and, B-, F, G and H; and~~

**Sec. 4. 32 MRSA §226, sub-§2, ¶¶F to H** are enacted to read:

F. Buildings that do not have as their principal purpose human occupancy or habitation;

G. Single-story, above-grade buildings of less than 1,000 square feet that are designed to be occupied by no more than 10 persons; and

H. Preengineered manufactured buildings. For the purposes of this section, "preengineered manufactured building" means a structural unit, other than a dwelling, that is designed by a person licensed as an engineer in the State and is constructed in a manufacturing facility.

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

Effective April 9, 1992.

**CHAPTER 875**

**S.P. 821 - L.D. 2115**

**An Act to Establish the School Construction Debt Service Limit for Fiscal Years 1994-95 and 1995-96**

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

**20-A MRSA §15905, sub-§1, ¶A**, as amended by PL 1989, c. 911, §9, is further amended to read:

A. The state board may approve projects as long as no project approval will cause debt service costs, as defined in section 15603, subsection 8, paragraphs A and D, to exceed the maximum limits specified in Table 1 in subsequent fiscal years.

Table 1

Fiscal year	Maximum Debt Service Limit
1990	\$48,000,000
1991	\$57,000,000
1992	\$65,000,000
1993	\$67,000,000
1994	\$67,000,000
<u>1995</u>	<u>\$67,000,000</u>
<u>1996</u>	<u>\$67,000,000</u>

See title page for effective date.

**CHAPTER 876**

**H.P. 1562 - L.D. 2200**

**An Act to Prevent the Poaching of Aquaculture Products**

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

Whereas, hundreds of thousands of dollars in aquaculture production are lost each year because of theft; and

Whereas, this loss is an ongoing problem that requires immediate action; and

Whereas, existing law does not provide sufficient deterrence to reduce theft of aquaculture products; 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. 12 MRSA §6073, sub-§2-A** is enacted to read:

**2-A. Cultchless American oysters; possession.** Prior to the point of retail sale, a person may not possess a cultchless American oyster grown in the State unless that person: