

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

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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

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

Sec. 1. 1 MRSA c. 21 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 21

EMINENT DOMAIN

Sec. 2. 1 MRSA §815 is enacted to read:

§815. Abandonment of purpose; rights of condemnee

Notwithstanding any other provision of law, if an entity that has taken property by eminent domain fails to use the property for the project or purpose for which that property was taken, the condemnee or the condemnee's heirs have a right of first refusal to purchase the property as provided in this section. The right may be exercised at a price equal to the total compensation paid to the condemnee for the taking plus an adjustment for any improvements made to the property and for changes in inflation based upon the Consumer Price Index as defined in Title 36, section 5402, subsection 1. The right of first refusal automatically terminates once the property is used for the project or purpose for which that property was taken. The purpose of a taking may be passive in nature, including conservation or preservation.

1. Reaffirmation of public purpose. If a property has not been used for the purpose for which it was taken after 8 years from the date of condemnation, the entity must reaffirm the need to retain the property for that purpose by giving notice to the public of its continuing intent to use the property for that purpose. Notice to the public is by publication twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the property is located. If the purpose of the taking was to construct improvements, the property is deemed as being used for that purpose upon the commencement of substantial on-site construction activity. After the initial reaffirmation, for so long as the property has not been used for the purpose for which it was taken, the entity must reaffirm the need to retain the property every 3 years. Reaffirmation under this subsection does not constitute a retaking of the property, and this section does not require the entity to make additional payments to the condemnee or the condemnee's heirs. If the entity fails to reaffirm the need to retain the property, the entity must notify the condemnee or the condemnee's heirs as described in subsection 2.

2. Notification of right of first refusal. If the need to retain the property is not reaffirmed as required by subsection 1, the entity using eminent

domain must give written notice of the right of first refusal provided by this subsection to the condemnee or the condemnee's heirs by certified mail, return receipt requested, or by any other method that produces written evidence of receipt. Notice is sufficient under this subsection if the signed receipt is returned or the certified mail is returned as refused by the recipient.

A. If after reasonable diligence the address of the condemnee or the condemnee's heirs can not be determined, the notice is sufficient if it is published twice consecutively in a daily or weekly newspaper having general circulation in the municipality or political subdivision in which the property obtained by eminent domain is located.

B. If, within 90 days of the issuance of the written notice or the second publishing date as required by this subsection, the condemnee or the condemnee's heirs have either refused the right of first refusal on the property or failed to respond to the notice, then the entity may dispose of the property in any manner allowed by law free and clear from any rights provided by this section.

3. Waiver of rights under this section. Notwithstanding any other provision of this section, the condemnee or the condemnee's heirs may waive or release any rights provided under this section at any time.

4. Exemptions. This section does not apply to property taken by eminent domain if that property:

A. Was taken in whole or in part using federal funds or the eminent domain authority to take the property was derived from federal law;

B. Does not meet state or municipal lot size or frontage requirements;

C. Was taken to expand existing corridors used for transportation or utility purposes including highways, bridges, railroad lines or utility lines; or

D. Was taken before October 1, 2001.

See title page for effective date.

CHAPTER 329

H.P. 1048 - L.D. 1405

An Act to Encourage Joint Child Rearing Between Divorced Parents

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

Sec. 1. 19-A MRSA §1653, sub-§1, ¶C is enacted to read:

C. The Legislature finds and declares that it is the public policy of this State to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

Sec. 2. 19-A MRSA §1653, sub-§2, ¶D, as amended by PL 1997, c. 415, §3 and affected by §5, is further amended to read:

D. The order of the court awarding parental rights and responsibilities must include the following:

(1) Allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child as provided in subsection 3. An award of shared parental rights and responsibilities may include either an allocation of the child's primary residential care to one parent and rights of parent-child contact to the other parent, or a sharing of the child's primary residential care by both parents. If either or both parents request an award of shared primary residential care and the court does not award shared primary residential care of the child, the court shall state in its decision the reasons why shared primary residential care is not in the best interest of the child;

(2) Conditions of parent-child contact in cases involving domestic abuse as provided in subsection 6;

(3) A provision for child support as provided in subsection 8 or a statement of the reasons for not ordering child support;

(4) A statement that each parent must have access to records and information pertaining to a minor child, including, but not limited to, medical, dental and school records and other information on school activities, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in

the order its reasons for denying that access;

(5) A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 7; and

(6) A statement of the definition of shared parental rights and responsibilities contained in section 1501, subsection 5, if the order of the court awards shared parental rights and responsibilities.

An order modifying a previous order is not required to include provisions of the previous order that are not modified.

See title page for effective date.

CHAPTER 330

H.P. 952 - L.D. 1266

An Act to Protect Against Contamination of Crops and Wild Plant Populations by Genetically Engineered Plants

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

Sec. 1. 7 MRSA c. 103, sub-c. XI-A is enacted to read:

SUBCHAPTER XI-A

GENETICALLY ENGINEERED PLANTS AND SEEDS

§1051. Definitions

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

1. Cross-contamination. "Cross-contamination" means the unintentional transfer and incorporation of genetic material between a genetically engineered crop, by cross-pollination or other means, and a nongenetically engineered crop or a wild plant population.

2. Genetically engineered. "Genetically engineered" means altered by human manipulation at the molecular or cellular level by processes, including recombinant deoxyribonucleic acid and ribonucleic acid techniques, cell fusion, microencapsulation, macroencapsulation and introduction of foreign genes. "Genetically engineered" does not include products