

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

sary to take advantage of enhanced federal matching funds that may become available.

G. If, upon thorough analysis, the department determines that a waiver under this subsection is not feasible or would not significantly benefit participants in the elderly low-cost drug program, the department may decide not to pursue the waiver. Within 30 days of a decision not to proceed with a waiver and before taking action on that decision, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and shall provide a detailed analysis of the reasons for reaching that decision.

Sec. 4. Report. The Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the status of the waiver request pursuant to the Maine Revised Statutes, Title 22, section 3174-G, subsection 1-C on or before January 12, 2003. The report must include information on cost sharing, including copayments, under the waiver program and on benefits for enrollees in the program.

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

Effective April 9, 2002.

CHAPTER 651

S.P. 779 - L.D. 2119

An Act Relating to Subdivision Review and Title Search Procedures

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

Sec. 1. 30-A MRSA §4401, sub-§4, ¶C, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10 and amended by c. 326, §1, is further amended to read:

C. A lot of 40 or more acres ~~shall not~~ must be counted as a lot, except:

~~(1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance; or~~

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this

subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.

Sec. 2. 30-A MRSA §4401, sub-§4, ¶H, as repealed and replaced by PL 2001, c. 359, §4 and affected by §8 and affected by c. 523, §§1 and 2, is repealed.

Sec. 3. 30-A MRSA §4401, sub-§4, ¶H-1 is enacted to read:

H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

(1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

See title page for effective date.

CHAPTER 652

S.P. 828 - L.D. 2210

An Act Relating to Tax Expenditure Review and Other Tax Reporting Requirements

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

Sec. 1. 5 MRSA §1710-J, as enacted by PL 1995, c. 368, Pt. J, §1, is amended to read:

§1710-J. Access to information

In order to assist the committee, the Department of Administrative and Financial Services shall provide information and data to the committee on request. The

committee members are bound by the confidentiality restrictions concerning certain tax records described in Title 36, chapter 7. The State Tax Assessor may disclose any corporate or individualized income tax data, sales and use tax data, business tax data, property tax data or other tax data to the committee or its staff. This information may be requested in any form, including paper records, computerized data or summary statistics, but may not be transmitted with any identification by taxpayer name, number or address and must be aggregated to include at least 3 taxpayers. The State Tax Assessor shall provide information annually to the committee before the committee's December 1st report pursuant to section 1710-F concerning the amount of actual capital gains and losses experienced by taxpayers filing income tax returns in the State under Title 36, Part 8 for tax years ending in the previous calendar year. Data reported concerning capital gains and losses may be distributed by decile or quartile. In the absence of actual data, the State Tax Assessor may provide estimates of the capital gains or loss experience.

Sec. 2. 5 MRSA §13070-J, sub-§1, ¶D, as enacted by PL 1997, c. 761, §2, is amended to read:

D. "Economic development incentive" means:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter IV;
- (3) Municipal tax increment financing under Title 30-A, chapter 207;
- (4) The jobs and investment tax credit under Title 36, section 5215;
- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915; or
- (7) Employment tax increment financing under Title 36, chapter 917; or
- (8) The shipbuilding facility credit under Title 36, chapter 919.

Sec. 3. 36 MRSA §112, sub-§9-A, as enacted by PL 1999, c. 488, §1, is repealed.

Sec. 4. 36 MRSA §112, sub-11, as enacted by PL 1999, c. 169, §1, is repealed.

Sec. 5. 36 MRSA c. 9, as amended, is repealed.

Sec. 6. 36 MRSA §200, sub-§1, as enacted by PL 1997, c. 744, §1, is amended to read:

1. Impact of taxes on individuals. The bureau shall submit to the joint standing committee of the Legislature having jurisdiction over taxation matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report containing the information required by this subsection ~~to the Legislature~~ by July 1, 1999 and by October 1st of each even-numbered year thereafter.

A. Part 1 of the report must describe the overall incidence of all state, local and county taxes. The report must present information on the distribution of the tax burden:

- (1) For the overall income distribution, using a measure of system-wide incidence that appropriately measures equality and inequality;
- (2) By income classes, including, at a minimum, deciles of the income distribution; and
- (3) By other appropriate taxpayer characteristics.

B. Part 2 of the report must describe the impact of the tax system on business and industrial sectors. The report must:

- (1) Describe the impact of taxes on major sectors of the business and industrial economy relative to other sectors; and
- (2) Describe the relative impact of each tax on business and industrial sectors.

C. When determining the overall incidence of taxes under this subsection, the bureau shall reduce the amount of taxes collected by the amount of taxes that are returned directly to taxpayers through tax relief programs.

Sec. 7. 36 MRSA c. 10 is enacted to read:

CHAPTER 10

TAX EXPENDITURE REVIEW

§199-A. Definitions

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

1. Committee. "Committee" means the joint standing committee of the Legislature having jurisdiction over taxation matters.

2. Tax expenditure. "Tax expenditure" means any provision of state law that results in the reduction of tax revenue due to special exclusions, exemptions, deductions, credits, preferential rates or deferral of tax liability.

§199-B. Report

1. Report. The bureau shall submit a report regarding tax expenditures to the committee by January 5th of each odd-numbered year. The report must contain:

A. A summary of each tax expenditure in the laws administered by the bureau;

B. A description of the purpose and background of the tax expenditure and the groups likely to benefit from the tax expenditure;

C. An estimate of the cost of the tax expenditure for the current biennium;

D. Any issues regarding tax expenditures that need to be considered by the Legislature; and

E. Any recommendation regarding the amendment, repeal or replacement of the tax expenditure.

§199-C. Review

The committee shall conduct the following reviews according to the following schedule.

