

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**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**

tion option if the department determines that the local mitigation option will provide at least as much long-term reduction in phosphorus loading to the lake as likely would have occurred under payment of the compensation fee.

**Sec. 2. 38 MRSA §439-B** is enacted to read:

**§439-B. Contractors certified in erosion control**

**1. Definition.** For purposes of this section, "excavation contractor" means an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or in a business in which the disturbance of soil results from an activity that the individual or firm is retained to perform.

**2. Certification required.** An excavation contractor conducting excavation activity in a shoreland area shall ensure that a person certified in erosion control practices by the department:

A. Is responsible for management of erosion and sediment control practices at the site; and

B. Is present at the site each day earth-moving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed.

The requirements of this subsection apply until erosion control measures that will permanently stay in place have been installed at the site or, if the site is to be revegetated, erosion control measures that will stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion have been installed.

**3. Application.** This section does not apply to activities resulting in less than one cubic yard of earth material being added or displaced.

**4. Effective date.** This section takes effect January 1, 2013.

**Sec. 3. Report.** By January 15, 2009, the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report evaluating strategies to diminish the impact of private roads, driveways and boat ramps on lake water quality. The report must include guidance to municipalities on appropriate road standards for the protection of lake water quality, a sample model ordinance and, in consultation with the Office of the Attorney General, an analysis of the constitutional issues regarding the public purpose doctrine raised by permitting a municipality to adopt an ordinance that includes an assessment of an annual fee on property owners for construction or maintenance of a private road to prevent degradation of water quality.

See title page for effective date.

**CHAPTER 594**  
**S.P. 917 - L.D. 2297**

**An Act To Establish a Method  
for Reporting Health Care-  
associated Infection Quality  
Data**

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

**Sec. 1. 24-A MRSA §6951, sub-§10** is enacted to read:

**10. Health care provider-specific data.** The forum shall submit to the Legislature, by January 30th each year beginning in 2009, a health care provider-specific performance report. The report must be based on health care quality data, including health care-associated infection quality data, that is submitted by providers to the Maine Health Data Organization pursuant to Title 22, section 8708-A. The forum and the Maine Center for Disease Control and Prevention shall make the report available to the citizens of the State through a variety of means, including, but not limited to, the forum's publicly accessible website and the distribution of written reports and publications.

**Sec. 2. 24-A MRSA §6951, sub-§11** is enacted to read:

**11. Infection prevention activities.** The forum and the Maine Center for Disease Control and Prevention shall, by January 30th of each year beginning in 2009, report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on statewide collaborative efforts with health care infection control professionals in the State to control or prevent health care-associated infections.

**Sec. 3. Infection measure reporting.** The Maine Quality Forum shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than January 30, 2009 with any recommendations from the Maine Quality Forum Advisory Council regarding additional health care-associated infection quality data to be collected from health care providers.

See title page for effective date.

**CHAPTER 595**  
**H.P. 507 - L.D. 658**

**An Act To Protect the Health  
of Infants**

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

**Sec. 1. 24 MRSA §2317-B, sub-§12-C** is enacted to read:

**12-C. Title 24-A, sections 2763, 2847-N and 4254.** Coverage for medically necessary infant formula, Title 24-A, sections 2763, 2847-N and 4254;

**Sec. 2. 24-A MRSA §2763** is enacted to read:

**§2763. Coverage for medically necessary infant formula**

All individual health insurance policies, contracts and certificates must provide coverage for amino acid-based elemental infant formula for children 2 years of age and under in accordance with this section.

**1. Determination of medical necessity.** Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has submitted documentation that the amino acid-based elemental infant formula is medically necessary health care as defined in section 4301-A, subsection 10-A, that the amino acid-based elemental infant formula is the predominant source of nutritional intake at a rate of 50% or greater and that other commercial infant formulas, including cow milk-based and soy milk-based formulas have been tried and have failed or are contraindicated. A licensed physician may be required to confirm and document ongoing medical necessity at least annually.

**2. Method of delivery.** Coverage for amino acid-based elemental infant formula must be provided without regard to the method of delivery of the formula.

**3. Required diagnosis.** Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has diagnosed and through medical evaluation has documented one of the following conditions:

- A. Symptomatic allergic colitis or proctitis;
- B. Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis;
- C. A history of anaphylaxis;
- D. Gastroesophageal reflux disease that is nonresponsive to standard medical therapies;
- E. Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider;
- F. Cystic fibrosis; or
- G. Malabsorption of cow milk-based or soy milk-based infant formula.

