

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

**2. Use of models.** Each school administrative unit within the State may select and incorporate one or more of the models ~~developed~~ proposed pursuant to subsection 1 for the evaluation of the professional performance of a teacher or principal employed by that school administrative unit. ~~If a school administrative unit wants to include student assessments as part of teacher evaluations, that school administrative unit must use one of the models developed pursuant to subsection 1.~~ Nothing in this section prevents a school administrative unit from developing and adopting its own models for teacher and principal evaluation.

**Sec. 3. PL 2009, c. 646, §3** is amended to read:

**Sec. 3. Review of models.** The Commissioner of Education shall convene a stakeholder group to review the models ~~developed~~ proposed by the Department of Education pursuant to the Maine Revised Statutes, Title 20-A, section 13802 for the evaluation of the professional performance of teachers and principals who are employed by a school administrative unit within the State. The Commissioner of Education, or the commissioner's designee, shall serve as a member of the stakeholder group. The commissioner shall invite representatives of the following educational associations that are appointed by their respective associations to serve as members of the stakeholder group:

1. The Maine Education Association;
2. The Maine Principals' Association;
3. The Maine School Boards Association;
4. The Maine School Superintendents Association; and
5. The Maine Administrators of Services for Children with Disabilities.

The stakeholder group shall review the models ~~developed~~ proposed by the Department of Education for the evaluation of the professional performance of teachers and principals ~~and shall approve models no later than July 1, 2011.~~ The Department of Education may not ~~finally adopt~~ put forth a model that is not approved by a majority vote of the stakeholder group pursuant to this section.

See title page for effective date.

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## CHAPTER 37

### S.P. 114 - L.D. 401

#### An Act To Enhance Penalties To Protect Senior Investors

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

**Sec. 1. 32 MRSA §16412, sub-§3**, as amended by PL 2007, c. 14, §7, is further amended to read:

**3. Disciplinary penalties, licensees.** If the administrator finds that the order is in the public interest and subsection 4, paragraph A, B, C, D, E, F, H, I, J, L or M authorizes the action, an order under this chapter may censure, impose a bar on or impose a civil fine in an amount not to exceed a maximum of \$5,000 per violation on a licensee. For a violation involving an investor 65 years of age or older, the amount of the civil fine may be doubled to an amount not to exceed a maximum of \$10,000 per violation.

**Sec. 2. 32 MRSA §16603, sub-§2, ¶B**, as enacted by PL 2005, c. 65, Pt. A, §2, is amended to read:

B. Order other appropriate or ancillary relief, which may include:

(1) An asset freeze, accounting, writ of attachment, writ of general or specific execution and appointment of a receiver or conservator, which may be the administrator, for the defendant or the defendant's assets;

(2) Ordering the administrator to take charge and control of a defendant's property, including investment accounts and accounts in a depository institution, rents and profits, to collect debts and to acquire and dispose of property;

(3) Imposing a civil fine not to exceed \$10,000 per violation or an order of rescission, restitution or disgorgement directed to a person that has engaged in an act, practice or course of business constituting a violation of this chapter or the predecessor act or a rule adopted or order issued under this chapter or the predecessor act; ~~and~~

(4) Ordering the payment of prejudgment and postjudgment interest; ~~or~~ and

(5) Doubling the amount of a civil fine, not to exceed a maximum of \$20,000 per violation, and doubling the amount of a monetary remedy, other than a civil fine, without limitation for a violation involving an investor 65 years of age or older; or

**Sec. 3. 32 MRSA §16604, sub-§4**, as enacted by PL 2005, c. 65, Pt. A, §2, is amended to read:

**4. Civil fine; final orders and remedies.** In a final order under subsection 3, the administrator may: order remedies described in subsection 1; censure that person; bar that person from association with any issuer, broker-dealer or investment adviser in this State; or impose a civil fine not to exceed \$5,000 per violation. For a violation involving an investor 65 years of age or older, the amount of the civil fine may be dou-

bled to an amount not to exceed a maximum of \$10,000 per violation.

See title page for effective date.

**CHAPTER 38**

**S.P. 85 - L.D. 279**

**An Act To Amend  
Indemnification Notification  
Laws**

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

**Sec. 1. 24-A MRSA §3102-A**, as enacted by PL 1995, c. 296, §1, is repealed.

See title page for effective date.

**CHAPTER 39**

**H.P. 44 - L.D. 51**

**An Act Regarding Access to  
Sexually Explicit Material**

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

**Sec. 1. 15 MRSA c. 107** is enacted to read:

**CHAPTER 107**

**CUSTODY AND EXAMINATION OF  
SEXUALLY EXPLICIT MATERIAL**

**§1121. Limitations on examination of sexually explicit material**

**1. Sexually explicit material.** For purposes of this section, "sexually explicit material" means the property or material described in Title 17-A, chapter 12.

**2. Custody of sexually explicit material.** Sexually explicit material subject to a criminal investigation or proceeding must remain in the care, custody and control of the attorney for the State or the court. Notwithstanding provisions of the Maine Rules of Criminal Procedure, Rule 16 to the contrary, in any criminal proceeding the attorney for the State may not release to the defendant a copy, photograph, duplicate or any other reproduction of any sexually explicit material, as long as the attorney for the State makes the sexually explicit material reasonably available to the defendant.

**3. Reasonably available.** For purposes of this section, sexually explicit material is determined to be reasonably available to the defendant if the attorney for the State provides ample opportunity for inspect-

tion, viewing and examination of the sexually explicit material at a location within the control of the attorney for the State by the defendant, the defendant's attorney, the defendant's attorney's agent or any person whom the defendant may seek to qualify to furnish expert testimony at trial.

See title page for effective date.

**CHAPTER 40**

**H.P. 156 - L.D. 179**

**An Act To Prohibit the  
Issuance of a Duplicate  
Absentee Ballot under Certain  
Circumstances**

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

**Sec. 1. 21-A MRSA §753-B, sub-§4**, as amended by PL 2003, c. 447, §31, is further amended to read:

**4. Duplicate application.** The clerk may issue a ~~2nd~~ duplicate state absentee ballot to an applicant if the initially issued ballot has not already been marked and returned to the clerk, the applicant requests one by an acceptable method outlined in this subchapter and:

A. The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot. Good cause does not include an applicant's decision to change the applicant's vote after the applicant has returned the ballot to the clerk; or

B. An absentee ballot for the applicant that was furnished to a designated 3rd person was not returned to the clerk's office within the time limit provided in subsection 3. If a ballot for an applicant is not returned to the clerk within that time limit, the clerk shall mail or hand deliver a ballot to that applicant and may not issue another ballot to the applicant except for good cause as provided in this subsection. This paragraph does not affect the deadline for delivery of absentee ballots under section 755.

The clerk may ~~also~~ issue a 2nd state absentee ballot to a voter from whom the clerk has received a return envelope apparently containing a state absentee ballot when the State has provided the clerk with replacement ballots to reflect the removal of a candidate's name or the addition of a new candidate's name or the correction of an error. When a 2nd state absentee ballot is issued to a voter under this section, the clerk