

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

natural gas consumer in this State to provide natural gas supply service.

2. Required information. A gas marketer registering under this section shall provide:

A. The name, mailing address and phone number of the gas marketer; and

B. The name, mailing address and phone number of a contact person who is knowledgeable regarding the gas marketer's activities in the State.

A gas marketer registered under this section shall promptly provide the commission with any additional relevant information requested by the commission, including, but not limited to, copies of any residential contracts for retail natural gas supply service. The commission shall provide through the issuance of protective orders pursuant to section 1311 for appropriate confidentiality protection as necessary for any information provided under this section.

3. Contracts void. Any contract for retail natural gas supply service entered into after the effective date of this section by a gas marketer that is not registered with the commission under this section is deemed void.

§4709. Natural gas unbundling

1. Commission rulemaking. In order to foster the unbundling of natural gas services and the development of a competitive natural gas supply market in the State, the commission shall consider the need for and may adopt rules in the following areas:

A. The need to license gas marketers;

B. The need for a code of conduct governing the relationship between a gas utility and an affiliated gas marketer to prevent the affiliated gas marketer's exercise of market power and to ensure fair competition among all gas marketers;

C. The need for regulations to protect consumers from abusive practices by gas marketers; and

D. Any other subject of natural gas unbundling that requires additional regulation.

2. Major substantive rules. Rules adopted under this section are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 144

H.P. 321 - L.D. 437

An Act to Clarify the Law Regarding Executive Sessions of Public Bodies

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

Sec. 1. **1 MRSA §405, sub-§6, ¶D**, as enacted by PL 1975, c. 758, is repealed and the following enacted in its place:

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

See title page for effective date.

CHAPTER 145

S.P. 45 - L.D. 116

An Act to Protect Consumers in Real Estate Mortgage Transactions

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

Sec. 1. **33 MRSA c. 9, sub-c. I-A** is enacted to read:

SUBCHAPTER I-A

FUNDED SETTLEMENT ACT

§521. Short title

This subchapter may be known and cited as the "Funded Settlement Act".

§522. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Disbursement of loan funds. "Disbursement of loan funds" means the delivery of the loan funds by the lender to the settlement agent in one or more of the following forms:

A. Cash;

B. Wired funds or electronic transfer;

C. Certified check;

D. Checks issued by a governmental entity or instrumentality;

E. Cashier's check, teller's check or any transfer of funds by check or otherwise that is finally collected and unconditionally available to the settlement agent;

F. Checks or other drafts drawn by a state-chartered or federally chartered financial institution;

G. Checks or other drafts drawn by a state-chartered or federally chartered credit union; or

H. Checks issued by an insurance company licensed and regulated by the Bureau of Insurance.

2. Disbursement of settlement proceeds.

"Disbursement of settlement proceeds" means the payment or sending of all proceeds of the transaction to the person or account designated to receive the proceeds.

3. Lender. "Lender" means a person regularly engaged in making loans secured by mortgages on real estate and to whom the debt is initially payable on the face of the loan documents. A person is regularly engaged in making such loans if the person made 5 or more loans subject to this subchapter in the preceding calendar year or has made 5 or more such loans in the then current calendar year.

4. Loan closing. "Loan closing" means that time agreed upon by the borrower and lender when the execution of the loan documents by the borrower and the receipt of those executed documents by the lender or settlement agent occur.

5. Loan documents. "Loan documents" means the note evidencing the debt due the lender, the mortgage securing the debt due to the lender and any other documents required by the lender to be executed by the borrower as a part of the transaction and includes any documents that may reasonably be required by the lender as a condition to disbursement of the settlement proceeds.

6. Loan funds. "Loan funds" means the proceeds of the loan to be disbursed by the lender to others at loan closing.

7. Settlement. "Settlement" means the time when the settlement agent has received the loan funds, loan documents and other documents and funds to carry out the terms of the contract between the parties and the settlement agent reasonably determines that all conditions for disbursement of the settlement proceeds as required by applicable law or such contracts have been satisfied. "Parties" as used in this subsection

means the seller, purchaser, borrower, lender and the settlement agent.

8. Settlement agent. "Settlement agent" means the person responsible for conducting the settlement and disbursement of the settlement proceeds and includes an individual, corporation, partnership or other entity conducting the settlement and disbursement of loan proceeds. The lender may be the settlement agent.

