

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

establishment. "Stock-in-trade" also includes an unoccupied manufactured home, as defined in Title 10, section 9002, subsection 7, paragraph A or C, that was not previously occupied at its present location, that is not connected to water or sewer and that is owned and offered for sale by a person licensed for the retail sale of manufactured homes pursuant to Title 10, chapter 951, subchapter II;

See title page for effective date.

CHAPTER 181

H.P. 502 - L.D. 693

An Act to Amend Procedures Relating to Extradition Proceedings

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

Sec. 1. 15 MRSA §210, as amended by PL 1983, c. 843, §§4 to 6, is further amended to read:

§210. Rights of accused person; habeas corpus

~~No~~ A person arrested upon ~~such~~ a Governor's warrant ~~shall may not~~ be delivered over to the agent whom the executive authority demanding ~~him~~ shall have the person has appointed to receive ~~him~~ the person, unless ~~he~~ the person is first taken ~~forthwith~~ before a judge of a court of record in this State, who shall inform ~~him~~ the person of the demand made for ~~his~~ the person's surrender and of the crime with which ~~he~~ the person is charged and that ~~he~~ the person has the right to demand and procure legal counsel. If the prisoner or ~~his~~ the prisoner's counsel ~~state states~~ that the prisoner may or will contest extradition, the judge shall fix a reasonable time, not to exceed 7 days, to ~~be allowed him within which~~ allow the person to file a petition contesting extradition. The petition ~~shall must~~ be filed in ~~Superior~~ District Court and ~~shall~~ state the grounds upon which extradition is contested. When the petition is filed, notice of it and of the time and place of hearing ~~shall must~~ be given to the prosecuting attorney of the county in which the arrest is made and in which the accused is in custody, to the Attorney General and to the agent of the demanding state.

A person arrested upon the warrant of the Governor ~~shall may not~~ be admitted to bail, except as provided as follows: If a petition contesting extradition is granted and the order is appealed by the State to the Supreme Judicial Court sitting as the Law Court, the petitioner may be admitted to bail, in the discretion of the presiding ~~justice~~ judge, pending that appeal. If the appeal is sustained, the petitioner ~~shall must~~ be immediately placed in custody without bail to await delivery to the agent of the demanding state.

Sec. 2. 15 MRSA §210-A, as amended by PL 1981, c. 317, §3, is further amended to read:

§210-A. Procedure at hearing; review of final judgment

At the hearing on the petition contesting extradition, if the Governor's warrant and the demand comply with the provisions of this chapter, the petitioner ~~shall have~~ has the burden of proving by clear and convincing evidence that ~~he~~ the petitioner has not been charged with a crime in the demanding state and that ~~he~~ the petitioner is not a fugitive from justice. If the name of the petitioner is the same as that of the person named in the Governor's warrant, the petitioner ~~shall have~~ has the burden of proving, by clear and convincing evidence, that ~~he~~ the petitioner is not the person whom the demanding state is seeking to extradite. If the names are not identical, the respondent ~~shall have~~ has the burden of proving by a preponderance of the evidence that the petitioner is the person sought to be extradited by the demanding state. The following ~~shall be~~ are conclusive on the issue of probable cause:

1. Indictment. An indictment or an information issued upon a waiver of indictment; or

2. Judicial determination of probable cause. An information or other formal charging instrument or an arrest warrant issued on a determination of probable cause by a judicial officer in the demanding state.

Affidavits, including any affidavits supplied pursuant to the provisions of section 203 or in support of an application for requisition, and any other hearsay evidence ~~which that~~ may be deemed reliable by the court, ~~shall be~~ are admissible at the hearing on the petition contesting extradition, for the purpose of showing that the petitioner is charged with a crime in the demanding state, that there is probable cause, that the petitioner is in fact the person charged with the crime and that the petitioner is a fugitive from justice.

