

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 28, 1995 to December 1, 1995**

**SECOND REGULAR SESSION**  
**January 3, 1996 to April 4, 1996**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 4, 1996**

**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**

**§244-B. Committee to direct undertaking of audits**

Pursuant to section 243, subsection 6, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs may direct the State Auditor to undertake management audits, systems reviews or audits of any department or agency of the State.

**Sec. 3. Consolidation of audits of state financial records within the Department of Audit.**

1. The Department of Audit shall prepare a proposal to consolidate all of the audits of state financial records within the Department of Audit, except for audits authorized under the Maine Revised Statutes, Title 5, section 1621. The department shall ensure that, under its proposal:

A. All audits of state records are performed by individuals who have had necessary education, training and continuing education;

B. The auditors are properly supervised and independent of the area being audited;

C. All audits of state records are conducted in accordance with generally accepted auditing standards, governmental auditing standards issued by the Comptroller General of the United States, and relevant provisions published by the federal Office of Management and Budget; and

D. Adequate qualified audit staff exist under the State Auditor's supervision to audit all state departments on a reasonable cycle.

2. The Department of Audit shall provide progress reports to the Joint Standing Committee on Appropriations and Financial Affairs no later than August 1, 1996 and October 1, 1996. The committee may meet with representatives from the Department of Audit and any other department or agency of State Government to discuss these reports at any meeting of the committee scheduled in accordance with the Maine Revised Statutes, Title 3, section 522.

3. The Department of Audit shall submit its proposal and any necessary implementing legislation, including proposals to transfer auditor positions to the Department of Audit from other state departments and agencies, to the Joint Standing Committee on Appropriations and Financial Affairs no later than December 1, 1996.

**Sec. 4. Examination of financial reporting capabilities within the Bureau of Accounts and Control.** The Department of Audit shall examine staffing levels in the Department of Administrative and Financial Services, Bureau of Accounts

and Control as they relate to financial reporting. The Department of Audit shall submit its findings and recommendations, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than December 1, 1996.

**Sec. 5. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 5, section 244 and enact Title 5, section 244-B take effect January 1, 1997.

See title page for effective date, unless otherwise indicated.

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**CHAPTER 652**

**H.P. 1304 - L.D. 1785**

**An Act Relating to Payment of  
Tristate Lotto Prizes**

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

**Sec. 1. 8 MRSA §416, sub-§1**, as amended by PL 1991, c. 295, §2 and affected by §4, is further amended to read:

**1. Prizes over \$5,000; certified list.** All prizes over \$5,000 are awarded to holders of winning tickets as provided in this section. Within one week after any drawing or selection of prize winning tickets, the commission shall deliver to each of the party states a certified list of the tickets to which prizes are awarded and the amount of each such prize. Upon delivery of the certified list and voucher of the commission, moneys sufficient for the payment of those prizes may be withdrawn from the prize account established in section 415, subsection 2. The commission shall each month provide each party state with a record of all such withdrawals. Payment of prizes is made by the commission, or its designee, to holders of the tickets to which prizes are awarded. The right of any person to a prize drawn is not assignable, except that payment of any prize drawn may be paid to ~~the estate of a deceased prize winner, and except that any person, pursuant to an appropriate judicial order or an administrative order relating to child support, may be paid the prize to which the winner is entitled.~~ The commission and its officers, agents and employees are discharged of all further liability upon payment of a prize pursuant to this section another person as provided in section 416-A.

~~Prior to paying any winnings that must be paid directly by the commission, the commission shall determine whether the lottery winner is on a list,~~

~~provided by any of the party states, of persons who owe to that state a child support debt that has been liquidated by judicial or administrative action. If the winner is on a list of persons who owe child support debts, the commission shall suspend payment of winnings and notify the winner of its intention to offset the winner's child support debt against the winnings. The commission shall notify the winner of the winner's right to request a hearing before the creditor agency in the party state within 15 days of the winner's receipt of that notice. The hearing is limited to the questions of whether the debt is liquidated and whether post liquidation events have affected the winner's liability. The decision of the agency as to the existence of a liquidated debt constitutes final agency action. If, within 90 days of the notice of intended setoff to the winner, the creditor agency of the party state requesting setoff certifies to the commission that the winner did not make a timely request for hearing or that a hearing was held and the debt was upheld, the commission shall offset the liquidated debt against the winnings due to the winner. Any remaining winnings are paid to the winner. If the commission does not hear from the creditor agency of the party state within 90 days of the notice of intended setoff to the winner, the commission shall release all winnings to the winner.~~

