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An Act To Create a Victims' Compensation Fund for Victims of Property Crimes

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

Sec. 1. 5 MRSA c. 316-C is enacted to read:

CHAPTER 316-C

VICTIMS' PROPERTY COMPENSATION FUND

§ 3360-S. Victims' Property Compensation Fund

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Board" means the Victims' Compensation Board established in section 12004-J, subsection 11.
- B. "Crime" means a criminal offense committed under the laws of the State that resulted in verifiable property loss of a person other than a person who committed the crime.
- C. "Fund" means the Victims' Property Compensation Fund established in subsection 2.
- D. "Property loss" means the value of property taken from a victim or of property destroyed or otherwise broken or harmed as a direct result of a crime. "Property loss" includes a deductible paid by the victim pursuant to an insurance claim related to the property loss.

2. Victims' Property Compensation Fund established. The Victims' Property Compensation Fund is established to provide for the payment of claims arising under this chapter and for the payment of all necessary and proper expenses incurred by the board in carrying out this chapter. The Attorney General shall administer the fund, which must be held separate and apart from all other money, funds and accounts. The fund receives proceeds from money collected pursuant to subsection 3 and may receive private donations, federal funds and state funds designated by law that may be used for the payment of claims and for reasonable administrative costs. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any unexpended balances remaining in the fund at the end of any fiscal year do not lapse and must be carried forward to the next fiscal year.

3. Funding source. In addition to an assessment under section 3360-I, the court shall impose an assessment of \$10 on any person convicted of murder or a Class A crime, Class B crime or Class C crime and \$5 on any person convicted of a Class D crime or Class E crime. Notwithstanding any other law, the court may not waive the imposition of the assessment required by this subsection. For purposes of collection and collection procedures, this assessment is considered part of the fine. At the time of commitment, the court shall inform the Department of Corrections or the county sheriff of any

unpaid balances on assessments owed by the offender to the fund. All funds collected as a result of these assessments accrue to the fund. When compensation is awarded from the fund, the amount of any restitution ordered and paid as part of a sentence imposed that, when added to the award from the fund, exceeds the victim's actual property loss must be paid to the fund, in an amount not to exceed the amount of the award. Similarly, the amount of any insurance, 3rd-party payment or recovery in a successful civil action against a person responsible for the property loss that, when added to the award from the fund, exceeds the victim's actual property loss must be paid to the fund, in an amount not to exceed the amount of the award.

4. Eligibility. The board may award compensation under this chapter to an individual who:

A. Suffers a property loss as a result of a crime;

B. Would otherwise be eligible for compensation, even though:

(1) The criminal conduct occurred in this State but within the exclusive jurisdiction of the United States;

(2) The property loss resulted from conduct that violates a criminal law of the United States; or

(3) The crime occurred in another state, but only if the person is a resident of this State and the other state does not have a victims' property compensation program for which residents of this State are eligible and the person would have been eligible under this chapter if the conduct had occurred in this State; or

C. Is a resident of this State and suffers property loss as a direct result of a crime specified in section 3360, subsection 3, paragraph F committed outside of the United States.

5. Claim requirements. The board shall consider a claim under this chapter if:

A. The underlying crime was reported to a law enforcement officer within 5 days of the occurrence or discovery of the crime or of the resultant property loss; and

B. The claim is filed with the board within 3 years of the occurrence of the property loss or within 60 days of the discovery of the property loss, whichever is later.

The board may waive the time requirements of this subsection for good cause shown.

6. Cooperation. Compensation under this chapter may not be paid:

A. To any claimant who does not fully cooperate with the board or with the reasonable requests of law enforcement officers or prosecution authorities; or

B. To or on behalf of any person who violated a criminal law that caused or contributed to the property loss for which compensation is sought.

7. Submission of claims. The board may provide forms for the submission of claims and claims information under this chapter. A claim must be submitted to the board and must:

A. Be in writing;

B. Specify the date, the nature and circumstances of the crime and the law enforcement agency to which the crime was reported; and

C. Include documentation of an eligible property loss for which the claimant seeks compensation, including the payment of any deductible paid by the victim pursuant to an insurance claim related to the property loss.

