

# 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**

**THE GENERAL EFFECTIVE DATE FOR**  
**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.**

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

State to file a petition for a violation of Title 22, section 2389, subsection 2 or Title 28-A, section 2052, the juvenile community corrections officer shall inform the Secretary of State of the violation. The Secretary of State shall suspend for a period of 30 days that juvenile's license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license.

The attorney for the State on that attorney's own motion or upon receiving a request for review by the law enforcement officer, the complainant or the victim, shall consider the facts of the case, consult with the juvenile community corrections officer who made the initial decision and then make a final decision as to whether to file the petition. Notwithstanding any action or inaction by the juvenile community corrections officer, the attorney for the State may file a petition at any time more than 30 days after the juvenile community corrections officer has been given notice pursuant to section 3203-A.

**Sec. 6. 15 MRSA §3314, sub-§3-A,** as amended by PL 1995, c. 65, Pt. A, §49 and affected by §153 and Pt. C, §15, is further amended to read:

**3-A. Operator's license suspension for drug offenses.** The court may suspend for a period of up to 6 months the license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license of any person who violates Title 17-A, chapter 45; ~~or~~ Title 22, section 2383, unless the juvenile is authorized to possess marijuana for medical use pursuant to Title 22, section 2383-B, subsection 5; Title 22, section 2389, subsection 2; or Title 28-A, section 2052 and is adjudicated pursuant to this chapter to have committed a juvenile crime.

The court shall give notice of suspension and take physical custody of an operator's license or permit as provided in Title 29-A, section 2434. The court shall immediately forward the operator's license and a certified abstract of suspension to the Secretary of State.

See title page for effective date.

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## CHAPTER 306

H.P. 526 - L.D. 720

### An Act To Protect Health Care Workers Who Report Medical Errors

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

**Sec. 1. 26 MRSA §833, sub-§1, ¶¶C and D,** as enacted by PL 1987, c. 782, §4, are amended to read:

C. The employee is requested to participate in an investigation, hearing or inquiry held by that public body, or in a court action; ~~or~~

D. The employee acting in good faith, has refused to carry out a directive that would expose the employee or any individual to a condition that would result in serious injury or death, after having sought and been unable to obtain a correction of the dangerous condition from the employer; or

**Sec. 2. 26 MRSA §833, sub-§1, ¶E** is enacted to read:

E. The employee, acting in good faith and consistent with state and federal privacy laws, reports to the employer, to the patient involved or to the appropriate licensing, regulating or credentialing authority, orally or in writing, what the employee has reasonable cause to believe is an act or omission that constitutes a deviation from the applicable standard of care for a patient by an employer charged with the care of that patient. For purposes of this paragraph, "employer" means a health care provider, health care practitioner or health care entity as defined in Title 24, section 2502.

**Sec. 3. Printing of notice.** Notwithstanding the Maine Revised Statutes, Title 26, section 42-B, the Department of Labor, Bureau of Labor Standards is not required to modify and redistribute the printed notice required by that section to reflect the changes in the laws resulting from this Act. The Bureau of Labor Standards shall modify the printed notice to reflect the changes contained in this Act when it becomes necessary to print additional notices due to an insufficient supply of such notices or future changes in the laws.

See title page for effective date.

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## CHAPTER 307

S.P. 121 - L.D. 342

### An Act to Amend the Law Relating to Annuities

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** national financial markets have been severely and adversely affected as the result of the

events of September 11, 2001, and those events have affected the economy of the State; and

**Whereas**, events surrounding recent improprieties by major publicly traded companies such as Enron have severely and adversely affected national financial markets and those events have affected the economy of the State; and

**Whereas**, as a result of these events, earnings on investment vehicles of all types have been significantly reduced, and this situation will continue to exist for the foreseeable future; and

**Whereas**, one financial investment vehicle essential to citizens of this State is annuities; and

**Whereas**, the availability of annuity contracts providing flexible considerations will become virtually nonexistent if the laws of this State are not changed to reflect current market conditions; 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. 24-A MRSA §2544**, as enacted by PL 1979, c. 442, §4, is amended to read:

**§2544. Minimum values**

The minimum values as specified in sections 2545 to 2548 and section 2550 of any paid-up annuity, cash surrender or death benefits available under an annuity contract ~~shall~~ must be based upon minimum nonforfeiture amounts as defined in this section.

