

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

disposal rules and permitting processes by municipalities. The department shall assist municipalities in complying with this subchapter and with section 3428.

2. Review. The department shall review the administration of ~~plumbing and subsurface waste water~~ wastewater disposal rules and laws in each municipality for compliance with this subchapter and with section 3428. This review ~~shall~~ must be made on a regular basis and may be made in response to a written complaint from any person as necessary. The department shall inspect the municipality's records and discuss the administration of the program with the local plumbing inspector. The local plumbing inspector shall be available during the department's review and shall cooperate in providing all necessary information. The department shall report the results of its review in writing to the municipality and, when applicable, to the complainant. The written notice ~~shall~~ must set forth the department's findings of whether the municipality is in compliance with this subchapter and section 3428.

Sec. 5. 30-A MRSA §4214, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§4214. Legislative intent

It is the intent of the Legislature that local jurisdictions have primary responsibility for enforcing rules adopted by the department governing the installation and inspection of ~~plumbing and subsurface waste water~~ wastewater disposal systems. The adoption of rules by the department does not deny municipal authority under section 3001 to adopt more restrictive ordinances.

Sec. 6. 30-A MRSA §4215, sub-§4, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

4. Fees. The plumbing inspector shall issue any permit under this section upon receipt and approval of a completed application form as prescribed by the commissioner and payment by the applicant of the fee established by the municipality. The fee must be at least the minimum amount determined by rule of the department. One-quarter of the amount of the minimum fee ~~shall~~ must be paid through the department to the Treasurer of State to be maintained as a permanent fund and used by the department to implement its ~~plumbing and subsurface waste water~~ wastewater disposal rules and, to train and certify local plumbing inspectors administer the receipt and collation of completed permits and to issue plumbing permit labels to the municipality and by the State Planning Office for training and certification of local plumbing inspectors. The remainder of the fee ~~shall~~ must be paid to the treasurer of the municipality.

Sec. 7. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
EXECUTIVE DEPARTMENT		
State Planning Office		
Positions - Legislative Count	(1,000)	(1,000)
Personal Services	\$27,143	\$36,190
All Other	9,867	13,156
Allocates funds to continue funding for a Research and Planning Associate position that has some responsibility for code enforcement officer training and certification. This position is currently funded with federal funds.		
EXECUTIVE DEPARTMENT TOTAL		
	\$37,010	\$49,346

See title page for effective date.

CHAPTER 229

H.P. 1384 - L.D. 1991

An Act to Protect Customers of Nonbank Cash-dispensing Machines

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

Sec. 1. 9-B MRSA §131, sub-§35, as amended by PL 1997, c. 398, Pt. A, §24, is further amended to read:

35. Satellite facility. "Satellite facility" means any facility, automated device or electronic terminal established by a financial institution authorized to do business in this State at which an existing financial institution customer may initiate banking transactions, including, but not limited to, cash deposits to and withdrawals from that customer's account, cash advances on a preauthorized credit line, transfers between ~~checking and savings~~ deposit or share accounts or payment transfers from the customer's account to accounts of other financial institution customers. Such a facility is not permanently staffed and is not part of a main office or branch office of a financial institution. Such a facility may be part of an electronic funds transfer system. Satellite facilities

include facilities engaged in soliciting, receiving or accepting money or its equivalent on deposit from new and existing customers. The term satellite facility does not include a cash dispensing machine; that, operating in conjunction with a processor and network, allows a customer to debit an account in exchange for dispensing cash and that may allow a customer to effectuate transfers between the customer's accounts in the same financial institution, a point-of-sale terminal, a night depository or an office or facility engaged solely in the solicitation and origination of loans.

Sec. 2. 32 MRSA c. 80, sub-c. III is enacted to read:

SUBCHAPTER III

CASH-DISPENSING MACHINES ESTABLISHED BY NONBANKS

§6151. Definitions

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

1. Administrator. "Administrator" means the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation.

2. Cash-dispensing machine. "Cash-dispensing machine" means an electronic device that, operating in conjunction with a processor and network, allows a customer to debit an account in exchange for dispensing cash and that may allow a customer to effectuate account transfers subject to the limitations of section 6152. It does not include a satellite facility operated by a financial institution or service corporation, a point-of-sale terminal or a consumer-owned and consumer-operated personal computer terminal.

