

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

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

Sec. 1. 18-A MRSA §5-509 is enacted to read:

§5-509. In-person signature required

Notwithstanding any law validating electronic or digital signatures, signatures on a durable power of attorney must be made in person and not by electronic means.

Sec. 2. 18-A MRSA §5-802, sub-§(b), as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(b) An adult or emancipated minor with capacity may execute a power of attorney for health care, which may authorize the agent to make any health-care decision the principal could have made while having capacity. The power must be in writing and signed by the principal and 2 witnesses. Notwithstanding any law validating electronic or digital signatures, signatures of the principal and witnesses must be made in person and not by electronic means. The power remains in effect notwithstanding the principal's later incapacity and may include individual instructions. Unless related to the principal by blood, marriage or adoption, an agent may not be an owner, operator or employee of a residential long-term health-care institution at which the principal is receiving care.

Sec. 3. 33 MRSA c. 7, sub-c. III-A is enacted to read:

SUBCHAPTER III-A

VALIDITY OF SIGNATURES

§331. Electronic signatures not valid on certain real property documents

Notwithstanding any law validating electronic or digital signatures, an electronic signature, digital signature or other signature effected by electronic means is not recognized under the law of this State as a valid, enforceable signature on any deed, mortgage or other document, including but not limited to a document granting a power of attorney, purporting to affect title to real property.

See title page for effective date.

CHAPTER 712

S.P. 878 - L.D. 2293

An Act to Amend the Laws Governing Municipal Elections

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

Sec. 1. 30-A MRSA §2531-A, sub-§11 is enacted to read:

11. Resolution; disputed or challenged ballots. A municipality may provide by ordinance, or order of the municipal officers, a method for resolving disputed or challenged ballots in an election in which there are enough challenged or disputed ballots to affect the result of the election. The ordinance or order may delegate the municipal officers' responsibility to resolve disputed or challenged ballots to an independent panel or the Superior Court. An independent panel consists of 3 members chosen by a majority vote of the municipal officers. A member of the independent panel may not be a municipal officer or a candidate in the election. If the delegation is to the Superior Court, the municipal clerk shall forward the disputed or challenged ballots and related records to the clerk of the nearest Superior Court in the county in which the election was held. If the delegation is to an independent panel, the municipal clerk shall provide a location for the panel to conduct its duties and in such manner that ensures the security of the ballots and related records at all times. The Superior Court or the independent panel shall determine the result of the election as soon as reasonably possible. The decision of the Superior Court or the independent panel is final and must be certified to the municipal clerk.

See title page for effective date.

CHAPTER 713

H.P. 1672 - L.D. 2339

An Act to Provide Assistance in the Cleanup of the Plymouth Waste Oil Site

Emergency preamble. **Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, in order to provide financial assistance in a timely fashion through a loan program to persons obligated to pay for the feasibility study at the Plymouth waste oil site, the program must be established as soon as possible; 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 preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 10 MRSA §963-A, sub-§42-E is enacted to read:

42-E. Plymouth waste oil site remedial study. "Plymouth waste oil site remedial study" means a remedial investigation and feasibility study undertaken in accordance with 40 Code of Federal Regulations, Section 300.430 with respect to the Portland-Bangor Waste Oil Services Site in Plymouth designated by the United States Environmental Protection Agency as a National Priorities List site.

Sec. 2. 10 MRSA §1023-L, as corrected by RR 1999, c. 1, §§12 and 13, is amended to read:

§1023-L. Waste Oil Clean-up Fund

1. Fund established. The ~~Wells~~ Waste Oil Clean-up Fund, referred to in this section as the "fund," is established under the jurisdiction and control of the authority.

2. Sources of money. The following money must be paid into the fund:

A. All money appropriated for inclusion in the fund or appropriated to the authority for use in providing financial assistance to responsible parties as defined in section 963-A, subsection 47-A, subject to any restrictions applicable to the appropriation;

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund;

C. Subject to any pledge, contract or other obligation any money the authority receives in repayment of advances from the fund;

D. Money transferred from the available balance in the Underground Oil Storage Replacement Fund, subject to the limitations of section 1024-A;

E. Money transferred from the available balance in the Maine Rainy Day Fund pursuant to Title 5, section 1513, subsection 1-P; and

