

# 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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For purposes of this subsection, "incentive rate" means a special discount rate designed to increase utility load for a period during which the utility has excess capacity or energy.

By January 1, 1996, the commission shall report to the joint standing committee having jurisdiction over utility matters on the status of utility surplus energy and capacity and on the status of rates established under this section and shall make recommendations on the need for modifications to this section.

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

Effective June 4, 1993.

## CHAPTER 263

H.P. 481 - L.D. 618

### An Act Regarding Vessels Stored at Marinas

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

Sec. 1. 10 MRSA c. 212-A is enacted to read:

#### **CHAPTER 212-A MAINE MARINA AND BOATYARD STORAGE ACT**

##### **§1381. Short title**

This Act may be known and cited as the "Maine Marina and Boatyard Storage Act."

##### **§1382. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Default.** "Default" means the failure to pay obligations incurred by the storage of a boat, boat motor or boat trailer.

**2. Facility.** "Facility" means a marina, boatyard or marine repair facility that provides, as part of its commercial operation, the storage of boats, boat motors or boat trailers.

**3. Lienholder.** "Lienholder" or "lienholder of record" means a person who claims an interest in or lien on the property pursuant to a financing statement filed with the Secretary of State or other public filing.

**4. Property.** "Property" means a boat, boat motor or boat trailer in storage at a facility.

##### **§1383. Lien**

**1. Lien created.** A facility owner has a lien on property stored at that facility for rent, labor or other charges and for expenses reasonably incurred in the sale of that property under the provisions of this chapter.

**2. Exclusion.** This chapter does not create a lien on a documented vessel subject to a preferred ship mortgage or other preferred maritime lien pursuant to 46 United States Code, Chapter 131.

##### **§1384. Notice of lien**

A property owner must be notified of the lien created by this chapter before enforcement of the lien by a facility owner. Notification of the lien created by this chapter is satisfied by:

**1. Written storage agreement.** A written storage agreement signed by the property owner that includes a notice of the lien created by this chapter; or

**2. Written notice of lien.** Written notification of the lien sent by the facility owner to the property owner.

A facility owner who does not have a written storage agreement that includes a notice of the lien created by this chapter may not initiate an enforcement action under section 1385 until 30 days after the written notice of a lien required by subsection 2 is delivered to the property owner.

##### **§1385. Enforcement of lien**

A facility owner may enforce a lien created by this chapter only if the property owner has been notified of the lien as required by section 1384.

**1. Sale; use of proceeds.** If a property owner is in default for a period of more than 90 days, a facility owner may enforce a lien by selling the stored property at a commercially reasonable public sale for cash. As used in this section, "commercially reasonable" has the same meaning as in the Uniform Commercial Code. The proceeds of the sale must be applied in the following order:

A. To the reasonable expenses of the sale incurred by the facility owner including, to the extent not prohibited by law, reasonable attorney's fees and legal expenses;

B. To the satisfaction of the lien created by this chapter;

C. To the satisfaction of all other liens on the property held by all lienholders of record to be paid in the order of priority; and

D. To the extent that the proceeds of sale exceed the sum of the foregoing, the surplus must be paid by the facility owner to the property owner.

If proceeds of the sale are not sufficient to satisfy the property owner's outstanding obligations to the facility owner or any lienholder of record, the property owner remains liable to the facility owner or lienholder for the deficiency.

**2. Advertisement; notice of default.** Before conducting a sale under this section, the facility owner shall:

A. Send a notice of default to the property owner. The facility owner shall provide a copy of the notice to each lienholder of record. The notice must include:

(1) A statement that the property is subject to a lien held by the facility owner;

(2) A statement of the facility owner's claim indicating the charges due on the date of the notice, the amount of any additional charges that will become due before the date of sale and the date those additional charges will become due;

(3) A demand for payment of the charges due within a specified time not less than 30 days after the date the notice is delivered to the property owner and all lienholders of record;

(4) A statement that unless the claim is paid within the time stated the property will be sold, specifying the time and place of the sale; and

(5) The name, street address and telephone number of the facility owner, or the facility owner's designated agent, whom the property owner may contact to respond to the notice; and

B. After the expiration of the 30-day period set forth in paragraph A, publish an advertisement of the sale once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the sale is to be held. The advertisement must include a general description of the property, the name of the property owner and the time and place of the sale. The date of the sale must be more than 15 days after the date the first advertisement of the sale is published.

**3. Location of sale.** A sale under this chapter must be held at the facility or at the nearest suitable location.

**4. Purchasers.** A purchaser of property sold at a commercially reasonable sale pursuant to this chapter takes the property free and clear of any rights of persons against whom the lien was valid and all other lienholders of record.