**4. Health savings accounts.** Coverage for amino acid-based elemental infant formula under a health insurance policy, contract or certificate issued in connection with a health savings account as authorized under Title XII of the federal Medicare Prescription

Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductible and out-of-pocket limits that apply to overall benefits under the policy, contract or certificate.

**Sec. 3. 24-A MRSA §2847-N** is enacted to read:

**§2847-N. Coverage for medically necessary infant formula**

All group health insurance policies, contracts and certificates must provide coverage for amino acid-based elemental infant formula for children 2 years of age and under in accordance with this section.

**1. Determination of medical necessity.** Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has submitted documentation that the amino acid-based elemental infant formula is medically necessary health care as defined in section 4301-A, subsection 10-A, that the amino acid-based elemental infant formula is the predominant source of nutritional intake at a rate of 50% or greater and that other commercial infant formulas, including cow milk-based and soy milk-based formulas have been tried and have failed or are contraindicated. A licensed physician may be required to confirm and document ongoing medical necessity at least annually.

**2. Method of delivery.** Coverage for amino acid-based elemental infant formula must be provided without regard to the method of delivery of the formula.

**3. Required diagnosis.** Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has diagnosed and through medical evaluation has documented one of the following conditions:

- A. Symptomatic allergic colitis or proctitis;
- B. Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis;
- C. A history of anaphylaxis;
- D. Gastroesophageal reflux disease that is nonresponsive to standard medical therapies;
- E. Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider;
- F. Cystic fibrosis; or
- G. Malabsorption of cow milk-based or soy milk-based infant formula.

**4. Health savings accounts.** Coverage for amino acid-based elemental infant formula under a health insurance policy, contract or certificate issued in connection with a health savings account as authorized under Title XII of the federal Medicare Prescription

Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductible and out-of-pocket limits that apply to overall benefits under the policy, contract or certificate.

**Sec. 4. 24-A MRSA §4254** is enacted to read:

**§4254. Coverage for medically necessary infant formula**

All individual and group health maintenance organization policies, contracts and certificates must provide coverage for amino acid-based elemental infant formula for children 2 years of age and under in accordance with this section.

**1. Determination of medical necessity.** Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has submitted documentation that the amino acid-based elemental infant formula is medically necessary health care as defined in section 4301-A, subsection 10-A, that the amino acid-based elemental infant formula is the predominant source of nutritional intake at a rate of 50% or greater and that other commercial infant formulas, including cow milk-based and soy milk-based formulas have been tried and have failed or are contraindicated. A licensed physician may be required to confirm and document ongoing medical necessity at least annually.

**2. Method of delivery.** Coverage for amino acid-based elemental infant formula must be provided without regard to the method of delivery of the formula.

**3. Required diagnosis.** Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has diagnosed and through medical evaluation has documented one of the following conditions:

- A. Symptomatic allergic colitis or proctitis;
- B. Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis;
- C. A history of anaphylaxis;
- D. Gastroesophageal reflux disease that is nonresponsive to standard medical therapies;
- E. Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider;
- F. Cystic fibrosis; or
- G. Malabsorption of cow milk-based or soy milk-based infant formula.

**4. Health savings accounts.** Coverage for amino acid-based elemental infant formula under a health insurance policy, contract or certificate issued in connection with a health savings account as authorized under Title XII of the federal Medicare Prescription

Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductible and out-of-pocket limits that apply to overall benefits under the policy, contract or certificate.

**Sec. 5. Application.** This Act applies to health insurance policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2009. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

---



---

**CHAPTER 596**

**H.P. 1559 - L.D. 2189**

**An Act To Protect  
Homeowners from Equity  
Stripping during Foreclosure**

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

**Sec. 1. 32 MRSA c. 80-B** is enacted to read:

**CHAPTER 80-B**

**FORECLOSURE PURCHASERS**

**§6191. Short title**

This chapter may be known and cited as "the Foreclosure Purchasers Act."

**§6192. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Administrator.** "Administrator" means the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation, except that "administrator" means the Superintendent of Financial Institutions with regard to a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A.

**2. Bona fide purchaser.** "Bona fide purchaser" means any person acting in good faith who:

A. Purchases property from a foreclosure purchaser for consideration or makes a mortgage loan to a foreclosure purchaser or a subsequent bona fide purchaser as long as the person had no notice of:

- (1) The foreclosed homeowner's continuing right to possess the property;
- (2) The foreclosed homeowner's continuing legal or equitable interest in the property, including, but not limited to, the right to repur-