

# 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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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

report under the provisions of section 1313-C is subject to a security freeze placed on a consumer report by another consumer reporting agency from which it obtains information:

**1. Check services or fraud prevention services company.** A check services or fraud prevention services company that reports on incidents of fraud or issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers or similar methods of payment;

**2. Deposit account information service company.** A deposit account information service company that issues reports regarding account closures due to fraud, overdrafts, automated teller machine abuse or similar negative information regarding a consumer to inquiring financial institutions for use only in reviewing that consumer's request for a deposit account at the inquiring financial institution; and

**3. Consumer reporting agency.** A consumer reporting agency that:

A. Acts only to resell credit information by assembling and merging information contained in a database of one or more consumer reporting agencies; and

B. Does not maintain a permanent database of credit information from which new consumer reports are produced.

**Sec. 4. Effective date.** This Act takes effect February 1, 2006.

Effective February 1, 2006.

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## CHAPTER 244

S.P. 331 - L.D. 991

### An Act To Restore Municipal Authority To Review Development Using Flexible Standards

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

**Sec. 1. 30-A MRSA §4301, sub-§1-A** is enacted to read:

**1-A. Cluster development.** "Cluster development" means a form of development that allows a subdivision design in which individual lot sizes and setbacks are reduced in exchange for the creation of common open space and recreation areas, the preservation of environmentally sensitive areas, agriculture and silviculture and the reduction in the size of road and utility systems.

**Sec. 2. 30-A MRSA §4353, sub-§4-C**, as enacted by PL 1997, c. 148, §2, is amended to read:

**4-C. Variance from dimensional standards.**

A municipality may adopt an ordinance that permits the board to grant a variance from the dimensional standards of a zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

C. The practical difficulty is not the result of action taken by the petitioner or a prior owner;

D. No other feasible alternative to a variance is available to the petitioner;

E. The granting of a variance will not unreasonably adversely affect the natural environment; and

F. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Under its home rule authority, a municipality may, in an ordinance adopted pursuant to this subsection, adopt additional limitations on the granting of a variance from the dimensional standards of a zoning ordinance. A zoning ordinance also may explicitly delegate to the municipal reviewing authority the ability to approve development proposals that do not meet the dimensional standards otherwise required, in order to promote cluster development, to accommodate lots with insufficient frontage or to provide for reduced setbacks for lots or buildings made nonconforming by municipal zoning. As long as the development falls within the parameters of such an ordinance, the approval is not considered the granting

of a variance. This delegation of authority does not authorize the reduction of dimensional standards required under the mandatory shoreland zoning laws, Title 38, chapter 3, subchapter 1, article 2-B.

See title page for effective date.

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## CHAPTER 245

H.P. 448 - L.D. 615

### An Act Regarding New Motor Vehicle Emission Standards

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

**Sec. 1. 38 MRSA §585-D**, as amended by PL 1999, c. 582, §1, is further amended to read:

**§585-D. New motor vehicle emission standards**

Subject to the provisions of this section, the ~~Board~~ board may adopt and enforce standards that meet the requirements of the federal Clean Air Act, Section 177, 42 United States Code, Section 7507 relating to control of emissions from new motor vehicles or new motor vehicle engines. These standards, known as a "low-emission vehicle program," must be designed to prevent air pollution and achieve and maintain ambient air quality standards within the State.

The department may not implement the low-emission vehicle program if the implementation of that program includes the adoption, sale, or use of the reformulated gasoline approved for sale and use in California.

~~By December 1, 2000, the board shall evaluate the feasibility of the State's zero emission vehicle mandate in existence on March 1, 2000. This evaluation must include an examination of zero-emission vehicle technology, price, performance and consumer acceptability and implementation issues relating to use of those vehicles in the State. Following this evaluation, any rule adopted by the board containing a zero-emission vehicle mandate is a major substantive rule pursuant to Title 5, chapter 375, subchapter II-A.~~

The department shall annually evaluate whether the State should continue to implement and enforce California low-emission vehicle standards relating to the control of emissions from new motor vehicles or new motor vehicle engines. The evaluation must include a review of the benefits and costs of enforcing the California standards and the benefits and costs of adopting the federal standards. The department shall report on its evaluation to the joint standing committee

of the Legislature having jurisdiction over natural resources matters by January 15, 2007 and by January 15th every year thereafter. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation related to the department's evaluation to the Legislature.

See title page for effective date.

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## CHAPTER 246

H.P. 745 - L.D. 1092

### An Act To Increase County Filing Fees

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

**Sec. 1. 33 MRSA §751, sub-§1**, as amended by PL 2003, c. 55, §8, is further amended to read:

**1. Instruments generally.** Receiving, recording and indexing any instrument that may be recorded and for which a specific fee is not set forth in this section or in any other section, the sum of ~~\$8~~ \$13 for the first record page and \$2 for each additional record page or portion of an additional record page. In addition, if more than 4 names are to be indexed, a fee of \$1 must be paid for each additional name, counting all grantors and grantees;

**Sec. 2. 33 MRSA §751, sub-§9**, as repealed and replaced by PL 1981, c. 279, §28, is amended to read:

**9. Plans.** Recording, indexing and preserving plans, the sum of ~~\$40~~ \$15;

**Sec. 3. 33 MRSA §751, sub-§13-A**, as enacted by PL 2003, c. 55, §9, is amended to read:

**13-A. Previously recorded instrument.** An instrument satisfying, releasing, discharging, assigning, subordinating, continuing, amending or extending an instrument previously recorded in the county in which recording is requested, must make reference to only one previously recorded instrument, or a fee of ~~\$8~~ \$13 for each additional previously recorded instrument referred to must be paid.

See title page for effective date.

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