

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1457

H. P. 1232

House of Representatives, March 24, 1981

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Kany of Waterville.

STATE OF MAINE

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

AN ACT to Amend the Probate Laws.

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

**Sec. 1.** 18-A MRSA § 2-103, ¶ (4), as enacted by PL 1979, c. 540, § 1, is amended to read:

(4) If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, half of the estate passes to the paternal grandparents if both survive, or to the surviving paternal grandparent, or to the issue of the paternal grandparents if both are deceased to be distributed per capita at each generation as defined in section 2-106; and the other half passes to the maternal relatives in the same manner; but if there be no surviving grandparent or issue of grandparents on either the paternal or maternal side, the entire estate passes to the relatives on the other side in the same manner as the half;

**Sec. 2.** 18-A MRSA § 2-103, ¶¶ (5) and (6) are enacted to read:

(5) If there is not surviving issue, parent or issue of a parent, grandparents or issue of grandparents, but the decedent is survived by one or more great grandparents or issue of great grandparents, half of the estate passes to the paternal great grandparents to be distributed among the surviving great grandparents per capita or to the issue of the paternal great grandparents if all of them are deceased to be distributed per capita at each generation as defined in

section 2-106; and the other half passes to the maternal relatives in the same manner; but if there be no surviving great grandparent or issue of great grandparents on either the paternal or maternal side, the entire estate passes to the relatives on the other side in the same manner as the half;

(6) If there is no surviving issue, parent or issue of a parent, grandparents or issue of grandparents, great grandparents or issue of great grandparents, but the decedent is survived by one or more great great grandparents or issue of great great grandparents, half of the estate passes to the paternal great great grandparents to be distributed among the surviving great great grandparents per capita or to the issue of the paternal great great grandparents if all of them are deceased to be distributed per capita at each generation as defined in section 2-106; and the other half passes to the maternal relatives in the same manner; but if there be no surviving great great grandparent or issue of great great grandparents on either the paternal or maternal side, the entire estate passes to the relatives on the other side in the same manner as the half.

Sec. 3. 36 MRSA § 3686, 3rd sentence, as amended by PL 1979, c. 540, § 50, is further amended to read:

Whenever no administration bond is required, the register or judge of probate, notwithstanding any provisions of Title 18-A, sections 3-603 through 3-606, may, and unless he shall find that any inheritance or estate tax due and to become due the State is reasonably secured by the lien upon real estate hereinbefore provided, shall require a bond payable to ~~him~~ the judge or his successor sufficient to secure the payment of all inheritance taxes and interest conditioned in substance to pay all inheritance and estate taxes due to the State from the estate of the deceased with interest thereon.

#### STATEMENT OF FACT

This amendment extends the degree of kinship within which a person may inherit from a relative who died intestate before the property escheats to the State. Under current law, for example, a great aunt or great uncle can not inherit from a person who dies without a will.

The amendment also allows the Register of Probate to determine the need for and set the amount of Inheritance Tax bonds due on decedent's estates. In practice, the Register now recommends the proper amount to the judge. This change is consistent with allowing the register more authority in informal probate and will eliminate the delays which may be inherent in requiring the judge to set inheritance tax bonds when the register is performing all other functions required to open an informal estate.