

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.

J.S. McCarthy Company
Augusta, Maine
1997

Sec. L-14. 9-B MRSA §915, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Mergers and consolidations. An industrial bank may merge or consolidate with another industrial bank or a financial institution organized under the laws of this State; ~~provided except~~ that any such merger or consolidation ~~shall must~~ be executed pursuant to the provisions of ~~sections section~~ 352 or 354 and ~~shall be~~ is subject to the provisions of sections ~~356, 357 and 358.~~

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 5, 1997.

CHAPTER 399

H.P. 1090 - L.D. 1533

An Act to Make Certain Changes to Post-conviction Review

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

Sec. 1. 15 MRSA §2122, as enacted by PL 1979, c. 701, §15, is amended to read:

§2122. Purpose

This chapter ~~shall provide~~ provides a comprehensive and, except for direct appeals from a criminal ~~judgement~~ judgment, the exclusive method of review of those criminal judgments and of post-sentencing proceedings occurring during the course of sentences. It is a remedy for illegal restraint and other impediments specified in section 2124 ~~which that~~ have occurred directly or indirectly as a result of an illegal criminal judgment or post-sentencing proceeding. It replaces the remedies available pursuant to post-conviction habeas corpus, to the extent that review of a criminal conviction or proceedings ~~were~~ are reviewable, the remedies available pursuant to common law habeas corpus, including habeas corpus as recognized in Title 14, sections 5501 and 5509 to 5546, coram nobis, writ of error, declaratory judgment and any other previous common law or statutory method of review, except appeal of a judgment of conviction or juvenile adjudication and remedies ~~which that~~ are incidental to proceedings in the trial court. The substantive extent of the remedy of post-conviction review ~~shall be as~~ is defined in this chapter and not ~~as~~ defined in the remedies ~~which that~~ it replaces; provided that this chapter ~~shall provide~~ provides and ~~shall be~~ is construed to provide ~~such~~ relief for those persons required to use this chapter as

is required by the Constitution of Maine, Article 1, Section 10.

Sec. 2. 15 MRSA §2124, first ¶, as repealed and replaced by PL 1983, c. 235, §4, is amended to read:

An action for post-conviction review of a criminal judgment of this State or of a post-sentencing proceeding following the criminal judgment, may be brought if the person seeking relief demonstrates that the challenged criminal judgment or post-sentencing proceeding is causing a present restraint or other specified impediment as described in subsections 1 to 3:

Sec. 3. 15 MRSA §2128, sub-§5, as repealed and replaced by PL 1995, c. 286, §4, is repealed and the following enacted in its place:

5. Filing deadline for direct impediment. A one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 1 or 1-A. The limitation period runs from the latest of the following:

A. The date of final disposition of the direct appeal from the underlying criminal judgment or the expiration of the time for seeking the appeal;

B. The date on which the constitutional right, state or federal, asserted was initially recognized by the Law Court or the Supreme Court of the United States, if the right has been newly recognized by that highest court and made retroactively applicable to cases on collateral review; or

C. The date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

The time during which a properly filed petition for writ of certiorari to the Supreme Court of the United States with respect to the same criminal judgment is pending is not counted toward any period of limitation under this subsection.

Sec. 4. 15 MRSA §2128, sub-§6 is enacted to read:

6. Filing deadline for indirect impediment. A one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 3. The limitation period runs from the date of imposition of a sentence for the new crime resulting in the indirect impediment.

Sec. 5. Application. Those sections of this Act that repeal and replace the Maine Revised Statutes, Title 15, section 2128, subsection 5 and that

enact Title 15, section 2128, subsection 6 apply to any petition filed after one year following the effective date of the Act. A petition filed within the one year following the effective date of this Act is not subject to the new filing deadline, but remains subject to the provisions of former section 2128, subsection 5 relating to delay.

See title page for effective date.

CHAPTER 400

H.P. 1213 - L.D. 1713

An Act Relating to Compensatory and Punitive Damages Under the Maine Human Rights Act

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

Sec. 1. 5 MRSA §4613, sub-§2, ¶B, as amended by PL 1991, c. 474, §1 and affected by §3, is further amended to read:

B. If the court finds that unlawful discrimination occurred, its judgment must specify an appropriate remedy or remedies for that discrimination. The remedies may include, but are not limited to:

- (1) An order to cease and desist from the unlawful practices specified in the order;
- (2) An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;
- (3) An order to accept or reinstate such a person in a union;
- (4) An order to rent or sell a specified housing accommodation, or one substantially identical to that accommodation if controlled by the respondent, to a victim of unlawful housing discrimination;
- (5) An order requiring the disclosure of the locations and descriptions of all housing accommodations that the violator has the right to sell, rent, lease or manage; and forbidding the sale, rental or lease of ~~that~~ those housing accommodations until the violator has given security to assure compliance with any order entered against the violator and with all provisions of this Act. An order may continue the court's jurisdiction until the violator has demonstrated compliance, and may defer decision on some or all relief until after a probationary

period and a further hearing on the violator's conduct during that period;

(6) An order to pay the victim, in cases of unlawful price discrimination, 3 times the amount of any excessive price demanded and paid by reason of that unlawful discrimination; ~~and~~

(7) An order to pay to the victim of unlawful discrimination, other than employment discrimination in the case of a respondent who has more than 14 employees, or, if the commission brings action on behalf of the victim, an order to pay to the victim, the commission or both, civil penal damages not in excess of \$10,000 in the case of the first order under this Act against the respondent, not in excess of \$25,000 in the case of a 2nd order against the respondent arising under the same subchapter of this Act and not in excess of \$50,000 in the case of a 3rd or subsequent order against the respondent arising under the same subchapter of this Act, except that the total amount of civil penal damages awarded in any action filed under this Act may not exceed the limits contained in this subparagraph; ~~and~~

(8) In cases of intentional employment discrimination, compensatory and punitive damages as provided in this subparagraph.

(a) In an action brought by a complaining party under section 4612 and this section against a respondent who engaged in unlawful intentional discrimination prohibited under sections 4571 to 4575, if the complaining party can not recover under 42 United States Code, Section 1981 (1994), the complaining party may recover compensatory and punitive damages as allowed in this subparagraph in addition to any relief authorized elsewhere in this subsection from the respondent.

(b) When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded under this subparagraph when the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity