

# 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.**

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**Augusta, Maine**  
**2009**

dents, as determined by the previous school year's October and April average enrollment. The assessment program must be adapted to meet the needs of children with disabilities as defined in section 7001, subsection 1-A or other students as defined under rules by the commissioner.

**Sec. 21. Requirements for awarding high school diplomas.** The Commissioner of Education shall convene a working group of interested parties to work together, in good faith, as educational partners to develop requirements for awarding high school diplomas that permit school administrative units to award high school diplomas based on standards, credits or a combination of standards and credits. The commissioner shall invite the participation of the Maine School Boards Association, the Maine School Superintendents Association, the Maine Principals' Association, the Maine Education Association, the Maine Administrators of Services for Children with Disabilities and other interested entities. The commissioner shall submit a report on the requirements for awarding high school diplomas to the Joint Standing Committee on Education and Cultural Affairs no later than January 29, 2010. After receipt and review of the report, the joint standing committee may report out legislation regarding the requirements for awarding high school diplomas to the Second Regular Session of the 124th Legislature.

**Sec. 22. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 20-A, chapter 207-A, subchapter 2, in the subchapter headnote, the words "elementary schools" are amended to read "elementary and junior high schools or middle schools" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

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**CHAPTER 314**

**S.P. 511 - L.D. 1392**

**An Act To Promote Economic Development and Reduce Reliance on Automobiles through Transit-oriented Tax Increment Financing Districts**

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

**Sec. 1. 30-A MRSA §5221, sub-§2, ¶A,** as amended by PL 2007, c. 413, §1, is further amended to read:

A. To provide impetus for industrial, commercial, transit-oriented or arts district development, or any combination;

**Sec. 2. 30-A MRSA §5222, sub-§19** is enacted to read:

**19. Transit.** "Transit" means transportation systems in which people are conveyed by means other than their own vehicles, including, but not limited to, bus systems, street cars, light rail and other rail systems.

**Sec. 3. 30-A MRSA §5222, sub-§20** is enacted to read:

**20. Transit facility.** "Transit facility" means a place providing access to transit services, including, but not limited to, bus stops, bus stations, interchanges on a highway used by one or more transit providers, ferry landings, train stations, shuttle terminals and bus rapid transit stops.

**Sec. 4. 30-A MRSA §5222, sub-§21** is enacted to read:

**21. Transit-oriented development.** "Transit-oriented development" means a type of development that links land use with transit facilities to support and be supported by a transit system. It combines housing with complementary public uses such as jobs, retail or services establishments that are located in transit-served nodes or corridors. Transit-oriented development is intended through location and design to rely on transit as one of the means of meeting the transportation needs of residents, customers and occupants as demonstrated through such factors as transit facility proximity, mixed uses, off-street parking space ratio less than industry standards, architectural accommodation for transit and marketing that highlights transit.

**Sec. 5. 30-A MRSA §5222, sub-§22** is enacted to read:

**22. Transit-oriented development area.** "Transit-oriented development area" means an area of any shape such that no part of the perimeter is more than 1/4 mile from an existing or planned transit facility.

**Sec. 6. 30-A MRSA §5222, sub-§23** is enacted to read:

**23. Transit-oriented development corridor.** "Transit-oriented development corridor" means a strip of land of any length and up to 500 feet on either side of a roadway serving as a principal transit route.

**Sec. 7. 30-A MRSA §5222, sub-§24** is enacted to read:

**24. Transit-oriented development district.** "Transit-oriented development district" means a tax increment financing district consisting of a transit-oriented development area or a transit-oriented development corridor.

**Sec. 8. 30-A MRSA §5223, sub-§3**, as amended by PL 2007, c. 693, §3 and affected by §37, is further amended to read:

**3. Conditions for approval.** Designation of a development district is subject to the following conditions.

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

- (1) Must be a blighted area;
- (2) Must be in need of rehabilitation, redevelopment or conservation work; or
- (3) Must be suitable for commercial or arts district uses.

B. The total area of a single development district may not exceed 2% of the total acreage of the municipality. The total area of all development districts may not exceed 5% of the total acreage of the municipality.

C. The original assessed value of a proposed tax increment financing district plus the original assessed value of all existing tax increment financing districts within the municipality may not exceed 5% of the total value of taxable property within the municipality as of April 1st preceding the date of the commissioner's approval of the designation of the proposed tax increment financing district.

Excluded from the calculation in this paragraph is any district excluded from the calculation under former section 5253, subsection 1, paragraph C and any district designated on or after the effective date of this chapter that meets the following criteria:

- (1) The development program contains project costs, authorized by section 5225, subsection 1, paragraph A, that exceed \$10,000,000;
- (2) The geographic area consists entirely of contiguous property owned by a single taxpayer;
- (3) The assessed value exceeds 10% of the total value of taxable property within the municipality; and
- (4) The development program does not contain project costs authorized by section 5225, subsection 1, paragraph C.

For the purpose of this paragraph, "contiguous property" includes a parcel or parcels of land divided by a road, power line or right-of-way.

D. The aggregate value of municipal general obligation indebtedness financed by the proceeds

from tax increment financing districts within any county may not exceed \$50,000,000 adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average from January 1, 1996 to the date of calculation.

(1) The commissioner may adopt rules necessary to allocate or apportion the designation of captured assessed value of property within proposed tax increment financing districts to permit compliance with the condition in this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(2) The acquisition, construction and installation of all real and personal property improvements, buildings, structures, fixtures and equipment included within the development program and financed through municipal bonded indebtedness must be completed within 5 years of the commissioner's approval of the designation of the tax increment financing district.

The conditions in paragraphs A to D do not apply to approved downtown tax increment financing districts, tax increment financing districts included within Pine Tree Development Zones designated and approved under subchapter 3 ~~or~~ tax increment financing districts that consist solely of one or more community wind power generation facilities owned by a community wind power generator that has been certified by the Public Utilities Commission pursuant to Title 35-A, section 3403, subsection 3 or transit-oriented development districts.

**Sec. 9. 30-A MRSA §5224, sub-§2, ¶C**, as amended by PL 2007, c. 413, §4, is further amended to read:

C. A description of commercial facilities, arts districts, transit expansion, improvements or projects to be financed in whole or in part by the development program;

**Sec. 10. 30-A MRSA §5225, sub-§1, ¶A**, as amended by PL 2007, c. 413, §5, is further amended to read:

A. Costs of improvements made within the tax increment financing district, including, but not limited to:

- (1) Capital costs, including, but not limited to:
  - (a) The acquisition or construction of land, improvements, buildings, structures, fixtures and equipment for public, arts district ~~or~~ commercial or transit-oriented development district use;

(i) Eligible transit-oriented development district capital costs include but are not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; benches, signs and other transit-related infrastructure; bicycle lane construction and other bicycle-related improvements; pedestrian improvements such as crosswalks, crosswalk signals and warning systems and crosswalk curb treatments; and the nonresidential commercial portions of transit-oriented development projects;

- (b) The demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures;
- (c) Site preparation and finishing work; and
- (d) All fees and expenses that are eligible to be included in the capital cost of such improvements, including, but not limited to, licensing and permitting expenses and planning, engineering, architectural, testing, legal and accounting expenses;
- (2) Financing costs, including, but not limited to, closing costs, issuance costs and interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of that indebtedness because of the redemption of the obligations before maturity;
- (3) Real property assembly costs;
- (4) Professional service costs, including, but not limited to, licensing, architectural, planning, engineering and legal expenses;
- (5) Administrative costs, including, but not limited to, reasonable charges for the time spent by municipal employees in connection with the implementation of a development program;
- (6) Relocation costs, including, but not limited to, relocation payments made following condemnation; ~~and~~
- (7) Organizational costs relating to the establishment of the district, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public about the creation of development districts and the implementation of project plans; and

(8) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements;

**Sec. 11. 30-A MRSA §5225, sub-§1, ¶C**, as amended by PL 2009, c. 85, §1, is further amended to read:

C. Costs related to economic development, environmental improvements or employment training within the municipality, including, but not limited to:

