

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**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**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

decisions on eligibility for coverage, eligibility of costs and waiver and amount of deductible, may appeal that decision to the Fund Insurance Review Board. The public members of the review board shall hear and render a decision on the appeal. Except as provided in review board rules, the appeal must be filed within 30 days after the applicant receives the commissioner's decision on the matter. The appeals panel must hear an appeal at its next meeting following receipt of the appeal, unless the appeals panel and the aggrieved applicant agree to hear the appeal at a different time. If the appeals panel overturns the commissioner's decision, reasonable costs, including reasonable attorney fees, incurred by the aggrieved applicant in pursuing the appeal to the review board must be paid from the fund. Reasonable attorney fees include only those fees incurred from the time of a claims-related decision forward. Decisions of the appeals panel are subject to judicial review pursuant to Title 5, chapter 375, subchapter VII. The review board may adopt rules determining the timing of filing appeals on questions of eligibility of costs for payment by the fund.

See title page for effective date.

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## CHAPTER 362

### S.P. 519 - L.D. 1401

#### **An Act Relating to the Establishment of a Continuum of Quality and Affordable Long-term Care and Service Alternatives**

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

**Whereas,** the development of housing and services for elderly and disabled adults is proceeding at a fast pace and requires standards and consumer protections; and

**Whereas,** the development of housing and services for elderly and disabled adults requires a revised and stable regulatory scheme for developers; and

**Whereas,** emergency legislation is necessary to address these situations as quickly 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 enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §2053, sub-§2-C** is enacted to read:

**2-C. Congregate housing facility.** "Congregate housing facility" means "congregate housing" as defined in section 5152, that has been certified pursuant to section 5154 and has a legally binding contractual arrangement for the provision of health care services with a licensed home health care provider as defined in section 303.

**Sec. 2. 22 MRSA §2053, sub-§5,** as amended by PL 1993, c. 390, §7, is further amended to read:

**5. Participating health care facility.** "Participating health care facility" means a health care or congregate housing facility that, pursuant to this chapter, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of existing indebtedness as provided in and permitted by this chapter.

**Sec. 3. 22 MRSA §5155** is enacted to read:

#### **§5155. Fire safety inspection**

**1. Inspection required.** Certification may not be issued by the department under this chapter to a provider until the department has received from the State Fire Marshal a written statement indicating that the congregate housing facility has complied with applicable fire safety provisions specified in this section. Each facility after receiving its initial inspection and approval from the State Fire Marshal's Office must be reinspected every 2 years in connection with the recertification of the congregate housing facility under the provisions of this chapter.

**2. Fees.** The department shall establish a fee schedule and pay reasonable fees to the State Fire Marshal for each inspection.

**3. Fire safety standards.** The applicability of the particular chapter of the National Fire Protection Association Life Safety Code 101, 1994 edition, is determined based upon the following facility sizes.

**A.** A small facility is a facility occupied by not more than 6 residents.

**B.** A medium facility is a facility occupied by more than 6 but fewer than 17 residents.

**C.** A large facility is a facility occupied by more than 17 residents.

**4. Small facility.** A small facility must meet the rooming and lodging requirements of Chapter 20 of

the National Fire Protection Association Life Safety Code 101, 1994 edition, except that the facility is not required to have sprinkler systems pursuant to Title 25, section 2452.

**5. Medium facility.** A medium facility must meet the residential board and care requirements of Chapter 22 of the National Fire Protection Association Life Safety Code 101, 1994 edition.

**6. Large facility.** A large facility must meet the requirements of Chapter 12 (Health Care) for Limited Care Facilities of the National Fire Protection Association Life Safety Code 101, 1994 edition except that buildings that are 2 stories or less may qualify as a type V (III) under that chapter. An existing large facility must meet the requirements of Chapter 22 concerning residential board and care for a large facility of the National Fire Protection Association Life Safety Code 101, 1994 edition or must be evaluated under the fire safety evaluation system for residential boarding care facilities.

**7. Repeal.** This section is repealed October 1, 1996.

**Sec. 4. Assisted Living Task Force.** The Assisted Living Task Force, referred to in this section as the "task force," is established to study state laws and regulations and alternatives for the development of services and housing for elderly and disabled adults.