The order or judgment making final disposition of the petition ~~shall constitute~~ constitutes a final judgment for the purpose of review. A final judgment entered under this section may be reviewed by the Supreme Judicial Court sitting as the ~~law court~~ Law Court. An appeal may be taken within 10 days after entry of the order or judgment appealed from. An appeal by the petitioner ~~shall may not~~ proceed unless the ~~law court~~ Law Court issues a certificate of probable cause. The filing of the notice of appeal ~~shall be~~ is deemed to constitute a request for ~~such~~ a certificate of probable cause. Upon the filing of a notice of appeal, the presiding ~~justice~~ judge shall prepare a statement of the facts of the proceedings in the ~~Superior~~ District Court, which ~~shall must~~ be forwarded to the ~~law court~~ Law Court. In ~~his~~ the

presiding judge's discretion and upon a finding that special circumstances exist, the presiding justice judge, in lieu of preparing a statement of facts, may order that a transcript of all or part of the proceedings in the Superior District Court be prepared and transmitted to the ~~law court~~ Law Court. The statement of facts or the transcript ~~so forwarded shall~~ must be returned to the Superior District Court with the order of the court. Denial of the certificate constitutes finality of the proceedings. An appeal after the issuance of a certificate of probable cause to the petitioner or an appeal taken by the State, in which case no certificate of probable cause is necessary, ~~shall~~ may be taken in the same manner as an appeal of a criminal conviction by a defendant except that the appeal must be made directly to the Law Court. The provisions of section 2115-A ~~shall~~ do not apply.

See title page for effective date.

CHAPTER 182

S.P. 341 - L.D. 1119

An Act to Provide for International Banking in the State and Enhanced Enforcement Authority over Financial Institution Holding Companies

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

PART A

Sec. A-1. 9-B MRSA §131, sub-§19-A is enacted to read:

19-A. Foreign bank. "Foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands that engages directly in the banking business. "Foreign bank" includes foreign commercial banks, foreign merchant banks and other foreign institutions that engage in usual banking activities in connection with the banking business in the countries where the foreign institutions are organized or operating.

Sec. A-2. 9-B MRSA §316, sub-§1, ¶B, as enacted by PL 1975, c. 500, §1, is amended to read:

B. At least 2/3 of the directors provided for ~~shall~~ must be residents of this State and any director ~~removing himself from leaving~~ this State ~~shall~~ must immediately be replaced if such removal results in a reduction of the number of resident directors below 2/3. The superintendent may approve in writing, upon application by an

institution and for good cause shown, a lower proportion of directors who must be residents of this State.

Sec. A-3. 9-B MRSA §316, sub-§1, ¶F, as amended by PL 1985, c. 642, §1, is further amended to read:

F. The board of directors, by a majority vote of the directors then in office, may appoint from the full board of directors an executive committee of not less than 5 members, 2/3 of whom ~~shall~~ must be residents of this State and may delegate to the committee the powers of the directors in regard to the ordinary operations of the business of the institution. The superintendent may approve in writing, upon application by an institution and for good cause shown, a lower proportion of executive committee members who must be residents of this State.

Sec. A-4. 9-B MRSA §1011, sub-§3, as enacted by PL 1975, c. 500, §1, is amended to read:

3. Company. "Company" means a corporation, partnership, business trust, association or similar organization organized under the laws of the United States, any political subdivisions of the United States or a country other than the United States.

Sec. A-5. 9-B MRSA §1011, sub-§10, as enacted by PL 1985, c. 642, §4, is amended to read:

10. Person. "Person" means an individual or individuals acting in concert, including individuals who are citizens of one or more countries, and any colonies, dependencies or possessions of those countries, other than the United States.

Sec. A-6. 9-B MRSA §1011, sub-§13 is enacted to read:

13. Foreign bank holding company. "Foreign bank holding company" means any company that controls, directly or indirectly, a foreign bank.

Sec. A-7. 9-B MRSA §1013, sub-§1, ¶B, as repealed and replaced by PL 1989, c. 16, §1, is amended to read:

B. Acquisition of more than 5% of the voting shares of a Maine financial institution or any financial institution or financial institution holding company controlling, directly or indirectly, a Maine financial institution, by a financial institution ~~or~~ financial institution holding company, foreign bank or foreign bank holding company; or

Sec. A-8. 9-B MRSA §1013, sub-§1, ¶C, as amended by PL 1995, c. 628, §30, is further amended to read: