

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

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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 as a result of these assessments accrue to the Victims' Compensation Fund.

See title page for effective date.

CHAPTER 571

H.P. 1287 - L.D. 1735

An Act to Exempt Schools from Certain Fees

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

Sec. 1. 37-B MRSA §801, sub-§4, ¶C is enacted to read:

C. Public schools are exempt from registration fees and inventory fees imposed pursuant to this section prior to March 1, 1994 for underground storage tanks. This paragraph does not exempt a public school from registration or inventory requirements other than the payment of fees prior to March 1, 1994 for underground storage tanks.

Sec. 2. Credit for fees paid. Registration and inventory fees imposed pursuant to the Maine Revised Statutes, Title 37-B, section 801 and paid by public schools for underground storage tanks prior to March 1, 1994 must be credited against any fee due on or after March 1, 1994 from the school that paid the fee.

See title page for effective date.

CHAPTER 572

H.P. 1320 - L.D. 1782

An Act to Clarify the Tax-exempt Status of Nonprofit Rental Housing

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

Whereas, the moratorium on the eligibility of nonprofit rental housing for property tax exemptions expires on March 31, 1994; and

Whereas, Maine property tax payers could be forced to absorb millions of dollars in tax losses if the moratorium expires before permanent legislation is enacted to correct this situation; 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 §652, sub-§1, ¶C, as amended by PL 1993, c. 422, §4, is further amended to read:

C. Further conditions to the right of exemption under paragraphs A and B are that:

(1) Any corporation claiming exemption under paragraph A must be organized and conducted exclusively for benevolent and charitable purposes;

(2) A director, trustee, officer or employee of an organization claiming exemption is not entitled to receive directly or indirectly any pecuniary profit from the operation of that organization, excepting reasonable compensation for services in effecting its purposes or as a proper beneficiary of its strictly benevolent or charitable purposes;

(3) All profits derived from the operation of an ~~organization~~ organization claiming exemption and the proceeds from the sale of its property are devoted exclusively to the purposes for which it is organized;

(4) The institution, organization or corporation claiming exemption under this subsection shall file with the tax assessors upon their request a report for its preceding fiscal year in such detail as the tax assessors may reasonably require;

(5) An exemption is not allowed under this subsection in favor of an agricultural fair association holding pari-mutuel racing meets unless it has qualified the next preceding year as a recipient of the "Stipend Fund" provided in Title 7, section 62; ~~and~~

~~(6) Real or personal property owned, occupied or used to provide residential rental housing that is used on other than a transient basis and during or before tax year 1993 was not exempt under paragraph A or B, is not exempt in any tax year after 1993.~~

~~For purposes of this subparagraph, "residential rental housing" does not include property used as a nonprofit nursing home, boarding home or boarding care facility licensed by the Department of Hu-~~

~~man Services pursuant to Title 22, chapter 1665 or community living facilities as defined in Title 30 A, section 4357, subsection 2, paragraph B or any property of a nonprofit organization licensed as a mental health facility by the Department of Mental Health and Mental Retardation pursuant to Title 34 B, section 1203 A.~~

~~This subparagraph does not apply to property conveyed to a nonprofit corporation on or before September 1, 1993.~~

~~This subparagraph is repealed March 31, 1994.~~

(6) An exemption allowed under paragraph A or B for real or personal property owned and occupied or used to provide federally subsidized residential rental housing is limited as follows: Federally subsidized residential rental housing placed in service prior to September 1, 1993 by other than a nonprofit housing corporation that is acquired on or after September 1, 1993 by a nonprofit housing corporation and the operation of which is not an unrelated trade or business to that nonprofit housing corporation is eligible for an exemption limited to 50% of the municipal assessed value of that property.

An exemption granted under this subparagraph must be revoked for any year in which the owner of the property is no longer a nonprofit housing corporation or the operation of the residential rental housing is an unrelated trade or business to that nonprofit housing corporation.

(a) For the purposes of this subparagraph, the following terms have the following meanings.

(i) "Federally subsidized residential rental housing" means residential rental housing that is subsidized through project-based rental assistance, operating assistance or interest rate subsidies paid or provided by or on behalf of an agency or department of the Federal Government.

(ii) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate pur-

poses the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(iii) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, located on one parcel of land and held in common ownership prior to the conversion to nonprofit status and containing 9 or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(iv) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit corporation of the purposes or functions constituting the basis for exemption under Section 501(c)(3) of the Code.

(b) Eligibility of the following property for exemption is not affected by the provisions of this subparagraph:

(i) Property used as a nonprofit nursing home, boarding home or boarding care facility licensed by the Department of Human Services pursuant to Title 22, chapter 1665 or a community living facility as defined in Title 30-A, section 4357, subsection 2, paragraph B or any property owned by a nonprofit organization licensed or funded by the Department of Mental Health and Mental Retardation to provide services to or for the benefit of persons with mental illness or mental retardation;

(ii) Property used for student housing;

(iii) Property used for parsonages;

(iv) Property that was owned and occupied or used to provide residential rental housing that qualified for exemption under paragraph A or B prior to September 1, 1993; or

(v) Property exempt from taxation under other provisions of law; and

(7) In addition to the requirements of subparagraphs (1) to (4), an exemption is not allowed under paragraph A or B for real or personal property owned and occupied or used to provide residential rental housing that is transferred or placed in service on or after September 1, 1993, unless the property is owned by a nonprofit housing corporation and the operation of the residential rental housing is not an unrelated trade or business to the nonprofit housing corporation.

For the purposes of this subparagraph, the following terms have the following meanings.

(a) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(b) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, containing one or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(c) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit organization of the purposes

constituting the basis for exemption under Section 501(c)(3) of the Code.

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

Effective March 31, 1994.

CHAPTER 573

S.P. 641 - L.D. 1788

An Act to Reduce the Property Tax Burden in Androscoggin County

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 30-A MRSA §725, sub-§§1 and 5, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

1. Proposed budget. The county commissioners shall submit itemized budget estimates, as described in sections 701 and 702, and a capital improvement program to the budget committee in a timely fashion; at least 60 days before the end of the county's fiscal year.

5. Adoption of budget. After the public hearing or hearings held under subsection 4 are completed, the budget committee may further increase, decrease, alter and revise the proposed itemized budgets, subject to the conditions and restrictions imposed in subsection 3. The proposed itemized budget and the capital improvement program submitted under subsection 1 must be finally adopted by a majority vote of the budget committee at a duly called meeting held before the end of the county's fiscal year.

Sec. 2. 30-A MRSA §725, sub-§9 is enacted to read:

9. Surplus funds. In developing the proposed itemized budget under this section, the budget committee and the county commissioners shall use 10% of any unencumbered surplus funds in excess of estimates from the previous fiscal year as reported in the audited financial report for that year to reduce the tax