

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

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.