1. Odd-numbered years. During each odd-numbered year the committee may review the report required under section 199-B.

2. Even-numbered years. During each even-numbered year the committee may review current issues of tax policy.

A. During each second regular session, the committee shall identify areas of tax policy for review during the period between the end of the second regular session and the first regular session of the next Legislature.

B. The committee may review:

(1) Issues of tax policy related to tax expenditures identified in its review under subsection 1;

(2) Issues related to the overall structure of the State's tax laws and the relative tax burdens on various classes of taxpayers;

(3) The impact of the State's tax structure on taxpayer behavior, including incentives

and disincentives to reside or locate businesses in the State;

(4) Issues identified by the committee that require more detailed review than is possible during a regular session of the Legislature; or

(5) Any other tax policy issue identified by the committee as needing legislative review.

§199-D. Report

The committee shall notify the Legislature of the results of each review conducted under section 199-C and may issue a report of its findings and recommendations. The committee may report to the Legislature any legislation necessary to implement recommendations resulting from the review conducted under section 199-C.

Sec. 8. 36 MRSA §1119, as amended by PL 1999, c. 731, Pt. Y, §6, is further amended to read:

§1119. Valuation guidelines

By December 31, 2000 and biennially thereafter, the Department of Agriculture, Food and Rural Resources working with the Bureau of Revenue Services, representatives of municipal assessors and farmers shall prepare and report to the joint standing committee of the Legislature having jurisdiction over ~~taxation matters~~ guidelines to assist local assessors in the valuation of farmland. The department shall also deliver these guidelines in training sessions for local assessors throughout the State. These guidelines must include recommended values for cropland, orchard land, pastureland and horticultural land, differentiated by region where justified. Any variation in assessment of farmland from the recommended values must be substantiated by the local assessor within the parameters allowed within this subchapter.

Sec. 9. 36 MRSA §1121, as amended by PL 1997, c. 526, §14, is further amended to read:

§1121. Program monitoring

~~By January 1, 1989, and every 2 years thereafter,~~ The Department of Agriculture, Food and Rural Resources and the Bureau of Revenue Services shall periodically review the level of participation in the farm and open space tax program, the taxes saved due to that participation, the fiscal impact, if any, on municipalities, including the impact of any penalties assessed under section 1112 and the effectiveness of the program in preserving farmland and open space. The department and the bureau shall may report to the joint standing committee of the Legislature having jurisdiction over taxation within 6 months after

completion of the review matters on the status of the program. The department and the bureau shall may identify problems that prevent realization of the purposes of this subchapter and potential solutions to remedy those problems.

~~By February 1, 1992, the department and the bureau shall report to the joint standing committee of the Legislature having jurisdiction over taxation matters on the potential problems that occur as a matter of transferring parcels between classifications and subsequent withdrawal of those or other parcels pursuant to sections 581, 1109, 1112 and 1115. Recommendations, if any, regarding the penalty provisions imposed by withdrawal from any of the classifications contained in subchapter II A or this subchapter must be included in this report.~~

Sec. 10. ~~36 MRSA §5215, sub-§8, as enacted by PL 1993, c. 672, §1 and affected by §2, is repealed.~~

Sec. 11. ~~36 MRSA §6254, sub-§2-A, as enacted by PL 1989, c. 713, §4, is amended to read:~~

~~**2-A. Inventory.** The filing of the certificate in the registry of deeds is sufficient notice of the existence of the mortgage. Whenever the State acquires title to real estate, the State Tax Assessor shall cause an inventory to be made of all such real estate. The inventory must contain a description of the real estate, amount of accrued taxes by years and any information necessary to the administration and supervision of the real estate. The State Tax Assessor shall report annually to the Legislature not later than 15 days after the Legislature convenes. The report must contain a copy of the inventory of real estate then owned by the State and the recommendations for the disposition of this real estate that the State Tax Assessor makes.~~

Sec. 12. Identification of tax expenditures. By December 1, 2002, the joint standing committee of the Legislature having jurisdiction over taxation matters, in consultation with the Department of Administrative and Financial Services, Bureau of Revenue Services, shall identify tax expenditures that must be included in the report by the bureau required under that section of this Act that enacts the Maine Revised Statutes, Title 36, chapter 10 and develop a reporting format that will provide the committee with the information needed to review those tax expenditures effectively.

See title page for effective date.

CHAPTER 653

H.P. 1600 - L.D. 2101

An Act to Allow a Lessee to Purchase Leased Premises When the Lessor Decides to Sell

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

Sec. 1. ~~14 MRSA c. 710-D~~ is enacted to read:

CHAPTER 710-D

BUILDINGS ON LEASED LOTS

§6047. Application

1. Parties to agreement; purposes of agreement. This chapter applies to agreements between:

A. A person, referred to in this chapter as the "lessor," who owns land in territory under jurisdiction of the Maine Land Use Regulation Commission; and

B. A person, referred to in this chapter as the "lessee," who intends to construct or to occupy a building or buildings owned by that person on leased land in territory under jurisdiction of the Maine Land Use Regulation Commission for recreational or residential purposes on a seasonal or year-round basis or to operate a business consisting of a commercial sporting camp, campground or retail store.

§6048. Right of first refusal

A lessee of premises on which a structure owned by the lessee exists has the right of first refusal with regard to the leased premises if the lessor intends to sell or to offer to sell the leased premises as a separate parcel. Each lease subject to this chapter must make provision for a method of determining the sale price of the leased premises upon exercise of the right provided in this section. The lessor must give the lessee at least 90 days to accept the offer to purchase the lot.

§6049. Application

This chapter applies to leases entered into or renewed on or after the effective date of this chapter.

See title page for effective date.
