

# MAINE STATE LEGISLATURE

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R. of S.

1

L.D. 1717

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(Filing No. S- 147)

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STATE OF MAINE

4

SENATE

5

113TH LEGISLATURE

6

FIRST REGULAR SESSION

7

COMMITTEE AMENDMENT " A " to S.P. 576, L.D.  
1717, Bill, "AN ACT to Make Corrections of Errors and  
Inconsistencies in the Laws of Maine."

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Amend the Bill by striking out everything after  
the Title and inserting in its place the following:

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'PART A

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**Emergency preamble.** Whereas, Acts of the Legis-  
lature do not become effective until 90 days after  
adjournment unless enacted as emergencies; and

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Whereas, Acts of this and previous Legislatures  
have resulted in certain technical errors and incon-  
sistencies in the laws of Maine; and

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Whereas, these errors and inconsistencies create  
uncertainties and confusion in interpreting legisla-  
tive intent; and

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Whereas, it is vitally necessary that these un-  
certainties and this confusion be resolved in order  
to prevent any injustice or hardship to the citizens  
of Maine; and

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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 preser-  
vation of the public peace, health and safety; now,  
therefore,

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

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1           **Sec. 100. 13 MRSA §3167**, as amended by PL 1985,  
2           c. 774, §2 and c. 797, §4, is repealed and the fol-  
3           lowing enacted in its place:

4           §3167. Income to support schools

5           All income derived from the ministerial and  
6           school lands, and from the rents and profits of real  
7           and personal estate held under section 3166, shall be  
8           annually applied to the support of public schools in  
9           the town or the schooling of resident students and  
10           expended like other school money.

11           **Sec. 101. 13-A MRSA §1203, sub-§1, ¶B**, as en-  
12           acted by PL 1971. c. 439, §1, is amended to read:

13           B. Which may be done by a domestic corporation  
14           organized under or otherwise pursuant to this  
15           Act, unless in its application for authority the  
16           corporation expressly limited itself to a lesser  
17           number or type of businesses, in which case the  
18           corporation may engage in the business or busi-  
19           nesses to which it so limited its application, if  
20           such business or businesses qualify under para-  
21           graphs-A-and-B this paragraph and paragraph A.

22           **Sec. 102. 13-B MRSA §201, sub-§3, ¶F**, as amended  
23           by PL 1985, c. 714, §40 and c. 737, Pt. A, §35, is  
24           repealed and the following enacted in its place:

25           F. Local development corporations, as that term  
26           is used in Title 10, chapter 110; and

27           **Sec. 103. 14 MRSA §8103, sub-§2**, as amended by  
28           PL 1985, c. 569, §§3 and 4 and c. 758, §2, is fur-  
29           ther amended to read:

30           2. Examples. Notwithstanding section 8104, a  
31           governmental entity shall not be liable for any claim  
32           which results from:

33           A. The undertaking or failure to undertake any

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- 1 legislative or quasi-legislative act, including,  
2 but not limited to, the adoption or failure to  
3 adopt any statute, charter, ordinance, order,  
4 regulation, resolution or resolve;
- 5 B. The undertaking, or failure to undertake, any  
6 judicial or quasi-judicial act, including, but  
7 not limited to, the granting, granting with con-  
8 ditions, refusal to grant or revocation of any  
9 license, permit, order or other administrative  
10 approval or denial;
- 11 C. The performance or failure to exercise or  
12 perform a discretionary function or duty, whether  
13 or not the discretion be abused and whether or  
14 not the statute, charter, ordinance, order, reso-  
15 lution, regulation or resolve under which the  
16 discretionary function or duty is performed is  
17 valid or invalid;
- 18 D. The decision not to provide communications,  
19 heat, light, water, electricity or solid or liq-  
20 uid waste collection, disposal or treatment ser-  
21 vices;
- 22 E. The activities of the Maine National Guard  
23 when engaged in combatant activities during a  
24 time of war, or when called to duty in accordance  
25 with a proclamation of emergency by the Governor  
26 in accordance with Title 37-A, section 57 or 207;
- 27 F. The construction, ownership, maintenance or  
28 use of:
- 29 (1) Unimproved land;
- 30 (2) Historic sites, including, but not lim-  
31 ited to memorials, as defined in Title 12,  
32 section 601, subsection 1; or
- 33 (3) Land, buildings, structures, facilities  
34 or equipment designed for use primarily by

