

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

to minor children ~~when the visitation is determined to be in the best interest of the child, or both, under such conditions that the court finds appropriate~~ as determined in accordance with the best interest of the child pursuant to section 1653, subsections 3 to 6. The court's ~~custody and visitation~~ award of parental rights and responsibilities or rights of contact is not binding in any separate action involving an award of parental rights and responsibilities pursuant to chapter 55 or in a similar action brought in another jurisdiction exercising child custody jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act;

See title page for effective date.

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## CHAPTER 274

H.P. 998 - L.D. 1335

### An Act to Clarify the Employment Status of Owner-operators in the Trucking Industry

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

**Sec. 1. 26 MRSA §1043, sub-§11, ¶F**, as amended by PL 1999, c. 389, §§1 to 3 and affected by §4, is further amended by amending subparagraphs (42) and (43) to read:

(42) Services performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq., and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.; ~~and~~

(43) Services of an author in furnishing text or other material to a publisher who:

- (a) Does not control the author's work except to propose topics or to edit material submitted;
- (b) Does not restrict the author from publishing elsewhere;
- (c) Furnishes neither a place of employment nor equipment for the author's use;
- (d) Does not direct or control the time devoted to the work; and

(e) Pays only for material that is accepted for publication; ~~and~~

**Sec. 2. 26 MRSA §1043, sub-§11, ¶F**, as amended by PL 1999, c. 389, §§1 to 3 and affected by §4, is further amended by enacting subparagraph (44) to read:

(44) Services provided by an owner-operator of a truck or truck tractor while leased to a motor carrier, as defined in 49 Code of Federal Regulations, 390.5 (2000), as long as that employment is not subject to federal unemployment tax.

See title page for effective date.

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## CHAPTER 275

H.P. 554 - L.D. 709

### An Act Regarding Ancient Execution Liens

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

#### PART A

**Sec. 1. 14 MRSA §4651-A, sub-§6**, as enacted by PL 1987, c. 184, §23, is amended to read:

**6. Filing during pendency of attachment; date of perfection.** If a lien created by this section is filed or recorded during the pendency of any prejudgment or post-judgment attachment obtained in the underlying civil action against property subject to the lien, the effective date of the lien in the property ~~shall~~ **must** relate back to the date of perfection of the attachment. The relation back ~~shall apply~~ **applies** only to that portion of the lien up to the amount of the attachment. The remainder of such a lien, and the full amount of ~~any~~ a lien created when no attachment is pending, ~~shall become~~ **becomes** effective and ~~be~~ perfected from the date of the filing or recording of the execution. ~~Any lien created pursuant to this section shall continue so long as the judgment in the underlying civil action, or any portion thereof, plus costs and interest, shall remain unpaid, undischarged or unreleased.~~

**Sec. 2. 14 MRSA §4651-A, sub-§8** is enacted to read:

**8. Duration of lien; renewal.** A lien created pursuant to this section after the effective date of this subsection continues for a period of 20 years from the date of the filing of the writ of execution or of the recording of the writ of execution in the registry of deeds, unless the judgment is paid, discharged or released. A lien may be renewed once for a period of

20 years from the filing or recording of a renewal, pluries or alias writ of execution in the same manner as the original writ of execution was filed or recorded, with the same notice as required by subsection 5.

A. If the renewal writ is filed or recorded before the expiration of the 20-year period of the original writ of execution, the renewal writ relates back to the date that the original writ of execution was filed or recorded and prevents the expiration of the lien.

B. A lien created pursuant to this section when the date of the recording of the writ of execution in the registry of deeds is more than 18 years prior to the effective date of this subsection may be renewed as provided in this subsection if the renewal writ is recorded within 2 years of the effective date of this subsection.

**Sec. 3. 14 MRSA §4653** is amended to read:

**§4653. Renewal in 10 years**

An alias or pluries execution may be issued within 10 years after the day of ~~the return~~ issuance of the preceding execution and not afterwards.

**PART B**

**Sec. B-1. 33 MRSA §352, first ¶**, as repealed and replaced by PL 1995, c. 304, §1, is amended to read:

A record of a deed or other instrument, including a power of attorney, made prior to January 1, ~~1990~~ 2000 for the conveyance of real property, or of any interest in the property, and recorded in the registry of deeds of the county in which the real property is located is valid and enforceable even if:

**Sec. B-2. 33 MRSA §353-A**, as amended by PL 1997, c. 62, §1, is further amended to read:

**§353-A. Miscellaneous defects**

**1. Omission of consideration; failure to seal.**

A deed or other instrument, including a power of attorney, made prior to January 1, ~~1990~~ 2000 for the conveyance of real property, or any interest in real property, in this State and otherwise valid, except that the deed or instrument does not state any consideration for the real property or was not sealed by the grantors, is valid.

**2. Discharge or assignment of mortgage.** A duly recorded satisfaction piece or instrument made prior to January 1, ~~1990~~ 2000 with the intent to cancel and discharge or assign a mortgage of real estate, fully identifying the mortgage intended to be canceled and

discharged or assigned, but not drawn in accordance with statutory requirements is considered valid.

