

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

of the county or town way to be discontinued. The department shall prepare the description of the discontinuance order upon the request of the county commissioners or municipal officers.

2. Effect and exceptions. Upon discontinuance, all interests of the county or municipality pass to the abutting property owners to the center of the way, including any public easement, in accordance with section 3026. When the Department of Transportation is an abutting owner, then the interests in the way pass to the property owner opposite the department's ownership in accordance with a plan showing the right-of-way line established for the new highway location by the department. The plan must be referenced in the order of discontinuance.

See title page for effective date.

CHAPTER 189

H.P. 67 - L.D. 80

An Act Regarding Foster Parents

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

Sec. 1. 22 MRSA §4005-C, as enacted by PL 1997, c. 715, Pt. B, §5, is amended by adding at the end a new paragraph to read:

The foster parent of a child, if any, and any pre-adoptive parent or relative providing care for the child may attend a review or hearing in its entirety under this section unless specifically excluded by decision of the presiding judge. This paragraph is repealed July 1, 2000.

Sec. 2. Report. By December 31, 1999, the Department of Human Services shall report to the Joint Standing Committee on Health and Human Services on its experience with foster parents, preadoptive parents and relatives providing care for foster children, attending the entire proceedings of reviews and hearings under the Maine Revised Statutes, Title 22, section 4005-C.

Sec. 3. Departmental discretion. After consideration of the best interests of the child and any other factors, the Department of Human Services may decide to include the foster parent of a child when a representative of the department meets with the child. By December 31, 2000, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on its experience in including and excluding foster

parents from meetings between representatives of the department and foster children.

See title page for effective date.

CHAPTER 190

H.P. 162 - L.D. 224

An Act to Prohibit the Misuse of Identification

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

Sec. 1. 14 MRSA §153-A is enacted to read:

§153-A. Defense in action based on misuse of legal identification

It is a defense to a civil action for monetary damages that the damages arose from the misuse of a form of legal identification and the use of that identification has resulted in the conviction of a person other than the defendant under Title 17-A, sections 354 and 905-A. The defense may be raised only by the person whose identification was misused.

Sec. 2. 17-A MRSA §905, as amended by PL 1979, c. 512, §31, is repealed.

Sec. 3. 17-A MRSA §905-A is enacted to read:

§905-A. Misuse of identification

1. A person is guilty of misuse of identification if, in order to obtain confidential information, property or services, the person intentionally or knowingly:

A. Presents or uses a credit or debit card that is stolen, forged, canceled or obtained as a result of fraud or deception;

B. Presents or uses an account, credit or billing number that that person is not authorized to use or that was obtained as a result of fraud or deception; or

C. Presents or uses a form of legal identification that that person is not authorized to use.

2. It is an affirmative defense to prosecution under this section that the person believed in good faith that the person was authorized to present or use the card, number or legal identification.

3. Upon proof of actual or constructive notice of cancellation, it is presumed that a person who presented a canceled credit or debit card knew it had been canceled.

4. As used in this section, "legal identification" includes a social security card, social security number, birth certificate, driver's license, government-issued identification card, oral statement of full name and date of birth or any other means of identifying a person that is generally accepted as accurate and reliable.

5. Misuse of identification is a Class D crime.

See title page for effective date.

CHAPTER 191

S.P. 562 - L.D. 1629

An Act to Ensure That Sales Free and Clear of Liens Through Bankruptcy Do Not Result in the Acquisition of a Predecessor Employer's Experience for the Purpose of Contribution Rate Determination

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

Sec. 1. 26 MRSA §1221, sub-§5, ¶A, as amended by PL 1979, c. 651, §45, is further amended to read:

A. The executors, administrators, successors or assigns of any employer who acquire the business of ~~such~~ that employer in toto ~~shall~~ acquire the experience of ~~such~~ that employer with payrolls, contributions and benefits. Effective as of the date on which ~~such~~ the business was acquired, the commissioner shall for purposes of rate determination transfer to the successor employer the payroll record and experience rating records of the predecessor employer. This transfer does not occur for a business purchased free and clear of liens through bankruptcy if the contribution rate for that business is greater than the state average contribution rate. In that case, the employer must be assigned the state average contribution rate.

See title page for effective date.

CHAPTER 192

S.P. 266 - L.D. 759

An Act to Expedite Disputes among Commercial Landlords and Tenants

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

Sec. 1. 14 MRSA c. 709 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 709

ENTRY AND DETAINER

SUBCHAPTER I

RESIDENTIAL LANDLORDS AND TENANTS

Sec. 2. 14 MRSA c. 709, sub-c. II is enacted to read:

SUBCHAPTER II

COMMERCIAL LANDLORDS AND TENANTS

§6017. Commercial leases

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

A. A "commercial tenancy" or "commercial lease" means a nonresidential tenancy of premises by a for-profit business entity. Nonprofit entities, charitable institutions and religious organizations who are tenants may not be construed to have commercial tenancies.

2. Commercial lease relationship. Notwithstanding the provisions of subchapter I, commercial landlords and tenants are governed by the following provisions, and if any of the following provisions conflict with provisions in any other statutes governing the relationships between landlords and tenants, this section controls all commercial lease relationships, whether written or oral.

A. After termination of a commercial lease, and after a complaint for forcible entry and detainer is filed, the defendants shall, no later than the return date and as a condition of maintaining a defense, appear on the return day to pay the agreed-upon rent, including all arrears. If rent or arrears are disputed, the disputed rent, including all claimed arrears, must be paid to the court at the time of the hearing. In addition to deciding the right of possession, the District Court shall also decide the amount of rent owed, if disputed. In establishing the amount of rent owed, the District Court may consider offsetting claims to the extent appropriate. If undisputed, the rent and arrears must be paid to the court prior to the hearing. Upon final decision by the District Court, that court shall order such sums as it determines proper to be turned over by the clerk to either or both of the parties. Any order of the District Court for payment of rent, whether to the