3. Establish. "Establish" means to own, lease or otherwise legally control.

4. Financial institution. "Financial institution" means any financial institution as defined in Title 9-B, section 131, subsection 17; any credit union as defined in Title 9-B, section 131, subsection 12; or any bank, commercial bank, savings bank, trust company, building and loan association, savings and loan association, savings association, cooperative bank, credit union or similar banking or credit union organization chartered by any other state or by the Federal Government.

5. Network. "Network" means a person who engages primarily in the establishment and maintenance of a computer-operated system for transmitting items and messages between financial institutions,

processors and cash-dispensing machines or similar electronic devices.

6. Operator. "Operator" means the person who owns, leases or otherwise legally controls a cash-dispensing machine and is responsible for registering the cash-dispensing machine.

7. Person. "Person" means an individual, partnership, corporation or other business association recognized under state law.

8. Processor. "Processor" means a person who electronically acquires financial data emanating from a cash-dispensing machine and relays that data to a network.

9. Satellite facility. "Satellite facility" means a satellite facility as defined in Title 9-B, section 131, subsection 35.

10. Service corporation. "Service corporation" means a service corporation, as defined in Title 9-B, section 131, subsection 37, owned by one or more financial institutions.

11. Servicing agent. "Servicing agent" means a person who contracts with an operator to provide customer relations, financial recordkeeping or similar services in regard to a cash-dispensing machine.

§6152. Establishment of cash-dispensing machines; limitations

1. Cash-dispensing machines. A person may not establish or operate a cash-dispensing machine unless that person has first complied with the provisions of this subchapter.

2. Limitations. A cash-dispensing machine:

A. May not accept deposits or loan payments or effectuate account transfers other than those transfers between the customer's accounts in the same financial institution; and

B. Must be operated in such a way as to comply with the Electronic Funds Transfer Act, 15 United States Code, Section 1693 et seq. or regulations adopted under that Act.

§6153. Registration

1. Initial operation; notice. Prior to the date of the initial operation of any cash-dispensing machine, the operator shall provide the following information to the administrator for the purpose of registering the cash-dispensing machine:

A. An initial notice that includes:

(1) The operator's name, address and telephone number;

(2) The name and address of where the cash-dispensing machine is to be located;

(3) The anticipated date of the initial operation of the cash-dispensing machine;

(4) The types of transactions available;

(5) The processor's name, address and telephone number;

(6) The servicing agent's name, address and telephone number;

(7) The name, title, address and telephone number of the person completing the notice; and

(8) Any other information required by the administrator; and

B. A registration fee of \$50 for the first cash-dispensing machine location and \$25 for each additional location, payable to the Treasurer of State.

2. Annual notice; fee. After filing an initial notice, as required by subsection 1, the operator shall provide annually, no later than January 31st, to the administrator a notice and registration fee in accordance with subsection 1, paragraphs A and B.

3. Notification of change. The operator shall promptly notify the administrator in writing:

A. Of any changes to the information required under subsection 1, paragraph A; or

B. If the operation of the cash-dispensing machine is terminated.

4. Verification. The administrator may, at any time, verify the completeness and accuracy of any required notice under this section.

5. Violation; inadequate documentation. The operator is in violation of this section if the operator fails to promptly provide adequate documentation to and upon request of the administrator or if the documentation is determined to be incomplete or inaccurate. The administrator shall inform the operator of any such failure or discrepancy under this subsection and shall inform the operator of the penalty established in accordance with subsection 6.

6. Fine. The administrator may impose a fine of \$5 per day on any person failing to comply with the requirements of this section.

§6154. Required disclosures to customers

1. Disclosure of pertinent information. An operator shall clearly and conspicuously disclose on a sign posted on the cash-dispensing machine or in clear view of a customer viewing the cash-dispensing machine:

A. The name of the operator;

B. A disclaimer indicating that the operator is not a financial institution or a credit union;

C. The name, address and 24-hour toll-free telephone number where a customer may direct inquires or complaints;

D. A statement that the Office of Consumer Credit Regulation is responsible for the operator's compliance with state law and the address and telephone number of the office; and

E. That a fee may be assessed by the operator.

2. Fees imposed. Any operator may not charge a fee for use of a cash-dispensing machine unless the amount of the fee is clearly and conspicuously disclosed electronically during the course of the transaction in a manner that permits the customer to cancel the transaction without incurring the fee.

