

MAINE STATE LEGISLATURE

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(Emergency)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1717

S.P. 576

In Senate, June 2, 1987

Reference to the Committee on Judiciary suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator BRANNIGAN of Cumberland.
Cosponsored by Representative PARADIS of Augusta.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 **AN ACT to Make Corrections of Errors and**
2 **Inconsistencies in the Laws of Maine.**
3

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

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

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

1 B. Which may be done by a domestic corporation
2 organized under or otherwise pursuant to this
3 Act, unless in its application for authority the
4 corporation expressly limited itself to a lesser
5 number or type of businesses, in which case the
6 corporation may engage in the business or busi-
7 nesses to which it so limited its application, if
8 such business or businesses qualify under para-
9 graphs-A-and-B this paragraph and paragraph A.

10 Sec. 117. 13-B MRSA §201, sub-§3, ¶F, as amended
11 by PL 1985, c. 714, §40 and c. 737, Pt. A, §35, is
12 repealed and the following enacted in its place:

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

15 Sec. 118. 14 MRSA §8103, sub-§2, as amended by
16 PL 1985, c. 569, §§3 and 4 and c. 758, §2, is fur-
17 ther amended to read:

18 2. Examples. Notwithstanding section 8104, a
19 governmental entity shall not be liable for any claim
20 which results from:

21 A. The undertaking or failure to undertake any
22 legislative or quasi-legislative act, including,
23 but not limited to, the adoption or failure to
24 adopt any statute, charter, ordinance, order,
25 regulation, resolution or resolve;

26 B. The undertaking, or failure to undertake, any
27 judicial or quasi-judicial act, including, but
28 not limited to, the granting, granting with con-
29 ditions, refusal to grant or revocation of any
30 license, permit, order or other administrative
31 approval or denial;

32 C. The performance or failure to exercise or
33 perform a discretionary function or duty, whether
34 or not the discretion be abused and whether or
35 not the statute, charter, ordinance, order, reso-
36 lution, regulation or resolve under which the
37 discretionary function or duty is performed is
38 valid or invalid;

1 D. The decision not to provide communications,
2 heat, light, water, electricity or solid or liq-
3 uid waste collection, disposal or treatment ser-
4 vices;

5 E. The activities of the Maine National Guard
6 when engaged in combatant activities during a
7 time of war, or when called to duty in accordance
8 with a proclamation of emergency by the Governor
9 in accordance with Title 37-A, section 57 or 207;

10 F. The construction, ownership, maintenance or
11 use of:

12 (1) Unimproved land;

13 (2) Historic sites, including, but not lim-
14 ited to memorials, as defined in Title 12,
15 section 601, subsection 1; or

16 (3) Land, buildings, structures, facilities
17 or equipment designed for use primarily by
18 the public in connection with public outdoor
19 recreation;

20 G. The discharge, dispersal, release or escape
21 of smoke, vapors, soot, fumes, acids, alkalines,
22 toxic chemicals, liquids or gases, waste materi-
23 als or other irritants, contaminants or
24 pollutants into or upon land, the atmosphere or
25 any water course or body of water, except as pro-
26 vided in section 8104, subsection 3;

27 H. The ownership, maintenance or use of any
28 building acquired by a governmental entity for
29 reasons of tax delinquency from the date of fore-
30 closure and until actual possession by the delin-
31 quent taxpayer or his lessee or licensee has
32 ceased for a period of 60 days;

33 I. The ownership, maintenance or use of any
34 building acquired by a governmental entity by
35 eminent domain or by condemnation until actual
36 possession by the former owner or his lessee or
37 licensee has ceased for a period of 60 days;

1 J. Any defect, lack of repair or lack of suffi-
2 cient railing in any highway, town way, sidewalk,
3 parking area, causeway, bridge, airport runway or
4 taxiway, including appurtenances necessary for
5 the control of such ways including but not lim-
6 ited to street signs, traffic lights, parking me-
7 ters and guardrails, except as provided in sec-
8 tion 8104, subsection 4, and in Title 23, section
9 3655; or

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

12 ~~K.--The-leasing-of-state-owned-property,--includ-~~
13 ~~ing--buildings-to-other-organizations-pursuant-to~~
14 ~~Title-5,--chapter-154.~~

15 L. The leasing of state-owned property, includ-
16 ing buildings to other organizations pursuant to
17 Title 5, chapter 154.

18 Paragraphs A through K L of this subsection, to which
19 immunity applies, are cited as examples and shall not
20 be interpreted to limit the general immunity provided
21 by this section.

22 **Sec. 119. 14 MRSA §8109, sub-§1, ¶A,** as amended
23 by PL 1985, c. 785, Pt. A, §88, is further amended to
24 read:

25 A. Any agency may settle any claim for an amount
26 of \$1,500 or less when such settlement is ap-
27 proved by the appropriate department or agency
28 head in accordance with regulations promulgated
29 by the Commissioner of Finance Administration.

30 **Sec. 120 14 MRSA §8109, sub-§1, ¶B,** as amended
31 by PL 1985, c. 785, Pt. A, §89, is further amended
32 to read:

33 B. Any other claim may be settled when such set-
34 tlement is approved by the head of the department or
35 agency against which the claim is filed, the Commis-
36 sioner of Finance Administration and the Attorney
37 General.

