

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 7, 1994 to June 30, 1995

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 29, 1995

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
1995

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

Sec. 1. 30-A MRSA §2603, first ¶, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

The clerk, treasurer and collector of a municipality may each appoint in writing a one or more qualified person persons as deputy deputies.

Sec. 2. 32 MRSA §281, sub-§5 is enacted to read:

5. Tax-acquired property. This chapter does not apply to the sale by or on behalf of a municipality of any real or personal property acquired by that municipality for nonpayment of taxes.

Sec. 3. 33 MRSA §1853, sub-§5, as enacted by PL 1987, c. 691, §4, is amended to read:

5. Exception for certain municipally acquired property. This section chapter does not apply to tangible personal property located in or on real property acquired by a municipality for taxes or tangible personal property located in "dangerous buildings," as described by Title 17, section 2851. Personal property located within in or on real property acquired by a municipality for taxes or within "dangerous buildings" shall must be removed by the owner or owners within 21 days after written notice to do so by the municipal officers. The notice shall must be sent by certified mail, return receipt requested, to the owner or owners at their last known address. The notice shall must specify that unless the tangible personal property is removed it will be disposed of by the municipality. Any municipality which that has complied with this subsection shall is not be liable for the disposal of tangible personal property under this section chapter.

Sec. 4. 36 MRSA §505, first ¶ is amended to read:

At any meeting, ~~when at which~~ it votes to raise a tax, or at any subsequent meeting prior to the commitment of that tax, a municipality may, with respect to ~~such~~ the tax, by vote determine:

Sec. 5. 36 MRSA §506-A, as enacted by PL 1985, c. 333, §§2 and 3, is amended to read:

§506-A. Overpayment of taxes

Except as provided in section 506, a taxpayer who pays an amount in excess of that finally assessed shall must be repaid the amount of the overpayment plus interest from the date of overpayment at a rate to be established by the municipality. ~~The~~ With respect to overpayments of taxes relating to property tax years beginning prior to April 1, 1996, the rate of interest

may not exceed the interest rate established by the municipality for delinquent taxes reduced by 4% but may not be less than 8% nor greater than 12%. With respect to overpayments of taxes relating to property tax years beginning on or after April 1, 1996, the rate of interest may not exceed the interest rate established by the municipality for delinquent taxes or be less than that rate reduced by 4%. If a municipality fails to set a rate, it shall pay interest at the rate ~~of 12%~~ it has established for delinquent taxes.

Sec. 6. 36 MRSA §942, last ¶, as amended by PL 1977, c. 630, §8, is further amended to read:

The municipality shall pay the tax collector \$4 ~~§3~~ for the notice, \$1 for filing the tax lien certificate and the amount paid for certified mail, return receipt requested, fees. The fees for recording the tax lien certificate and for discharging the tax lien mortgage ~~shall must~~ be paid by the municipality to the register of deeds.

See title page for effective date.

CHAPTER 58

H.P. 427 - L.D. 590

**An Act to Clarify Law Enforcement
Relating to Junkyards and
Automobile Graveyards**

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

Sec. 1. 30-A MRSA §4452, sub-§5, ¶J, as amended by PL 1991, c. 548, Pt. D, §6, is repealed and the following enacted in its place:

J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter I.

See title page for effective date.

CHAPTER 59

H.P. 695 - L.D. 953

**An Act to Amend the Workers'
Compensation Board's Annual
Assessment**

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

Whereas, Public Law 1993, chapter 619 required a report to the Joint Standing Committee on Labor by the Superintendent of Insurance and the Executive Director of the Workers' Compensation Board by January 15, 1995 on the most equitable pro rata distribution of the Workers' Compensation Board's annual assessment between insureds and self-insureds; and

Whereas, determination of the annual Workers' Compensation Board's assessment is required by law prior to May 1st of each year; and

Whereas, without further legislation the basis of this assessment may be seriously questioned and the financial support of the services provided by the Workers' Compensation Board be threatened causing unneeded confusion to employees and employers alike; 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. 39-A MRSA §154, sub-§3, as repealed and replaced by PL 1993, c. 619, §2, is amended to read:

3. Assessment on workers' compensation insurance. The following provisions apply regarding the Workers' Compensation Board assessment on workers' compensation insurance.

A. Every insurance company or association that writes workers' compensation insurance in the State and that does business or collects premiums or assessments in the State, including newly licensed insurance companies and associations, shall pay to the board the assessment determined pursuant to this section for the purpose of providing partial support and maintenance of the board.

