

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

CHAPTER 607

S.P. 671 - L.D. 1874

**An Act to Give the Department of
Administrative and Financial
Services, Bureau of General Services
Discretion Regarding Building Codes**

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

Sec. 1. 5 MRSA §1742, sub-§6-A, as enacted by PL 1971, c. 741, is amended to read:

6-A. Building code. To adopt for design purposes for all public improvements the most recent version of one of the following published compilations of rules which that has been prepared by the International Code Council, the American Insurance Association, the Building Officials and Code Administrators International, the International Conference of Building Officials, the National Fire Protection Association or the Southern Building Code Congress, except that, where an administrative unit has adopted one of the above codes, such that code shall must be used for the design of a school building in that administrative unit.

The bureau has discretion to determine which portions of the building codes used in this subsection are applicable to public improvement projects. This determination must be adopted by rule and applies to all public improvement projects covered by those codes. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter II-A;

See title page for effective date.

CHAPTER 608

H.P. 1472 - L.D. 1973

An Act Regarding Utility Easements

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

Sec. 1. 35-A MRSA §2311, as amended by PL 1991, c. 743, §1, is further amended to read:

**§2311. Lines along railroads; application to Public
Utilities Commission when disagreement**

A person maintaining or operating a telephone or electric line may construct a line across, upon or along any railroad with the written permit of the person owning or operating the railroad. If the person seeking to construct the line cannot maintaining or

operating a telephone or electric line and the person owning or operating the railroad can not agree with the parties operating the railroad, as to constructing the construction or manner of construction of lines upon, along or across the railroad or as to the manner in which lines may be continued operation of lines constructed upon, along or across the railroad, either party may apply to the commission, who, after notice to those interested, shall hear and determine the matter and make their award, which. The commission's decision is binding upon the parties. The commission may grant the person seeking to construct or operate a line a permit with appropriate terms and conditions to construct or operate the line along, upon or across the railroad or, in the case of a line across the railroad, authorize, subject to appropriate terms and conditions, the person to take by eminent domain an easement across the railroad. The taking of an easement authorized by the commission pursuant to this section must be in accordance with the procedures established in chapter 65. This section does not permit the commission to authorize the taking of an easement over lands owned by the State. The person seeking to construct lines on the railroad shall pay the expenses of the hearing, except that if the commission finds that parties owning or operating the railroad have unreasonably refused their consent, those parties shall pay the expenses. Without limiting the commission's jurisdiction under this section, if a railroad company and a telephone or electric transmission and distribution utility enter into an agreement involving a utility crossing of railroad property and that agreement or some other agreement provides that the commission shall resolve disputes arising under the original agreement, the commission may resolve those disputes. As used in this section, the term "railroad" includes, but is not limited to, a railroad whose abandonment has been approved pursuant to 49 United States Code, Chapter 109.

Sec. 2. 35-A MRSA §3136, sub-§2, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

2. Right of eminent domain not applicable.
The right of eminent domain granted in subsection 1 does not apply to:

- A. Lands or easements located within 300 feet of an inhabited dwelling;
- B. Lands or easements on or adjacent to any developed or undeveloped water power;
- C. Lands or easements so closely paralleling existing wire lines of other utilities that the proposed transmission lines would substantially interfere with service rendered over the existing lines, except with the consent of the owners; ~~and~~

D. Lands or easements owned or used by railroad corporations, except as authorized pursuant to section 2311; and

E. Lands or easements owned by the State.

Sec. 3. 35-A MRSA §3136, sub-§3, as amended by PL 1999, c. 398, Pt. A, §51 and affected by §§104 and 105, is further amended to read:

3. Prior right to locate distribution lines and appurtenances in right-of-way limits of public way. Transmission and distribution utilities may take and hold by right of eminent domain land or easements necessary for the proper location of their distribution lines and the necessary appurtenances, but only where the transmission and distribution utilities had a prior right to locate their distribution lines and necessary appurtenances in the right-of-way limits of a public way and the body having jurisdiction over the public way has caused the utility to remove its distribution lines and appurtenant structures outside the right-of-way limits of the public way. This right does not apply to lands or easements as specified in subsection 2, paragraphs B, C ~~and~~, D and E.

Sec. 4. 35-A MRSA §4710, sub-§6, as enacted by PL 1999, c. 605, §2 and affected by §3, is amended to read:

6. Pipelines constructed over or across railroad or public utility. A natural gas utility may construct a natural gas pipeline over or across the location of a railroad or public utility by agreement with the railroad or public utility or, in the event of failure to agree, with the commission's approval and in a place and manner and under conditions determined by the commission. Notwithstanding subsection 4, paragraph D, the commission's approval of a natural gas utility's crossing of a railroad may include authorization pursuant to this section for the natural gas utility to take by eminent domain an easement across the railroad. For purposes of this section "railroad" includes, but is not limited to, a railroad whose abandonment has been approved pursuant to 49 United States Code, Chapter 109. This subsection does not permit the commission to authorize the taking of an easement over lands owned by the State. All work on the property of a railroad or public utility must be done under the supervision and to the satisfaction of the railroad or public utility, but at the natural gas utility's expense.

Sec. 5. 35-A MRSA §6501, sub-§3, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

3. Exceptions. This Except as otherwise provided by law, this chapter does not apply to:

A. Property taken by the United States, the State of Maine, a county or municipality of the State, a quasi-municipal corporation or steam railroad corporation; and

B. Property which, when taken, is being or is necessary to be used by the owner in the performance of a public duty.

See title page for effective date.

CHAPTER 609

S.P. 689 - L.D. 1891

An Act Regarding Eligibility for Financing Through the Maine Health and Higher Educational Facilities Authority

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

Sec. 1. 22 MRSA §2061, sub-§3, as amended by PL 1993, c. 390, §25, is further amended to read:

3. Lease. Such project will be leased to, or owned by, a health care facility or institution for higher education inside the State; ~~and~~

Sec. 2. 22 MRSA §2061, sub-§4, as repealed and replaced by PL 1975, c. 264, is amended to read:

4. Payment. Adequate provision has been or will be made for the payment of such project and that under no circumstances will the State be obligated for the payment of such project, or for the payment of the principal of, or interest on, any obligations issued to finance such project; and

Sec. 3. 22 MRSA §2061, sub-§5 is enacted to read:

5. Projects for program of independent housing with services not required to be licensed. If the project is for a program of independent housing with services that is not required to be licensed under this Title, the participating health care facility has agreed to comply with the requirements applicable to assisted living providers with regard to the standardized contract under section 7916 and residents' rights under section 7902-A, subsection 6 and rules adopted pursuant to those provisions. This requirement does not apply to the refinancing of an authority loan outstanding on April 1, 2002 or to a project specifically authorized under this chapter.

See title page for effective date.