

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

C. The mortgagee has provided a payoff statement with respect to the loan secured by the mortgage;

D. The mortgagee has received payment that has been proved by a bank check, certified check or attorney client funds account check negotiated by the mortgagee or by evidence of receipt of payment by the mortgagee;

E. More than 30 days have elapsed since the payment was received by the mortgagee; and

F. The mortgagee has received written notification by certified mail 15 days in advance, sent to the mortgagee's last known address, that the affiant intends to execute and record an affidavit in accordance with this section, enclosing a copy of the proposed affidavit; the mortgagee has not delivered a discharge or deed of release in response to the notification; and the mortgagor has complied with any request made by the mortgagee for additional payment at least 15 days before the date of the affidavit.

2. Name; address; mortgagee; mortgagor.

The affidavit must include the names and addresses of the mortgagor and the mortgagee, the date of the mortgage, the title reference and similar information with respect to recorded assignment of the mortgage.

3. Copy. The affiant shall attach to the affidavit the following, certifying that each copy is a true copy of the original document:

A. Photostatic copies of the documentary evidence that payment has been received by the mortgagee, including the mortgagee's endorsement of a bank check, certified check or attorney client funds account check; and

B. A photostatic copy of the payoff statement if that statement is made in writing.

4. Effect. An affidavit recorded under this section has the same effect as a recorded discharge.

5. Exception. A mortgage may not be discharged as provided by this section if the holder of the mortgage at the time a discharge is sought is a financial institution authorized to do business in the State as defined by Title 9-B, section 131, subsection 17-A.

See title page for effective date.

CHAPTER 535

S.P. 618 - L.D. 1720

An Act to Encourage Innovation and Competitiveness by Electric Utilities

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

Sec. 1. 35-A MRSA §1311-A is enacted to read:

§1311-A. Protective orders; confidential information

Records placed under a protective order by the commission pursuant to the Maine Rules of Civil Procedure, Rule 26 (c) are within the scope of a privilege against discovery within the meaning of Title 1, section 402, subsection 3, paragraph B and are not public records while under the protective order.

See title page for effective date.

CHAPTER 536

H.P. 847 - L.D. 1152

An Act to Clarify the Authority of the Department of Transportation to Determine Condition of Property Prior to Acquiring

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 Department of Transportation can effectively and efficiently accomplish its mission of providing transportation services to the citizens of Maine; 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. 23 MRSA §153, as amended by PL 1991, c. 462, is repealed.

Sec. 2. 23 MRSA §153-B is enacted to read:

§153-B. Property for highways; acquisition

1. Acquisition of property. The Department of Transportation, on behalf of the State, may take over and hold for the State such property as it determines necessary to:

- A. Lay out and establish, construct, improve or maintain, provide a change of location or alignment of or provide drainage for state and state aid highways;
- B. Provide rest areas, parking strips, roadside and landscape development for the preservation and development of natural scenic beauty;
- C. Provide for the health, safety and welfare of the public using a state or state aid highway;
- D. Secure materials, with necessary ways and access, for the construction, improvement and maintenance of state and state aid highways;
- E. Secure the relocation, removal or disposal of automobile graveyards and junkyards not in conformity with Title 30-A, chapter 183, subchapter I;
- F. Erect administrative, storage and operational buildings used in effecting the objectives in conformity with section 1; or
- G. Construct, improve and maintain transportation projects as directed by law and provide mitigation for existing or potential environmental effects of transportation projects.

2. Survey and appraisal. When property is to be purchased or taken over and held for the State, the department shall first cause the property or interest in the property to be acquired to be surveyed and described, and a plan of the property made, and to be appraised by one or more appraisers. The owner or the owner's designated representative must be given an opportunity to accompany the appraisers during the appraiser's inspection of the property. All persons employed by the department are authorized, to the extent necessary for surveys and preliminary engineering, to enter and cross all lands within, adjoining and adjacent to the area to be surveyed in carrying out the objectives of this section. The department may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property.

3. Entry; soundings, drillings and examinations. Persons employed by the department may enter upon the property or building with the consent of the owner, for the purpose of making soundings, drillings and examinations as the department determines necessary for the purpose of this subchapter. If the

department is unable to obtain consent of the owner, the department is authorized to seek an administrative inspection warrant from the Superior Court for the county in which the property is located for the purpose of making soundings, drillings and examinations. The department shall file an application in Superior Court in the form of a sworn affidavit that must include:

- A. The statutory authority under which the department is authorized to acquire lands by eminent domain;
- B. A description of the property to be examined;
- C. A statement that the department has requested permission from the owner of the property to conduct an examination and that permission has been denied; and
- D. A statement of the purpose for the entry and examination and the nature and scope of the activities reasonably necessary to accomplish this purpose.

4. Notification to potential buyer. If an owner decides to sell the property after the owner has been notified by the department that it plans to purchase or take the property, it is the responsibility of the owner to inform the potential buyer that the department intends to purchase or take the property. The department, as early in its property owner notification process as possible, shall remind the property owner of this responsibility.

Sec. 3. 23 MRSA §1915, sub-§2, as repealed and replaced by PL 1981, c. 318, §4, is amended to read:

2. Procedures. The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall must be in accordance with this section and sections ~~153 through~~ 153-A to 159.

Sec. 4. 30-A MRSA §3760, sub-§3, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Procedures. The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this section and Title 23, sections ~~153~~ 153-A to 159.

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

Effective March 24, 1994.