**3. Corporations organized or attempted to be organized; validation of deeds and other instruments.** A corporation organized or attempted to be organized under the laws of this State more than 20 years prior to January 1, ~~1990~~ 2000 and not declared to be invalid prior to January 1, ~~1990~~ 2000 is for all intents and purposes a lawful corporation. The deeds or other instruments of the corporation, given in its corporate name, that affect or convey real estate or any interest in the real estate and that prior to January 1, ~~1990~~ 2000 were recorded in the registry of deeds in the county where the real estate is located may not be held invalid by reason of:

A. The lack of authority for or informality in their execution or delivery if executed or delivered in good faith by the acting officers of the corporation;

B. The failure to disclose the corporation's authority for the conveyance of real estate;

C. The failure to bear the corporate seal;

D. A person executing or acknowledging a deed or instrument in that person's individual capacity;

E. The failure to disclose the official capacity of the person executing the deed or instrument; or

F. The failure of the duly authorized corporate officer to sign the deed or instrument.

**4. Omission of authorization for conveyance of real estate.** A deed or other instrument for the conveyance of real property, or any interest in the real property executed by a person or persons purporting to act as the agent or attorney of the grantors or their spouses, that has been recorded in the registry of deeds for the county in which the real property is located more than 40 years prior to January 1, ~~1990~~ 2000 is valid even if no power of attorney authorizing and empowering an agent or attorney to make the conveyance or execute and deliver the deed or instrument appears of record, but the real property has in the meantime been occupied, claimed or treated by the grantees or their heirs as their own property.

**5. Discharge of mortgage.** An instrument written or recorded in the registry of deeds more than 40 years prior to January 1, ~~1990~~ 2000 that is signed or executed by a person or persons purporting to act as the agent or attorney of a mortgagee of real estate and purporting to discharge the mortgage is valid even if no power of attorney authorizing an agent or attorney appears of record.

**6. Failure to secure bond or comply with licensing.** In all cases in which an executor, administrator, guardian, conservator, trustee, master, receiver or similar officer has been authorized or ordered by a court of probate or other court to sell or exchange real estate and has sold or exchanged the real estate, or any interest in the real estate, in accordance with the authority, without first having filed a bond covering the faithful administration and distribution of the sale when a bond was required by law or has failed to comply with any other prerequisite for the issuance of the license authorizing the sale or exchange and has given a deed to the purchaser of the real estate or to the person with whom an exchange was authorized or ordered or when the executor, administrator, guardian, conservator, trustee, master, receiver or other officer appointed has acted in that capacity under a decree of any court appointing that person to the office, but the decree of appointment erroneously or inadvertently excused the person from giving bond in that capacity when a bond was required by law and was not in fact given, the deeds and acts previously done are valid.

**7. Foreclosure by publication.** In all cases of foreclosure of real estate mortgages by publication, a certificate of the publication of foreclosure made by the mortgagee or by an officer of the mortgagee, if the mortgagee is a corporation, or made by an officer or employee of the newspaper that published the notice recorded on or before January 1, ~~1990~~ 2000 is prima facie evidence of the publication of foreclosure to the same extent as if the certificate had in fact been made by the register of deeds and recorded; certificates made by the mortgagee or by an officer of the mortgagee, if the mortgagee is a corporation, or made by an officer or employee of the newspaper that published the notice recorded on or before January 1, ~~1990~~ 2000 have the same force and effect as if made by the register of deeds and are valid.

**8. Foreclosure by civil action.** All foreclosures commenced on or after October 1, 1975 of real estate mortgages executed on or prior to October 1, 1975 using the method of foreclosure set forth in Title 14, sections 6321 to 6324 for which the period of redemption allowed was not less than one year and that would be valid but for the date of execution of the mortgage are valid and effective according to their terms.

**9. Abstracts of divorce decrees.** An abstract of a divorce decree recorded in any registry of deeds prior to March 24, 1987 and otherwise valid that failed to state the residence of any party to the divorce action is valid and has the force and effect of a quitclaim deed releasing all interest in the real estate described in the decree or abstract.

See title page for effective date.

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## CHAPTER 276

S.P. 166 - L.D. 585

### An Act Concerning Telemarketing

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

**Sec. 1. 32 MRSA §4668**, as amended by PL 1977, c. 696, §251, is repealed and the following enacted in its place:

#### §4668. Limitation

**1. Exclusions.** This subchapter does not apply to the following:

A. A sale where the gross sales price, including any interest or carrying charges, is less than \$25;

B. A transaction regulated under Title 9-A, sections 3-501 to 3-507;

C. A sale by a dealer or agent or salesman of a dealer registered pursuant to chapter 105 of stocks, bonds, debentures or securities representing stocks, bonds or debentures registered pursuant to chapter 105 or expressly exempt from registration pursuant to chapter 105;

D. A sale of insurance regulated under Title 24-A, sections 2515-A and 2717; or

E. A sale of credit services by a supervised lender, as defined in Title 9-A, section 1-301, subsection 39, or an agent or affiliate of a supervised lender to the extent the affiliate or agent is selling or offering to sell the credit services of the supervised lender. For purposes of this paragraph, "credit services" includes any extension of credit and any product or service that a supervised lender is authorized by law or regulation to sell in connection with or relating to an extension of credit, such as credit insurance and a debt cancellation policy. For the purposes of this paragraph, "affiliate" has the same meaning as that term is defined in Title 9-B, section 131, subsection 1-A. Transactions covered by this exemption are limited to those that become effective only after the consumer has affirmed the terms and conditions of the agreement by an acceptance initiated by the consumer.

See title page for effective date.

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