

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
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NON-EMERGENCY LAWS IS
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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

CHAPTER 203

S.P. 278 - L.D. 886

An Act Concerning Trust Investments by Trustees in Affiliated Securities and Bonds

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

Sec. 1. 18-A MRSA §7-408, sub-§2, ¶¶A and B, as enacted by PL 1993, c. 213, §1, are amended to read:

A. If the investment is prohibited by the instrument, judgment, decree or order creating the fiduciary relationship; or

B. Unless, in the case of cofiduciaries, the association, corporation or financial institution or an affiliate procures the consent of its cofiduciaries to the investment; ~~or~~

Sec. 2. 18-A MRSA §7-408, sub-§2, ¶C, as enacted by PL 1993, c. 213, §1, is repealed.

Sec. 3. 18-A MRSA §7-408, sub-§3, as enacted by PL 1993, c. 213, §1, is repealed.

Sec. 4. 18-A MRSA §7-408, sub-§4 is enacted to read:

4. Disclosures. The disclosures required by this section must be provided by mailing a statement or letter to the last known address of each person to whom statements for the fiduciary estate are provided. The disclosures may be provided separately or as part of other documents of the fiduciary estate. If made part of other documents of the fiduciary estate, the disclosures must be printed clearly and conspicuously on these documents.

A. A trustee purchasing bonds or securities pursuant to this section shall disclose in writing any capacities in which the trustee or an affiliate acts for the issuer of those bonds or securities and that the trustee or an affiliate may have an interest in the underwriting or distribution of those bonds or securities.

B. If the securities purchased are shares of an investment company subject to this section, the trustee shall disclose the services provided and the receipt of compensation for those services before the initial purchase and annually.

See title page for effective date.

CHAPTER 204

H.P. 685 - L.D. 937

An Act Relating to the State's Deferred Compensation Plan

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

Sec. 1. 5 MRSA c. 67, first 2 lines are repealed and the following enacted in their place:

CHAPTER 67

TAX-DEFERRED ARRANGEMENT

Sec. 2. 5 MRSA §881, as amended by PL 1983, c. 791, §1, is repealed and the following enacted in its place:

§881. Tax-deferred arrangements

The State or any county, city, town or other political subdivision may, by contract, agree with any employee to defer or contribute a portion of that employee's compensation as part of a tax-deferred arrangement permitted for employees under the provisions of the Internal Revenue Code of 1986, as amended, and subsequently contract for, purchase or otherwise procure for the employee an investment product or products as permitted by applicable law, including, but not limited to, a fixed or variable life insurance or annuity contract from an insurance company licensed to contract business in this State, shares of an investment company registered under the federal Investment Company Act of 1940 or investment products offered by any state or national bank. Any tax deferral program offered by a firm must protect the benefits of employees to the full extent allowed by a plan authorized under the Internal Revenue Code of 1986, as amended. The State, pursuant to section 885, may offer to state employees and state employees may elect to participate in any tax-deferred arrangement established and made available by the Board of Trustees of the Maine State Retirement System pursuant to section 17103.

Sec. 3. 5 MRSA §882, as enacted by PL 1973, c. 491, is amended to read:

§882. Authorization

The director or the principal officer of each state agency, department, board, commission or institution is authorized to enter into such contractual agreements with employees of that particular state agency, department, board, commission or institution on behalf of the State to defer any portion of that employee's compensation as part of a tax-deferred arrangement under this chapter.

Sec. 4. 5 MRSA §883, as amended by PL 1985, c. 785, Pt. A, §39, is further amended to read:

§883. Administration

Administration of ~~a deferred compensation program tax-deferred arrangements under this chapter~~, within state agencies, departments, boards, commissions or institutions ~~shall be~~, is under the direction of the Department of ~~Finance Administrative and Financial Services~~. Each county, city, town or other political subdivision may designate an officer to administer ~~a deferred compensation program tax-deferred arrangements~~. Payroll deductions ~~shall~~ must be made in each instance by the appropriate payroll officer.

Sec. 5. 5 MRSA §884, as amended by PL 1991, c. 780, Pt. Y, §§32 and 33, is further amended to read:

§884. Advisory Council on Tax-deferred Arrangements

The Advisory Council on ~~Deferred Compensation Plans Tax-deferred Arrangements~~, established by section 12004-I, subsection 25, shall meet at least once a year, review the operations of the ~~deferred compensation arrangements~~ program and advise the Department of Administrative and Financial Services on matters of policy relating to the activities under the arrangements program. Members of the advisory council are entitled to compensation as provided in chapter 379. All appointed or elected members serve at the pleasure of their appointing or electing authorities. The advisory council consists of ~~7~~6 members as follows.

1. Ex officio members; chair. The ex officio members of the Advisory Council on ~~Deferred Compensation Plans Tax-deferred Arrangements~~ are: the Commissioner of Administrative and Financial Services, or the commissioner's designee; the Superintendent of Insurance, or the superintendent's designee; and the Superintendent of Banking, or the superintendent's designee. The Commissioner of Administrative and Financial Services, or a designee, is the chair of the advisory council.

