

# 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**

---

---

**REVISOR'S REPORT**  
**2007**

---

---

**CHAPTER 1**

**Sec. 1. 5 MRSA §90-E, sub-§4, ¶C**, as enacted by PL 2007, c. 228, §1, is corrected to read:

C. The following persons may bring an action to enjoin a violation of this subsection or to recover damages under this ~~subsection~~ subsection:

- (1) The natural person whose name was provided as an individual debtor in the financing statement record filed without that person's authorization under Title 11, section 9-1509 or 9-1708 or any guardian, conservator, executor, administrator or other legal representative of that person, a person who owns an interest in the collateral described or indicated in the financing statement record or a person directly harmed by the filing of the financing statement record; and
- (2) The Attorney General.

**EXPLANATION**

This section corrects a typographical error.

---

**Sec. 2. 5 MRSA §15303-A, sub-§3, ¶A**, as enacted by PL 2003, c. 20, Pt. RR, §7 and affected by §18, is corrected to read:

A. Receive and accept from any source allocations, appropriations, grants or contributions of money to be held, used or applied to carry out this subchapter, subject to the conditions upon which the grants and contributions may be made, including, but not limited to, appropriations, allocations, grants or gifts from any federal agency or governmental subdivision or the State and its agencies. The amounts of the revenues generated by the investment of money contained in the fund ~~that~~ may be used to pay the institute's operating expenses associated with the operation of the fund; and

**EXPLANATION**

This section corrects a grammatical error.

---

**Sec. 3. 7 MRSA §714, sub-§3**, as amended by PL 2007, c. 459, §2, is corrected to read:

**3. Refusal.** The commissioner is empowered to refuse registration of any commercial feed not in compliance with this subchapter and to cancel any registration subsequently found not to be in compliance with any provision of this subchapter. Registration, refusal and cancellation are rulemaking as that term is

defined in the Maine Administrative Procedure Act and notice and opportunity for a hearing must be provided prior to refusal or cancellation in a manner consistent with the Maine Administrative Procedure Act. In any case, no registration may be refused or canceled, unless the registrant ~~shall~~ has been given an opportunity to amend the application in order to comply with the requirements of this subchapter.

**EXPLANATION**

This section corrects a clerical error.

---

**Sec. 4. 9-A MRSA §8-206-C, sub-§1**, as enacted by PL 2007, c. 273, Pt. A, §19 and affected by §§37 and 41, is corrected to read:

**1.** The making of a high-rate, high-fee mortgage is subject to the following prohibitions, except that, notwithstanding any other provision of law, a residential mortgage loan made by the Maine State Housing Authority pursuant to Title ~~30-a~~ **30-A**, chapter 201 is not subject to the following prohibitions.

A. In connection with a high-rate, high-fee mortgage, a creditor may not directly or indirectly finance any points or fees.

B. A prepayment fee or penalty may not be included in the loan documents or charged under the terms of a high-rate, high-fee mortgage.

C. A high-rate, high-fee mortgage may not contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This paragraph does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower.

D. A high-rate, high-fee mortgage may not include payment terms under which the outstanding principal balance or accrued interest will increase at any time over the course of the loan because the regularly scheduled periodic payments do not cover the full amount of interest due.

E. A high-rate, high-fee mortgage may not contain a provision that increases the interest rate after default. This paragraph does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the loan documents, as long as the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

F. A high-rate, high-fee mortgage may not include terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the

borrower. If the date of maturity of such a mortgage is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate must be computed by a method that is not less favorable than the actuarial method, as that term is defined in the federal Housing and Community Development Act of 1992, Public Law No. 102-550, Section 933(d) 106 Stat. 3672, 3892 (1992).

G. A creditor may not make a high-rate, high-fee mortgage without first receiving certification from a counselor with a 3rd-party, nonprofit organization approved by the United States Department of Housing and Urban Development, a housing financing agency of this State or the Bureau of Consumer Credit Protection that the borrower has received counseling on the advisability of the loan transaction.

