

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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
1993

lected under this arrangement ~~shall~~ may not be considered to have been received by the bank until they are actually delivered to the teller at the bank's premises.

See title page for effective date.

CHAPTER 493

S.P. 606 - L.D. 1704

An Act Regarding the Implementation of the Provisions of the Higher Education Act of 1965 as Amended

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

Whereas, the Higher Education Act of 1965 as amended by the Higher Education Amendments of 1992 requires that each state designate a State Postsecondary Review Entity or SPRE; and

Whereas, the Maine Department of Education has been designated as the SPRE for the State and must develop standards and rules that are enforceable and consistent with the Constitution and laws of the State; and

Whereas, it is necessary that the Commissioner of Education be given statutory authority to make rules thereby giving a legal base to the standards as developed; and

Whereas, the standards as established by the SPRE must be submitted for approval to the Secretary of the United States Department of Education before being placed into the rule-making process required by the Maine Administrative Procedure Act; and

Whereas, the start up of the SPRE and the development and integration of the standards as rules should occur before June 30, 1994, in order for the SPRE to be able to apply for federal fiscal year 1994 funds for program implementing activities; and

Whereas, failure to fulfill the requirements as specified for the SPRE could mean the loss of eligibility for certain federal student aid programs for some state postsecondary educational institutions; 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 §10005 is enacted to read:

§10005. State postsecondary review entity

1. Department as state postsecondary review entity. The department is designated as the state postsecondary review entity for the purpose of carrying out the program integrity triad of the Higher Education Act of 1965, 20 United States Code, Sections 1099a to 1099a-3, as amended.

2. Rule-making authority. The commissioner has rule-making authority to implement the program integrity triad of the Higher Education Act of 1965, 20 United States Code, Sections 1099a to 1099a-3, as amended, concerning the conduct of the activities of the state postsecondary review entity.

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

Effective March 9, 1994.

CHAPTER 494

S.P. 600 - L.D. 1698

An Act to Eliminate the Maine School Building Authority

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

Sec. 1. 5 MRSA §12004-F, sub-§7, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 2. 20-A MRSA §3305, sub-§4, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

4. Enlargement or extension of lot. The commissioner may extend or enlarge a schoolhouse lot ~~according to the procedure and conditions in section 15705, subsection 10 by purchase or otherwise, on the terms and conditions and in the manner the commissioner determines proper, or by the exercise of eminent domain or property rights.~~ Using eminent domain, the commissioner may not take more than 25 acres for one project. In using eminent domain, the commissioner is governed by Title 35-A, chapter 65. Land taken may not be within 50 feet of a dwelling.

Sec. 3. 20-A MRSA c. 607, as amended, is repealed.

Sec. 4. 30-A MRSA §5724, sub-§1, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Public schools and libraries. Provide for public schools and libraries, ~~including construction, extensions, enlargements, repairs, improvements or maintenance to buildings for which a municipality has a contract, lease or agreement with the Maine School Building Authority under Title 20-A, sections 15701 to 15718;~~

See title page for effective date.

CHAPTER 495

S.P. 610 - L.D. 1708

An Act to Protect Consumers in Loan Broker Transactions

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

Sec. 1. 9-A MRSA §10-102, sub-§1, ¶B, as amended by PL 1991, c. 824, Pt. A, §10, is further amended to read:

B. "Credit services organization" does not include:

- (1) A supervised financial organization as defined in section 1-301, subsection 38;
- (2) A supervised lender as defined in section 1-301, subsection 39;
- (3) A person licensed by the Real Estate Commission to the extent that the person is engaged in activities regulated by that commission;
- (4) A person currently admitted to the practice of law in this State;
- (5) Any nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3) to the extent that the organization's activities are consistent with those set forth in its application for tax exemption to the Internal Revenue Service; or
- (6) A consumer reporting agency, as defined in the Fair Credit Reporting Act, Title 10, chapter 210.

Sec. 2. 9-A MRSA §10-201, first ¶, as enacted by PL 1989, c. 70, §3, is amended to read:

A person desiring to engage or continue in business in this State as a credit services organization shall apply to the administrator for registration under this article on or before January 31st of each year. The application ~~shall~~ **must** be in a form prescribed by the administrator. The administrator may refuse the application if it contains erroneous or incomplete information. A registration may not be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and where applicable, its partners, officers or directors, warrant belief that the business will be operated honestly and fairly within the purposes of this Title.

Sec. 3. 9-A MRSA §10-301, as enacted by PL 1989, c. 70, §3, is amended to read:

§10-301. Escrow of funds

Each credit services organization shall place fees from consumers, other than bona fide 3rd-party fees, in an escrow account ~~with a financial institution in this State,~~ separate from any operating accounts of the business, pending completion of services offered. With respect to credit services organizations offering to arrange for or obtain extensions of credit for consumers, or provide advice or assistance therefor, "completion of services offered" means procurement of credit under the terms agreed to by the parties.

Sec. 4. 9-A MRSA §10-302, sub-§1, as enacted by PL 1989, c. 70, §3, is amended to read:

1. A full and detailed description of the services to be performed for the consumer, including all guarantees and all promises of full or partial refund of fees paid, whether or not services are completed, and the ~~terms length of time~~ terms length of time for which the agreement ~~shall remain~~ remains in effect before return of the fees for nonperformance can be required by the consumer;

Sec. 5. 9-A MRSA §10-401, as enacted by PL 1989, c. 70, §3, is amended to read:

§10-401. Effects of violations on rights of parties

Any credit services organization ~~which that~~ violates any provision of this ~~article~~ Title or any rule issued by the administrator, ~~or that through any unfair, unconscionable or deceptive practice causes actual damage to a consumer,~~ is subject to the following:

- 1.** After notice and hearing, a cease and desist order from the administrator;
- 2.** After notice and hearing, forfeiture of such portion of the required bond as proportionately may make aggrieved parties whole;