

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.

J.S. McCarthy Company
Augusta, Maine
1997

D. A viatical settlement provider license issued to a person authorizes all partners, officers and key management personnel of that person to act on that person's behalf as if these individuals are also licensed, unless such activity requires a license under another provision of this Title. These persons must be named in the application and any supplements to the application and the authorization terminates upon the expiration, suspension or revocation of the license.

Sec. 77. 24-A MRSA §6803, sub-§§3 and 5, as enacted by PL 1997, c. 430, §1 and affected by §2, are amended to read:

3. Renewal. A license for a viatical settlement provider is ~~renewed for one year upon payment of a continuous~~ so long as the licensee remains qualified. The viatical settlement provider must pay an annual fee of \$400. Failure to pay the fee within the terms prescribed may result in the revocation of the license unless cured within 5 days of written notice of failure to pay to the principal office of the licensee.

5. Authority under license. A license issued to any person authorizes all officers, partners and key management personnel of that person to act on behalf of the viatical settlement provider ~~or the independent viatical producer under the license~~, unless such activity requires a license under another provision of this Title. All officers, partners and key management personnel of the person must be named in the application and any supplements to the application. The licensed producer of a viatical settlement provider must be regarded as in the place of the viatical settlement provider in all respects regarding the solicitation of viatical settlements on behalf of the viatical settlement provider. A producer authorized by a viatical settlement provider is the provider's agent in all matters of viatical settlements.

Sec. 78. 24-A MRSA §6803, sub-§7, ¶B, as enacted by PL 1997, c. 430, §1 and affected by §2, is repealed.

Sec. 79. 24-A MRSA §6803, sub-§8, as enacted by PL 1997, c. 430, §1 and affected by §2, is amended to read:

8. Nonresidents. The superintendent may not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the superintendent ~~or the applicant has filed with the superintendent the applicant's written irrevocable consent that an action against the applicant may be commenced against the applicant by service of process on the superintendent.~~

Sec. 80. 24-A MRSA §6803, sub-§9, as enacted by PL 1997, c. 430, §1 and affected by §2, is amended to read:

9. List. The superintendent shall maintain a complete list of all viatical settlement providers ~~and independent viatical producers~~ licensed or with license pending in this State. The list must be available upon request to the general public.

Sec. 81. 24-A MRSA §6806, sub-§1-A is enacted to read:

1-A. Fee for filing annual report. The fee for filing the annual report is the same as for an insurer as provided in section 601. On or before July 1st of each year, the superintendent shall forward to each viatical settlement provider an itemized bill for the amount due for the filing of the annual statement and the amount due for the certificate of authority annual fee.

See title page for effective date.

CHAPTER 593

H.P. 1423 - L.D. 1987

An Act to Amend Review Criteria Used by the Public Utilities Commission

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

Sec. 1. 35-A MRSA §3156, first ¶, as amended by PL 1995, c. 120, §2 and affected by §5, is further amended to read:

The commission may issue a certificate of approval for an electric rate stabilization agreement, following submission to it of an application for approval, in the form and with any supporting data as the commission may require. The commission shall issue or deny the certification within ~~60~~ 120 days of receipt of an application.

Sec. 2. 35-A MRSA §3156, sub-§1, as enacted by PL 1993, c. 712, §6, is amended to read:

1. Benefits. The agreement, and any assistance in financing the agreement to be provided by the Finance Authority of Maine, will provide ~~near-term~~ substantial net benefits to ratepayers of the utility that will be reflected in rates paid by the electric utility's customers. The commission may consider whether alternative arrangements providing greater net benefits to ratepayers are reasonably likely to be available to the utility and may not issue a certificate if the commission concludes that such an alternative arrangement is reasonably likely to be available;

Sec. 3. 35-A MRSA §3156, sub-§2, as enacted by PL 1993, c. 712, §6, is repealed and the following enacted in its place:

2. Rate impacts. Near-term benefits to ratepayers will substantially exceed future adverse impacts estimated by the commission;

See title page for effective date.

CHAPTER 594

H.P. 1006 - L.D. 1398

An Act to Clarify the Law Regarding the Discipline of Exceptional Students

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

Sec. 1. 20-A MRSA §1001, sub-§9-B is enacted to read:

9-B. Disciplinary sanctions for exceptional students. They retain the authority to sanction an exceptional student as defined in section 7001, subsection 2 for misconduct that violates school rules. Notwithstanding the duties of school administrative units as described in section 7202, the school board may authorize the superintendent, principal or assistant principal to enforce this subsection by allowing the superintendent, principal or assistant principal to suspend an exceptional student up to a maximum of 10 days individually or cumulatively for infractions of school rules. When an exceptional student is suspended for 10 days or less for a violation of school rules, the school board is not required to provide a tutor, transportation or any other aspect of the student's special education program.

Sec. 2. Amend rules. The Department of Education shall amend the special education rules to remove any requirements that school administrative units must provide educational services to an exceptional student that has been expelled or suspended from school for 10 days or less for violating school rules.

See title page for effective date.

CHAPTER 595

H.P. 1445 - L.D. 2036

An Act to Amend the Act to Implement the Maine Indian Claims Settlement

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

Sec. 1. 30 MRSA §6209-B, sub-§1, ¶A, as enacted by PL 1995, c. 388, §6 and affected by §8, is amended to read:

A. Criminal offenses for which the maximum potential term of imprisonment does not exceed one year and the maximum potential fine does not exceed \$5,000 and that are committed on the Indian reservation of the Penobscot Nation by a member of any federally recognized Indian tribe, nation, band or other group, except when committed against another a person who is not a member of any federally recognized Indian tribe, nation, band or other group or against the property of another a person who is not a member of any federally recognized Indian tribe, nation, band or other group;

Sec. 2. Effective date; certification. This Act does not take effect unless, within 60 days of the adjournment of the Second Regular Session of the 118th Legislature, the Secretary of State receives written certification by the Tribal Chief and the Council of the Penobscot Nation that the nation has agreed to the provisions of this Act pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes; except that in no event may this Act become effective until 90 days after the adjournment of the Second Regular Session of the 118th Legislature.

See title page for effective date, unless otherwise indicated.

CHAPTER 596

S.P. 683 - L.D. 1908

An Act to Conform the Maine Tax Laws for 1997 with the United States Internal Revenue Code

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 would delay the processing of the 1997 income tax returns; and

Whereas, legislative action is immediately necessary to ensure continued and efficient administration of the Maine Income Tax Law and certain other state taxes; 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 preserva-