

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.

J.S. McCarthy Company
Augusta, Maine
1993

RESOLVES
OF THE
STATE OF MAINE
AS PASSED AT THE
FIRST REGULAR SESSION
of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE
1993

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

Whereas, Canadian Pacific Limited has filed notice of intent with the National Transportation Agency in Canada for authority to abandon operations of the Canadian Atlantic Railway, a business unit of the Canadian Pacific Railway system, on the railway's main line and connecting rail lines east of Sherbrooke, Quebec, including its main line through the State; and

Whereas, Canadian Pacific Limited will seek similar authority from the United States Interstate Commerce Commission to discontinue operations and abandon the railway's main line in the State; and

Whereas, the Canadian Atlantic Railway traverses the State for 201.2 miles from the Quebec-Maine border near T-2 R-8 passing through the towns of Jackman, Greenville, Brownville, Mattawamkeag, Kingman, Wytovitlock, Danforth, Forest Station, Lambert Lake to Vanceboro on the Maine-New Brunswick border; and

Whereas, the Canadian Atlantic Railway interchanges with the Bangor and Aroostook Railroad at Brownville Junction and the Springfield Terminal Railway Company at Mattawamkeag, providing essential east-west connections for freight shipments to and from mills of Bowater Corporation, Fraser Paper Limited and Georgia Pacific Corporation; and

Whereas, the rail trackage of the Canadian Pacific Railway system through the State is utilized by VIA Rail providing rail passenger service between St. John, New Brunswick and Montreal and points west with station stops at Vanceboro, Mattawamkeag, Brownville Junction, Greenville and Jackman; and

Whereas, 93 Maine citizens are employed by Canadian Atlantic Railway and abandonment will mean the loss of those jobs; 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

Sec. 1. Request denial of abandonment authority. Resolved: That the Governor, the Commissioner of Transportation, the Commissioner of Economic and Community Development and other state officials work with Canadian officials, affected shippers, affected municipalities, affected labor unions and other interested parties to request the United States Interstate Commerce Commission and the National Transportation Agency of Canada to deny abandonment authority to Canadian Pacific Limited; and be it further

Sec. 2. Reverse railway decision. Resolved: That the Governor, the Commissioner of Transportation, the Commissioner of Economic and Community Development and other state officials work with Canadian Pacific Limited in order to reverse the railway's decision to abandon operations of the Canadian Atlantic Railway, to maintain current rail freight and passenger service and to prevent economic hardship on the State, on the employees of the railway and on state businesses dependent on the railway to economically move their freight shipments.

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

Effective May 18, 1993.

CHAPTER 8

H.P. 747 - L.D. 1014

Resolve, to Continue the Commission to Study the Feasibility of a Capital Cultural Center

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

Whereas, there is still important work to be carried out by the Commission to Study the Feasibility of a Capital Cultural Center; 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,

Sec. 1. Resolve 1991, c. 46, §9, amended. Resolved: That Resolve 1991, c. 46, §9, is amended to read:

Sec. 9. Capital Cultural Center location. Resolved: That a Capital Cultural Center may not be constructed within the Capitol Area, as defined in the Maine Revised Statutes, Title 1, section 814-; and be it further

; and be it further

Sec. 2. Resolve 1991, c. 46, §10, enacted. Resolved: That Resolve 1991, c. 46, §10, is enacted to read:

Sec. 10. Additional report. Resolved: That, in addition to the report required under section 7, the commission shall submit a report to the First Regular Session of the 117th Legislature no later than November 1, 1994.

; and be it further

Sec. 3. Retroactivity. Resolved: That this resolve takes effect retroactively to November 1, 1992.

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

Effective May 18, 1993.

CHAPTER 9

H.P. 562 - L.D. 759

Resolve, Authorizing the Merger of MCD Residential Care, Inc., a Maine For-profit Corporation, with Medical Care Development, Inc., a Nonprofit Corporation

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

Whereas, Medical Care Development, Inc., or MCD, a Maine nonprofit corporation is in the business of developing and operating homes for the elderly, infirm and mentally disabled throughout the State; and in 1988 MCD wanted to expand the range of services offered by acquiring York Manor, a nursing home facility in Biddeford, Maine, but due to uncertainty whether the nursing home services to be provided at York Manor qualified for tax-exempt charitable status under state and federal tax laws, as required by MCD's charter, MCD formed a wholly owned for-profit subsidiary, MCD Residential Care, Inc., to permit that acquisition without jeopardizing MCD's tax exempt status; and

Whereas, subsequent clarifications by the Internal Revenue Service together with modifications to MCD's Articles of Incorporation have made it clear that the operation of a nursing home is consistent with the nonprofit charitable goals of MCD and the restrictions placed on tax exempt corporations generally and, accordingly, MCD wishes to merge MCD Residential Care, Inc. with MCD to consolidate operations, reduce costs and enhance services; and

Whereas, Maine law does not expressly allow mergers between a for-profit corporation and a nonprofit corporation, the Secretary of State has indicated that the Secretary of State is not authorized to approve the merger; and

Whereas, the Secretary of State has indicated that the Secretary of State does not oppose the merger of MCD Residential Care, Inc. with MCD; and

Whereas, the merger of MCD Residential Care, Inc. and MCD will enable MCD, as a nonprofit charitable corporation, to take advantage of federal guaranty programs to replace commercial loans for York Manor and to take advantage of other incentives offered by the Federal Government to reduce the operating costs for York Manor; and

Whereas, the costs to operate York Manor are mostly reimbursed by the Department of Human Services, and the anticipated savings achieved through the merging of MCD Residential Care, Inc. and MCD and the resulting savings achieved in the refinancing of York Manor through the use of federal loan guarantees available only for tax exempt charitable organizations will create substantial and significant savings for the State; and

Whereas, the 90-day period for acts and resolves of the Legislature to become effective delays the benefits of the merger of MCD Residential Care, Inc., a Maine for-profit corporation, with MCD, a Maine nonprofit corporation; and

Whereas, legislative action is immediately necessary to ensure that the substantial financial benefits that will be gained by the State as a result of the merger of MCD Residential Care, Inc. and MCD are received as soon as possible; 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

Sec. 1. MCD Residential Care, Inc. authorized to merge into Medical Care Development, Inc. Resolved: That notwithstanding any laws to the contrary, MCD Residential Care, Inc. is authorized to merge with Medical Care Development, Inc., and that corporation remains a Maine nonprofit corporation; and be it further

Sec. 2. Merger to be completed within one year. Resolved: That the merger of MCD Residential Care, Inc. and Medical Care Development, Inc. must be completed within one year of the date this resolve is approved by filing the Articles of Merger and the Plan of Merger with the Secretary of State in accordance with the Maine Revised Statutes, Title 13-B.

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

Effective May 27, 1993.