

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.

Augusta, Maine
2011

**CHAPTER 97
H.P. 796 - L.D. 1061**

**An Act To Amend the Lien
Process for Unpaid Water
Rates**

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

Sec. 1. 35-A MRSA §6111-A, sub-§1, as en-
acted by PL 2005, c. 7, §2, is amended to read:

1. Liens for unpaid rates; water utilities. A
~~consumer-owned~~ water utility has a lien on real estate
served by that ~~consumer-owned~~ water utility to secure
the payment of unpaid rates.

Sec. 2. 35-A MRSA §6111-A, sub-§4, as en-
acted by PL 2009, c. 490, §1, is amended to read:

4. Waiver of water lien foreclosure. The treas-
urer of a ~~consumer-owned~~ water utility, when author-
ized by the trustees or directors of the utility, may
waive the foreclosure of a lien mortgage created pur-
suant to this section by recording in the registry of
deeds a waiver of foreclosure before the period for the
right of redemption from the lien mortgage has ex-
pired. The lien mortgage remains in full effect after
the recording of a waiver. Other methods established
by law for the collection of any unpaid rate, toll, rent
or other charges are not affected by the filing of a
waiver under this section. The waiver of foreclosure
must be substantially in the following form:

The foreclosure of the water lien mortgage on real
estate for charges against (NAME) to
(NAME OF WATER UTILITY) dated and re-
corded in the County Registry of Deeds in
Book, Page is hereby waived.

The form must be dated, signed by the treasurer of the
water utility and notarized. A copy of the form must
be provided to the party named on the lien mortgage
and each record holder of a mortgage on the real es-
tate.

See title page for effective date.

**CHAPTER 98
H.P. 575 - L.D. 768**

**An Act To Amend the Laws
Relating to Group Trusts
Established by Group
Self-insurers of Workers'
Compensation Benefits**

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

Sec. 1. 39-A MRSA §403, sub-§3, ¶C, as
amended by PL 2005, c. 98, §2, is further amended to
read:

C. A self-insurer may establish an actuarially de-
termined fully funded trust, funded at a level suf-
ficient to discharge those obligations incurred by
the employer pursuant to this Act as they become
due and payable from time to time, as long as the
Superintendent of Insurance requires that the
value of trust assets be at least equal to the present
value of ultimate expected incurred claims and
claims settlement costs, plus required safety mar-
gins and, if determined necessary by the superin-
tendent, administrative costs for the operation of
the plan of self-insurance. For the purpose of de-
termining whether an actuarially determined fully
funded trust has a surplus of funds in excess of
that required by this subsection, the superinten-
dent shall consider, based upon the group's audit
for all completed plan years, only the following
assets held outside the trust account: cash up to
\$10,000; accounts receivable, limited to amounts
collected and deposited in the trust account by the
date of the surplus distribution; accrued interest
on trust account assets that will be collected and
deposited in the trust account within 6 months
from the date of the surplus determination; tangi-
ble assets that will be converted to cash and de-
posited in the trust account prior to the distribu-
tion date of any surplus; and a letter of credit to
be used to partially fund the trust to the extent al-
lowed under this section and rules adopted by the
superintendent, as supported in the actuarial re-
view. The superintendent shall consider cash held
outside the trust account in excess of \$10,000 if
the self-insurer provides, to the superintendent's
satisfaction, documentation regarding why the
money is being held outside the trust account. An
actuarially determined fully funded trust must be
funded as follows, as determined by the superin-
tendent.

(1) For individual and group self-insurers,
the amount of security must be determined
based upon an actuarial review. The actuarial
review must take into consideration the use
by a group self-insurer of any irrevocable
standby letter of credit. Except as provided in
subparagraph (3), initial funding for each plan
year must be maintained at the 90% or higher
confidence level. Funding after the comple-
tion of the initial plan year may be estab-
lished no lower than the 75% confidence
level if the following has occurred:

- (a) A year considered for reduction is
completed;
- (b) The supporting actuarial review in-
cludes an evaluation of the completed

year experience with claims evaluated not less than 6 months from the end of the plan year, or in the case of a group self-insurer in existence for at least 36 months, not less than 4 months from the end of the plan year; and

(c) For individual self-insurers, prior approval from the superintendent is obtained.

For the purposes of determining the confidence level, all completed years at the same confidence level may be aggregated. For individual self-insurers, funds may not be released from the trust or transferred between years except as approved by the superintendent. The governing body of a group self-insurer may at any time declare a surplus of funds above the required confidence level, but may only release funds after the completion of any plan year. The superintendent may request information regarding any such declaration. Any distribution of surplus must be based upon an actuarial review of all outstanding obligations for all completed plan years, an audited financial statement of the group for all completed plan years and a surplus distribution worksheet for all completed plan years on a form approved by the superintendent. The group self-insurer must provide the required information within 10 days after the distribution. Any surplus declared or distributed pursuant to this paragraph is subject to adjustment after review by the superintendent within 60 days of the receipt of the required information. Any deficit below the required confidence level, as determined by the superintendent, that results from a distribution under this paragraph must be funded within 45 days from the date of the notice by the superintendent.