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1 the public in connection with public outdoor  
2 recreation;

3 G. The discharge, dispersal, release or escape  
4 of smoke, vapors, soot, fumes, acids, alkalines,  
5 toxic chemicals, liquids or gases, waste materi-  
6 als or other irritants, contaminants or  
7 pollutants into or upon land, the atmosphere or  
8 any water course or body of water, except as pro-  
9 vided in section 8104, subsection 3;

10 H. The ownership, maintenance or use of any  
11 building acquired by a governmental entity for  
12 reasons of tax delinquency from the date of fore-  
13 closure and until actual possession by the delin-  
14 quent taxpayer or his lessee or licensee has  
15 ceased for a period of 60 days;

16 I. The ownership, maintenance or use of any  
17 building acquired by a governmental entity by  
18 eminent domain or by condemnation until actual  
19 possession by the former owner or his lessee or  
20 licensee has ceased for a period of 60 days;

21 J. Any defect, lack of repair or lack of suffi-  
22 cient railing in any highway, town way, sidewalk,  
23 parking area, causeway, bridge, airport runway or  
24 taxiway, including appurtenances necessary for  
25 the control of such ways including but not lim-  
26 ited to street signs, traffic lights, parking met-  
27 ters and guardrails, except as provided in sec-  
28 tion 8104, subsection 4, and in Title 23, section  
29 3655; or

30 K. The sales of motor vehicles and equipment at  
31 auction held by the governmental entity; or

32 ~~K. The leasing of state-owned property, includ-~~  
33 ~~ing buildings to other organizations pursuant to~~  
34 ~~Title 57, chapter 154.~~

35 L. The leasing of state-owned property, includ-

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1           ing buildings to other organizations pursuant to  
2           Title 5, chapter 154.

3           Paragraphs A through K L of this subsection, to which  
4           immunity applies, are cited as examples and shall not  
5           be interpreted to limit the general immunity provided  
6           by this section.

7           **Sec. 104. 14 MRSA §8109, sub-§1, ¶A,** as amended  
8           by PL 1985, c. 785, Pt. A, §88, is further amended to  
9           read:

10           A. Any agency may settle any claim for an amount  
11           of \$1,500 or less when such settlement is ap-  
12           proved by the appropriate department or agency  
13           head in accordance with regulations promulgated  
14           by the Commissioner of Finance Administration.

15           **Sec. 105 14 MRSA §8109, sub-§1, ¶B,** as amended  
16           by PL 1985, c. 785, Pt. A, §89, is further amended  
17           to read:

18           B. Any other claim may be settled when such set-  
19           tlement is approved by the head of the department or  
20           agency against which the claim is filed, the Commis-  
21           sioner of Finance Administration and the Attorney  
22           General.

23           **Sec. 106. 14 MRSA §8115, sub-§1,** as amended by  
24           PL 1985, c. 785, Pt. A, §90, is further amended to  
25           read:

26           1. Payment from next appropriation. In the event  
27           no insurance has been procured by the State to pay a  
28           claim or judgment arising under this chapter, and no  
29           appropriated funds are reasonably available, as de-  
30           termined by the Commissioner of Finance  
31           Administration, the claim or judgment shall be paid  
32           from the next appropriation to the state instrumen-  
33           tality whose action or omission, or the action or  
34           omission of whose employee, gave rise to the claim.

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1 section 78 enacting the Maine Revised Statutes, Title  
2 5, section ~~1875~~ 1876, subsection 1, paragraph C,  
3 shall take effect on July 1, 1987; Part B, only that  
4 portion of section 38 enacting the Maine Revised  
5 Statutes, Title 5, chapter 372, subchapter I, article  
6 I, shall take effect on July 1, 1987.

7 **Emergency clause.** In view of the emergency cited  
8 in the preamble, this Act shall take effect when ap-  
9 proved.'

10

STATEMENT OF FACT

11 Part A of this amendment deletes several sections  
12 of the bill which proposed substantive changes or  
13 which are taken care of in other bills and makes oth-  
14 er technical changes in some remaining sections.

15 Part B of the amendment adds a few new sections  
16 as additional technical changes.

3344060887

Reported by Senator Brannigan for the Committee on  
Judiciary. Reproduced and Distributed Pursuant to  
Senate Rule 12.  
(6/9/87)

(Filing No. S-147)