

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

Augusta, Maine
2011

sionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 21, 2011.

CHAPTER 99

H.P. 1172 - L.D. 1584

Resolve, To Allow the State To Continue Efforts To Sell or Lease Certain Real Property in the City of Hallowell

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

Whereas, Resolve 2009, chapter 102 establishes conditions for the sale or transfer of certain property in the City of Hallowell and provides for the lease for the administrative office for Regional School Unit 2; and

Whereas, it is necessary to update certain dates contained in that resolve in order to prevent the expiration of critical provisions, including provisions regarding the preservation of historic properties and the preservation of public open space and to ensure the continuation of the lease for the administrative office for the Regional School Unit 2; 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

Sec. 1. Resolve 2009, c. 102, §1, amended. Resolved: That Resolve 2009, c. 102, §1 is amended to read:

Sec. 1. Conditions of sale or transfer. Resolved: That the Department of Administrative and Financial Services shall, prior to the sale or transfer of any portions of the property authorized for sale by ~~Resolve 2003, chapter 92~~ that is located in the City of Hallowell Tax Map 6, Lot 27 consisting of 63.5 acres, more or less, incorporate the following provisions into the conditions of sale or transfer. The sale or transfer must:

1. Reserve for the use or transfer to the City of Hallowell a portion of the parcel agreed to by the State and the City of Hallowell for municipal uses. This

right for reservation or transfer may be surrendered by the City of Hallowell;

2. Reserve for the use or transfer to the City of Hallowell or any school administrative unit that includes the City of Hallowell whatever portion of the parcel as agreed to by the State, the City of Hallowell and the school administrative unit for purposes of education, educational administration or educational services to be provided by the school administrative unit. This right for reservation or transfer may be surrendered by the City of Hallowell and the school administrative unit. The State shall by September 30, ~~2009~~ 2011 enter into a lease to extend the current terms of School Administrative District 16 or any successor school administrative unit that includes the City of Hallowell as a tenant at the site through ~~September 13, 2011~~ June 30, 2015, subject to existing laws and with the additional provision that such lease must survive any transfer of ownership prior to that date until the expiration of the lease;

3. Reserve a portion of the parcel for public open space or public recreation either by the developer retaining ownership but reserving the parcel or by transfer to any qualified governmental or qualified non-profit entity; and

4. Condition sale or transfer on the preservation and rehabilitation of the 5 buildings and surrounding grounds known as the Industrial School for Girls Historic District consistent with the "Secretary of the Interior's Standards for the Treatment of Historic Properties" as interpreted or otherwise determined appropriate by the Maine Historic Preservation Commission.

The Commissioner of Administrative and Financial Services, prior to issuance of any request for qualifications associated with the transfer of the site, shall establish and convene a stakeholder group to guide reuse, assist in crafting a request for qualifications to be issued by the Department of Administrative and Financial Services and review qualifications of developers. The stakeholder group must have representation from interested parties, unless they decline to participate, including City of Hallowell officials, any school administrative unit that includes the City of Hallowell, the members of the Legislature whose districts include the parcel, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services and others as determined by the commissioner. A subgroup of the stakeholders may participate in whole or in part in interviews of qualified developers scheduled as part of the request for qualifications process and review parameters for development, recognizing that the selection decision is under the authority of the commissioner; and be it further

; and be it further

Sec. 2. Report. Resolved: That the Commissioner of Administrative and Financial Services shall provide a written report on the status of all efforts to-

ward the sale or transfer of property pursuant to Resolve 2009, chapter 102 by February 1, 2012 to the Joint Standing Committee on State and Local Government.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 22, 2011.

CHAPTER 100

H.P. 1174 - L.D. 1586

Resolve, Regarding Legislative Review of Portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a Major Substantive Rule of the Department of Health and Human Services

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 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 101, MaineCare Benefits Manual, Section 40, Chapters II and III: Home Health Services, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the following changes are made:

1. That portion of the rule concerning psychotropic medications is amended to correct references to

persons who receive in-home psychotropic medications; and

2. That portion of the rule concerning face-to-face encounters between a member and the member's physician is amended to require documentation of the face-to-face encounter only at the start of care.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 22, 2011.

CHAPTER 101

H.P. 1058 - L.D. 1444

Resolve, To Enhance Agriculture and Farming

Sec. 1. Department of Environmental Protection to review restrictions on bringing land into agricultural production. Resolved: That the Department of Environmental Protection, referred to in this resolve as "the department," shall review provisions in the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, articles 2-B and 5-A and rules authorized under those articles that affect a person's ability to clear or till land for agriculture. For the purposes of this resolve, "agriculture" means the production, keeping or maintenance for sale or lease of plants or animals, including but not limited to: forage and sod crops; grain and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products.

The department, in consultation with the Department of Agriculture, Food and Rural Resources, shall solicit input from farmers and representatives of agricultural associations when reviewing its rules. The department shall examine the setbacks in which tilling of soil is prohibited and consider options to allow land formerly used for forage crops and pasture to return to those uses; and be it further

Sec. 2. Report to the Joint Standing Committee on Agriculture, Conservation and Forestry. Resolved: That the department shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than January 15, 2013 on its findings upon completion of the review under section 1 and recommendations for actions to increase land available for agricultural uses in an environmentally responsible manner; and be it further

Sec. 3. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.