**5. Facility owner liability.** If the facility owner complies with the provisions of this chapter, the facility owner's liability is as follows.

A. To a lienholder of record, the facility owner's liability is limited to payment from the net proceeds received from the sale of the property.

B. To the property owner, the facility owner's liability is limited to the net proceeds received from the sale of the property after payment in full of all lienholders of record.

**6. Denying access to storage facility.** A facility owner may deny a property owner who has been notified under subsection 2 access to the storage facility, except that the property owner is entitled to access to the facility during normal business hours for the purpose of satisfying the lien or viewing and verifying the condition of the property.

**7. Notices.** Except as otherwise provided, all notices required by this chapter must be sent by registered or certified mail, return receipt requested. Notices sent to a facility owner must be sent to the owner's business address or to the address of the owner's designated representative. Notices to a property owner must be sent to the property owner at the property owner's last known address. Notices to a lienholder of record must be sent to the address of the lienholder as provided in the public filings that serve to perfect the lienholder's interest in the property. Notices are considered delivered on the date the recipient of the notice signs the return receipt or, if the notice is undeliverable, the date the post office last attempts to deliver the notice.

#### **§1386. Cessation of enforcement actions**

A facility owner shall cease enforcement actions immediately if:

**1. Payment by owner.** The property owner pays the facility owner the full amount necessary to satisfy the lien. At any time before the conclusion of a sale conducted under this chapter, the property owner may redeem the property by paying the full amount necessary to satisfy the lien; or

**2. Payment by other lienholders.** A person other than the facility owner who has a lien on the property pays the facility owner the full amount necessary to satisfy the lien held by the facility owner. Upon payment by a lienholder of record, the facility owner shall hold

the property for the benefit of and at the direction of that lienholder and may not deliver possession of the property to the property owner. Unless the facility owner and the lienholder enter into a new storage agreement, the lienholder shall arrange removal of the property from the facility.

See title page for effective date.

## CHAPTER 264

H.P. 1012 - L.D. 1358

### An Act to Require Employee Leasing Companies to Post Security Bonds or Deposit Securities

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

**Sec. 1. 26 MRSA §1221-A, sub-§1**, as enacted by PL 1991, c. 468, §3 and affected by §6, is amended to read:

**1. Joint and several liability.** ~~Unless an employee leasing company complies with subsection 5 in a timely manner, a~~ A client company is jointly and severally liable for ~~any~~ unpaid contributions, interest and penalties due under this chapter from the employee leasing company for wages paid to employees leased to the client company. The employee leasing company must comply with subsection 5 in a timely manner in order to relieve a client company from such liability.

**Sec. 2. 26 MRSA §1221-A, sub-§5, ¶A**, as enacted by PL 1991, c. 468, §3, is amended to read:

A. To relieve client companies from the joint and several liability imposed under subsection 1, an employee leasing company ~~may~~ must post and maintain a surety bond issued by a corporate surety authorized to do business in the State in the amount of \$100,000 to ensure prompt payment of the contributions, interest and penalties for which the employee leasing company is liable under this section. After 3 consecutive years throughout which the employee leasing company has paid in a timely manner all contributions due, the bond must be reduced to \$35,000 and remain at this amount as long as the employee leasing company continues to report and pay in a timely manner all contributions due. If an employee leasing company has paid in a timely manner all contributions due for 3 consecutive years upon the effective date of this subsection, its initial bond must be \$35,000 and remain at this amount as long as the employee leasing company continues to report and pay in a timely manner all contributions due.

See title page for effective date.

## CHAPTER 265

H.P. 192 - L.D. 255

### An Act Concerning Ice-fishing Shacks

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

**Whereas**, municipalities need time to include a proposed ordinance on the warrants for their town meetings; 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 §7035, sub-§1, ¶B**, as amended by PL 1991, c. 228, is further amended to read:

B. ~~No~~ A municipality or political subdivision of the State may ~~not~~ enact any ordinance, law or rule regulating the hunting, trapping or fishing for any species of fish or wildlife; the operation, registration or numbering of watercraft or snowmobiles; or any other subject matter of chapter 715, subchapters I and II. For purposes of this paragraph, except as provided in subparagraphs (3) and (4), the regulation of fishing includes the regulation of ice fishing shacks. Nothing in this paragraph may be construed to prohibit the following:

- (1) The enactment of any ordinance generally regulating the discharge of firearms in a municipality or any part of a municipality; ~~and~~
- (2) The adoption of rules as authorized in section 7792; ;
- (3) The enactment of any ordinance regulating ice fishing shacks on sources of public water supply as provided under Title 22, section 2642; or
- (4) The enactment of any ordinance regulating ice fishing shacks on coastal waters as defined in section 6001, subsection 6.

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

Effective June 7, 1993.