

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 7, 1998 to March 31, 1998**

**SECOND SPECIAL SESSION**  
**April 1, 1998 to April 9, 1998**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 1998**

**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 9, 1998**

**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**

**Sec. 5. 24-A MRSA §6715**, as enacted by PL 1997, c. 435, §1, is amended to read:

**§6715. Confidential information**

All information submitted to the superintendent pursuant to section 6702, subsection ~~4~~ 3 is confidential and is not a public record within the meaning of Title 1, chapter 13, subchapter I. Each report or statement filed with the superintendent pursuant to section 6707, except those filed by or with respect to industrial insured groups as defined in section 6701, subsection 8, is confidential and is not a public record within the meaning of Title 1, chapter 13, subchapter I. The confidential nature of this information does not limit the ability of the superintendent, in the superintendent's discretion, to disclose such information to a public official in another state, as long as the public official agrees in writing to maintain the confidentiality of such information and the laws of the state in which the public official serves designate such information as confidential.

**Sec. 6. 36 MRSA §2513-B, sub-§2**, as enacted by PL 1997, c. 435, §2, is amended to read:

**2. Reinsurance.** A captive insurance company shall pay to the State Tax Assessor a tax at the rate of .225 of 1% on the first \$20,000,000 of assumed reinsurance premium, .150 of 1% on the next \$20,000,000, ~~.50~~ .050 of 1% on the next \$20,000,000 and ~~.25~~ .025 of 1% of each \$1 thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks that are subject to taxation on a direct basis pursuant to subsection 1. No reinsurance premium tax is payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if that transaction is part of a plan to discontinue the operations of another insurer and if part of the intent of the parties to that transaction is to renew or maintain that business with the captive insurance company.

See title page for effective date.

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**CHAPTER 584**

**H.P. 1388 - L.D. 1941**

**An Act to Amend the Membership Requirement for the Cumberland County Budget Advisory Committee**

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

**Sec. 1. 30-A MRSA §741-A, sub-§1, ¶A**, as enacted by PL 1995, c. 380, §4 and affected by §10, is amended to read:

A. There must be 3 members from each commissioner's district. No more than 2 members may reside in the same municipality.

See title page for effective date.

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**CHAPTER 585**

**S.P. 744 - L.D. 2022**

**An Act to Make Corrections to the Laws Governing the Maine Bail Code**

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

**Whereas**, it is imperative that the changes made to the Maine Bail Code by this Act take effect immediately; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 15 MRSA §1002, last 2 ¶¶**, as enacted by PL 1997, c. 543, §2, are repealed.

**Sec. 2. 15 MRSA §1003, sub-§5**, as repealed and replaced by PL 1997, c. 543, §5, is repealed and the following enacted in its place:

**5. Ensure the integrity of the judicial process.** To "ensure the integrity of the judicial process," when used in the context of the granting or denial of bail, means safeguarding the role of the courts in adjudicating the guilt or innocence of defendants by ensuring the presence of the defendant in court and otherwise preventing the defendant from obstructing or attempting to obstruct justice by threatening, injuring or intimidating a victim, prospective witness, juror, attorney for the State, judge, justice or other officer of the court.

**Sec. 3. 15 MRSA §1026, sub-§2**, as amended by PL 1997, c. 543, §7, is further amended to read:

**2. Release on personal recognizance or unsecured appearance bond.** The judicial officer ~~may~~ shall order the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond in an amount specified by

~~the judicial officer, unless the judicial officer determines that the release will not reasonably ensure the appearance of the defendant as required or will not otherwise reasonably ensure the integrity of the judicial process. Before any defendant is released on personal recognizance or an unsecured appearance bond, the judicial officer must determine that the defendant will appear as required and that the defendant's release will not otherwise affect the integrity of the judicial process.~~

~~The judicial officer may not order the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond on new criminal conduct if the defendant has pending criminal charges.~~

~~In determining whether the pretrial release of the defendant on personal recognizance or upon execution of an unsecured appearance bond is appropriate, the judicial officer shall consider:~~

~~A. The defendant's prior criminal history, including, but not limited to, whether the defendant has previously violated conditions of release, whether the defendant has been or is on probation and whether the defendant has previously violated court orders, such as protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011;~~

~~B. The severity, nature and circumstances of the crime charged;~~

~~C. The defendant's failures to appear when required;~~

~~D. The defendant's failure to pay fines;~~

~~E. Any other factors that may enhance a sentence of incarceration; and~~

~~F. Any other factors that may be considered relevant to the judicial officer, including, but not limited to, those enumerated in subsection 4.~~

~~In considering all the factors enumerated in paragraphs A to F, the judicial officer shall give the greatest weight to the defendant's criminal history and the severity of the crime. The judicial officer may not order the defendant released on personal recognizance or an unsecured appearance bond if the defendant's crime is serious or the judicial officer finds the defendant's criminal record inappropriate for granting the defendant release on personal recognizance or an unsecured appearance bond.~~

**Sec. 4. 15 MRSA §1028, sub-§1, ¶A**, as amended by PL 1997, c. 543, §10, is further amended to read:

A. If the defendant chooses to have a de novo determination of bail, the defendant must be furnished with a petition and, upon execution of the petition and without the issuance of any writ or other process, the sheriff of the county in which the decision was made shall provide for the transportation of the defendant together with the petition and all papers relevant to the petition or copies of the petition or papers to the Superior Court.

If no Justice of the Superior Court will be available within 24 48 hours, excluding Saturdays, Sundays and holidays, arrangements must be made for a de novo determination of bail in the nearest county in which a Justice of the Superior Court is then sitting. The defendant's custodian shall provide transportation to the Superior Court as required by this chapter without the issuance of any writ or other process.

If there is no Justice of the Superior Court available, the defendant must be retained in custody until the petition can be considered.

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

Effective March 9, 1998.

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## CHAPTER 586

### S.P. 690 - L.D. 1925

#### **An Act to Make Additional Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Year Ending June 30, 1998**

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

**Whereas**, the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas**, certain obligations and expenses incident to the operation of the Public Utilities Commission will become due and payable prior to the expiration of the 90-day period; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,