F. Any other money available to the authority and directed by the authority to be paid into the fund.

3. Eligibility to participate in loan program. The authority may use money in the fund to carry out any power of the authority under this section ~~or, under section 1023-M,~~ under section 1026-R or under section 1026-S, including, but not limited to, the pledge or transfer and deposit of money in the fund as

security for and the application of money in the fund in payment of principal, interest and other amounts due on insured loans. Money in the fund may be used for direct loans or deferred loans for all or part of the waste oil disposal site clean-up project when the authority determines that:

A. The applicant is determined to be a responsible party with respect to the waste oil disposal site and the applicant is domiciled or has a principal place of business in the State;

B. If the applicant is not a unit of local government, the applicant demonstrates financial need for the assistance;

C. There is a reasonable likelihood that the applicant will be able to repay the loan; and

D. An agreement has been reached with an entity that has assumed liability for total response costs at the Wells waste oil disposal site and the applicant is a participant in that agreement.

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions, security and fees for the loans, including deferred loans. The authority may not issue deferred loans for eligible parties who have received payments under subsection 8. The authority shall adopt rules that provide for a simplified loan application process for loan requests of under \$2000. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The authority may charge an interest rate as low as 0% or up to a maximum rate equal to the prime rate of interest as published in The Wall Street Journal, depending on the financial ability of the applicant to pay as determined by the authority. The maximum the authority may loan, or issue as a deferred loan, to any one borrower, including related entities as determined by the authority, is \$50,000. Money in the fund not needed currently to meet the obligations of the authority as provided in this section or section 1023-M may be invested as permitted by law. Any costs incurred by the authority in administering this fund may be taken from interest from all sources of the fund.

4. Accounts within fund. The authority may divide the fund into separate accounts as it determines necessary or convenient for carrying out this section or section 1023-M, including, but not limited to, accounts reserved for direct loan funds for waste oil cleanup.

5. Payments on loans from fund; proceeds from mortgage or security interests. All proceeds of loans and proceeds from mortgage or security interests from the fund must be applied by the authority to the Underground Oil Storage Replacement Fund.

6. Lapse to Groundwater Oil Clean-up Fund upon cleanup of waste oil disposal site. Within 30 days after the Department of Environmental Protection notifies the authority that the waste oil disposal site has been remediated and the total response costs have been paid and that the Plymouth waste oil site remedial study has been completed and the costs of that study paid, the authority shall transfer all amounts remaining in the fund to the Groundwater Oil Clean-up Fund.

7. Direct payment program. The direct payment program is managed as follows.

A. The authority shall pay to each person, eligible under this subsection, \$2,000 upon presentation by the person to the authority of a canceled check or other evidence determined sufficient by the authority to demonstrate payment of the person's share of total response costs at the waste oil disposal site, unless the authority determines that the payment made by the person at that site was in an amount less than \$2,000, in which case the authority shall pay to that person an amount equal to the amount that person paid in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

B. Any person eligible under this subsection who presents an invoice for that person's share of total response costs at the site, but who has not yet paid the invoice, receives a negotiable instrument from the authority made payable jointly to that person and any entity identified by the Department of Environmental Protection as assuming liability for total response costs at the site. The negotiable instrument must be in the amount of \$2,000, unless the authority determines that the payment to be made by the person at the site will be in an amount less than \$2,000, in which case the authority shall pay to the person an amount equal to the amount the person is to pay in relation to the site. All payments made under this subsection must be from funds transferred from the Maine Rainy Day Fund.

C. After the payments authorized in paragraphs A and B have been made, additional payments must be made from the available balance from funds transferred from the Maine Rainy Day Fund to all persons who received funds under paragraphs A and B who have paid their settlement share of total response costs, and whose total liability at the site exceeds the amount the persons received under paragraph A or B. Distributions under this paragraph are proportionate to the amount each person paid as the person's share of total response costs at the site. Payments made pursuant to this subsection may not

exceed the person's settlement share of total response costs attributable to eligible persons as defined in this subsection multiplied by the total orphan share percentage at the waste oil disposal site. The authority may not issue deferred loans for eligible persons who have received payments pursuant to this subsection. This distribution must occur on April 1, 2000. Any remaining funds in the fund must be transferred to the Groundwater Oil Clean-up Fund.

For purposes of this subsection, "person" means any natural person domiciled in this State; a corporation or partnership in the State; the State; any agency, authority, department, commission, municipality, quasi-municipal corporation, special-purpose district or other instrumentality of the State; a political subdivision of the State, including but not limited to those defined in Title 14, chapter 741 and Title 30-A, chapter 225; any other entity identified as a responsible party at the waste oil disposal site whose waste oil is identified as delivered to the waste oil disposal site and picked up from an address or location within the State in the records compiled by the Department of Environmental Protection or the United States Environmental Protection Agency or their agents, provided that neither the Federal Government nor any of its agencies, authorities, departments, boards, commissions or instrumentalities are eligible to have any share of their obligation for response costs paid by the fund.

