

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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and that the claimant may claim a lien therefor; and

B. If an action to enforce the lien has been commenced in accordance with this section, notice has been provided in accordance with section 3261.

If the claimant is a real estate licensee, the claimant shall also send notice by certified mail, return receipt requested, or provide actual written notice as described in this subsection to the bona fide purchaser before the purchaser takes title to the premises on which the claimant's lien attaches. If notice is not provided, the purchaser takes title free of this lien. If notice provided by this subsection is filed, the lien claimant must also comply with the notice requirements of section 3253 and institute the legal action required by subsection 1 to the extent that this compliance is required in order to preserve the claimant's lien claim. The notice provided by this subsection is only effective relative to a bona fide purchaser for value for the period of 120 days from the date of recording thereof provided that this notice may again be recorded any number of times, but further notices are also only effective relative to a bona fide purchaser for value for the period of 120 days each from the date of their respective recordings.

Sec. 2. 10 MRSA §3261, as amended by PL 1981, c. 585, §5, is repealed and the following enacted in its place:

§3261. Certificate to be filed with register of deeds

1. Certificate of court clerk. When a complaint provided for in chapters 601 to 631 in which a lien is claimed on real estate is filed with the Superior Court or District Court clerk, the clerk shall forthwith, upon written request of the plaintiff's attorney, file a certificate setting forth the names of the parties, the date of the complaint and of the filing of the complaint and a description of the real estate as described in the complaint in the registry of deeds for the county or district in which the land is situated.

2. Notice of lien complaint. When a complaint has been filed with the Superior Court or District Court pursuant to this chapter, the claimant shall, within 60 days of the date on which the complaint was filed, cause to be recorded in the registry of deeds for the county or district in which the land is situated either:

A. A certificate of the court clerk in accordance with subsection 1;

B. An affidavit of the claimant or claimant's attorney setting forth the name of the court in which the complaint was filed, the names of the parties, the date of the complaint and of the filing

of the complaint, a description of the real estate as described in the complaint and the name, address and telephone number of the claimant or the claimant's attorney; or

C. An attested copy of the complaint.

3. Failure to file notice of lien complaint. The failure to file notice of a lien complaint in accordance with subsection 2 does not invalidate a lien, but if notice of the filing of a lien complaint is not recorded in the registry of deeds in accordance with this section before a bona fide purchaser takes title to the premises, the bona fide purchaser for value takes title free of the lien.

See title page for effective date.

CHAPTER 312

H.P. 380 - L.D. 505

An Act Relating to the Northern New England Passenger Rail Authority

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

Whereas, this Act expands the membership of the Northern New England Passenger Rail Authority Board of Directors to include the Commissioner of Transportation and the Commissioner of Economic and Community Development; and

Whereas, it is necessary for the new members of the board of directors to start work immediately to help facilitate the expansion and improvement of passenger rail service in Maine; 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. 23 MRSA §8002, sub-§2, ¶D, as enacted by PL 1995, c. 374, §3, is amended to read:

D. ~~The Dominion~~ of Canada and any of its provinces.

Sec. 2. 23 MRSA §8003, sub-§3 is enacted to read:

3. Responsibilities of State. Nothing in this chapter precludes the State from acquiring railroad

lines for passenger rail service or precludes the Department of Transportation from taking actions to facilitate the operation of passenger rail service within the State or from contracting with 3rd parties for the operation of passenger rail service within the State. Nothing in this chapter affects the responsibilities of the department for transportation policy and planning as set forth in this Title.

Sec. 3. 23 MRSA §8005, as amended by PL 1995, c. 543, §2, is repealed.

Sec. 4. 23 MRSA §8006, as enacted by PL 1995, c. 374, §3, is amended to read:

§8006. Funding

The authority is directed to use any revenues it receives from the operation of the passenger rail service established pursuant to this chapter to pay the operational expenses of that passenger rail service. The authority is directed to seek and use funds necessary to pay all operational expenses of this passenger rail service that are not met by fares and other funds or revenues. For the purposes of this section, "operational expenses" include, but are not limited to, all additional capital expenses necessary to maintain the passenger rail service.

Sec. 5. 23 MRSA §8011, as enacted by PL 1995, c. 374, §3, is amended to read:

§8011. Rules of construction

This chapter must be construed liberally to effectuate the purposes of this chapter. ~~Any amount of money set forth in this chapter is intended to represent a minimum amount that may be spent to effect those purposes. The State may appropriate to the authority, and the authority may expend, additional amounts for those purposes.~~

Sec. 6. 23 MRSA §8012, as enacted by PL 2001, c. 54, §1, is repealed and the following enacted in its place:

§8012. Passenger rail liability limitation

In the event one or more passenger rail service providers are protected by a liability insurance policy covering liability for property damage, personal injury, bodily injury and death arising from rail incidents or accidents occurring in this State involving passenger trains with policy limits of not less than \$75,000,000 per occurrence annually and \$75,000,000 in the aggregate annually regardless of the number of passenger rail service providers protected by such an insurance policy, each passenger rail service provider protected by such an insurance policy is not liable in excess of the coverage limits of such an insurance policy for any and all claims for damage, whether

compensatory or punitive, for property damage, personal injury, bodily injury or death arising out of such rail incidents or accidents. For purposes of this section, "passenger rail service provider" includes for-profit and nonprofit corporations and legal entities that own, lease, operate or manage passenger trains or passenger rail service; the authority; railroad companies that own, lease, provide track rights to or maintain rail lines over which passenger trains pass; and operators of passenger train services. "Passenger rail service provider" does not include the National Railroad Passenger Corporation or its successor organization. This section does not affect immunities, limitation on damages, limitation of actions, limitation of liability or other protections provided to the State as defined in Title 14, section 8102, subsection 4.