3. Receipt for transaction. A cash-dispensing machine must provide a receipt for the transaction that must include the following information in a clear and conspicuous manner:

A. The amount of the transaction;

B. The amount of any fee imposed by the operator;

C. The total amount debited to the customer's account, including any fee imposed by the operator;

D. The date and time of the transaction;

E. A number or code that identifies the customer and the account accessed; and

F. The location of the cash-dispensing machine.

§6155. Effects of violations on rights of parties

1. Violation of subchapter; unfair practices; civil penalty. An operator that violates any provision of this subchapter or any rule adopted by the administrator or that through any unfair, unconscionable or deceptive practice causes actual damage to a customer, is subject to the following:

A. Examination and investigation pursuant to section 6156;

B. After notice and hearing, a cease and desist order from the administrator;

C. A civil action by the administrator through the Attorney General after which a court may assess a civil penalty of not more than \$5,000; and

D. Revocation, suspension or nonrenewal of the operator's registration pursuant to section 6157.

2. Penalty. A person who establishes a cash-dispensing machine pursuant to this subchapter without having filed notice with the administrator is guilty of a Class E crime.

§6156. Examination of books, accounts and records

1. Compliance. The administrator may examine the cash-dispensing machines, books, accounts and records of an operator or servicing agent and make investigations to determine compliance with this subchapter.

2. Chargeable expenses. The expenses of the administrator incurred in the examination or investigation of any operator or servicing agent are chargeable to the operator required to file notice under this subchapter.

§6157. Suspension or revocation of registration

After notice and hearing, the administrator may suspend or revoke an operator's registration if the administrator finds that:

1. Violation. The operator knowingly violated a provision of this subchapter or a rule or order adopted by the administrator pursuant to this subchapter;

2. Refusal to permit examination or pay exam fees. The operator or servicing agent refused to permit the administrator to make an examination authorized by this subchapter or refused to reimburse the administrator for the expenses of an examination;

3. Failure to respond. The operator failed to promptly and adequately respond to requests from the administrator; or

4. Failure to submit notice. The operator willfully failed to submit a notice required by this subchapter.

§6158. Treatment of fees

The aggregate of fees, examination expense reimbursement and other payments made pursuant to this subchapter are appropriated for the use of the administrator. Any balances of the funds do not lapse

but must be carried forward to be expended for the same purposes in the following fiscal year.

§6159. Rulemaking

The administrator may adopt reasonable rules for the implementation and administration of this subchapter. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

§6160. Exclusions

This subchapter does not apply to any cash-dispensing machine established by a financial institution or service corporation.

§6161. Effective date

This subchapter takes effect January 31, 2000.

See title page for effective date.

CHAPTER 230

H.P. 1127 - L.D. 1586

An Act to Require the Holder or Servicer of a Mortgage to Record the Discharge Within 60 Days

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

Sec. 1. 33 MRSA §551, as amended by PL 1977, c. 100, §§1 and 2, is further amended to read:

§551. Entry on record; neglect to discharge

A mortgage ~~shall only~~ may be discharged by a written instrument acknowledging the satisfaction thereof and signed and acknowledged by the mortgagee or by ~~his executor, administrator~~ the mortgagee's duly authorized officer or agent, personal representative or assignee. The instrument ~~shall~~ must recite the name or identity of the mortgagee and mortgagor, or their successors in interest, ~~authenticated~~ and the record location of the mortgage discharged. The instrument, when recorded, ~~shall have~~ has the same effect as a deed of release duly acknowledged and recorded. ~~If a mortgagee or his executor, administrator or assignee, after full performance of the condition of his mortgage whether before or after breach of such condition, refuses or neglects for 7 days after being thereto requested to make such discharge or to execute and acknowledge a deed of release of the mortgage, he shall be punished by a fine of not less than \$10 nor more than \$50, to be recovered in a civil action.~~

Within 60 days after full performance of the conditions of the mortgage, the mortgagee shall record