

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.

J.S. McCarthy Company
Augusta, Maine
2001

Committee on Health and Human Services regarding the following issues:

1. Home and community-based care. Improvement of the availability of long-term care services for adults who choose to receive services in their homes and communities. This issue includes eligibility requirements, barriers to services and changing functional ability and health status;

2. Reimbursement issues. Reimbursement under the Medicaid program for nursing and residential care facilities that replace or renovate older facilities. This issue includes changes in facility capacity, reimbursement for direct and indirect cost components, the relationship of certificate of need to Medicaid reimbursement and budget neutrality under state law; and

3. Staffing issues. Permanent and temporary staffing in nursing and residential care facilities, the cost of wages and benefits and the impact of staffing patterns on quality of care.

Sec. 2. PL 1999, c. 731, Pt. BBBB, §15, sub-§3 is amended to read:

3. Duties. The committee shall report by February 1, 2001; February 1, 2002; and December 31, 2002 to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The report must include activities of the committee in the prior year, the opinion of the committee on the progress being made to implement this Part, information requested from the joint standing committee or required by law or resolve and any recommendations for action, including recommending necessary legislation to the Legislature. This section is repealed January 1, 2003.

See title page for effective date.

CHAPTER 285

H.P. 1227 - L.D. 1674

An Act to Allow Boards of Professions to Grant Hardship Deferments

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

Sec. 1. 32 MRSA §59-B is enacted to read:

§59-B. Deferment for continuing education

If a person licensed under this Title is required to obtain continuing education and does not meet the requirement due to an undue hardship, the licensing

authority for the profession of that person may grant a hardship deferment with a provision for the person to make up the continuing education requirement. A licensing authority under this Title shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter II-A to implement the provisions of this section.

See title page for effective date.

CHAPTER 286

H.P. 826 - L.D. 1080

An Act to Amend Article 9-A of the Uniform Commercial Code

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

Whereas, the Maine Revised Statutes, Title 11, Article 9-A, which governs secured transactions in the Uniform Commercial Code, will become effective on July 1, 2001 and changes to that law must be in place prior to July 1, 2001 in order for the Secretary of State to properly administer that law; 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. 11 MRSA §9-1104, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2) A secured party that has satisfied subsection ~~(a)~~ (1) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Sec. 2. 11 MRSA §9-1325, sub-§(2), ¶(b), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(b) Arose solely under section 2-711, subsection (3) or section 2-1508, subsection (5).

Sec. 3. 11 MRSA §9-1502, sub-§(2), ¶(c), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(c) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law

of this State if the description were contained in a record of the mortgage of the real property; and

Sec. 4. 11 MRSA §9-1508, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2) If the new debtor is a registered organization and becomes subject to a security interest pursuant to section 9-1203, subsection (4) by reason of a merger, consolidation or a change in the form of entity of the original debtor that is reflected in the public records relating to the new debtor's organization maintained by the governmental unit referenced in section 9-1102, subsection (73), then a financing statement filed under the original debtor's former name before the effective date of the merger, consolidation or change in the form of entity remains effective to perfect a security interest in collateral acquired by the new debtor to the same extent as if that financing statement was amended to provide the new debtor's name even if the difference between the new debtor's name and that of the original debtor causes a filed financing statement that is effective under subsection (1) to become seriously misleading only if the place to file a financing statement against the new ~~debt or~~ debtor for such collateral is, pursuant to Part 3 of this Article, the same jurisdiction in which the financing statement against the original debtor is filed. In all other instances, if the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) to be seriously misleading under section 9-1506:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under section 9-1203, subsection (4); and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than 4 months after the new debtor becomes bound under section 9-1203, subsection (4) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

Sec. 5. 11 MRSA §9-1512, sub-§(1), ¶(b), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(b) If the amendment relates to an initial financing statement recorded in the county registry of deeds, provides the book and page at which the initial financing statement was recorded and the name of the debtor and secured party.