8. Determinations regarding eligibility. The authority shall establish a registry of all persons who qualify under subsection 7 to have a portion of their share of total response costs paid pursuant to this section. The authority shall adopt rules relating to eligibility, including the calculation of an eligible person's proportionate share, procedures to ensure that money paid pursuant to this section is used to settle an eligible person's liabilities related to the waste oil disposal site and repayment of any amounts in excess of that person's share. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 3. 10 MRSA §1023-M is enacted to read:

§1023-M. Plymouth Waste Oil Feasibility Loan Program

1. Use of fund established. Money in the Waste Oil Clean-up Fund created under section 1023-L may be used by the authority to carry out the purposes of this section. As used in this section, the term "fund" refers to the Waste Oil Clean-up Fund.

2. Eligibility to participate in loan program. The authority may use money in the fund to carry out

any power of the authority under this section or under section 1026-S, including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of money in the fund in payment of principal, interest and other amounts due on insured loans. Money in the fund may be used for direct loans or deferred loans for all or part of the costs of the Plymouth waste oil site remedial study when the authority determines that:

A. The applicant has joined a group of persons potentially responsible for remedial costs associated with the Portland-Bangor Waste Oil Services Site in Plymouth designated by the United States Environmental Protection Agency as a National Priorities List site and has, as a member of that group, become obligated under an agreement with an entity conducting the remedial study to pay a portion of the cost of the remedial study;

B. The applicant has signed the Administrative Order by Consent pursuant to United States Environmental Protection Agency Docket No. CERCLA 1-2000-0004;

C. The applicant is not a state or federal agency; and

D. There is a reasonable likelihood that the applicant will be able to repay the loan.

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions, security and fees for the loans, including deferred loans. The authority shall adopt rules that provide for a simplified loan application process for loan requests of under \$2000. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The authority shall charge an interest rate of 0% on all loans. The maximum the authority may loan, or issue as a deferred loan, to any one borrower, including related entities as determined by the authority, is \$100,000.

Sec. 4. 10 MRSA §1026-S is enacted to read:

§1026-S. Mortgage loans for Plymouth waste oil site remedial study

1. Insurance. In addition to its other powers under this chapter, subject to the limitations of this subchapter except sections 1026-B to 1026-D, the authority may insure up to 100% of mortgage payments with respect to mortgage loans for the Plymouth waste oil site remedial study when the authority determines that:

A. The applicant meets the qualifications for a loan under section 1023-M; and

B. The applicant demonstrates a reasonable likelihood that it will not be able to obtain a loan for the project on reasonable terms without insurance pursuant to this section.

2. Limitation on mortgage insurance. The authority may not at any time have, in the aggregate amount of principal and interest outstanding, mortgage insurance obligations pursuant to this section exceeding \$1,000,000.

3. Mortgage eligibility. Pursuant to Title 5, chapter 375, subchapter II, the authority shall adopt rules for determining eligibility, project feasibility, terms, conditions and security for insured mortgage loans under this section. The authority may accept less than adequate collateral when necessary to ensure the Plymouth waste oil site remedial study is completed. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 5. PL 1999, c. 505, Pt. A, §15 is amended to read:

Sec. A-15. Transfer of funds to the Waste Oil Clean-up Fund. On the effective date of this Act, \$4,000,000 is transferred from the Underground Oil Storage Replacement Fund to the ~~Wells~~ Waste Oil Clean-up Fund. Funds transferred under this Act may only be used for the loan ~~program~~ programs pursuant to the Maine Revised Statutes, Title 10, ~~section~~ sections 1023-L and 1023-M.

Sec. 6. Report; authority to report legislation. By January 1, 2001, the Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters with regard to the Portland-Bangor Waste Oil Services Site in Plymouth on the following: the results of the remedial investigation and feasibility study; whether any settlement has been reached with regard to remediation of the site; the total amount of the responsible party remedial costs under any settlement agreement; the total number of parties to any settlement agreement; and the amount of the orphan share of the remedial costs.

The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out a bill to the First Regular Session of the 120th Legislature concerning the Plymouth waste oil site.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 14, 2000.