- (1) Costs of funding economic development programs or events developed by the municipality or funding the marketing of the municipality as a business or arts location;
- (2) Costs of funding environmental improvement projects developed by the municipality for commercial or arts district use or related to such activities;
- (3) Funding to establish permanent economic development revolving loan funds or investment funds;
- (4) Costs of services to provide skills development and training for residents of the municipality. These costs may not exceed 20% of the total project costs and must be designated as training funds in the development program;
- (5) Quality child care costs, including finance costs and construction, staffing, training, certification and accreditation costs related to child care; ~~and~~
- (6) Costs relating to planning, design, construction, maintenance, grooming and improvements to new or existing recreational trails determined by the department to have significant potential to promote economic development, including bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses; and

(7) Costs associated with a new or expanded transit service, limited to:

(a) Transit service capital costs, including but not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; and benches, signs and other transit-related infrastructure; and

(b) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements; and

See title page for effective date.

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**CHAPTER 315  
H.P. 110 - L.D. 126**

**An Act To Amend Certain  
Laws Affecting Transportation**

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

**Sec. 1. 23 MRSA §705**, as amended by PL 2007, c. 306, §2, is further amended to read:

**§705. Culverts**

The Department of Transportation is responsible for administering shall oversee the placement installation or replacement of culverts within the right-of-way on improved state and state aid highways lying outside the compact area of an urban compact municipality as defined in section 754. ~~When an An~~ abutter ~~wants an~~ desiring to establish a new driveway, entrance to be constructed or approach on these highways, the abutter shall petition the department for a permit as provided under must first comply with section 704 and any rules adopted under section 704. Should a permit be issued and If the department determines that a culvert is required, the abutter shall, at the abutter's expense, provide a culvert meeting department standards and install, at the abutter's expense, under the direction of the department, a culvert the culvert in a manner satisfactory to the department, which the department shall maintain. The abutter has continuing responsibility for the condition and stability of the access, including replacement of any culverts or other structures pertaining to the access, subject to the department's ongoing jurisdiction over the right-of-way.

When the department determines that, in order to reestablish access to an abutting property, a culvert replacement is required for an existing driveway, entrance or approach located within the highway limits as part of a capital highway or ditching project or emergency response effort, the department is responsible for the cost of the replacement.

When the department determines a culvert replacement is not required for an existing driveway, entrance or approach located within the highway limits, the abutter is responsible for the cost of any replacement.

For locations on town ways and on state and state aid highways within the compact area of an urban compact municipality pursuant to section 754, the municipality must be petitioned by the abutter pursuant to section 704. Should a permit be issued, the abutter shall provide, at the abutter's expense, a culvert satisfactory to the municipality, which the municipality shall install and maintain.

**Sec. 2. 23 MRSA §802**, as amended by PL 1999, c. 473, Pt. C, §4, is further amended to read:

**§802. Maintenance by State**

State aid highways must be continually maintained under the direction and control of the department at the expense of the State except as provided in ~~section~~ sections 705, 754 and 1003.

**Sec. 3. 29-A MRSA §101, sub-§15-A** is enacted to read:

**15-A. Combination vehicle.** "Combination vehicle" means a motor vehicle consisting of a truck tractor in combination with one or more trailers or semitrailers.

**Sec. 4. 29-A MRSA §101, sub-§29-A**, as enacted by PL 2003, c. 166, §5, is amended to read:

**29-A. Interstate highway, interstate system or interstate highway system.** "Interstate highway," "interstate system" or "interstate highway system" has the same meaning as defined in Title 23, section 1903, subsection 3, except that it does not include that portion of the Maine Turnpike designated Interstate 95 and 495 and that portion of Interstate 95 from the southern terminus of the Maine Turnpike to the New Hampshire state line.

See title page for effective date.

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**CHAPTER 316  
H.P. 926 - L.D. 1322**

**An Act To Amend Provisions  
of the Submerged Lands Law**

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

**Whereas**, the cap on the maximum rent for a lease of submerged lands is repealed effective June 30, 2009; and

**Whereas**, implementing a more equitable rent schedule to coincide with removal of the cap is beneficial to many lessees and to the management of submerged lands and shore and harbor improvements; and