

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 535

6
7 H.P. 442

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 Concerning the Statute of
18 Limitations for the Probate of Estates
19 Under the 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24 §1, is repealed and the following enacted in its
25 place:

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

28 (a) For decedents dying after December 31,
29 1981, and before July 1, 1983, no informal probate or
30 appointment proceeding or formal testacy or appoint-
31 ment proceeding, other than a proceeding to probate a
32 will previously probated at the testator's domicile
33 and appointment proceedings relating to an estate in

1 which there has been a prior appointment, may be com-
2 menced more than 3 years after the decedent's death,
3 except as provided in subsection (c).

4 (b) For decedents dying after June 30, 1983, no
5 informal probate or appointment proceeding or formal
6 testacy or appointment proceeding, other than a pro-
7 ceeding to probate a will previously probated at the
8 testator's domicile and appointment proceedings
9 relating to an estate in which there has been a prior
10 appointment, may be commenced more than 20 years
11 after the decedent's death, except as provided in
12 subsection (c).

13 (c) Notwithstanding the limitation periods set
14 forth in subsections (a) and (b), an informal probate
15 or appointment proceeding or a formal testacy or
16 appointment proceeding may be commenced after the
17 applicable limitation period.

18 (1) If a previous proceeding was dismissed
19 because of doubt about the fact of the decedent's
20 death, appropriate probate, appointment or tes-
21 tacy proceedings may be maintained at any time
22 thereafter upon a finding that the decedent's
23 death occurred prior to the initiation of the
24 previous proceeding and the applicant or peti-
25 tioner has not delayed unduly in initiating the
26 subsequent proceeding.

27 (2) Appropriate probate, appointment or testacy
28 proceedings may be maintained in relation to the
29 estate of an absent, disappeared or missing
30 person for whose estate a conservator has been
31 appointed at any time within the applicable
32 limitation period, as set forth in this section,
33 which shall begin to run after the conservator
34 becomes able to establish the death of the pro-
35 TECTED person.

36 (3) A proceeding to contest an informally pro-
37 bated will, and to secure appointment of the
38 person with legal priority for appointment in the
39 event the contest is successful, may be commenced
40 within the later of 12 months from the informal
41 probate or the running of the applicable limita-
42 tion period.

1 These limitations do not apply to proceedings to con-
2 strue probated wills or determine heirs of an intes-
3 tate. In cases under paragraph (1) or (2), the date
4 on which a testacy or appointment proceeding is prop-
5 erly commenced shall be deemed to be the date of the
6 decedent's death for purposes of the limitations'
7 provisions of this Code which relate to the date of
8 death.

9

STATEMENT OF FACT

10 This bill repeals the present 3-year statute of
11 limitation enacted with the new Maine Probate Code
12 and reenacts the 20-year statute of limitation which
13 had been Maine law prior to the new Code.

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