~~1. With respect to contracts providing for flexible considerations, the~~ The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments ~~shall~~ must be equal to an accumulation up to that time at a rate of interest ~~of 3% per year of percentages~~ as permitted under subsection 1-A of the net considerations, as hereinafter defined, paid prior to that time, decreased by the sum of:

A. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest ~~of 3% per year as permitted under subsection 1-A; and~~

B. The amount of any indebtedness to the insurer on the contract, including interest due and accrued ~~and increased by any existing additional amounts credited by the insurer to the contract.;~~

C. An annual contract charge of \$50, accumulated at a rate of interest as permitted under subsection 1-A; and

D. Any premium tax paid by the insurer for the contract, accumulated at a rate of interest as permitted under subsection 1-A.

The net considerations for a given contract year used to define the minimum nonforfeiture amount ~~shall~~ must be an amount ~~not less than zero and shall be equal to 87 1/2% of the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be 65% of the net consideration for the first contract year and 87 1/2% of the net considerations for the 2nd and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65% of the portion of the total net consideration for any renewal contract year which exceeds by not more than 2 times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%.~~

1-A. The rate of interest used in determining minimum nonforfeiture amounts must be determined in accordance with the following requirements and specified in any contract providing for recalculation of the rate of interest permitted under this subsection.

A. The rate of interest must be an annual rate of interest determined as the lesser of 3% per annum and the 5-year Constant Maturity Treasury Rate reported by the Federal Reserve rounded to the nearest 1/20th of 1% as of a date, or average over a period, specified in the contract that is no later than 15 months prior to the contract issue date or the redetermination date decreased by 125 basis points as long as the resulting rate of interest is not less than 1%.

B. The rate of interest applies for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, must be stated in the contract. The basis is the date or average over a specified period that produces the value of the 5-year Constant Maturity Treasury Rate to be used at each redetermination date.

C. During the period or term that a contract provides substantive participation in an equity indexed benefit, the contract may increase the reduction described in paragraph A by up to an additional 100 basis points to reflect the value of the equity indexed benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction

may not exceed the market value of the benefit. The superintendent may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit and may disallow or limit the reduction if such a demonstration is not accepted.

D. The superintendent may adopt rules to implement this subsection and to provide for further adjustments to the minimum nonforfeiture amounts for contracts providing for substantive participation in an equity indexed benefit and for contracts for which the superintendent determines adjustments are appropriate. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

~~2. With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with 2 exceptions:~~

~~A. The portion of the net consideration for the first contract year to be accumulated shall be the sum of 65% of the net consideration for the first contract year plus 22 1/2% of the excess of the net consideration for the first contract year over the lesser of the net considerations for the 2nd and 3rd contract years; and~~

~~B. The annual contract charge shall be the lesser of \$30 or 10% of the gross annual consideration.~~

~~3. With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations, except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90% and the net consideration shall be the gross consideration less a contract charge of \$75.~~

4. Notwithstanding this section, an insurer may elect to apply provisions of this section related to the rate of interest used to determine minimum nonforfeiture amounts on a contract form basis.

This subsection is repealed 2 years from the effective date of this subsection.

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

Effective May 27, 2003.

## CHAPTER 308

### H.P. 512 - L.D. 695

#### An Act To Amend the Laws Governing Minimum Lot Size

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

**Sec. 1. 12 MRSA §4807, sub-§§1-A and 1-B are enacted to read:**

**1-A. Engineered disposal system.** "Engineered disposal system" means a subsurface wastewater disposal system designed, installed and operated as a single unit to treat and dispose of at least 2,000 gallons of wastewater per day or a system designed to be capable of treating wastewater with significantly high 5-day biochemical oxygen demand and total suspended solid concentrations.

**1-B. First-time subsurface waste disposal system.** "First-time subsurface waste disposal system" means the first subsurface waste disposal system designed to serve a specific structure.

**Sec. 2. 12 MRSA §4807-B,** as amended by PL 1985, c. 481, Pt. A, §21, is repealed and the following enacted in its place:

#### **§4807-B. Approval of smaller lots**

**1. Approval by local plumbing inspector.** A lot of less than the size required in section 4807-A may be used for subsurface waste disposal if approved in writing by the local plumbing inspector for the municipality or unorganized territory, as long as:

A. The applicant has submitted a current application for subsurface wastewater disposal, or the equivalent, pursuant to rules adopted by the Department of Human Services;

B. The subsurface waste disposal meets the criteria for first-time subsurface waste disposal systems as adopted by rule by the Department of Human Services without requiring a variance; and

C. The subsurface waste disposal is not an engineered disposal system.

**2. Approval by Department of Human Services.** A lot that does not meet the criteria listed in subsection 1 may be used for subsurface waste disposal if the subsurface waste disposal is in compliance with the rules regarding subsurface waste disposal adopted by the Department of Human Services and is approved in writing by the Department of Human Services.