

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 533

6  
7 H.P. 440

House of Representatives, February 2, 1983

8 Received by the Clerk of the House on February 2, 1983. Referred to the  
9 Committee on Judiciary, and ordered printed pursuant to Joint Rule 14.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Hobbins of Saco.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Amend the Statute of Limitations  
18 for the Probate of Estates under the  
19 Maine Probate Code.  
20

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

23 18-A MRSA §3-108, as enacted by PL 1979, c. 540,  
24 §1, is amended to read:

25 §3-108. Probate, testacy and appointment proceed-  
26 ings; ultimate time limit

27 No informal probate or appointment proceeding or  
28 formal testacy or appointment proceeding, other than  
29 a proceeding to probate a will previously probated at  
30 the testator's domicile and appointment proceedings  
31 relating to an estate in which there has been a prior  
32 appointment, may be commenced more than 3 years after  
33 the decedent's death, except (1) if a previous pro-

1 ceeding was dismissed because of doubt about the fact  
2 of the decedent's death, appropriate probate,  
3 appointment or testacy proceedings may be maintained  
4 at any time thereafter upon a finding that the decedent's  
5 death occurred prior to the initiation of the  
6 previous proceeding and the applicant or petitioner  
7 has not delayed unduly in initiating the subsequent  
8 proceeding; (2) appropriate probate, appointment or  
9 testacy proceedings may be maintained in relation to  
10 the estate of an absent, disappeared or missing  
11 person for whose estate a conservator has been  
12 appointed, at any time within 3 years after the con-  
13 servator becomes able to establish the death of the  
14 protected person; and (3) a proceeding to contest an  
15 informally probated will and to secure appointment of  
16 the person with legal priority for appointment in the  
17 event the contest is successful; and (4) appropriate  
18 probate, appointment or testacy proceedings may be  
19 maintained after expiration of the 3-year period if,  
20 after notice and hearing, the judge determines that  
21 (a) there has not been unreasonable delay in the com-  
22 menecement of the proceeding; and (b) there are assets  
23 remaining in the name of the decedent, may be com-  
24 menced within the later of 12 months from the infor-  
25 mal probate or 3 years from the decedent's death.  
26 These limitations do not apply to proceedings to con-  
27 strue probated wills or determine heirs of an intes-  
28 tate. In cases under (1) or (2) above in this  
29 section, the date on which a testacy or appointment  
30 proceeding is properly commenced shall be deemed to  
31 be the date of the decedent's death for purposes of  
32 other limitations provisions of this Code which  
33 relate to the date of death.

34 STATEMENT OF FACT

35 This bill amends the present statute to provide  
36 the judge, in his discretion, power under certain  
37 circumstances to allow the probate of wills after 3  
38 years from the date of the decedent's death.

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