B. The assessment must be stated as a percentage of gross direct premiums written, whether in cash or in notes absolutely payable on contracts written on risks located or resident in the State for workers' compensation insurance, less the amount of the direct return premiums on the gross direct premiums written and all dividends paid to policyholders on direct workers' compensation premiums each employer's premium base. In determining the assessment percentage, consideration must be given to the balance in the

Workers' Compensation Board Administrative Fund.

B-1. An employer's premium base for assessment purposes is defined as payroll times the filed manual rate applicable to the employer times the employer's current experience modification factor, if applicable. The calculation may not include any deductible credit, other than credits for the \$1,000 and \$5,000 indemnity deductibles and the \$250 and \$500 medical deductibles established pursuant to Title 24-A, sections 2385 and 2385-A. For policies written using retrospective rating, the premium base must be calculated in accordance with this paragraph regardless of the actual retrospective premium calculation.

The employer's premium base is subject to the final audit requirements of the Bureau of Insurance Rule, Chapter 470. If the audit results in a change in premium base, the amount of the assessment must be adjusted accordingly.

C. ~~The~~ For each fiscal year, the initial assessment percentage must be determined by the board by May 1st of each the prior fiscal year. Insurance companies or associations must begin collecting the initial assessment from all employers on July 1st of each year. In establishing the assessment percentage, the board shall estimate the expected premium base for the upcoming fiscal year based on the returns filed under paragraph D and anticipated trends in the insurance marketplace. The board shall consult with the Bureau of Insurance and other knowledgeable sources to help determine the trends. The board may adjust the assessment percentage at any time but shall provide written notice to the affected companies and associations at least 45 days prior to the effective date of the adjustment. The board may not adjust the assessment percentage more than 3 times in a fiscal year. The adjusted assessment percentage must be applied prospectively on policies with an effective date on or after the effective date of the adjustment.

D. Every insurance company or association subject to the assessment imposed by this section with an ~~annual assessment of over \$5,000 must~~ estimated annual payment of \$50,000 or more based on previous assessment returns may make payments quarterly. Each insurance company or association electing quarterly payments must on or before the last day of each January, each April, the 25th day of each June and the last day of each October file with the board on forms prescribed by the board a return for the quarter ending the last day of the preceding month, except the month of June, which is for the quarter

ending June 30th and remit payment of the assessment based upon the results for the quarter reported. A final reconciled annual return must be filed on or before September 15th covering the prior fiscal year in which the previous assessment was levied. The final return must be certified by the company's or association's chief financial officer. Insurance companies or associations with an annual assessment estimate of under ~~\$5,000~~ \$50,000 shall pay the assessment on or before June 1st and shall also file a quarterly and an annual return on forms prescribed by the board. Affiliated insurers may aggregate their collection volume in order to meet the \$50,000 assessment threshold as long as the affiliation is consistent with the standards defined in Title 24-A, section 222. Those qualifying insurance companies or associations that opt to consolidate their quarterly payments and reports may do so only if each individually licensed company or association is individually reported within each consolidated return.

Sec. 2. 39-A MRSA §154, sub-§4, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

4. Assessment on self-insured employers.

Every self-insured employer approved pursuant to section 403 shall, for the purpose of providing partial support and maintenance of the board, pay an assessment on aggregate benefits paid by each member pursuant to section 404, subsection 4. This assessment must be a dollar amount.

Sec. 3. 39-A MRSA §154, sub-§5, as amended by PL 1993, c. 619, §3, is further amended to read:

5. Amounts of premiums and losses; distribution of assessment. The Bureau of Insurance shall provide to the board the amounts of gross direct workers' compensation premiums written by each insurance carrier and the amounts of aggregate benefits paid by each self-insurer and group self-insurer on or before April 1st of each year. ~~For~~ Beginning with the assessment for the fiscal year beginning July 1, 1994 1995 and thereafter, the total assessment must be distributed between insurance companies or associations and self-insured employers in direct proportion to the pro rata share of disabling cases attributable to each group for the most recent calendar year 1993 for which data is available. This distribution of the assessment must be determined on a basis consistent with the ~~Five Year Comparison, Disabling Cases, Number and Percent by Insurer Type, Maine, 1991 1992 information~~ reported by the Department of Labor, Bureau of Labor Standards, Research and Statistics Division in its ~~October 1993 edition of~~ annual Characteristics of Work-Related

Injuries and Illnesses in Maine—1992 publication, provided that ~~the any~~ segment of the market identified as "not-insured" ~~must~~ be excluded from the calculation of proportionate shares. In consultation with the Director of Labor Standards, the board shall determine a date prior to the required assessment to establish the distribution.

