

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
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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

CHAPTER 724

H.P. 1457 - L.D. 2048

An Act to Ensure Equitable School Funding**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 20-A MRSA §15605, sub-§1, as amended by PL 1997, c. 643, Pt. D, §2, is repealed and the following enacted in its place:

1. Annual recommendation. Prior to December 15th of each year, the commissioner, with the approval of the state board, shall recommend to the Governor and the Bureau of the Budget the funding levels that the commissioner recommends for sections 15604 and 15612.

Sec. 2. 20-A MRSA §15653, sub-§3, as amended by PL 1997, c. 643, Pt. D, §4 is repealed and the following enacted in its place:

3. Legislature's contribution. The commissioner's recommendation for an appropriation for the Legislature's contribution to the per pupil guarantee for all subsidizable pupils in all school administrative units must be at least the amount of the corresponding appropriation for the prior fiscal year, unless a lesser amount is necessary to ensure compliance with section 15607, subsection 1.

See title page for effective date.

CHAPTER 725

H.P. 1416 - L.D. 1980

An Act Relating to the Taxation of the Sale of Hay**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 36 MRSA §1760, sub-§78, as enacted by PL 1997, c. 550, §2, is repealed and the following enacted in its place:

78. Farm animal bedding and hay. Sales of organic bedding materials for farm animals and hay.

See title page for effective date.

CHAPTER 726

H.P. 1368 - L.D. 1918

An Act to Clarify the Definition of Functionally Water-dependent Use as it Pertains to the Shoreland Zone**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 38 MRSA §436-A, sub-§6, as enacted by PL 1987, c. 815, §§3 and 11, is amended to read:

6. Functionally water-dependent uses. "Functionally water-dependent uses" means those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and ~~which cannot~~ that can not be located away from these waters. These uses include commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that ~~cannot~~ can not reasonably be located or operated at an inland site and uses ~~which~~ that primarily provide general public access to ~~marine or tidal~~ coastal or inland waters.

Sec. 2. 38 MRSA §438-A, sub-§7 is enacted to read:

7. Exclusion of recreational boat storage buildings. Notwithstanding subsection 3, the exclusion of recreational boat storage buildings from the definition of "functionally water-dependent uses" is deemed to be incorporated into each municipal shoreland zoning ordinance on the effective date of this subsection, regardless of any prior approval of the ordinance by the commissioner.

Sec. 3. 38 MRSA §439-A, sub-§4, as amended by PL 1989, c. 403, §8, is further amended to read:

4. Setback requirements. Notwithstanding any provision in a local ordinance to the contrary, all new principal and accessory structures and substantial expansions of such structures within the shoreland zone as established by section 435 ~~shall~~ must meet the water setback requirements approved by the board, except ~~structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls~~ functionally water-dependent uses. For purposes of this subsection, a substantial expan-

sion of a building shall be is an expansion which that increases either the volume or floor area by 30% or more. This subsection is not intended to prohibit a municipal board of appeals from granting a variance, subject to the requirements of this article and Title 30-A, section 4353, nor is it intended to prohibit a less than substantial expansion of a legally existing nonconforming structure, ~~provided that~~ as long as the expansion does not create further nonconformity with the water setback requirement.

See title page for effective date.

CHAPTER 727

H.P. 1565 - L.D. 2198

**An Act to Implement the
Recommendations Relating to the
Review of the Department of
Professional and Financial
Regulation's Office of the
Commissioner, Office of Consumer
Credit Regulation and Office of
Licensing and Registration under the
State Government Evaluation Act**

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

PART A

Sec. A-1. 3 MRSA §959, sub-§1, ¶B, as enacted by PL 1995, c. 488, §2, is amended to read:

B. The joint standing committee of the Legislature having jurisdiction over banking and insurance matters shall use the following list as a guideline for scheduling reviews:

(1) State Employee Health Commission in 1999; and

(2) Department of Professional and Financial Regulation, in conjunction with the joint standing committee of the Legislature having jurisdiction over business and economic development matters, in 2007.

Sec. A-2. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1995, c. 671, §§1 to 3 and PL 1997, c. 245, §19, is further amended by amending subparagraph (5) to read:

(5) Department of Professional and Financial Regulation, in conjunction with the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, in 1997 2007;

Sec. A-3. 10 MRSA §8002, first ¶, as amended by PL 1995, c. 502, Pt. H, §9, is further amended to read:

The commissioner is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over ~~business and economic development~~ banking and insurance matters, and to confirmation by the Legislature. The commissioner serves at the pleasure of the Governor. As chief administrative officer of the department, the commissioner has the following duties and authority to:

Sec. A-4. 10 MRSA §8002, sub-§§7 and 8, as enacted by PL 1995, c. 502, Pt. H, §9, are amended to read:

7. Delegate authority. Authorize the heads of bureaus, offices, boards and commissions within the department to carry out the commissioner's duties and authority; ~~and~~

8. Adequate resources. Ensure that each bureau, office, board and commission has adequate resources to carry out regulatory functions and that the department's expenditures are equitably apportioned; and

Sec. A-5. 10 MRSA §8002, sub-§9 is enacted to read:

9. Licensing. Coordinate all administrative processes related to licensing functions of bureaus, offices, boards and commissions within the department, including but not limited to the frequency and form of applications and licenses.

PART B

Sec. B-1. 9-A MRSA §1-106, as amended by PL 1985, c. 819, Pt. A, §9, is repealed.

Sec. B-2. 9-A MRSA §1-301, sub-§14, ¶A, as amended by PL 1987, c. 396, §6, is further amended to read:

A. Except as provided in paragraph B, a "consumer loan" is a loan made by a person regularly engaged in the business of making loans in which:

(i) the debtor is a person other than an organization;

(ii) the debt is incurred primarily for a personal, family or household purpose;