

# 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**  
**JUNE 26, 1997**

**FIRST SPECIAL SESSION**  
**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.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

general circulation in the county where the property is located and such publication ~~shall constitute~~ constitutes service on any unknown owner or owners or other persons who may have or claim an interest in the property. The notice must consist of an area map depicting the general location of the property interests to be condemned and such other information as the department determines will sufficiently identify the area in which the property interests are to be taken; an informative summary listing the parcel or item numbers to be condemned, the name of the apparent owner or owners of record of the property interests, the estimated areas to be condemned and the nature of the interests to be condemned; and a location at which the complete notice of layout and taking may be examined.

If such owner is a person under the age of 18 years, or an incompetent person, the commission shall cause such notice and check to be served upon the legal guardian of such person or incompetent. If there is no such guardian, then the department shall apply to the judge of probate for the county wherein the property is situated, briefly stating the facts and requesting the appointment of a guardian. The reasonable fee of such guardian as approved by the court ~~shall~~ must be paid by the department.

In case there is a mortgage, tax lien of record or other encumbrance covering any of said land, a copy of the notice of condemnation ~~shall~~ must be sent forthwith by registered or certified mail to the holder of record of said mortgage, tax lien or other encumbrance addressed to ~~his~~ the holder's office or place of abode if known, otherwise to the office, abode or address as set forth in said record.

The recording of the notice of condemnation ~~shall be~~ is the date of taking and ~~shall vest~~ vests title to the property therein described in the State in fee simple or such lesser state as is specified in the notice of condemnation. Within one year after the completion of the project for which the land is taken, the department shall file a plan for recording in the registry of deeds for the county or registry district where the land is located.

If a condemnation proceeding is instituted and then abandoned, the owner of any right, title or interest in any real property included in said proceeding ~~shall~~ must be reimbursed by the department for ~~his~~ reasonable attorney, appraisal and engineering fees, actually incurred because of the condemnation proceedings.

See title page for effective date.

## CHAPTER 273

### H.P. 397 - L.D. 542

#### **An Act to Make Appeals to the Law Court From Revocation of Probation Proceedings Conditional and to Clarify the Matter of Bail Pending Final Disposition of a Motion for Revocation of Probation**

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

**Sec. 1. 17-A MRSA §1205, sub-§8** is enacted to read:

8. In deciding whether to set bail under this section and in setting the kind and amount of that bail, the court must be guided by the standards of post-conviction bail in Title 15, section 1051, subsections 2 and 3. Appeal is governed by Title 15, section 1051, subsections 5 and 6. Bail set under this section is also governed by the sureties and other forms of bail provisions in Title 15, chapter 105-A, subchapter IV and the enforcement provisions in Title 15, chapter 105-A, subchapter V, articles 1 and 3, including the appeal provisions in Title 15, section 1099-A, subsection 2.

**Sec. 2. 17-A MRSA §1206, sub-§3**, as amended by PL 1993, c. 234, §1, is further amended to read:

3. If a hearing is ordered, the person on probation must be notified, and the court may issue a summons or may issue a warrant for the person's arrest and order the person committed, with or without bail, pending the hearing. Section 1205, subsection 8 applies to bail under this section.

**Sec. 3. 17-A MRSA §1207**, as amended by PL 1993, c. 234, §3, is repealed and the following enacted in its place:

#### §1207. Review

Review of a revocation of probation pursuant to section 1206 must be by appeal.

1. District Court proceeding. In a probation revocation proceeding in the District Court, a person whose probation is revoked may appeal to the Superior Court under Title 15, section 2111 and the applicable Maine Rules of Criminal Procedure. An appeal to the Law Court, from an adverse decision of the Superior Court sitting as an intermediate appellate court, is not an appeal of right. The time, manner and specific conditions for taking that appeal to the Law Court are as the Supreme Judicial Court provides in the Maine Rules of Criminal Procedure.

**2. Superior Court proceeding.** In a probation revocation proceeding in the Superior Court, a person whose probation is revoked may not appeal as of right. The time, manner and specific conditions for taking that appeal to the Law Court are as the Supreme Judicial Court provides in the Maine Rules of Criminal Procedure.

**3. Assignment and withdrawal of counsel.** Assignment and withdrawal of counsel must be in accordance with the Maine Rules of Criminal Procedure.

See title page for effective date.

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## CHAPTER 274

S.P. 450 - L.D. 1424

### **An Act to Allow ATV Use on Public Lands Not Specifically Designated as Primitive-use Land**

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

**Sec. 1. 12 MRSA §602, sub-§20,** as amended by PL 1991, c. 354, §1, is further amended to read:

**20. Management of ATV's.** To administer the ATV Recreational Management Fund, established under section 7854, subsection 4, for the purposes given in that subsection. The bureau may ~~promulgate~~ adopt rules, in accordance with Title 5, chapter 375, subchapter II, for the issuance of grants-in-aid from the fund and to further define alpine tundra areas pursuant to section 7851, subsection 5 ~~2-A.~~ 2-A. The bureau shall establish a policy in which the prudent use of ATV's is allowed and guidelines are set for the limited use of ATV's on certain public lands that are not specifically designated or set aside as primitive-use lands pursuant to law or through rulemaking by the department or set aside for other uses incompatible with the use of ATV's. The policy must be in place no later than June 1, 1998; and

See title page for effective date.

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## CHAPTER 275

S.P. 399 - L.D. 1294

### **An Act to Clarify the Jurisdiction of the Public Utilities Commission over Telecommunication Utilities' Special Rate Contracts**

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

**Sec. 1. 35-A MRSA §9102,** as enacted by PL 1993, c. 638, §2, is amended to read:

### **§9102. Adoption of alternative form of regulation**

The commission may adopt, after public hearings and other processes the commission determines appropriate, an alternative form of regulation for any telephone utility in the State. The alternative form of regulation must conform to the requirements of chapters 71, 73, 75, 87 and 89, but need not conform with chapter 3 to the extent that the provisions of chapter 3 require the use of rate-base, rate-of-return or any other specific form of regulation of the rates of a telephone utility or to the extent that the provisions of chapter 3 give any party, including the telephone utility, the right to petition to change rates for telecommunications services. In addition, the alternative form of regulation need not conform with section 703. This chapter may not be construed to limit the authority of the commission under section 1322.

See title page for effective date.

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## CHAPTER 276

H.P. 544 - L.D. 735

### **An Act to Permit the Public Utilities Commission to Suspend Rate Regulation of Certain Telephone Utilities**

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

**Sec. 1. 35-A MRSA §307-A** is enacted to read:

### **§307-A. Exemption for certain telephone utilities**

The commission may adopt by rule standards and procedures for granting exemptions from all or specified portions of section 307 and for suspending its powers of suspension and investigation under section 310 with respect to a telephone utility, a specified group of telephone utilities or specified services offered by one or a group of telephone utilities. Any determination granting an exemption or suspension pursuant to the rule must be accompanied by a finding that the utility or group of utilities does not exercise significant power over pricing in the markets for the specified services and that the determination will not result in unjust or unreasonable rates for any customers in the markets for those services. The commission may limit its determination