H. A creditor may not make a payment to a contractor under a home improvement contract from amounts extended as credit under a high-rate, high-fee mortgage except:

(1) In the form of an instrument that is payable to the consumer or jointly to the consumer and the contractor; or

(2) At the election of the consumer, by a 3rd-party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor and the contractor before the date of payment.

I. All high-rate, high-fee mortgage documents that create a debt or pledge property as collateral must contain the following notice on the first page in a conspicuous manner: "Notice: This is a high-rate, high-fee mortgage subject to special rules under state law. Purchasers or assignees of this high-rate, high-fee mortgage may be liable for all claims and defenses by the borrower with respect to the high-rate, high-fee mortgage."

**EXPLANATION**

This section corrects a clerical error.

---

**Sec. 5. 9-A MRSA §8-206-E, sub-§2, ¶B**, as enacted by PL 2007, c. 273, Pt. A, §21 and affected by §§37 and 41, is corrected to read:

B. Statutory damages as follows:

(1) For violations described in section 8-206-C, statutory damages equal to 2 times the finance charge paid under the loan and forfeiture of the remaining interest under the loan; and

(2) For violations described in section 8-206-D, statutory damages in the amount of \$5,000 per violation;

**EXPLANATION**

This section corrects 2 cross-references.

---

**Sec. 6. 13-C MRSA §1332, sub-§2**, as amended by PL 2007, c. 289, §41, is corrected to read:

**2. ~~Counsel; expect fees~~ Court-assessed expenses**. The court in an appraisal proceeding under section 1331 may also assess the expenses for the respective parties, in amounts the court finds equitable:

A. Against a corporation and in favor of any or all shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements of section 1321, 1323, 1325 or 1326; or

B. Against either a corporation or a shareholder demanding appraisal, in favor of any other party, if the court finds that the party against whom the expenses are assessed acted arbitrarily, vexatiously or not in good faith with respect to the rights provided by this chapter.

**EXPLANATION**

This section corrects a headnote to reflect the substance of the subsection.

---

**Sec. 7. 15 MRSA §892**, as amended by PL 1965, c. 356, §39, is corrected to read:

**§892. ~~Discharge filed with clerk or jailer~~ Order exonerating bail; bar to civil action**

Any order exonerating bail shall be filed in the office of the clerk of the court at which the party and witnesses are to appear. An order superseding a commitment shall be delivered to the jailer. If so filed or delivered, and not otherwise, such order shall bar all remedy by civil action for such injury.

**EXPLANATION**

This section corrects a headnote to reflect the substance of the section.

---

**Sec. 8. 20-A MRSA §6209, first ¶**, as amended by PL 2007, c. 259, §5, is corrected to read:

The department in consultation with the state board shall establish and implement a comprehensive, statewide system of learning results set forth in this section and in department rules implementing this section and other curricular requirements. The department must establish accountability standards at all

grade levels in the areas of mathematics; reading; and science and technology. The department shall establish parameters for essential instruction and graduation requirements in English language arts; mathematics; science and technology; social studies; career and education development; visual and performing arts; health, physical education and wellness; and world languages. Only students in a public school or a private school approved for tuition that enrolls at least 60% publicly funded students, as determined by the previous school year's October and April average enrollment, are required to participate in the system of learning results set forth in this section and in department rules implementing this section and other curricular requirements. The commissioner shall develop accommodation provisions for instances where course content conflicts with sincerely held religious beliefs and practices of a student's parent or guardian. The system must be adapted to accommodate children with disabilities as defined in section 7001, subsection 1-A.

#### EXPLANATION

This section corrects punctuation errors.

---

**Sec. 9. 20-A MRSA §7209, sub-§3, ¶H**, as amended by PL 2007, c. 307, §3, is corrected to read:

H. Employ professional and other personnel, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All state intermediate educational unit employees are employees for the purposes of the Maine Tort Claims Act; and

#### EXPLANATION

This section corrects a grammatical error by adding a conjunction that was inadvertently omitted.