8. Compensation. The board may award compensation under this chapter to a claimant of up to \$5,000 for actual and unreimbursed property losses or in whole or in part for an insurance deductible paid by the victim pursuant to an insurance claim related to the property loss. The board, in its sole discretion, may disburse funds awarded directly to the claimant or to the individuals or entities who provided the services to restore, repair or replace property for which compensation was awarded. In the case of joint claimants, the board may apportion the total compensation as the board determines.

9. Hearing; determination of compensation. The board may hold a hearing on any claim under this chapter, and the board shall hold a hearing if requested by the claimant. The claimant may address the board at a hearing on the claim, and the board may take testimony under oath. A determination under this subsection must be conducted as follows.

A. In addition to the material and information required by law and by the board, the claimant may provide the board with any other information pertinent to the nature or the amount of the claim. The board shall receive and consider information provided by law enforcement agencies and prosecution authorities and, at its sole discretion, may receive and consider relevant information from any other source.

B. The board shall determine by a preponderance of the evidence whether a specified crime occurred, whether the property loss was the result of that criminal conduct, the amount of property loss suffered by the claimant, whether to award compensation and the amount of the compensation, if awarded. In determining the amount of compensation to be paid, the board shall consider the amount available to pay victims' property compensation claims, the history of claims paid by the board, the number and amount of currently pending claims and the nature and cost of expenses submitted by the claimant.

C. The board shall determine action on a claim with a quorum participating on that claim, but any award of compensation requires the unanimous concurrence of all members present.

D. The board's final decision must contain reasons for the determination.

10. Appeal. Only a claimant under this chapter may appeal a decision of the board. An appeal of the board's final decisions must be to the Superior Court as provided for other administrative actions under chapter 375, subchapter 7. Board decisions and the amount of awards must be upheld unless the court finds no rational basis for the decision or that the board abused its discretion.

11. Implementation. Notwithstanding the effective date of this chapter:

A. The assessments required by subsection 3 apply to penalties imposed for criminal conduct alleged to have occurred on or after January 1, 2020;

B. The board may not award compensation under this chapter for any crime that occurred prior to January 1, 2020; and

C. The board is not obligated to process or pay claims under this chapter before June 1, 2020.

12. Information. The Attorney General shall develop a fact sheet for victims about the victims' property compensation program under this chapter and shall make copies available to all courts, prosecutors' offices and law enforcement agencies, which shall provide the fact sheet to all victims of crimes in which property losses were incurred. The Attorney General shall make the fact sheet available on the Attorney General's publicly available website.

13. Confidentiality. All records and information obtained by or in the possession of the Department of the Attorney General concerning an application for or an award of compensation under this chapter are confidential and may not be disclosed, except that the Attorney General may provide access to those records and information to the board for use in the board's official duties and those records and information remain confidential while in the possession of the board. The records or information may, at the sole discretion of the Attorney General or designee of the Attorney General, be disclosed to:

A. Law enforcement officers to assist them with the discharge of their official duties;

B. The courts and the Department of Corrections to provide them with information to assess, collect and disburse restitution;

C. A claimant who has requested a hearing before the board or who has appealed a final decision of the board; and

D. Other persons to carry out the purposes of this chapter.

SUMMARY

This bill creates the Victims' Property Compensation Fund to compensate victims of crimes in which the victims suffered property losses, patterned after the existing Victims' Compensation Fund, which compensates victims of crimes for damages resulting from personal injuries resulting from those crimes. The Victims' Property Compensation Fund is funded by an assessment of \$10 on any person convicted of murder or a Class A crime, Class B crime or Class C crime and \$5 on any person convicted of a Class D crime or Class E crime and may compensate a victim of a property crime up to \$5,000 for property losses

or insurance deductibles paid pursuant to an insurance claim as a result of the property loss. The bill provides that the existing Victims' Compensation Board hears claims made upon the Victims' Property Compensation Fund.