**1. Membership.** The task force consists of 16 members appointed as follows:

- A. The State Fire Marshal, or the designee of the State Fire Marshal;
- B. The Commissioner of Human Services, or a designee of the commissioner;
- C. A member of the State Board of Nursing, appointed by the board;
- D. One operator of a residential care facility and one operator of a congregate housing facility, each appointed by the President of the Senate. One operator of a residential care facility and one operator of a congregate housing facility, each appointed by the Speaker of the House of Representatives;
- E. One provider of home health care services not owned or operated by a congregate housing or residential care facility, nominated by the Home Care Alliance of Maine and appointed by the President of the Senate. One provider of home health care services that is owned by the owner of a congregate housing or residential care

facility, appointed by the Speaker of the House of Representatives;

F. Two persons who are presently residents of congregate housing or residential care facilities or representatives of those individuals, appointed by the Governor;

G. Two persons from statewide organizations representing the general interests of elder residents of the State, appointed by the Governor;

H. One person representing the long-term care ombudsman program, appointed by the Governor;

I. One member of the Senate serving on the Joint Standing Committee on Human Resources, appointed by the President of the Senate; and

J. One member of the House of Representatives serving on the Joint Standing Committee on Human Resources, appointed by the Speaker of the House of Representatives.

**2. Appointments.** All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the chair of the Legislative Council shall call and convene the first meeting of the task force no later than August 1, 1995. The task force shall select a chair from among its members.

**3. Duties.** The task force shall perform the following tasks:

- A. Review and evaluate state law and regulations governing the provision of housing and supportive services for adults in settings outside of nursing facilities, including congregate housing, assisted living and residential care facilities. Attention must be given to emerging models for delivering housing and supportive services to older and disabled adults. The task force shall consider the goals of consumer choice and independence, cost-effectiveness, flexibility, protection of consumer rights and personal and community safety;
- B. Review and evaluate the development of the provision of supportive housing and services for adults nationwide;
- C. Review and incorporate in its recommendations proposed laws and regulations that range from less restrictive to more restrictive as necessary to provide adequate information and to protect the public, the residents of the housing and

the recipients of the services. The proposed laws and regulations must recognize the differences among consumers, housing situations and services provided and distinguish among them in the level of regulation required;

D. Prior to making its recommendations the task force shall consult with consumers, advocates for consumers, providers and other interested parties, including the Maine State Housing Authority and the Maine Health and Higher Educational Facilities Authority;

E. Review and evaluate the existing rules of practice of the State Board of Nursing and the home health care rules currently in effect as adopted by the Department of Human Services for the purpose of providing flexibility, cost effectiveness and consumer protection. The task force shall make recommendations for revisions to these rules; and

F. Review and evaluate the 1994 edition of the National Fire Protection Association Life Safety Code 101 and make recommendations concerning the applicability of certain provisions to the different types of housing facilities.

**4. Meetings.** The task force may meet as often as necessary but shall meet at least once per month.

**5. Staff assistance.** The task force may request staffing and clerical assistance from the Legislative Council.

**6. Volunteerism.** The task force members serve on a volunteer basis and are not entitled to reimbursement or pay of any type.

**7. Report.** The task force shall submit its report with any accompanying legislation to the Second Regular Session of the 117th Legislature by February 15, 1996.

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

Effective June 28, 1995.

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## CHAPTER 363

H.P. 147 - L.D. 195

### An Act to Protect the Rights of Maine State Retirement System Employees

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

**Whereas,** the employment status and rights of employees of the Maine State Retirement System who were transferred to the Maine State Retirement System as a public instrumentality under the provisions of Public Law 1993, chapter 410, Part L, section 47, are due to change as of the end of the transfer period on June 30, 1995; and

**Whereas,** an extension of certain rights beyond the transfer period meets the needs and interests of these employees; and

**Whereas,** the obligation of the Maine State Retirement System to fund for the actuarial liabilities associated with these employees as state employees and as employees of the system as a public instrumentality needs to be addressed; and

**Whereas,** the clarification set out in this legislation must be effective upon the expiration of the transfer period of June 30, 1995; 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. 5 MRSA §18253, sub-§1, ¶D,** as enacted by PL 1993, c. 410, Pt. L, §43, is amended to read:

D. For the purposes of this subsection, an employee of the Maine State Retirement System who is a member on January 1, 1994 is considered to be reemployed with a new employer. If an employee returns to state service ~~within 2 years of January 1, 1994~~ during the period that begins on July 1, 1995 and ends 180 days after the date upon which the initial collective bargaining agreement between the Maine State Retirement System and the collective bargaining agent that represents the employees of the system becomes effective, all funds transferred to the account of the Maine State Retirement System as the new employer on behalf of the employee from the State's account must be returned to the State's account. For the purpose of service, breaks in service and benefit accruals, the employee must be treated as if the employee had remained in state service throughout the period in question. For purposes of this paragraph, "becomes effective" means that the collective