---

**Sec. 10. 20-A MRSA §8607-A, sub-§7**, as amended by PL 2007, c. 131, §6, is corrected to read:

**7. Other administrative costs.** Other administrative costs, including program promotion and related publicity, mailing and postage and telephone expenses for courses and programs described in subsections 2 to 6 5, are reimbursed at the rate of 50% of these costs. The cost of interpreters for deaf students and deaf adult learners and the cost of translators for students and adult learners with limited English proficiency are reimbursed at the rate of 75% of these costs but only as a payment of last resort after the otherwise valid obligations of insurers or other 3rd parties to provide or pay for these services have been exhausted.

#### EXPLANATION

This section corrects a cross-reference.

**Sec. 11. 21-A MRSA §196, sub-§4, ¶B**, as enacted by PL 2007, c. 397, §2, is corrected to read:

B. The fee for information provided in electronic form is based on the number of records requested. The fee entitles the requestor to receive the initial electronic report or file and, upon request, up to 4 updates free of charge during the subsequent 12-month period, except that no more than one free update may be requested during the 30 days prior to an election. The fee schedule is as follows:

- (1) For 900,001 or more voter records, \$2,000;
- (2) For 600,001 to 900,000 voter records, \$1,500;
- (3) For 400,001 to 600,000 voter ~~record~~ records, \$1,000;
- (4) For 250,001 to 400,000 voter records, \$750;
- (5) For 150,001 to 250,000 voter records, \$500;
- (6) For 100,001 to 150,000 voter records, \$250;
- (7) For 75,001 to 100,000 voter records, \$200;
- (8) For 50,001 to 75,000 voter records, \$165;
- (9) For 35,001 to 50,000 voter records, \$125;
- (10) For 25,001 to 35,000 voter records, \$75;
- (11) For 15,001 to 25,000 voter records, \$50;
- (12) For 7,501 to 15,000 voter records, \$30;
- (13) For 1,001 to 7,500 voter records, \$20; or
- (14) For 1 to 1,000 voter records, \$10.

#### EXPLANATION

This section corrects a typographical error.

---

**Sec. 12. 21-A MRSA §1124, sub-§3**, as amended by PL 2007, c. 443, Pt. B, §5, is corrected to read:

**3. Determination of fund amount.** If the commission ~~s~~ determines that the fund will not have sufficient revenues to cover the likely demand for funds from the Maine Clean Election Fund in an upcoming election, by January 1st the commission shall provide a report of its projections of the balances in the Maine Clean Election Fund to the Legislature and the Governor. The commission may submit legislation to request additional funding or an advance on revenues to be transferred pursuant to subsection 2, paragraph B.

**EXPLANATION**

This section corrects a clerical error.

---

**Sec. 13. 29-A MRSA §456-D, sub-§6**, as enacted by PL 2007, c. 456, §3, is corrected to read:

**6. Production and issuance costs for plates produced after first 2,000 plates.** After the first 2,000 plates issued, the Secretary of State shall deposit to the Highway Fund \$20 for each initial set of agriculture education registration plates and \$15 for each renewal of ~~agricultural~~ agriculture education registration plates. The Treasurer of State shall transfer quarterly from the Highway Fund to the Maine Agriculture in the Classroom Council established in Title 7, section 242 \$10 for each set of agriculture education registration plates issued and for each renewal of agriculture education registration plates.

**EXPLANATION**

This section corrects a clerical error.