**Sec. 2. 8 MRSA §416-A** is enacted to read:

**§416-A. Payment of prize to another person**

**1. Conditions permitting payment of a prize to another person.** Payment of a prize may be made to a person other than the winner as follows:

A. To the estate of a deceased prizewinner upon receipt by the commission of a certified court order appointing an executor or administrator;

B. To any person pursuant to a certified final order of a court of competent jurisdiction, including orders pertaining to claims of ownership in the prize, division of marital property in divorce actions, bankruptcy, child support, appointment of a guardian or conservator and distribution of an estate; or

C. To any person, including a trustee, pursuant to a certified final order of a court of competent jurisdiction of a party state approving the voluntary assignment of the right to a prize if the court affirmatively finds all of the following:

(1) That the assignor and the assignee are not represented by the same counsel;

(2) That the assignment is in writing and represents the entire agreement between the parties;

(3) That the assignment agreement contains the following provisions:

(a) The assignor's name, social security number or tax identification number and address;

(b) The assignee's name, social security number or tax identification number, citizenship or resident alien number, if applicable, and address;

(c) The specific prize payment or payments assigned or any portion of the payments, including:

(i) The payable due dates and amounts of each payment to be assigned; and

(ii) The gross amount of the annual payment or payments to be assigned before taxes; and

(d) A notice of right to cancel in immediate proximity to the space reserved for the signature of the assignor in boldface type of a minimum size of 10 points that provides that:

(i) The assignor may cancel the assignment without cost until midnight of the 15th business day after the day on which the assignor has signed an agreement to assign a prize or portion of a prize;

(ii) Cancellation occurs when notice of cancellation is given to the assignee;

(iii) Notice is sufficient if it indicates the intention of the assignor not to be bound; and

(iv) Notice of cancellation, if given by mail, is deemed given when deposited in a mailbox properly addressed with first class mail postage prepaid.

Failure to provide the notice of right to cancel as provided in this division renders the assignment agreement unenforceable and the assignor may collect a reasonable attorney's fee in any action to enforce such agreement;

(4) That, prior to execution of the assignment agreement, the assignee has provided

to the assignor in writing, on a disclosure form separate and apart from the agreement, the following:

(a) The aggregate dollar value of payments assigned;

(b) The total consideration paid to the assignor by the assignee; and

(c) An itemization of all other fees or costs to be paid by the assignor or deducted from the payment to the assignor;

(5) That the assignor has represented to the court in sworn testimony, if a personal appearance is required by the court, or in the assignor's written affidavit, sworn to under penalty of perjury, that:

(a) Prior to signing the assignment agreement, the assignor reviewed the agreement and understood its terms and effects;

(b) The assignor has consulted with independent financial and tax advisors not referred by or associated with the assignee;

(c) The assignor has signed the assignment agreement acting under free will without undue influence or duress;

(d) The assignor is not under any obligation to pay child support or is under that obligation and is in good standing with respect to that obligation or has agreed to a payment plan with the party state agency responsible for child support and is in full compliance with that plan; and

(e) The assigned payment or payments are not subject to any claims, liens, levies, security interests, assignments or offsets asserted by other persons or the party states or has provided the court with written consent of each person having such an interest; and

(6) If the assignor is married, the assignor has submitted to the court a signed and notarized statement of the spouse consenting to the assignment. If a notarized statement is not presented to the court, the court shall determine the ability of the assignor to

make the proposed assignment without the spouse's consent.

## **2. Pledge of payment as collateral for a loan.**

A winner may pledge all or any part of a prize as collateral for a loan.

A. Notwithstanding any provision of the Uniform Commercial Code - Secured Transactions, Title 11, article 9, to the contrary, perfection of a security interest in a prize must be completed by filing, in addition to any other filings that may be required, a financing statement with the commission.

B. In order to be entitled to receive a prize payment or payments from the commission, a secured party must obtain a certified final order of a court of competent jurisdiction that:

(1) Adjudges the prize winner in default of a loan agreement with the secured party;

(2) Makes findings with respect to the loan agreements and financing statements constituting the loan transaction that are equivalent to those required pursuant to subsection 1, paragraph C and, in addition, a finding that truth-in-lending disclosures set forth in 12 Code of Federal Regulations, Sections 226.17, 226.18, 226.19 and 226.20 were made; and

(3) Identifies specific payments and awards ownership of those payments to the secured party.

