

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

authority proposing the project can not show that it has duly considered the most energy-efficient and environmentally efficient designs suitable in accordance with rules adopted pursuant to this section.

4. Renovation of historic school buildings; waiver. The state board may, in consultation with the Public Utilities Commission and the Executive Director of the State Historic Preservation Commission, grant a waiver from the requirements of this section on a case-by-case basis for instances of substantial renovation of a historic school building. For the purposes of this subsection, "historic school building" means a school building that is on the National Register of Historic Places, eligible for nomination to the national register or designated as a historic building by a certified municipal historic preservation ordinance.

A. The state board shall grant a waiver request if, in the board's opinion, the local school authority proposing the renovation project has demonstrated that renovation of the historic school building would not compromise the public health and safety requirements of this chapter and that 2 or more of the following circumstances exist:

(1) Renovation of the historic school building is in substantial compliance with the energy efficiency standards required under this section as determined by the Public Utilities Commission;

(2) Renovation of the historic school building provides substantial energy efficiency as determined by the Public Utilities Commission and also provides education, social or environmental benefits as determined by the department over alternative proposals, including, but not limited to, any proposals to construct a new school on an alternative site; and

(3) Adherence to the energy building standards would result in irreparable damage to the historic character of a historic school building as determined by the Executive Director of the State Historic Preservation Commission.

B. An application for a waiver from the requirements of this section must be submitted to the state board in accordance with requirements established by the state board by rule pursuant to paragraph D. The waiver application must include documentation to substantiate the conditions of this subsection. If the request is denied, the state board shall communicate the reasons for denying the request to the applicant.

C. The state board shall render a decision on an application for a waiver from the requirements of this section within 60 days of the receipt by the state board of a complete application for a waiver. In rendering a decision, the state board may place

conditions upon the granting of a waiver. Failure on the part of the state board to render a decision within the 60-day period constitutes approval of the request for the waiver.

D. The state board shall adopt or amend rules to implement the requirements of this subsection. Rules adopted under this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Effective April 8, 2008.

CHAPTER 579

S.P. 853 - L.D. 2215

An Act To Increase the Amount of Value of a Residence Protected from Bankruptcy Proceedings

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

Sec. 1. 14 MRSA §4422, sub-§1, ¶A, as amended by PL 2003, c. 47, §1, is further amended to read:

A. Except as provided in paragraph B, the debtor's aggregate interest, not to exceed ~~\$35,000~~ \$47,500 in value, in real or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor, ~~provided except~~ that if minor dependents of the debtor have their principal place of residence with the debtor, the debtor's aggregate interest may not exceed ~~\$70,000~~ \$95,000 and ~~provided further except~~ that if the debtor's interest is held jointly with any other person or persons, the exemption may not exceed in value the lesser of ~~\$35,000~~ \$47,500 or the product of the debtor's fractional share times ~~\$70,000~~ \$95,000.

Sec. 2. 14 MRSA §4422, sub-§1, ¶B, as amended by PL 2003, c. 47, §2, is further amended to read:

B. The debtor's aggregate interest, not to exceed ~~\$70,000~~ \$95,000 in value, in property described in paragraph A, if the debtor or a dependent of the debtor is either a person 60 years of age or older or a person physically or mentally disabled and because of such disability is unable to engage in substantial gainful employment and whose dis-

ability has lasted or can be expected to last for at least 12 months or can be expected to result in death; ~~provided~~ except that if the debtor's interest is held jointly with any other person or persons, the exemption may not exceed in value the lesser of ~~\$70,000~~ \$95,000 or the product of the fractional share of the debtor's interest times ~~\$140,000~~ \$190,000. This paragraph does not apply to liens obtained prior to its effective date or to judgments based on torts involving other than ordinary negligence on the part of the debtor.

See title page for effective date.

CHAPTER 580

S.P. 844 - L.D. 2193

An Act Regarding Clinical Review of Certain Requests for Involuntary Mental Health Treatment

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

Whereas, on January 1, 2008, Public Law 2007, chapter 446 became effective, establishing clinical review of requests for involuntary treatment for mental illness; and

Whereas, a repeal of Public Law 2007, chapter 446, section 6 on rulemaking and enactment of law in place of those rules is necessary at the earliest possible time to establish the procedures of the clinical review panel and the rights of the patient; 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. 34-B MRSA §3003, sub-§2, ¶C, as amended by PL 2007, c. 446, §1 and affected by §7, is further amended to read:

C. Standards for informed consent to treatment, including reasonable standards and procedural mechanisms for determining when to treat a client absent informed consent, consistent with applicable law. ~~The rules must include the following process;~~ except that involuntary treatment of involuntarily hospitalized incapacitated persons who are unwilling or unable to comply with treatment is allowed solely in accordance with the

provisions of section 3861, subsection 3 or section 3864, subsection 1-A;

~~(1) The primary treating physician may request an order for involuntary treatment of a patient from a clinical review panel;~~

~~(2) A clinical review panel that consists of 2 or more professional staff who do not provide direct care to the patient is convened. At least one member of the panel must be a professional licensed to prescribe the medications relevant to the patient's care;~~

~~(3) The clinical review panel conducts the review and makes a decision on the request of the primary treating physician within 4 days of the request based on the criteria in section 3864, subsection 7 A, paragraph B;~~

~~(4) If the clinical review panel decides to approve the request for involuntary treatment, the panel enters an order of involuntary treatment in the patient's hospital records. An order for involuntary treatment may be made for as long as the period of commitment and pending any appeal; and~~

~~(5) At any hearings or meetings pertaining to involuntary treatment, the patient is offered the assistance of a lay advisor, rather than legal counsel;~~

Sec. 2. 34-B MRSA §3861, sub-§3 is enacted to read:

3. Involuntary treatment. Except for involuntary treatment ordered pursuant to the provisions of section 3864, subsection 7-A, involuntary treatment of a patient at a designated nonstate mental health institution or a state mental health institute who is an involuntarily committed patient under the provisions of this subchapter may be ordered and administered only in conformance with the provisions of this subsection. For the purposes of this subsection, involuntary treatment is limited to medication for the treatment of mental illness and medication for the management of side effects.

A. If the patient's primary treating physician proposes a treatment that the physician, in the exercise of professional judgment, believes is in the best interest of the patient and if the patient lacks clinical capacity to give informed consent to the proposed treatment and the patient is unwilling or unable to comply with the proposed treatment, the patient's primary treating physician shall request in writing a clinical review of the proposed treatment by a clinical review panel. For a patient at a state mental health institute, the request must be made to the superintendent of the institute or the designee of the superintendent. For a patient at a designated nonstate mental health institution, the