1 **Sec. 121.** 14 MRSA §8115, sub-§1, as amended by
2 PL 1985, c. 785, Pt. A, §90, is further amended to
3 read:

4 1. Payment from next appropriation. In the event
5 no insurance has been procured by the State to pay a
6 claim or judgment arising under this chapter, and no
7 appropriated funds are reasonably available, as de-
8 termined by the Commissioner of Finance
9 Administration, the claim or judgment shall be paid
10 from the next appropriation to the state instrumen-
11 tality whose action or omission, or the action or
12 omission of whose employee, gave rise to the claim.

13 **Sec. 122.** 15 MRSA §101, as amended by PL 1985,
14 c. 630, §§1 and 2 and c. 796, §§2 and 3, is repealed.

15 **Sec. 123.** 15 MRSA §101-A, as enacted by PL 1985,
16 c. 356, is repealed.

17 **Sec. 124.** 15 MRSA §§101-B and 101-C are enacted
18 to read:

19 §101-B. Mental examination and observation of per-
20 sons accused of crime

21 1. Court order; permissive. The District Court
22 or the Superior Court having jurisdiction in any
23 criminal case for cause shown may order the defendant
24 examined to determine his mental condition with ref-
25 erence to the issues of criminal responsibility and
26 competence to stand trial. The examination may be
27 conducted at the Augusta Mental Health Institute,
28 Bangor Mental Health Institute, Pineland Center or at
29 a mental health clinic of, or recommended by, the
30 Commissioner of Mental Health and Mental Retardation
31 and, when conducted at any such facility, shall be
32 the responsibility of the State Forensic Service. The
33 examination may be conducted by a psychiatrist or li-
34 censed clinical psychologist independent from any
35 such facility, employed for such purpose by the
36 court. The court in selecting the examination site
37 shall consider proximity to the court, availability
38 of an examiner or examiners and the necessity for se-
39 curity precautions. No person may be presented for
40 examination under this subsection without arrange-
41 ments therefor with the head of the institution or

- 1 Section 101. Corrects the form of internal cross-
2 references.
- 3 Section 102. Incorporates changes made by 2 differ-
4 ent public laws.
- 5 Section 103. Corrects a statutory reference.
- 6 Section 104. Corrects a conflict between 2 public
7 laws. Public Law 1985, chapter 344, section 94, in-
8 corporated the dollar limitations as changed in Pub-
9 lic Law 1985, chapter 198, section 2.
- 10 Section 105. Corrects a conflict created by 2 sepa-
11 rate public laws.
- 12 Sections 106 and 107. Correct a numbering conflict.
- 13 Section 108. Incorporates changes made by 2 differ-
14 ent public laws.
- 15 Section 109. Corrects internal cross-references.
- 16 Section 110. Corrects an internal cross-reference.
- 17 Section 111. Corrects an internal cross-reference.
- 18 Section 112. Eliminates a conflict created by 2
19 public laws.
- 20 Section 113. Corrects a spelling error.
- 21 Section 114. Corrects a statutory reference.
- 22 Section 115. Incorporates changes made by 2 differ-
23 ent public laws.
- 24 Section 116. Corrects an internal cross-reference.
- 25 Section 117. Corrects a statutory reference.
- 26 Section 118. Corrects a lettering error where 2
27 substantively different provisions were enacted with
28 the same paragraph letter.
- 29 Sections 119 to 121. Change the responsibility for
30 settlement of claims against the State under the

- 1 Maine Tort Claims Act from the Department of Finance
2 to the Department of Administration since the Risk
3 Management Division is within the Department of Ad-
4 ministration.
- 5 Sections 122 to 124. Incorporate changes from Public
6 Law 1985, chapter 630, section 1 and chapter 796,
7 section 2, and preserve the order and correct the
8 format for provisions relating to examinations and
9 evaluations of persons accused of crimes.
- 10 Section 125. Corrects a statutory reference.
- 11 Section 126. Corrects a statutory reference.
- 12 Sections 127 to 129. Change a statutory reference to
13 reflect the changes made in this bill concerning Ti-
14 tle 15, sections 101 to 101-C.
- 15 Sections 130 to 132. Correct statutory references.
- 16 Section 133. Clarifies the intent of Public Law
17 1985, chapter 652, section 33, concerning collection
18 of child support, by creating a lien against nonex-
19 empt property.
- 20 Section 134. Clarifies the intent of Public Law
21 1985, chapter 652, which enacted Title 19, section
22 498-A.
- 23 Section 135. Corrects improper citations and word-
24 ing found in the school administrative district law.
- 25 Section 136. Corrects an improper citation.
- 26 Section 137. Resolves a conflict between 2 public
27 laws.
- 28 Section 138. Corrects an error in Public Law 1985,
29 chapter 779, section 48, when part of a subsection
30 was incorrectly printed with another subsection.
- 31 Sections 139 and 140. Correct an error in alloca-
32 tion.
- 33 Section 141. Corrects a conflict.