

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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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 235

H.P. 233 - L.D. 290

An Act To Ensure That Title Applications are Timely Delivered

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

Sec. 1. 29-A MRSA §603, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Penalty. If an application, certificate of title or other document required to be delivered to the Secretary of State is not delivered to the Secretary of State within 20 days, the Secretary of State shall collect, \$125 as a penalty, ~~an amount equal to the fee required for the transaction.~~

See title page for effective date.

CHAPTER 236

H.P. 947 - L.D. 1275

An Act To Amend the Laws Governing Improvident Transfers of Title

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

Sec. 1. 33 MRSA §1022, as enacted by PL 1987, c. 699, §1, is amended to read:

§1022. Undue influence

1. Presumption. In any transfer of real estate or major transfer of personal property or money for less than full consideration or execution of a guaranty by an elderly person who is dependent on others to a person with whom the elderly dependent person has a confidential or fiduciary relationship, it ~~shall be~~ is presumed that the transfer or execution was the result of undue influence, unless the elderly dependent person was represented in the transfer or execution by independent counsel. When the elderly dependent person successfully raises the presumption of undue influence by a preponderance of the evidence and when the transferee or person who benefits from the execution of a guaranty fails to rebut the presumption, the elderly dependent person ~~shall be~~ is entitled to avoid the transfer or execution and ~~be~~ entitled to the relief set forth in section 1024.

2. Confidential or fiduciary relationship. For the purpose of this section, the transfer of property or execution of a guaranty is deemed to have been made

in the context of a confidential or fiduciary relationship if the transferee or person who benefits from the execution of a guaranty had a close relationship with the elderly dependent person prior to the transfer or execution. Confidential or fiduciary relationships include the following:

- A. A family relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, including relationships by marriage and adoption;
- B. A fiduciary relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, such as with a guardian, conservator, trustee, accountant, broker or financial advisor;
- C. A relationship between an elderly dependent person and a physician, nurse or other medical or health care provider;
- D. A relationship between the elderly dependent person and a psychologist, social worker or counselor;
- E. A relationship between the elderly dependent person and an attorney;
- F. A relationship between the elderly dependent person and a priest, minister, rabbi or spiritual advisor;
- G. A relationship between the elderly dependent person and a person who provides care or services to that person whether or not care or services are paid for by the elderly person;
- H. A relationship between an elderly dependent person and a friend or neighbor; or
- I. A relationship between an elderly dependent person and a person sharing the same living quarters.

When any of these relationships exist and when a transfer or execution is made to a corporation or organization primarily on account of the membership, ownership or employment interest or for the benefit of the fiduciary or confidante, a fiduciary or confidential relationship with the corporation or organization is deemed to exist.

Sec. 2. 33 MRSA §1023, as amended by PL 1989, c. 238, §§2 and 4, is further amended to read:

§1023. Civil action; relief available

1. Civil action. A civil action may be brought to obtain relief under this chapter by an elderly dependent person ~~or~~ that person's legal representative

or the personal representative of the estate of an elderly dependent person.

2. Relief available; protected transfers and executions. When a court finds that a transfer of property or execution of a guaranty was the result of undue influence, it shall grant appropriate relief enabling the elderly dependent person to avoid the transfer or execution, including the rescission or reformation of a deed or other instrument, the imposition of a constructive trust on property or an order enjoining use of or entry on property or commanding the return of property. When the court finds that undue influence is a good and valid defense to a transferee's suit on a contract to transfer the property or a suit of a person who benefits from the execution of a guaranty on that guaranty, the court shall refuse to enforce the transfer or guaranty.

No relief obtained or granted under this section may in any way affect or limit the right, title and interest of good faith purchasers, mortgagees, holders of security interests or other 3rd parties who obtain an interest in the transferred property for value after its transfer from the elderly dependent person. No relief obtained or granted under this section may affect any mortgage deed to the extent of value given by the mortgagee.

See title page for effective date.

CHAPTER 237

H.P. 622 - L.D. 845

An Act To Provide Leadership in Addressing the Threat of Climate Change

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

Sec. 1. 38 MRSA c. 3-A is enacted to read:

CHAPTER 3-A

CLIMATE CHANGE

§574. Definitions

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

1. Greenhouse gas. "Greenhouse gas" means any chemical or physical substance that is emitted into the air and that the department determines by rule may reasonably be anticipated to cause or contribute to climate change. "Greenhouse gas" includes, but is not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur

hexafluoride. Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Sector. "Sector" means one of the 5 sectors identified in the climate change action plan adopted by the Conference of New England Governors and Eastern Canadian Premiers in August 2001. The 5 sectors are the transportation, industrial, commercial, institutional and residential sectors.

§575. Lead-by-example initiative

The department shall establish a lead-by-example initiative under which the department shall:

1. Greenhouse gas emissions inventory for state-owned facilities and state-funded programs. Create an inventory of greenhouse gas emissions associated with state-owned facilities and state-funded programs and create a plan for reducing those emissions to below 1990 levels by 2010;

2. Carbon emission reduction. By January 1, 2006, seek to establish carbon emission reduction agreements with at least 50 businesses and nonprofit organizations;

3. New England greenhouse registry. Participate in a regional effort to develop and adopt a greenhouse gas registry that includes 3rd-party verification; and

4. Statewide greenhouse gas emissions inventory. Create an annual statewide greenhouse gas emissions inventory.

§576. Reduction goals

The State's goals for reduction of greenhouse gas emissions within the State are as follows:

1. Reduction by 2010. In the short term, reduction to 1990 levels by January 1, 2010;

2. Reduction by 2020. In the medium term, reduction to 10% below 1990 levels by January 1, 2020; and

3. Long-term reduction. In the long term, reduction sufficient to eliminate any dangerous threat to the climate. To accomplish this goal, reduction to 75% to 80% below 2003 levels may be required.

§577. Climate action plan

By July 1, 2004, the department, with input from stakeholders, shall adopt a state climate action plan to meet the reduction goals specified in section 576. The action plan must address reduction in each sector in cost-effective ways and must allow sustainably managed forestry, agricultural and other natural