---

**Sec. 14. 30 MRSA §6205, sub-§1, ¶D**, as amended by PL 2007, c. 221, §2 and affected by §4 and amended by c. 223, §2 and affected by §4, is corrected to read:

D. All land acquired by the secretary for the benefit of the Passamaquoddy Tribe in T. 19, M.D. to the extent that the land is acquired by the secretary prior to January 31, 2020, is not held in common with any other person or entity and is certified by the secretary by January 31, 2020 as held for the benefit of the Passamaquoddy Tribe; ~~and~~

**Sec. 15. 30 MRSA §6205, sub-§1, ¶D-1**, as enacted by PL 2007, c. 221, §3 and affected by §4, is corrected to read:

D-1. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Centerville consisting of Parcels A, B and C conveyed by Bertram C. Tackeff to the Passamaquoddy Tribe by quitclaim deed dated July 27, 1981, recorded in the Washington County Registry of Deeds in Book 1147, Page 251, to the extent that the land is acquired by the secretary prior to January 31, 2017, is not held in common with any other person or entity and is certified by the secretary by January 31, 2017 as held for the benefit of the Passamaquoddy Tribe; ~~and~~

**EXPLANATION**

These sections correct clerical errors.

---

**Sec. 16. 30-A MRSA §2671, sub-§3**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106

and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is corrected to read:

**3. Representation of the municipality in District Court.** The municipal officers may authorize a law enforcement officer certified by the Maine Criminal Justice Academy, under Title 25, section ~~2803~~ 2803-A, subsection ~~3-A~~ 1, to represent the municipality in District Court in the prosecution of alleged violations of ordinances which the officer may enforce. Under this subsection, the municipal officers may delegate their power to authorize law enforcement officers to represent the municipality to the municipality's full-time chief of police.

**EXPLANATION**

This section corrects a cross-reference.

---

**Sec. 17. 32 MRSA §1507, first ¶**, as amended by PL 2007, c. 402, Pt. J, §14, is corrected to read:

A licensee who is no longer actively practicing funeral service may ~~—s—~~ apply for an inactive status license pursuant to Title 10, section 8003, subsection 5-A, paragraph D, subparagraph (5). The holder of an inactive status license may not practice funeral service in the State. The fee for inactive status licensure is set under section 1504. The holder of an inactive status license must renew the license annually and pay the renewal fee as set under section 1504, but is not required to meet the continuing education requirement of this chapter and the rules adopted under it.

**EXPLANATION**

This section corrects a clerical error.

---

**Sec. 18. 32 MRSA §3652, 4th ¶**, as amended by PL 2007, c. 402, Pt. P, §11, is corrected to read:

On or before July 1st of every year ~~after~~, an applicant who is practicing podiatric medicine and surgery in this State shall include satisfactory evidence to the board that in the preceding license period the applicant has completed a program of continuing education as prescribed in the rules of the board.

**EXPLANATION**

This section corrects a clerical error.

---

**Sec. 19. 32 MRSA §17301, sub-§6**, as enacted by PL 2007, c. 369, Pt. C, §3 and affected by §5, is corrected to read:

**6. Temporary license.** An applicant for a temporary license must meet the education requirements for licensure as outlined in ~~section 17301~~, subsection 1, 3 or 4 and show to the satisfaction of the board that the

applicant is supervised and trained by an individual who holds a license under this chapter in the appropriate specialty, which entitles the applicant to practice speech-language pathology or audiology under supervision while completing the requirements for licensure. The temporary license is effective for one year and may be renewed once by the board.

#### EXPLANATION

This section corrects a cross-reference.

**Sec. 20. 38 MRSA §480-B, sub-§8**, as amended by PL 2007, c. 353, §8, is corrected to read:

**8. Protected natural resource.** "Protected natural resource" means coastal sand dune systems, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, community public water system primary protection areas, great ponds or rivers, streams or brooks, as these terms are defined in this article.

#### EXPLANATION

This section corrects a punctuation error.

**Sec. 21. 38 MRSA §1319-Q, sub-§1**, as amended by PL 2007, c. 292, §38, is corrected to read:

**1. Data collection and monitoring.** The commissioner shall have data on the generation, transportation and handling of hazardous waste collected and monitored in a coordinated manner. -

#### EXPLANATION

This section corrects a clerical error.

**Sec. 22. PL 2007, c. 240, Pt. V, §15** is corrected to read:

**Sec. V-15. Application.** Those sections of this Part that amend the Maine Revised Statutes, Title 36, sections 5211 and 5244 and apply to tax years beginning on or after January 1, 2007.

