

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

nificantly reduced maximum fee as of September 1, 2009; and

Whereas, the reduced special fees are not adequate to allow for appropriate processing of applications that because of their size, uniqueness, complexity or other relevant factors are likely to have significantly higher costs; and

Whereas, it is therefore necessary to promptly adjust these fees; 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. 38 MRSA §352, sub-§3, as amended by PL 2007, c. 661, Pt. B, §9, is further amended to read:

3. Maximum fee. The commissioner shall set the actual fees and shall publish a schedule of all fees by November 1st of each year. If the commissioner determines that a particular application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on Table I, the commissioner may designate that application as subject to special fees. ~~Through August 31, 2009, a special fee may not exceed \$250,000. Beginning September 1, 2009, a special fee may not exceed \$75,000.~~ Such a designation must be made at, or prior to, the time the application is accepted as complete and may not be based solely on the likelihood of extensive public controversy. The maximum fee for processing an application may not exceed \$250,000. All department staff who have worked on the review of the application, including, but not limited to, preapplication consultations, shall submit quarterly reports to the commissioner detailing the time spent on the application and all expenses attributable to the application, including the costs of any appeals filed by the applicant and, after taking into consideration the interest of fairness and equity, any other appeals if the commissioner finds it in the public interest to do so. The costs associated with assistance to the board on an appeal before the board may be separately charged. The processing fee for that application must be the actual cost to the department. The applicant must be billed quarterly and all fees paid prior to receipt of the permit. Nothing in this section limits the commissioner's authority to enter into an agreement with an applicant for payment of costs in excess of the maximum ~~special~~ fee established in this subsection.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect September 1, 2009.

Effective September 1, 2009.

CHAPTER 161

H.P. 672 - L.D. 970

An Act To Amend the Laws Governing Notification after a Security Breach Involving Personal Information

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

Sec. 1. 10 MRSA §1347, sub-§1, as amended by PL 2005, c. 583, §1 and affected by §14, is further amended to read:

1. Breach of the security of the system. "Breach of the security of the system" or "security breach" means unauthorized acquisition, release or use of an individual's computerized data that includes personal information that compromises the security, confidentiality or integrity of personal information of the individual maintained by a person. Good faith acquisition, release or use of personal information by an employee or agent of a person on behalf of the person is not a breach of the security of the system if the personal information is not used for or subject to further unauthorized disclosure to another person.

Sec. 2. 10 MRSA §1347-A is enacted to read:
§1347-A. Release or use of personal information prohibited

It is a violation of this chapter for an unauthorized person to release or use an individual's personal information acquired through a security breach.

Sec. 3. 10 MRSA §1348, sub-§3, as enacted by PL 2005, c. 379, §1 and affected by §4, is amended to read:

3. Delay of notification; criminal investigation by law enforcement. ~~The If, after the completion of an investigation required by subsection 1, notification is required under this section, the notification required by this section may be delayed # for no longer than 7 business days after a law enforcement agency determines that the notification will not compromise a criminal investigation; the notification required by this section must be made after the law enforcement agency determines that it will not compromise the investigation.~~

Sec. 4. 10 MRSA §1349, sub-§4, as enacted by PL 2005, c. 583, §12 and affected by §14, is amended to read:

4. Exceptions. A person that complies with the security breach notification requirements of rules, regulations, procedures or guidelines established pursuant to federal law or the law of this State is deemed to be in compliance with the requirements of ~~this chapter section 1348~~ as long as the law, rules, regulations or guidelines provide for notification procedures at least as protective as the notification requirements of ~~this chapter section 1348~~.

Sec. 5. Application. This Act applies to a security breach discovered by a person subject to the Maine Revised Statutes, Title 10, chapter 210-B on or after the effective date of this Act.

See title page for effective date.

CHAPTER 162 S.P. 212 - L.D. 550

An Act To Protect Maine Residents from Home Fires and Carbon Monoxide

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

Sec. 1. 25 MRSA §2464, sub-§2, as amended by PL 1985, c. 190, is repealed and the following enacted in its place:

2. Smoke detectors required. The owner shall properly install, or cause to be properly installed, smoke detectors in accordance with the National Electric Code and the manufacturer's requirements. In single-family dwellings, at least one smoke detector, which may be photoelectric, ionization or a combination of both, must be installed in each area within, or giving access to, bedrooms. These smoke detectors may be powered by the electrical service in the dwelling, by battery or by a combination of both. Any smoke detector located within 20 feet of a kitchen or a bathroom containing a tub or shower must be a photoelectric-type smoke detector.

After October 31, 2009, smoke detectors installed in a multifamily building or a newly constructed single-family dwelling must be powered both by the electrical service in the building or dwelling and by battery.

Sec. 2. 25 MRSA §2464, sub-§6, as enacted by PL 1981, c. 399, §1, is amended to read:

6. Liability. Nothing in this section gives rise to any action against an owner required to comply with subsection 2, ~~paragraph B~~, or subsection 9, paragraph A if the owner has conducted an inspection of the required smoke detectors immediately after installation and has reinspected the smoke detectors prior to occupancy by each new tenant, unless the owner has been given at least ~~24 hours'~~ 24 hours' actual notice of a

defect or failure of the smoke detector to operate properly and has failed to take action to correct the defect or failure.

Sec. 3. 25 MRSA §2464, sub-§9 is enacted to read:

9. Rental units. In an apartment occupied under the terms of a rental agreement or under a month-to-month tenancy:

A. At the time of each occupancy, the landlord shall provide smoke detectors. The smoke detectors must be in working condition. After notification, in writing, of any deficiencies by the tenant, the landlord shall repair or replace the smoke detectors. If the landlord did not know and had not been notified of the need to repair or replace a smoke detector, the landlord's failure to repair or replace the smoke detector may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss or personal injury; and

B. The tenant shall keep the smoke detectors in working condition by keeping charged batteries in battery-operated smoke detectors, by testing the smoke detectors periodically and by refraining from disabling the smoke detectors.

Sec. 4. 25 MRSA §2464, sub-§10 is enacted to read:

10. Transfer of dwelling. A person who, after October 31, 2009, acquires by sale or exchange a single-family dwelling or a multiapartment building shall certify at the closing of the transaction that the dwelling or multiapartment building is provided with smoke detectors in accordance with this section. This certification must be signed and dated by the purchaser.

A person may not have a claim for relief against a property owner, a property purchaser, an authorized agent of a property owner or purchaser, a person in possession of real property or a smoke detector installer for any damages resulting from the proper operation, maintenance or effectiveness of a smoke detector.

Violation of this subsection does not create a defect in title.

Sec. 5. 25 MRSA §2468 is enacted to read:

§2468. Carbon monoxide detectors

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Carbon monoxide detector" means a device with an assembly that incorporates a sensor control component and an alarm notification that detects elevations in carbon monoxide levels and