

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

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Lewiston, Maine
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real estate. A creditor, assignee or servicer is liable to the consumer for actual damages resulting from failure to make timely payments from that escrow account. The creditor, assignee or servicer shall also rectify the results of a failure to make timely payments, including causing corrections of the consumer's credit report and causing the discharge of any liens against the consumer's real estate.

§9-305-B. Timely responses to requests for payoff figures

A creditor, assignee or servicer shall respond to a request for a payoff figure within 3 business days following receipt of such a request from a consumer or an agent of the consumer for a consumer credit transaction secured by a mortgage on real estate. The response must include a precise payoff figure as of a date certain and must contain information permitting the consumer or the consumer's agent to update that figure, such as providing a per diem rate from a date certain. A charge may not be assessed for the first 2 requests in any calendar year, and a charge for each subsequent request may not exceed \$5.

Sec. 4. 9-A MRSA §9-405, sub-§1, as enacted by PL 1987, c. 396, §12, is amended to read:

1. If a creditor, assignee or servicer has violated the provisions of this article applying to timely payments from escrow, section 9-305-A, timely responses to requests for payoff figures, section 9-305-B, misrepresentation, section 9-401, or illegal, fraudulent or unconscionable conduct in an attempted collection of debts, section 9-403, any aggrieved consumer has a right to recover actual damages from that person, or in lieu thereof any consumer named as a plaintiff in the complaint as originally filed has a right to recover from a person violating this article an amount determined by the court not less than \$250 nor more than \$1,000. No action pursuant to this subsection may be brought more than 2 years after the due date of the last scheduled payment.

See title page for effective date.

CHAPTER 207

H.P. 693 - L.D. 983

**An Act To Make Technical Changes
to the Maine Criminal Code**

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

Sec. 1. 17-A MRSA §506-B, sub-§3, as amended by PL 1995, c. 694, Pt. D, §25 and affected by Pt. E, §2, is further amended to read:

3. Violation of a protection from abuse order issued under Title 19-A, section 4006 or 4007, subsection 1, paragraphs A to G, is a Class D crime as provided in Title 19-A, section 4011, subsection 1 or a Class C crime as provided in Title 19-A, section 4011, subsection 4.

Sec. 2. 17-A MRSA §959, sub-§§3, 4, 5 and 6, as enacted by PL 2001, c. 461, §2, are amended to read:

3. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of an illegal gambling machine ~~and~~ any monetary contents and any associated proceeds. The petition must be filed in the court having jurisdiction over the property.

B. The proceeding under paragraph A is an in rem civil action, in which the State has the burden of proving all material facts by a preponderance of the evidence.

C. A court shall order the State to give notice of the pendency of the action and the right to be heard by certified or registered mail or through hand delivery by a deputy sheriff to any person who appears to have an interest in the illegal gambling machine ~~and~~ any monetary contents and any associated proceeds. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles.

D. A court shall promptly, but not less than 2 weeks after notice, hold a hearing on the petition after an answer is filed by a person served with notice under paragraph C. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law.

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order must provide for disposition of the illegal gambling machine ~~and~~ any monetary contents and any associated proceeds by the State. Any revenue generated by the disposition of the illegal gambling machine ~~and~~ any monetary contents of the machine and any associated proceeds must be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice. The balance, if any, must be deposited in the General Fund.

4. Any law enforcement officer, department or agency having custody of an illegal gambling machine ~~or~~ any monetary contents of an illegal gambling machine or any associated proceeds or having disposed of the illegal gambling machine ~~or~~ any monetary contents or any associated proceeds shall keep and maintain during the pendency of the action full and complete records in accordance with this subsection. Upon issuance by the court of a final order ordering the disposition, destruction or return of the illegal gambling machine ~~or the~~ any monetary contents or any associated proceeds, the officer, department or agency must transmit a copy of those records to the Department of Public Safety for inclusion into a centralized record.

A. The records must show:

- (1) From whom the illegal gambling machine ~~and~~ any monetary contents and any associated proceeds were received;
- (2) Under what authority the illegal gambling machine ~~and~~ any monetary contents and any associated proceeds are held, received or disposed of;
- (3) To whom the illegal gambling machine ~~and~~ any monetary contents and any associated proceeds are delivered;
- (4) The date and manner of destruction or disposition of the illegal gambling machine; and
- (5) The exact kinds, quantities and forms of illegal gambling machines ~~and~~ the exact amount of any monetary contents of any machine and the exact amount of any associated proceeds held in custody or disposed of.

B. The records must be open to inspections by all federal and state officers authorized by the laws of the United States, a state or territory of the United States or a foreign nation to investigate or prosecute gambling laws.

C. The Department of Public Safety is responsible for maintaining a centralized record of illegal gambling machines seized. At least quarterly, the department shall provide a report of the disposition of property previously held by the department to the Commissioner of Administrative and Financial Services and the legislative Office of Fiscal and Program Review for review. These records must include an estimate of the fair market value of items seized.

5. Persons making final disposition or destruction of an illegal gambling machine ~~or~~ its monetary

contents or any associated proceeds under court order shall report, under oath, to the court the exact circumstances of the destruction or disposition.

6. An illegal gambling machine together with any monetary contents and any associated proceeds is contraband and may be seized by any law enforcement officer pursuant to subsection 7 or 8.

Sec. 3. 17-A MRSA §1233, as enacted by PL 1999, c. 788, §7, is amended to read:

§1233. Revocation procedures

The procedures, rights and responsibilities that apply to probation revocation under sections 1205 to 1208, including bail under section ~~1205~~, ~~subsection 8~~ 1205-C, subsections 5 and 6 and appellate review of revocation under section 1207, apply to revocation of supervised release.

Sec. 4. 17-A MRSA §1253, sub-§12, as enacted by PL 2003, c. 711, Pt. A, §18, is amended to read:

12. Subsections 9 and 10 supersede subsections 3, 3-B, 4, 5, 6 and 8 for a person who commits a crime other than murder and for a person who commits a crime other than under chapter 11 or 12; under section 556; under section 854, excluding subsection 1, paragraph A, subparagraph (1); or against a family or household member under chapter 9 or 13, section 506-B, 554, 555 or 758, on or after August 1, 2004.

See title page for effective date.

CHAPTER 208

H.P. 83 - L.D. 107

An Act Guaranteeing Freedom of Choice Regarding the Disposition of One's Own Organs

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

Sec. 1. 22 MRSA §2904, sub-§2, as amended by PL 1981, c. 639, §1, is further amended to read:

2. **Other documents.** A gift of any part of the body under section 2902, subsection 1, may be made by document other than a will. The gift becomes effective upon the death of the donor and upon acceptance by the donee. The document, ~~which may be a card designed to be carried on the person, must be~~ may be a donor card signed by the donor, in the presence of 2 witnesses who must sign the document in his presence an electronic donor registry in which