Sec. 4. 39-A MRSA §154, sub-§6, as amended by PL 1993, c. 619, §3, is further amended to read:

6. Assessment levied. The assessments levied under this section may not be designed to produce more than \$6,000,000 in revenues annually beginning in the 1993-94 1995-96 fiscal year. Assessments collected that exceed \$6,000,000 by a margin of more than 10% must be refunded to those who paid the assessment. Any amount collected above the board's allocated budget and within the 10% margin must be used to create a reserve of up to 1/4 of the board's annual budget. Any collected amounts or savings above the allowed reserve must be used to reduce the assessment for the following fiscal year. The board shall determine the assessments prior to May 1st and shall assess each insurance company or association and self-insured employer its pro rata share for expenditures during the fiscal year beginning July 1st. Each self-insured employer shall pay the assessment on or before June 1st. Each insurance company or association shall pay the assessment in accordance with subsection 3.

Sec. 5. 39-A MRSA §154, sub-§7, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

7. Insurance company or association collections. Insurance companies or associations shall bill and collect assessments under this section on insured employers. ~~Such~~ The assessments must be separately stated amounts on all premium notices and may not be reported as premiums for any tax or regulatory purpose or for the purpose of any other law. All collected payments must be submitted to the board with the next quarterly payment. The Bureau of Insurance shall report to the board all newly authorized workers' compensation carriers in order to facilitate notification to the new carrier of its obligations under this section.

Sec. 6. 39-A MRSA §154, sub-§11, as enacted by PL 1993, c. 145, §5, is repealed.

Sec. 7. 39-A MRSA §154, sub-§12 is enacted to read:

12. Audit. In consultation with the Bureau of Insurance, the board may audit all returns and investigate any issues relevant to the collection and payment of any assessment under this section.

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

Effective May 3, 1995.

CHAPTER 60

H.P. 256 - L.D. 358

An Act to Require the Use of the Process of Forcible Entry and Detainer in Eviction of Mobile Home Owners and Tenants

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

Sec. 1. 10 MRSA §9097-B is enacted to read:

§9097-B. Entry and detainer

Process of forcible entry and detainer pursuant to Title 14, chapter 709 must be used in mobile home evictions.

Sec. 2. 14 MRSA §6001, sub-§1, as enacted by PL 1981, c. 428, §1, is amended to read:

1. Persons against whom process may be maintained. Process of forcible entry and detainer may be maintained against a disseisor who has not acquired any claim by possession and improvement; against a tenant holding under a written lease or contract or person holding under such a tenant; against a tenant where the occupancy of the premises is incidental to the employment of a tenant; at the expiration or forfeiture of the term, without notice, if commenced within 7 days from the expiration or forfeiture of the term; ~~and~~ against a tenant at will, whose tenancy has been terminated as provided in section 6002; and against mobile home owners and tenants pursuant to Title 10, chapter 951, subchapter VI.

See title page for effective date.

CHAPTER 61

H.P. 377 - L.D. 512

An Act to Amend the Limitation on Damages in State Tort Claims Actions to Allow for the Accrual of Post-judgment Interest

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

Sec. 1. 14 MRSA §8105, sub-§2, as repealed and replaced by PL 1977, c. 78, §113, is amended to read:

2. Costs. Court costs, prejudgment interest and all other costs ~~which that~~ a court may assess shall must be included within the damage limit specified by this section. Accrued post-judgment interest may not be included within the damage limit.

See title page for effective date.

CHAPTER 62

H.P. 305 - L.D. 409

An Act to Continue Requiring Probable Cause before the Exercise of Protective Custody

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

Sec. 1. 34-B MRSA §3862, sub-§1, as amended by PL 1993, c. 596, §1, is further amended to read:

1. Law enforcement officer's power. If a law enforcement officer has reasonable grounds to believe, based upon probable cause, that a person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons, the law enforcement officer:

- A. May take the person into protective custody; and
- B. If the officer does take the person into protective custody, shall deliver the person immediately for examination by an available licensed physician or licensed clinical psychologist, as provided in section 3863.

~~This subsection is repealed October 1, 1995.~~

Sec. 2. 34-B MRSA §3862, sub-§1-A, as enacted by PL 1993, c. 596, §2 and affected by §4, is repealed.

Sec. 3. 34-B MRSA §3863, sub-§3, ¶C, as enacted by PL 1993, c. 596, §3, is amended to read:

C. Notwithstanding paragraph B, subparagraphs (1) and (2), a person sought to be admitted informally under section 3831 or involuntarily under this section may be held for evaluation and treatment at a hospital pending judicial endorsement of the application and certificate if the endorsement is obtained between the soonest available hours of 7:00 a.m. and 11:00 p.m. :