Sec. 6. 11 MRSA §9-1516, sub-§(2), ¶¶(b) and (c), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, are amended to read:

(b) An amount equal to or greater than the applicable filing fee is not tendered. For a record recorded in the county registry of deeds, the filing office may refuse to accept the record if the amount tendered is greater than the applicable filing fee;

(c) The filing office is unable to index the record because:

(i) In the case of an initial financing statement, the record does not provide a name for the debtor or, for a record recorded in the county registry of deeds, the record does not provide a name for the debtor and the secured party;

(ii) In the case of an amendment or correction statement, the record:

(A) Does not identify the initial financing statement as required by section 9-1512 or 9-1518, as applicable; or

(B) Identifies an initial financing statement whose effectiveness has lapsed under section 9-1515;

(iii) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual that was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(iv) In the case of a record recorded in the county registry of deeds, the record does not provide a sufficient description of the real property to which it relates;

Sec. 7. 11 MRSA §9-1518, sub-§(2), ¶(a), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(a) Identify the record to which it relates by:

(i) The file number assigned to the initial financing statement to which the record relates; and

(ii) If the correction statement relates to a record recorded in the county registry of deeds, the date and time that book and page in which the initial financing statement was

recorded, the name of the debtor and the secured party and the information specified in section 9-1502, subsection (2);

Sec. 8. 11 MRSA §9-1519, sub-§(6), ¶(a), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(a) To retrieve a record by the name of the debtor and:

(i) If the filing office is the county registry of deeds, by the file number assigned to book and page at which the initial financing statement to which the record relates ~~and the date and time that the record was recorded~~; or

(ii) If the filing office is the office of the Secretary of State, by the file number assigned to the initial financing statement to which the record relates; and

Sec. 9. 11 MRSA §9-1522, sub-§(1), ¶(a), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(a) If the record was recorded in the county registry of deeds, by using the file number assigned to book and page at which the initial financing statement to which the record relates ~~and the date and time that the record was recorded~~; or

Sec. 10. 11 MRSA §9-1523, sub-§(7), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(7) The requirements of this section do not apply to information obtained from the registry ~~to~~ of deeds.

Sec. 11. 11 MRSA §9-1525, sub-§(1), ¶(a) and (b), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, are amended to read:

(a) ~~Twenty~~ Fifteen dollars if the record is communicated in writing and consists of one or 2 pages;

(b) ~~Forty~~ Thirty dollars if the record is communicated in writing and consists of more than 2 pages; and

Sec. 12. 11 MRSA §9-1525, sub-§(2), ¶(b), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(b) ~~Sixty~~ Forty dollars if the financing statement indicates that it is filed in connection with a manufactured-home transaction.

Sec. 13. 11 MRSA §9-1525, sub-§(4), ¶(b), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(b) ~~Ten~~ Twelve dollars if the request is communicated by another medium authorized by filing-office rule.

Sec. 14. 11 MRSA §9-1702, sub-§(2), as enacted by PL 1999, c. 699, Pt. A, §2 and affected by §4, is amended to read:

(2) Except as otherwise provided in subsection ~~(e)~~ (3) and sections 9-1703 to 9-1709:

(a) Transactions and liens that were not governed by former Article 9, were validly entered into or created before this Article takes effect and would be subject to this Article if they had been entered into or created after this Article takes effect and the rights, duties and interests flowing from those transactions and liens remain valid after this Article takes effect; and

(b) The transactions and liens may be terminated, completed, consummated and enforced as required or permitted by this Article or by the law that otherwise would apply if this Article had not taken effect.

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

Effective May 25, 2001.

CHAPTER 287

H.P. 877 - L.D. 1156

An Act to Update the Maine Consumer Credit Code Regarding Rental-purchase Agreements

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

Sec. 1. 9-A MRSA §11-104, sub-§2, as enacted by PL 1991, c. 787, is amended to read:

2. The consumer is a resident of this State at the time the merchant, wherever located, offering the rental-purchase agreement solicits the rental-purchase agreement or modification of the rental-purchase agreement in this State, whether the solicitation is made personally, by mail or by telephone.

For the purposes of this Article, the residence of the consumer is the address given by the consumer as the consumer's residence in any writing signed by the consumer in connection with the rental-purchase