(2) A group self-insurer may elect to fund at a higher confidence level through the use of cash, marketable securities or reinsurance. If a member of a group self-insurer terminates membership in the group for any reason, that member shall fund the member's proportionate share of the liabilities and obligations of the trust to the 95% confidence level. If for any reason the departing member fails to fund the member's proportionate share of the trust's exposure to the 95% level of confidence, ~~the remaining members of the group shall make the additional contribution no later than the anniversary date of the program as required to fund the departing member's exposure in accordance with this provision~~ trust is responsible for that member's liabilities and obligations to the trust. If the superintendent finds

that a material risk to the trust's ability to satisfy its liabilities and obligations in full exists due to the failure of one or more departing members to fund the departing members' proportionate share of those liabilities and obligations to the 95% confidence level or due to the failure of the group trust to enforce the funding requirement, the superintendent shall consider the unfunded share of the trust's exposure when approving a determination of a surplus or deficit in the trust.

(3) Subject to prior approval by the superintendent in accordance with subparagraph (5), a self-insurer that has successfully maintained an actuarially determined fully funded trust for a period of 5 or more consecutive years may fund all years, including the prospective fund year, at the 75% or higher confidence level in the aggregate and a group self-insurer that has successfully maintained an actuarially determined fully funded trust for a period of 10 or more consecutive years may fund all years, including the prospective fund year, at the 65% or higher confidence level in the aggregate.

(4) Trust assets must consist of cash or marketable securities of a type and risk character as specified in subsection 9. The trustee shall submit a report to the superintendent not less frequently than quarterly that lists the assets comprising the corpus of the trust, including a statement of their market value and the investment activity during the period covered by the report. The trust must be established and maintained subject to the condition that trust assets may not be transferred or revert in any manner to the employer except to the extent that the superintendent finds that the value of the trust assets exceeds the present value of incurred claims and claims settlement costs with an actuarially indicated margin for future loss development. In all other respects, the trust instrument, including terms for certification, funding, designation of trustee and payout, must be as approved by the superintendent, except that the value of the trust account must be actuarially calculated at least annually by a casualty actuary who is a member of the American Academy of Actuaries and adjusted to the required level of funding.

(5) In determining whether a self-insurer that maintains an actuarially determined fully funded trust qualifies for a reduction in the required confidence level pursuant to subparagraph (1) or (3) or is subject to an enhanced confidence level pursuant to subparagraph (6), the superintendent shall consider

the financial condition of the self-insurer in relation to the potential workers' compensation liabilities. The factors the superintendent may consider include the self-insurer's liquidity, leverage, tangible net worth, size and net income. For group self-insurers, the superintendent's review must be based on the aggregate financial condition of the group members. At the request of the superintendent, a group self-insurer shall report relevant financial information, on a form prescribed by the superintendent, at such intervals as the superintendent directs. The superintendent may establish additional review criteria or procedures by rule. Rules adopted pursuant to this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(6) If the superintendent determines, based on an evaluation of a self-insurer's financial condition pursuant to subparagraph (5), that the confidence level at which the self-insurer has been authorized to fund its trust is not sufficient to provide adequate security for the self-insurer's reasonably anticipated potential workers' compensation liabilities, the superintendent shall make a determination of the appropriate confidence level and order the self-insurer to take prompt action to increase funding to that level within 60 days.

See title page for effective date.

CHAPTER 99

H.P. 853 - L.D. 1155

An Act To Allow Harness Racing Betting To Be Conducted at Class A Lounges

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

Sec. 1. 8 MRSA §275-D, sub-§1, as amended by PL 2003, c. 493, §1 and affected by §14, is further amended to read:

1. Off-track betting on simulcast racing. A person may conduct pari-mutuel wagering at an off-track betting facility that is licensed under this section, if the person is licensed to operate a hotel, as defined in Title 28-A, section 2, subsection 15, paragraph H, with public dining facilities, a Class A lounge, as defined in Title 28-A, section 2, subsection 15, paragraph L, a Class A restaurant, as defined in Title 28-A, section 2, subsection 15, paragraph R, or a Class A

restaurant/lounge, as defined in Title 28-A, section 2, subsection 15, paragraph R-1.

See title page for effective date.

CHAPTER 100

S.P. 26 - L.D. 11

An Act To Regulate the Keeping of Wolf Hybrids

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 keeping of wolf hybrids poses concerns for public safety; and

Whereas, current regulation of wolf hybrid kennels does not provide adequate safeguards; 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. 7 MRSA §3907, sub-§8-A, as amended by PL 2009, c. 403, §1, is further amended to read:

8-A. Breeding kennel. "Breeding kennel" means a location where 5 or more adult female dogs, ~~wolf hybrids~~ or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed by a municipality under section 3923-C when the dogs are kept primarily for hunting, show, training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.

Sec. 2. 7 MRSA §3907, sub-§12-C, as enacted by PL 1997, c. 690, §5, is amended to read:

12-C. Dog. "Dog" means a member of the genus and species known as *canis familiaris*, except that in chapters 720, 721, 725, 727, 729 and 739 "dog" means a member of the genus and species known as *canis familiaris* or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid ~~as defined in subsection 30.~~