

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

CHAPTER 528

S.P. 649 - L.D. 1717

**An Act To Clarify Membership on
Boards of Directors for Maine
Financial Institutions**

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

Whereas, the Maine Business Corporation Act took effect July 1, 2003 and has standardized the corporate structure and governance of Maine corporations; and

Whereas, certain provisions in law remain inconsistent with that Act; 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. 9-B MRSA §326, first ¶, as corrected by RR 2001, c. 2, Pt. B, §10 and affected by §58, is amended to read:

Except as provided in this section and section 327, the management and operations of a financial institution organized under this chapter must be pursuant to Title 13-C, chapter 8.

Sec. 2. 9-B MRSA §326, sub-§1, ¶A, as amended by PL 1997, c. 398, Pt. D, §13, is further amended to read:

A. The number of directors on the board of a mutual financial institution may not be less than 5, ~~all of whom must be residents of the financial institution's geographic area or an area proximate to that geographic area.~~

Sec. 3. 9-B MRSA §326, sub-§1, ¶C, as enacted by PL 1975, c. 500, §1, is amended to read:

C. Vacancies on the board occurring during the year may be filled by the board until the next annual meeting of the incorporators or members, who shall elect a director at such time to fill such position for the remainder of the term. Any vacancy ~~which that~~ causes the number of directors to fall below the minimum required in paragraph A or in the institution's bylaws ~~shall or articles of incorporation must~~ be filled immediately.

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

Effective March 3, 2004.

CHAPTER 529

H.P. 1272 - L.D. 1750

**An Act To Improve the Ability of
Water Utilities To Maintain a
Contingency Allowance**

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

Sec. 1. 35-A MRSA §6105, sub-§4, ¶E, as corrected by RR 1991, c. 2, §131, is amended to read:

E. To provide for a contingency ~~reserve fund~~ allowance as provided in section 6112; and

Sec. 2. 35-A MRSA §6112, as renumbered by RR 1991, c. 1, §49, is amended to read:

§6112. Contingency allowance

1. Annual contingency allowance. A consumer-owned water utility may provide for an annual contingency allowance by including in rates ~~an amount up to 5% of the revenues required to operate the water utility. Each year any contingency allowance, which may not exceed 5% of the prior year's total revenue, must be credited to a contingency reserve fund. Other revenue may not be credited to the account.~~ the amounts as follows:

A. For a utility with total annual revenues up to \$85,000, an amount up to 10% of the revenues required to operate the utility; and

B. For a utility with total annual revenues in excess of \$85,000, an amount up to 5% of the revenues required to operate the utility.

~~**2. Contingency reserve fund maximum.** The maximum amount that may be accumulated in a contingency reserve fund is as follows:~~

~~A. For utilities with annual revenues of up to \$125,000, the maximum amount is 25% of the most recent year's annual revenues;~~

~~B. For utilities with annual revenues between \$125,001 and \$250,000, the maximum amount is 15% of the most recent year's annual revenues plus \$12,500;~~

~~C. For utilities with annual revenues between \$250,001 and \$375,000, the maximum amount is~~

~~5% of the most recent year's annual revenues plus \$37,500; and~~

~~D. For utilities with annual revenues in excess of \$375,000, the maximum amount is 15% of the most recent year's annual revenues.~~

~~Any contingency allowance collected when the contingency reserve fund is at the maximum amount permitted must be credited to the unappropriated retained earnings account and treated in the same manner as any other surplus produced by a consumer-owned utility.~~

~~**3. Use of contingency reserve fund.** The contingency reserve fund may be used only to pay for operating losses resulting from insufficient revenues to meet operating expenses and debt service costs, including, but not limited to, principal and interest repayment.~~

3-A. Authorized uses; commission review.
This section does not:

A. Authorize a consumer-owned water utility to expend amounts collected pursuant to this section for any purposes other than those allowed under this Title; or

B. Exempt any expenditures from review by the commission in accordance with this Title.

~~**4. Transition.** Any contingency reserve fund accumulated and expended prior to January 1, 1991 may not be considered in determining whether a utility has reached its maximum amount under subsection 2.~~

~~**5. Commission review.** If the commission determines that a water utility's contingency reserve fund has reached the maximum that may be accumulated under subsection 2 and that the utility is accumulating the consumer-owned water utility has accumulated in its unappropriated retained earnings account an amount that is inconsistent with just and reasonable rates, the commission may, pursuant to chapter 13, order the utility to reduce its rates to the appropriate level either in the form of temporary rate adjustments, credits or reduction in rates.~~

6. Public hearing on excesses. If a consumer-owned water utility in each of 3 consecutive years collects through rates under subsection 1 an amount, in the case of a utility with up to \$85,000 total annual revenues, greater than 10% of the utility's annual operating expenses or, in the case of a utility with greater than \$85,000 total annual revenues, an amount equal to or greater than 7% of the utility's total annual operating expenses, the water utility shall:

A. Immediately No later than July 1st of the calendar year following the end of the 3rd consecu-

tive year of over-collection, notify all of its customers in writing of the over-collection and of the time and place where the utility will hold a public hearing on the matter; and

B. Hold a public hearing no less than 10 days and no more than 30 days after sending the notice required under paragraph A. During the hearing the water utility shall:

- (1) Detail the extent of the over-collection;
- (2) Provide opportunity for any customer to testify or question the officials on any matter relating to the utility's financial situation; and
- (3) Explain and provide copies of the provisions of section 1302 and section 6104, subsection 7.

Sec. 3. 35-A MRSA §6113, sub-§1, as enacted by PL 1993, c. 30, §1, is amended to read:

1. Water supply protection fund. A consumer-owned water utility may establish a water supply protection fund to which a sum may be credited annually from surplus funds. The annual credit may not exceed 5% of the prior year's total revenue. ~~If the utility has established a contingency reserve fund pursuant to section 6112, the utility may not credit any amount to the water supply protection fund unless the contingency reserve fund has reached its maximum pursuant to section 6112, subsection 2.~~

See title page for effective date.

CHAPTER 530

H.P. 1273 - L.D. 1751

An Act To Create Consistency between State and Federal Telephone Consumer Protection Laws

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

Sec. 1. 35-A MRSA §7106, sub-§1, ¶A, as amended by PL 2001, c. 71, §2, is further amended to read:

A. Notwithstanding Title 32, chapter 69, subchapter ~~5~~ or Title 32, section ~~4690-A, subsection 4~~ 14716, and except as otherwise provided by the commission by rule adopted pursuant to subsection 3, a local or intrastate interexchange carrier may not initiate the change of a customer's local or intrastate carrier unless the