Sec. 7. 23 MRSA §8111, as enacted by PL 1995, c. 374, §3, is amended to read:

§8111. Purpose

The Northern New England Passenger Rail Authority, as established by Title 5, section 12004-F, subsection 16, is a body both corporate and politic in the State established for the general purpose of promoting passenger rail service as set forth in subchapter ~~¶ 1~~. It is declared that the purposes of this chapter are public and that the authority ~~shall~~ must be regarded as performing a governmental function in carrying out this chapter. ~~The authority, as successor in interest of the Department of Transportation and to its rights, privileges and liabilities as set forth in subchapter I, shall receive any federal and state funds previously authorized to the department for that purpose, and upon creation of the authority all such rights, privileges and liabilities of the department cease.~~

Sec. 8. 23 MRSA §8112, as amended by PL 1995, c. 543, §3, is repealed and the following enacted in its place:

§8112. Directors

1. Board of directors. The authority consists of a board of 7 directors. The 7 directors are the Commissioner of Transportation, who is a director ex officio, the Commissioner of Economic and Community Development, who also is a director ex officio, and 5 directors who are members of the public, appointed by the Governor and confirmed by the Legislature for 5-year staggered terms, who shall serve until their respective successors are appointed and qualified. A vacancy in a position held by a director who is a member of the public occurring other than by the expiration of a term must be filled by the Governor and confirmed by the Legislature for the unexpired term.

2. Compensation and removal of directors who are members of public. Each director who is a member of the public is entitled to compensation according to the provisions of Title 5, chapter 379. The Governor may remove any director who is a member of the public for cause.

3. Ex officio directors. Each ex officio director may vote and may designate 2 employees of that director's department or agency, either of whom may represent that director and may vote and otherwise act on behalf of that director at meetings of the board. Any such designation must be in writing and delivered to the board, and the designation continues in effect until revoked or amended by the director in a written document delivered to the board.

4. Chair. The Governor shall appoint one director to serve as chair of the board, who is responsible for scheduling, convening and chairing all board meetings.

5. Officers. The board shall elect a treasurer, a secretary and any other officers the board from time to time considers necessary, none of whom needs to be a director.

6. Quorum. All powers of the authority may be exercised by the board in lawful meeting, and a majority of directors then in office constitutes a quorum. A vacancy on the board does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

7. Regular meetings. Regular meetings of the board may be established by bylaw, and notice of such regular meetings need not be given to directors.

Sec. 9. 23 MRSA §8115, as enacted by PL 1995, c. 374, §3, is amended to read:

§8115. Obligations of authority

All expenses incurred in carrying out this chapter must be paid solely from funds provided to or obtained by the authority pursuant to this chapter. Any notes, obligations or liabilities under this chapter may not be deemed to be a debt of the State or a pledge of the faith and credit of the State; but those notes, obligations and liabilities are payable exclusively from funds provided to or obtained by the authority pursuant to this chapter. Pecuniary liability of any kind may not be imposed upon the State or any locality, town or landowner in the State because of any act, agreement, contract, tort, malfeasance, misfeasance or nonfeasance by or on the part of the authority or its agents, servants or employees. The records and correspondence relating to negotiations, trade secrets received by the authority ~~and~~ estimates of costs on projects to be put out to bid and any documents or records solicited or prepared in connection with employment

applications are confidential and the. The authority is deemed to have a lawyer-client privilege.

Sec. 10. Transition provision. Current appointed members of the Northern New England Passenger Rail Authority board of directors shall serve until their terms expire.

Sec. 11. Extension of passenger rail service. The Department of Transportation shall develop a plan to extend the existing passenger rail service between Boston, Massachusetts and Portland northward to Brunswick and Rockland so that this extended service is in operation no later than January 1, 2008. The Department of Transportation shall submit a report to the Joint Standing Committee on Transportation with its findings and recommendations no later than January 1, 2006.

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

Effective June 7, 2005.

CHAPTER 313

H.P. 1173 - L.D. 1662

**An Act To Amend the Law
Governing the Department of
Transportation's Contracting
Authority**

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

Sec. 1. 5 MRSA §1741, as amended by PL 1985, c. 130, is further amended to read:

§1741. Definitions

Whenever the words "public improvement" or "public improvements" ~~shall~~ appear in chapters 141 to 155, ~~they shall be held to those words~~ mean and include the construction, major alteration or repair of buildings or public works now owned or leased or ~~hereafter~~ constructed, acquired or leased by the State ~~of Maine~~ or any department, officer, board, commission or agency ~~thereof of the State~~, or constructed, acquired or leased, in whole or in part with state funds, and including the construction, major alteration or repair of school buildings, in excess of \$25,000, by any school administrative unit and for which state school construction aid is to be paid, ~~provided except~~ that sections 1743 and 1745 ~~shall are~~ not be applicable to construction, major alteration or repair of school buildings. ~~Nothing in this section may apply to the construction, improvement or repair of any and all ways, roads or bridges with appurtenances and other~~