#### EXPLANATION

This section corrects a clerical error.

**Sec. 23. PL 2007, c. 290, §15** is corrected to read:

**Sec. 15. Retroactivity.** Those sections of this Act that enact the Maine Revised Statutes, Title 38, sections 480-CC, 480-DD and 480-EE and amend Resolve 2005, chapter 183, section 1, subsection 16, paragraph A apply retroactively to June 8, 2006.

#### EXPLANATION

This section corrects a cross-reference.

**Sec. 24. PL 2007, c. 290, §16** is corrected to read:

**Sec. 16. Rulemaking.** The Department of Environmental Protection shall amend its rules concerning significant wildlife habitat that were adopted in accordance with the Maine Revised Statutes, Title 38, section 480-DD to be consistent with the provisions of this Act. Changes adopted pursuant to this Act as well as additional corrections, clarifications and minor changes of the rules that were adopted in accordance with section 480-BB are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, notwithstanding section 480-BB.

~~The Department of Environmental Protection shall amend its rules concerning permit by rule to allow the activities listed in Title 38, section 480-CC, subsection 2, paragraphs A and B and an expansion of up to 10% of an existing development area within a feeding area to be authorized pursuant to permit by rule if applicable standards in the protection of natural resources under article 5-A and rules adopted pursuant to that article are met and an individual permit is not otherwise required for activity on the parcel. "Existing development area" is defined in section 20 of the department's rules concerning permit by rule.~~

~~The Department of Environmental Protection shall amend its rules to clarify that if significant wildlife habitat is not fully contained within a freshwater wetland, the department does not have adjacency jurisdiction under the Maine Revised Statutes, Title 38, section 480-C.~~

The Department of Environmental Protection shall amend its rules concerning permit by rule to allow the activities listed in Title 38, section 480-CC, subsection 2, paragraphs A and B and an expansion of up to 10% of an existing development area within a feeding area to be authorized pursuant to permit by rule if applicable standards in the protection of natural resources under Title 38, chapter 3, subchapter 1, article 5-A and rules adopted pursuant to that article are met and an individual permit is not otherwise required for activity on the parcel. "Existing development area" is defined in section 20 of the department's rules concerning permit by rule.

The Department of Environmental Protection shall amend its rules to clarify that if significant wildlife habitat is not fully contained within a freshwater wetland, the department does not have adjacency jurisdiction under Title 38, section 480-C.

**EXPLANATION**

This section corrects cross-references and a formatting error.

---

**Sec. 25. P&SL 2007, c. 18, §2** is corrected to read:

**Sec. 2. Allocation to Finance Authority of Maine.** The state ceiling ~~of~~ on private activity bonds allocated to the Finance Authority of Maine is as follows.

1. The \$40,000,000 in state ceiling for calendar year 2007 previously allocated to the Finance Authority of Maine remains allocated to the Finance Authority of Maine to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 6 for calendar year 2007. Five million dollars of previously unallocated state ceiling money for calendar year 2007 is allocated to the Finance Authority of Maine to be used or reallocated in accordance with Title 10, section 363, subsection 6 for calendar year 2007. Forty-five million dollars of the state ceiling for calendar year 2008 is allocated to the Finance Authority of Maine to be used or reallocated in accordance with Title 10, section 363, subsection 6.

2. The \$40,000,000 in state ceiling for calendar year 2007 previously allocated to the Finance Authority of Maine remains allocated to the Finance Authority of Maine, the entity designated pursuant to the Maine Revised Statutes, Title 20-A, section 11407, to be used or reallocated in accordance with Title 10, section 363, subsection 8-A. Fifty million dollars of the state ceiling for calendar year 2008 is allocated to the Finance Authority of Maine, the entity designated pursuant to Title 20-A, section 11407, to be used in accordance with Title 10, section 363, subsection 8-A.

**EXPLANATION**

This section corrects a clerical error.

---