~~**2. Retirement system representative.** The retirement system representative of the advisory council is the Executive Director of the Maine State Retirement System.~~

3. Employee representatives. The employee representatives of the advisory council are 3 classified state employees appointed by the Governor as follows:

A. One employee recommended to the Governor by the Maine State Employees Association;

B. One employee recommended to the Governor by the American Federation of State and Municipal Employees; and

C. One employee recommended to the Governor by the Maine State Troopers Association.

Employee representatives are appointed for terms of 3 years, except that of the first appointments, one must be for one year, one for 2 years and one for 3 years.

4. Voting. All votes of the council must be one vote cast by labor and one vote cast by management. The labor vote must be cast by the labor cochair, who must be chosen by the labor members, and must represent the majority opinion of the labor members of the council. The management vote must be cast by the management cochair, who is the Commissioner of Administrative and Financial Services or the commissioner's designee.

Sec. 6. 5 MRSA §§885 and 887, as enacted by PL 1973, c. 491, are amended to read:

§885. Selection of firms

The advisory council shall select up to ~~3~~7 firms for participation by state employees as the result of investigation and competitive bidding, as outlined in chapter 155. The advisory council may, at any time after the evaluation and study of new programs, replace any previously selected firm with another firm through the process of competitive bidding ~~for the purpose of new enrollees~~. Participants in the plan retain the right to continue to invest with a previously selected firm with which they have already established an account in the State of Maine plan. Any firm selected by the advisory council in accordance with this section must be a registered investment advisor under the federal Investment Company Act of 1940 or a bank or insurance company authorized to receive or manage contributions as part of a tax-deferred arrangement under this chapter.

Any county, city, town or other political subdivision wishing to make use of any material relating to evaluation, or competitive bidding compiled by the advisory council, may receive copies on request.

§887. Payment of premiums; purchase of shares; investment products

Notwithstanding any other provision of law to the contrary, those persons designated to administer the ~~deferred compensation program tax-deferred arrangements~~ are authorized to make payment of ~~premiums for the purchase of fixed or variable life insurance or annuity contracts and to purchase investment company shares under the deferred compensation program for investment products~~ acquired as part of a tax-deferred arrangement. Such

The payments shall ~~are~~ not be construed to be a prohibited use of the general assets of the State, county, city or other political subdivision.

Sec. 7. 5 MRSA §889, as enacted by PL 1973, c. 491, is repealed and the following enacted in its place:

§889. Liability limited

The financial liability of the State, county, city, town or other political subdivision under a tax-deferred arrangement under this chapter is limited in each instance to the transmittal to the provider of the investment product or products selected by an employee of that portion of the employee's compensation deferred under the tax-deferred arrangement while the enrollee remains an employee of the State, county, city, town or other political subdivision enrolled in the tax-deferred arrangement, and only to the amount of the portion of the employee's compensation.

Sec. 8. 5 MRSA §12004-I, sub-§25, as enacted by PL 1987, c. 786, §5, is amended to read:

25.	Advisory Council on- Deferred Compensation Plans Tax- deferred Arrangements	Expenses Only	5 MRSA §884
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Sec. 9. Report required. The Commissioner of Administrative and Financial Services shall issue a report to the joint standing committee of the Legislature having jurisdiction over state and local government matters no later than February 15, 1999. The report must include the following:

1. A list and addresses of firms that bid in accordance with the Maine Revised Statutes, Title 5, section 885;
2. A list and addresses of firms selected by the Advisory Council on Tax-deferred Arrangements; and
3. A statement that includes a rationale for decreasing, maintaining or expanding the number of firms eligible to participate in tax-deferred arrangements.

See title page for effective date.

CHAPTER 205

S.P. 338 - L.D. 1116

An Act to Prevent Discrimination

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

Sec. 1. 5 MRSA §4552, as amended by PL 1993, c. 327, §1, is further amended to read:

§4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of these practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing or access to public accommodations on account of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin; and in employment, discrimination on account of age or because of the previous assertion of a claim or right under former Title 39 or Title 39-A and in housing because of familial status; and to prevent discrimination in the extension of credit on account of age, race, color, sex, sexual orientation, marital status, religion, ancestry or national origin; and to prevent discrimination in education on account of sex or physical or mental disability.

Sec. 2. 5 MRSA §4553, sub-§9-C is enacted to read:

9-C. Sexual orientation. "Sexual orientation" means having a preference for heterosexuality, homosexuality or bisexuality, having a history of that preference or being identified with that preference.

Sec. 3. 5 MRSA §4553, sub-§10, ¶E, as amended by PL 1983, c. 578, §2, is further amended to read:

E. In determining whether ~~any~~ a person is acting as an agent or employee of another person so as to make ~~such the~~ other person responsible for ~~his~~ that person's acts, the question of whether the specific acts performed were actually authorized or subsequently ratified ~~shall is~~ not be controlling; ~~and~~

Sec. 4. 5 MRSA §4553, sub-§10, ¶F, as enacted by PL 1983, c. 578, §2, is amended to read:

F. Unlawful educational discrimination as defined and limited by subchapter V-B-; and

Sec. 5. 5 MRSA §4553, sub-§10, ¶G is enacted to read:

G. Discrimination in employment, housing, public accommodations and credit on the basis of sexual orientation, except that a religious corpo-