§523. Applicability

This subchapter applies to transactions:

1. Purposes. That are incurred primarily for personal, family or household purposes;

2. Not open-end credit. That are not open-end credit as that term is defined in Title 9-A, section 1-301, subsection 26;

3. Not involving multiple advances. That do not contemplate multiple advances of funds as set forth in or required by the terms of the loan documents;

4. Location of lender or closing. When the lending office or branch from which the loan is made is located in this State or the loan closing occurs within this State; and

5. Secured by mortgages. That are secured by mortgages on real estate containing not more than 4 residential dwelling units.

§524. Duty of lender

The lender shall cause, at or before loan closing, disbursement of loan funds to the settlement agent; however, in the case of any loan when a right of rescission applies and has not been exercised, the lender shall cause disbursement of loan funds to the settlement agent prior to noon of the first business day after the expiration of the rescission period required under the federal Truth-in-Lending Act, 15 United States Code, Section 1601, et seq. and the state truth-in-lending provisions, Title 9-A, article VIII, as applicable.

§525. Duty of settlement agent

The settlement agent shall cause recordation of any deed, mortgage or other documents required to be recorded and shall cause disbursement of settlement proceeds within 2 business days of settlement or, when any right of rescission applies pursuant to the federal Truth-in-Lending Act, 15 United States Code, Section 1601 et seq. or the state truth-in-lending provisions, Title 9-A, article VIII, as applicable, at the time that the settlement agent reasonably determines that such right of rescission has not been exercised.

§526. Penalty

1. Consumer remedies. A lender or settlement agent who violates any provision of this subchapter and causes actual damage to a consumer is subject to a civil action by the aggrieved consumer in which the consumer has the right to recover the greater of actual damages in an amount determined by the court or, except as provided in subsection 2, an amount determined by the court not less than \$250 nor more than \$1,000, plus costs of the action together with reasonable attorney's fees.

2. Bona fide error. Liability under subsection 1 is limited to actual damages, plus costs of the action together with reasonable attorney's fees, if the lender or settlement agent shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

3. Limitation of actions. An action may not be brought pursuant to this subchapter more than 2 years after the violation occurred.

§527. Enforcement

With respect to lenders that are supervised financial organizations as that term is defined in Title 9-A, section 1-301, subsection 38-A, a violation of this subchapter is deemed an anticompetitive and deceptive practice and the Superintendent of Banking may take appropriate action to ensure compliance with this subchapter. With respect to all other supervised lenders, as that term is defined in Title 9-A, section 1-301, subsection 39, the Director of Consumer Credit Regulation may take such action.

See title page for effective date.

CHAPTER 146

S.P. 321 - L.D. 955

**An Act to Recodify the Auctioneers
Licensing Law**

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

Sec. 1. 5 MRSA §12004-A, sub-§5, as enacted by PL 1987, c. 786, §5, is amended to read:

5. Board of	\$30/Day	32 MRSA §271-
Licensing of		§288
Auctioneers		

Sec. 2. 9 MRSA §5008, sub-§1, as amended by PL 1991, c. 714, §3, is further amended to read:

1. Registration. A person may not act as a professional fund-raising counsel, professional solicitor or a commercial co-venturer before that person has registered with the commissioner. Applications for registration or reregistration must be in writing, under oath, in the form prescribed by the commissioner and must be accompanied by an application fee in the amount of \$50 and a registration fee in the amount of \$200. Application fees are nonrefundable. The applicant shall, at the time of making application for registration or reregistration, file with and have approved by the commissioner a bond, in which the applicant must be the principal obligor, in the sum of \$10,000, with one or more responsible sureties whose liability in the aggregate as such sureties will at least equal that sum. The bond runs to any person who may have a cause of action against the principal obligor of the bond for any malfeasance or misfeasance in the conduct of charitable solicitation in this State. Registration is for a period of one year. The registration fee and bond required by this chapter must be waived for an auctioneer, when that auctioneer engages in conduct for which that auctioneer is already bonded, who is licensed by the Department of Professional and Financial Regulation and who has otherwise complied with the requirements of Title 32, chapter 5-A 5-B.

Sec. 3. 29-A MRSA §1051, sub-§8, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

8. Application. This section does not apply to vehicle auctioneers who are licensed and bonded pursuant to Title 32, chapter 5-A 5-B and who are conducting a vehicle auction incidental to the liquidation of a business or an estate.

Sec. 4. 32 MRSA c. 5-A, as amended, is repealed.

Sec. 5. 32 MRSA c. 5-B is enacted to read:

CHAPTER 5-B**AUCTIONEERS****SUBCHAPTER I****GENERAL PROVISIONS****§284. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Auction. "Auction" means the offering of goods or real estate for sale by means of exchanges between an auctioneer and bidders.