

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 45

H.P. 291 - L.D. 371

**An Act To Require Review of Utility
Rates Prior to Approval of
Alternative Rate Plans**

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

Sec. 1. 35-A MRSA §3195, sub-§2, as amended by PL 1999, c. 398, Pt. A, §71 and affected by §§104 and 105, is further amended to read:

2. Just and reasonable rates. In determining the reasonableness of any rate-adjustment mechanism established under this subchapter, the commission shall apply the standards of section 301 to ensure that the rates resulting from the implementation of the mechanism are just and reasonable. Prior to the adoption of a new or replacement alternative rate plan or renewal of any existing alternative rate plan, the commission shall, in order to ensure that rates at the starting point of the plan are just and reasonable, conduct a revenue requirement and earnings review pursuant to the standards of section 301. In conducting such a review under this subsection, the commission, at its discretion, may conduct the review in a manner designed to minimize the cost of the review to ratepayers.

Sec. 2. 35-A MRSA §4706, sub-§§3 and 6, as enacted by PL 1997, c. 707, §10, are amended to read:

3. Just and reasonable rates. In determining the reasonableness of any rate-adjustment mechanism established under this subchapter, the commission shall apply the standards of section 301 to ensure that the rates resulting from the implementation of a rate-adjustment mechanism are just and reasonable. Prior to the adoption of a new or replacement alternative rate plan or renewal of any existing alternative rate plan, the commission shall, in order to ensure that rates at the starting point of the plan are just and reasonable, conduct a revenue requirement and earnings review pursuant to the standards of section 301. In conducting such a review under this subsection, the commission, at its discretion, may conduct the review in a manner designed to minimize the cost of the review to ratepayers.

6. Amendment to multiyear rate plans. The commission may not amend or prematurely terminate the terms of a multiyear rate plan in a manner that prevents or threatens the utility's opportunity to recover a reasonable rate of return over the entire term of the plan. The commission shall ensure compliance with the requirements of this subsection in the revenue

requirement proceeding and earnings review required by subsection 3.

See title page for effective date.

CHAPTER 46

H.P. 487 - L.D. 657

**An Act To Repeal the Forest
Products Antitrust Exemption**

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

Sec. 1. 10 MRSA §1101, as amended by PL 1977, c. 175, §1, is further amended to read:

§1101. Contracts in restraint of trade

Every contract, combination in the form of trusts or otherwise, or conspiracy, in restraint of trade or commerce in this State is declared to be illegal; ~~provided that no association or corporation organized for the sole purpose of marketing, producing or trucking pulpwood or saw logs, the members of or stockholders in which are actually engaged in the production of such products or selling, cutting or trucking the same shall be deemed to be a conspiracy or a combination or in restraint of trade or an attempt to lessen competition or to fix prices arbitrarily; nor shall the marketing contracts and agreements between such association or corporation and its members or stockholders be considered illegal as such or in unlawful restraint of trade or as part of a conspiracy or combination to accomplish an improper or illegal purpose.~~ Whoever ~~shall make~~ makes any such contract or ~~engage~~ engages in any such combination or conspiracy ~~shall be~~ is guilty of a Class C crime.

Sec. 2. 13 MRSA §171, as amended by PL 1973, c. 489, §2, is further amended to read:

§171. Formation of trusts forbidden

It ~~shall be~~ is unlawful for any firm or incorporated company, or any number of firms or incorporated companies, or any unincorporated company or association of persons or stockholders, organized for the purpose of manufacturing, producing, refining or mining any article or product ~~which that~~ enters into general use and consumption by the people, to form or organize any trust or to enter into any combination of firms, incorporated or unincorporated companies or association of stockholders, or to delegate to any one or more board or boards of trustees or directors the power to conduct and direct the business of the whole number of firms, corporations, companies or associations ~~which may that~~ have formed or ~~which may that~~ propose to form a trust, combination or association

inconsistent with this section and contrary to public policy. No association or corporation organized for the sole purpose of marketing fish, shellfish or any of the fish products or agricultural products of this State, ~~or for the sole purpose of marketing, producing or trucking, pulpwood or saw logs,~~ the members or stockholders in which are actually engaged in the production of such products, or in the selling, canning or otherwise preserving of fish products, ~~or selling, cutting or trucking of pulpwood or saw logs,~~ shall ~~may~~ be deemed to be a conspiracy or a combination or in restraint of trade or an attempt to lessen competition or to fix prices arbitrarily; nor shall ~~may~~ the marketing contracts and agreements between such association or corporation and its members or stockholders be considered illegal as such or in unlawful restraint of trade or as part of a conspiracy or combination to accomplish an improper or illegal purpose.

See title page for effective date.

CHAPTER 47

H.P. 202 - L.D. 247

An Act To Increase the Value of Real and Personal Property Exempt from Attachment

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

Sec. 1. 14 MRSA §4422, sub-§1, ¶A, as amended by PL 2001, c. 306, §1, is further amended to read:

A. Except as provided in paragraph B, the debtor's aggregate interest, not to exceed ~~\$25,000~~ \$35,000 in value, in real or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor, provided that if minor dependents of the debtor have their principal place of residence with the debtor, the debtor's aggregate interest may not exceed ~~\$50,000~~ \$70,000 and provided further that if the debtor's interest is held jointly with any other person or persons, the exemption may not exceed in value the lesser of ~~\$25,000~~ \$35,000 or the product of the debtor's fractional share times ~~\$50,000~~ \$70,000.

Sec. 2. 14 MRSA §4422, sub-§1, ¶B, as enacted by PL 1989, c. 286, §1, is amended to read:

B. The debtor's aggregate interest, not to exceed ~~\$60,000~~ \$70,000 in value, in property described in paragraph A, if the debtor or a dependent of

the debtor is either a person 60 years of age or older or a person physically or mentally disabled and because of such disability is unable to engage in substantial gainful employment and whose disability has lasted or can be expected to last for at least 12 months or can be expected to result in death; provided that if the debtor's interest is held jointly with any other person or persons, the exemption ~~shall~~ may not exceed in value the lesser of ~~\$60,000~~ \$70,000 or the product of the fractional share of the debtor's interest times ~~\$120,000~~ \$140,000. This paragraph does not apply to liens obtained prior to its effective date or to judgments based on torts involving other than ordinary negligence on the part of the debtor.

See title page for effective date.

CHAPTER 48

H.P. 575 - L.D. 776

An Act To Eliminate Potential Restrictions to the Establishment of an Alternative Form of Regulation for Some Telephone Utilities

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 35-A, section 9104 contains provisions that might be read as a restriction that allowed the Public Utilities Commission to establish an alternative form of regulation only during a time period in 1995 and 1996 and that are otherwise obsolete; and

Whereas, the Public Utilities Commission and at least one telephone utility are engaged in discussions that may lead to the establishment of an alternative form of regulation for that company; and

Whereas, if such discussions are fruitful, an alternative form of regulation would be established prior to June of 2003; 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. 35-A MRSA §9104, as enacted by PL 1993, c. 638, §2, is repealed.