

# 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**

- C. If the tree is over 10 and up to 14 inches in diameter, a forfeiture of \$75;
- D. If the tree is over 14 and up to 18 inches in diameter, a forfeiture of \$100;
- E. If the tree is over 18 and up to 22 inches in diameter, a forfeiture of \$125; and
- F. If the tree is greater than 22 inches in diameter, a forfeiture of \$150.

**Sec. 6. 17 MRSA §9564, sub-§7**, as enacted by PL 1981, c. 43, is amended to read:

**7. Damages.** Any complaint ~~which~~ that either seeks damages for the wrongful removal of a building or structure or challenges the award of costs must be filed no later than 30 days from the date of the judgment or order ~~which~~ that is the subject of the appeal. The damages ~~which~~ that may be awarded for wrongful demolition are limited to the actual value of the structure at the time of its removal. The provisions of Title 14, section 7552 ~~and section 7555~~ do not apply. If the municipality should prevail, the court may award it its costs in defending any appeal which may include, but are not limited to, reasonable attorney's fees.

See title page for effective date.

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**CHAPTER 451**

S.P. 536 - L.D. 1474

**An Act to Establish the Maine  
Judicial Compensation Commission**

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

**Sec. 1. 4 MRSA c. 35** is enacted to read:

**CHAPTER 35**

**JUDICIAL COMPENSATION COMMISSION**

**§1701. Judicial Compensation Commission**

**1. Commission established.** The Judicial Compensation Commission, referred to in this chapter as the "commission," established by Title 5, section 12004-G, subsection 23-A shall study and make recommendations concerning the salary, benefits and retirement to be paid for all justices and judges of the Supreme Judicial Court, the Superior Court, the District Court and the Administrative Court.

**2. Members.** The commission consists of 3 members selected from among the registered voters of the State; one is appointed by the Governor, one by

the President of the Senate and one by the Speaker of the House. The public official with the power to appoint a member is the person in office on the day that member's term begins. The commission may not contain more than 2 members of the same political party. The initial appointments must be made within 10 days of the effective date of this section.

**3. Terms of office.** The initial member appointed by the Speaker of the House serves until December 31, 1996. The initial member appointed by the President of the Senate serves until December 31, 1997. The initial member appointed by the Governor serves until December 31, 1998. After the initial appointments, members serve for terms of 4 years, beginning January 1, 1997 for the member appointed by the Speaker of the House, beginning January 1, 1998 for the member appointed by the President of the Senate and beginning January 1, 1999 for the member appointed by the Governor. Members are limited to 2 consecutive terms.

**4. Vacancies.** A vacancy on the commission is filled promptly for the remainder of the term in the same manner in which the position was originally filled under subsection 2. If a vacancy remains unfilled for more than 90 days, a temporary member of the commission must be appointed by a vote of the remaining commission members to serve with full powers of a commission member. A temporary member of the commission serves until the vacancy is filled by the public official with the power to appoint that member under subsection 2 and this subsection.

**5. Prohibition on public service.** A member of the commission may not hold any other public office or be an employee or member of any state department, agency, board or commission during the member's tenure on the commission. A violation of this subsection by a member of the commission results in immediate constructive resignation and the resulting vacancy must be filled according to subsection 4.

**6. Designation of chair.** The members, by majority vote, shall designate a chair from among their number who shall serve for 2 years from the date of election or until a successor is designated by majority vote and assumes the responsibilities.

**7. Meeting; quorum; concurrence.** The Executive Director of the Legislative Council shall call the first meeting of the commission no later than 5 days after the appointments are made. For all subsequent meetings, the commission shall meet, either in person or by teleconference, on the call of the chair or on the request of at least 2 members. The presence of at least 2 members is required to conduct a meeting. The concurrence of at least 2 members is required for any formal action taken by the commission. The working papers, draft reports and other

papers of the commission in the possession of a legislative employee are excepted from the definition of public records in accordance with Title 1, section 402, subsection 3, paragraph C.

**8. Administration.** The Legislative Council shall provide staff support for the commission when the Legislature is not in session.

**9. Reimbursement.** Notwithstanding Title 5, section 12002-A, members are entitled to reimbursement for actual and necessary expenses related to the travel to and from commission meetings when the expenses are approved by the chair and submitted to the Executive Director of the Legislative Council and are entitled to reimbursement for reasonable expenses incurred in the exercise of their powers under subsection 11 when approved by the Executive Director. The reimbursement must be made from the funds of the administrative office of the court system upon the request of the Executive Director. Other expenses may not be reimbursed by state funds.

**10. No compensation.** The members of the commission receive no compensation for their services.

**11. Directive of commission.** The commission shall study and make recommendations with respect to all aspects of judicial compensation in this State so that the judicial compensation structure is adequate to ensure that the most highly qualified lawyers in this State, drawn from diverse life and professional experiences, are not deterred from serving or continuing to serve in the state judiciary and do not become demoralized during service because of compensation levels that do not meet the criteria set forth in subsection 12.

**12. Criteria for recommendations.** In order to carry out its responsibilities under subsection 13 to make findings, conclusions and recommendations as to the proper salary and benefits for all justices and judges of this State and to fulfill the directive of the commission as set out in subsection 11, the commission may consider the following factors as they apply specifically in this State and where relevant elsewhere:

A. The skill and experience required of the particular judgeship at issue;

B. The time required of the particular judgeship at issue;

C. The value of compensable service performed by justices and judges, as determined by reference to judicial compensation in other states and the Federal Government;

D. The value of comparable service performed in the private sector, including private judging,

arbitration and mediation, based on the responsibility and discretion required in the particular judgeship at issue and the demand for those services in the private sector;

E. The compensation of attorneys in the private sector;

F. The Consumer Price Index and changes in that index;

G. The overall compensation presently received by other public officials and employees; and

H. Any other factors that are normally or traditionally taken into consideration in the determination of compensation.

**13. Biennial report required.** No later than December 1st of each odd-numbered year, the commission shall make its biennial report to the joint standing committees of the Legislature having jurisdiction over appropriations matters and judicial matters. The biennial report must include findings, conclusions and recommendations as to the proper salary and benefits, including retirement, to be paid from the State Treasury and other sources for all justices and judges of this State. The commission is authorized to submit with its report any proposed legislation the commission determines necessary to implement these recommendations.

**§1702. Repeal**

This chapter is repealed December 31, 1999.

**Sec. 2. 5 MRSA §12004-G, sub-§23-A** is enacted to read:

<b>23-A.</b>	<u>Judicial</u>	<u>Expenses</u>	<u>4</u>
<u>Judiciary</u>	<u>Compensation</u>	<u>Only</u>	<u>MRSA</u>
<u>Commission</u>			<u>§1701</u>

See title page for effective date.

**CHAPTER 452**

**S.P. 338 - L.D. 919**

**An Act to Amend the Continuing Care Retirement Community Law**

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

**Sec. 1. 22 MRSA §2053, sub-§3-A,** as amended by PL 1993, c. 661, §1, is further amended to read:

**3-A. Health care facility.** "Health care facility" means a nursing home that is, or will be upon