

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**  
**July 29, 2005**

**SECOND REGULAR SESSION**  
**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 23, 2006**

**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**  
**2006**

A statement of the person's name or date of birth constitutes sufficient proof by itself, without further proof of corpus delicti.

A statement by a defendant that the defendant was the operator of a motor vehicle is admissible in a proceeding under ~~sections~~ section 2411, section 2412-A and, former section 2557, section 2557-A or section 2558, if it is made voluntarily and is otherwise admissible under the United States Constitution or the Constitution of Maine. The statement may constitute sufficient proof by itself, without further proof of corpus delicti, that the motor vehicle was operated by the defendant.

**Sec. B-6. 29-A MRSA §2555, sub-§§1 and 2**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

**1. New convictions.** Within a 5-year period of the restoration, the person commits a new offense under ~~section 2551~~. 2551-A, subsection 1, paragraph A; or

**2. Continued liability.** The person commits a new offense under ~~section 2551~~ 2551-A, subsection 1, paragraph A and, within 5 years preceding the date of that new offense, the person's record shows accumulated convictions or adjudications, including the new offense, which results in that ~~person~~ person's being defined as an habitual offender under ~~section 2551~~ 2551-A, subsection 1, paragraph A.

**Sec. B-7. 29-A MRSA §2556, sub-§5**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**5. Eligibility.** If a conviction is based on ~~former section 2551 or section 2551-A, subsection 1, paragraph B~~, the person must have completed the period of suspension required for the OUI conviction and the Secretary of State must have received written notice that the person has satisfactorily completed the alcohol and drug program.

See title page for effective date.

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## CHAPTER 607

H.P. 1297 - L.D. 1857

### An Act Relating to the Assessment of Property Taxes on Time-share Property

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

**Sec. 1. 33 MRSA §593, sub-§2**, as amended by PL 1987, c. 358, §1, is further amended to read:

**2. Time-share estates as separate estates.**

Each time-share estate constitutes for all purposes a separate estate in real property. Each time-share estate ~~shall~~ must be separately assessed and taxed. In addition to other factors relevant to the valuation of a time-share estate considered by the assessor, the assessor may consider the real property value of the time-share estate declared in the declaration of value, if any, submitted under Title 36, section 4641-D. The filing and discharge of tax liens on more than one time-share estate owned by the same person are governed by Title 36, section 942-A.

**Sec. 2. 33 MRSA §593, sub-§5**, as amended by PL 2003, c. 229, §1, is further amended to read:

**5. Escrow account.** If the managing entity collects money for taxes, it shall maintain an escrow account with a financial institution licensed by the State, and deposit any money collected or received for taxes in the escrow account within 10 days after collection or receipt. The escrow account must be established in the names of both the managing entity and the municipality in which the time-share estates are located. No withdrawal may be made from the escrow account without the written agreement of the municipality.

Prior to the delinquency date established by the municipality in which the time-share estates are located, the managing entity shall pay to the municipal tax collector all money deposited in the escrow account for the purpose of tax payment. If the amount paid from the escrow account is not sufficient to discharge all taxes and tax-related costs, due and owing, the managing entity shall ~~pay the difference~~ and place a lien on those time-share estates whose owners have not contributed to the escrow account as provided in section 594, and, if pay the outstanding amount no later than 30 days after the date it has collected the taxes and costs from the delinquent owner or has foreclosed the lien and sold the time-share estate to a new owner or 10 months from the date of commitment, whichever is earlier. If requested by the municipality, the managing entity shall provide a list identifying those owners and their interests, including the periods of ownership, to the municipal tax collector, who may then proceed to collect the taxes on those interests as allowed by law.

If the tax collector and treasurer use the lien procedure described in Title 36, sections 942, 942-A and 943 to collect delinquent taxes on time-share estates, whenever a notice called for by Title 36, section 942, 942-A or 943 is sent to a time-share estate owner, the tax collector and treasurer shall give to the managing entity or leave at the managing entity's last and usual place of abode or send to the managing entity by certified mail, return receipt requested, either a copy of the notice sent to the time-share estate owner or a

notice that lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the tax collector or treasurer is entitled to receive \$5 plus all certified mail, return receipt requested fees, plus the cost of any photocopying.

**Sec. 3. Application.** This Act applies to taxes assessed based on the status of property on or after April 1, 2006.

See title page for effective date.

## CHAPTER 608

S.P. 678 - L.D. 1761

### An Act To Offer Financial Institutions an Option for Payment of the Maine Franchise Tax

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

**Sec. 1. 36 MRSA §5206**, as amended by PL 1997, c. 746, §14 and affected by §24, is repealed and the following enacted in its place:

#### **§5206. Franchise tax on financial institutions**

A tax is imposed for each calendar year or fiscal year ending during that calendar year upon the franchise or privilege of doing business in this State of every financial institution that has Maine net income or Maine assets and that has a substantial physical presence in this State sufficient to satisfy the requirements of the due process and commerce clauses of the United States Constitution. A financial institution is subject to tax under this section even if it is treated as a partnership, S corporation or entity disregarded as separate from its owner for federal income tax purposes under the Code. Each financial institution shall determine the tax due using one of the following methods:

#### **1. Franchise tax on Maine net income and Maine assets.** The sum of:

A. One percent of the financial institution's Maine net income; and

B. Eight cents per \$1,000 of the financial institution's Maine assets; or

#### **2. Franchise tax on Maine assets only.** Thirty-nine cents per \$1,000 of the financial institution's Maine assets.

Each financial institution subject to the tax under this chapter shall elect to calculate and pay tax under the method in subsection 1 or 2. The financial

institution shall make the election on its annual state tax return and the election cannot be revoked with respect to that tax year. If a financial institution fails to make an election, the method established in subsection 1 must be used and is deemed an election for purposes of this section.

In each taxable year in which a financial institution sustains a book net operating loss, a credit must be allowed against the franchise tax on assets under subsection 1. The credit must be computed by multiplying the book net operating loss by the applicable franchise tax rate imposed by subsection 1, paragraph A. The total amount of any credit allowed may not exceed the franchise tax on assets due under subsection 1, paragraph B. In any tax year in which there is excess credit, the excess credit must be carried forward for no more than the next 5 tax years and may be applied against the tax computed under subsection 1.

**Sec. 2. 36 MRSA §5206-E, first ¶**, as enacted by PL 1997, c. 404, §5 and affected by §10, is amended to read:

Except as otherwise specifically provided, a financial institution that is taxable both in and outside this State shall apportion its net income and end-of-year assets as provided in this section. A financial institution is considered taxable in a state if in that state the financial institution is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax or that state has jurisdiction to subject the financial institution to a net income tax regardless of whether, in fact, the state does or does not tax the financial institution.

**Sec. 3. 36 MRSA §5206-E, sub-§1**, as amended by PL 1997, c. 746, §18 and affected by §24, is further amended to read:

**1. Formula applicable.** All of a financial institution's ~~Maine~~ net income is and end-of-year assets are apportioned to this State by multiplying the income and the assets by a fraction, the numerator of which is the property factor plus the payroll factor plus 2 times the receipts factor and the denominator of which is 4.

**Sec. 4. 36 MRSA §5206-E, sub-§5, ¶D**, as enacted by PL 1997, c. 404, §5 and affected by §10, is amended to read:

D. The employment of any other method to effectuate an equitable apportionment of the taxpayer's income or assets.