

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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  
1993

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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

**Sec. 1. 17-A MRSA §357, sub-§5** is enacted to read:

5. Proof that utility services have been improperly diverted or that devices belonging to the utility and installed for the delivery, regulation or measurement of utility services have been interfered with constitutes prima facie evidence that the person to whom the utility service is being delivered or diverted knowingly created or caused to be created the improper diversion or interference with the devices of the utility.

This inference does not apply unless the person to whom the utility service is being delivered has been furnished the service for at least 30 days.

**Sec. 2. 17-A MRSA §357-A**, as enacted by PL 1981, c. 668, §1, is repealed.

**Sec. 3. 35-A MRSA §2705, first ¶**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

Any A person who commits any of the acts obtains utility services as prohibited in Title 17-A, section 357-A 357, or who otherwise damages, destroys or tampers with property of a utility as provided in Title 17-A, section 805 or 806, is liable in a civil action to the utility owning the property affected. This liability shall be is for all damages suffered by the utility including:

See title page for effective date.

## CHAPTER 107

**S.P. 173 - L.D. 587**

### **An Act to Conform the Maine Tax Laws for 1992 with the United States Internal Revenue Code**

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

**Whereas**, the 90-day period would delay the processing of the 1992 income tax returns; and

**Whereas**, legislative action is immediately necessary to ensure continued and efficient administration of the Maine Income Tax Law and certain other state taxes; 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 §111, sub-§1-A**, as amended by PL 1991, c. 754, §1 and affected by §2, is further amended to read:

**1-A. Code.** "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, ~~1991~~ 1992.

**Sec. 2. Application.** This Act applies to tax years beginning on or after January 1, 1992.

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

Effective May 12, 1993.

## CHAPTER 108

**S.P. 202 - L.D. 638**

### **An Act to Modify Public Utilities Commission Practice and Rules of Evidence**

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

**Sec. 1. 35-A MRSA §1305, sub-§3**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**3. Evidence.** Evidence taken and received by the examiners has the same effect as evidence taken and received by the commission and ~~shall authorize authorizes~~ commission action as though taken and received by it. When objection is made to the admissibility of evidence, examiners authorized to practice before the Supreme Judicial Court shall rule on the admissibility of evidence in accordance with the practice and rules of evidence in civil actions in the Superior Court except as otherwise provided.

**Sec. 2. 35-A MRSA §1311**, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed and the following enacted in its place:

#### **§1311. Practice and rules of evidence; process service**

**1. Practice and rules of evidence.** In all actions and proceedings arising under this Title, all processes must be served and the practice and rules of evidence are the same as in civil actions in the Superior Court except as otherwise provided.

**2. Hearsay.** A statement not specifically covered by the hearsay exceptions in the rules of evidence but having equivalent circumstantial guarantees of trustwor-

thinness may not be excluded by the hearsay rules, if the presiding officer determines that:

A. The statement is offered as evidence of a material fact and does not constitute unduly repetitious evidence;

B. The statement is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs; and

C. The general purposes of the rules of evidence and the interests of justice are best served by admission of the statement into evidence.

**3. Process service.** A sheriff or other officer empowered to execute civil process may execute a process issued under this Title and is entitled to receive the compensation prescribed by law for that service.

See title page for effective date.

## CHAPTER 109

H.P. 491 - L.D. 649

### An Act Regarding Priorities in the Probate Code

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

**Sec. 1. 18-A MRSA §3-203, sub-§(e),** as enacted by PL 1979, c. 540, §1, is amended to read:

(e) ~~Appointment of one who does not have priority, including priority resulting from renunciation or nomination determined pursuant to this section, may be made only in formal proceedings. Appointment of one who has priority resulting from renunciation or nomination pursuant to subsection (c) may be made in informal proceedings.~~ Before appointing one without priority, the judge ~~must shall~~ determine that those having priority, although given notice of the proceedings, have failed to request appointment or to nominate another for appointment; and that administration is necessary.

See title page for effective date.

## CHAPTER 110

H.P. 501 - L.D. 659

### An Act to Provide Protection for Mortgagees Under the Utility Laws

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

**Sec. 1. 35-A MRSA §706, sub-§6,** as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**6. Subsequent purchaser takes title free of lien.** Any person who is a bona fide purchaser for value of rental property ~~shall take~~ takes title to that property free of the lien established under subsection 3 unless, before the purchaser's deed is recorded, the utility has filed the certificate set out in subsection 4. The interest of any mortgagee of rental property ~~shall be~~ is not affected by the lien established unless, before the mortgage is recorded, the utility has filed the certificate set out in subsection 4.

See title page for effective date.

## CHAPTER 111

H.P. 508 - L.D. 666

### An Act to Facilitate the Conduct of Business of the Maine Technical College System

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

**Whereas,** it is necessary for this legislation to be enacted as an emergency measure so that the Maine Technical College System can better conduct the business of the college system; 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. 20-A MRSA §12705, sub-§1,** as amended by PL 1991, c. 140, §2, is further amended to read:

**1. Membership.** The board of trustees consists of ~~10~~ 13 appointed voting members and 3 ex officio, voting members as follows:

C. ~~Nine~~ Twelve from the field of business and industry, the field of labor, the field of education and the general public;

D. The Commissioner of Education, or the commissioner's successor, who serves ex officio;

E. The Commissioner of Economic and Community Development, or the commissioner's successor, who serves ex officio;