

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1219

7 H.P. 936

House of Representatives, March 16, 1983

8 Referred to the Committee on Judiciary, sent up for concurrence and
9 ordered printed.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Soule of Westport.

12 STATE OF MAINE
13

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

17 AN ACT to Revise Certain Sections of the
18 Probate Code.
19

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

22 Sec. 1. 18-A MRSA §2-202, sub-§4 is enacted to
23 read:

24 (4) The augmented estate shall not include real
25 property transferred by a deed signed by one spouse
26 without a signature by the other spouse, if:

27 (i) The real property was owned in fee simple by
28 the spouse who executed the deed;

29 (ii) The deed was transferred for adequate and
30 full consideration; and

1 (iii) The real property should not be included
2 in the augmented estate because of any other
3 provision of this Code.

4 If the deed recites that the transfer was for ade-
5 quate and full consideration, this recitation shall
6 be conclusive in the absence of fraud for purposes of
7 this section.

8 Sec. 2. 18-A MRSA §2-402, as enacted by PL 1979,
9 c. 540, §1, is amended to read:

10 §2-402. Exempt property

11 In addition to the homestead allowance, the sur-
12 viving spouse of a decedent who was domiciled in this
13 State is entitled from the estate to value not
14 exceeding \$3,500 in excess of any security interests
15 therein in property exempt under Title 14, ~~section~~
16 ~~4401~~ chapter 507, subchapter II, Article 7 on the
17 date of death of the decedent. If there is no sur-
18 viving spouse, children of the decedent are entitled
19 jointly to the same value. If encumbered chattels are
20 selected and if the value in excess of security
21 interests, plus that of other exempt property, is
22 less than \$3,500, or if there is not \$3,500 worth of
23 exempt property in the estate, the spouse or children
24 are entitled to other assets of the estate, if any,
25 to the extent necessary to make up the \$3,500 value.
26 Rights to exempt property and assets needed to make
27 up a deficiency of exempt property have priority over
28 all claims against the estate, except that the right
29 to any assets to make up a deficiency of exempt prop-
30 erty shall abate as necessary to permit prior payment
31 of homestead allowance and family allowance. These
32 rights are in addition to any benefit or share pass-
33 ing to the surviving spouse or children by the will
34 of the decedent unless otherwise provided, by intes-
35 tate succession, or by way of elective share.

36 STATEMENT OF FACT

37 Section 1 of the bill excludes certain trans-
38 ferred property from the augmented estate of a dece-
39 dent.

1 Section 2 deletes a statutory cross-reference to
2 Title 14, section 4401, which was repealed and re-
3 places it with a more accurate cross-reference to the
4 entire newly-enacted Article.

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