C. This subsection may not be construed to:

(1) Create or enlarge a cause of action in favor of a secured party;

(2) Alter or impair any rule of law applicable to or governing the rights of a debtor under federal or state lending statutes; or

(3) Alter or impair the provisions of the Uniform Commercial Code - Secured Transactions, Title 11, article 9, except to the extent inconsistent with the provisions of this section.

3. Commission intervention. The commission may intervene as of right in any action pursuant to subsection 1, paragraph C or subsection 2, but may not be considered an indispensable or necessary party.

4. Service of final order. A certified copy of the final order required by subsection 1, paragraph B, a certified copy of the final order and the assignor's affidavit required under subsection 1, paragraph C and a certified copy of the final order required by subsec-

tion 2 must be served on the commission together with a nonrefundable processing fee of \$500 within 15 days after entry of the order.

**5. Request to modify or vacate final order.**

The commission may file a request to modify or vacate a final order pursuant to subsection 1, paragraph C or subsection 2 within 15 days after service of the order on the commission.

**6. Payments.** Commencing on the 30th day after full compliance with subsection 4 or after final determination of any motion filed to vacate or modify a final order entered pursuant to subsection 5, the commission is obligated to make payments, subject to tax withholding, in accordance with that order.

**7. Change in assignment.** A modification or amendment to an order pursuant to subsection 1, paragraph B or C or subsection 2 or an additional or subsequent assignment of a prize is not valid or binding on the commission unless the modification, amendment or assignment is approved by a separate court order that meets the requirements of this section.

**8. Discharge of liability.** The commission, its officers, agents and employees are discharged of all further liability upon payment of a prize pursuant to this section.

**9. Confidentiality of records.** The financial, tax, trust or personal records filed, received, maintained or produced by the commission in connection with payment of a prize as provided in this section are confidential. Such records are not public records under Title 1, chapter 13. Upon written request, the commission may release the name, town of residence, date of prize and the gross and net amounts of the annual prize payment of a winner. Financing statements filed with the commission are public records.

**10. Child support debts.** This compact recognizes that each party state has enacted laws authorizing a party state agency to collect child support debts and arrearages. Upon receipt of notice from a party state agency, the commission shall suspend payment of winnings in the amount of the child support debt or arrearage and notify the winner. Child support debts and arrearages of a winner must be offset by the commission in the manner in which the state lottery commission of a party state is required by law to offset those debts and arrearages.

**Sec. 3. 19 MRSA §504-B, sub-§2,** as enacted by PL 1991, c. 295, §3 and affected by §4, is repealed.

**Sec. 4. Effective date.** This Act takes effect when the Attorney General notifies the Revisor of Statutes that New Hampshire and Vermont have enacted concurrent legislation relating to payment of

prizes to persons other than the winner, except that the Maine Revised Statutes, Title 8, section 416-A, subsection 1, paragraph C and subsection 2, relating to the pledge of a future prize payment or payments as collateral to secure a loan, are repealed if any of the following occur:

1. The United States Internal Revenue Service, or IRS, issues a technical rule letter, revenue ruling or other public ruling in which the IRS determines that, based upon the right of voluntary assignment or pledge of future prize payments as collateral to secure a loan as provided in the Maine Revised Statutes, Title 8, section 416-A, subsection 1, paragraph C and subsection 2, a winner who does not assign any prize payments under section 416-A would be subject to an immediate income tax liability for the value of the entire prize rather than the annual income tax liability for each installment when paid;

2. A court of competent jurisdiction issues a published decision holding that, based upon the right of voluntary assignment or pledge of future prize payments as collateral to secure a loan as provided in the Maine Revised Statutes, Title 8, section 416-A, subsection 1, paragraph C and subsection 2, a winner who does not assign any prize payments under section 416-A would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid;

3. Upon receipt of a letter or ruling from the IRS or a published decision of a court of competent jurisdiction, the Director of the Bureau of Alcoholic Beverages and Lottery Operations shall file immediately a copy of that letter, ruling or published decision with the Attorney General; and

4. Upon the filing by the Director of the Bureau of Alcoholic Beverages and Lottery Operations of a letter, ruling or published decision with the Attorney General, a winner is ineligible to assign a prize or pledge a future prize payment or payments as provided in the Maine Revised Statutes, Title 8, section 416-A, subsection 1, paragraph C and subsection 2.

See title page for effective date.

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**CHAPTER 653**

**H.P. 1307 - L.D. 1788**

**An Act to Establish the Maine Health Data Organization**

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