

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 171

6
7 S.P. 75

In Senate, January 24, 1985

8 Reference to the Committee on Judiciary suggested and ordered printed.

9 JOY J. O'BRIEN, Secretary of the Senate

10 Presented by Senator Chalmers of Knox.

11
12 STATE OF MAINE
13

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

17 AN ACT to Amend the Probate Laws to Allow
18 Probate of Property Discovered up to
19 20 Years after Death.
20

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

23 18-A MRSA §3-108, sub-§(b), as enacted by PL
24 1983, c. 256, is amended to read:

25 (b) For ~~decedent's~~ decedents dying before Janu-
26 ary 1, 1981, no informal probate or appointment pro-
27 ceeding or formal testacy or appointment proceeding,
28 other than a proceeding to probate a will previously
29 probated at the testator's domicile and appointment
30 proceedings relating to an estate in which there has
31 been a prior appointment, may be commenced more than
32 20 years after the decedent's death, except:

33 (1) If a previous proceeding was dismissed be-
34 cause of doubt about the fact of the decedent's
35 death, appropriate probate, appointment or testa-

1 cy proceedings may be maintained at any time
2 thereafter upon a finding that the decedent's
3 death occurred prior to the initiation of the
4 previous proceeding and the applicant or peti-
5 tioner has not delayed unduly in initiating the
6 subsequent proceeding;

7 (2) Appropriate probate, appointment or testacy
8 proceedings may be maintained in relation to the
9 estate of an absent, disappeared or missing per-
10 son for whose estate a conservator has been ap-
11 pointed at any time within the applicable limita-
12 tion period, as set forth in this section, which
13 shall begin to run after the conservator becomes
14 able to establish the death of the protected per-
15 son; and

16 (3) A proceeding to contest an informally pro-
17 bated will, and to secure appointment of the per-
18 son with legal priority for appointment in the
19 event the contest is successful, may be commenced
20 within the later of 12 months from the informal
21 probate or the running of the applicable limita-
22 tion period. These limitations do not apply to
23 proceedings to construe probated wills or deter-
24 mine heirs of an intestate. In cases under para-
25 graph (1) or (2), the date on which a testacy or
26 appointment proceeding is properly commenced
27 shall be deemed to be the date of the decedent's
28 death for purposes of the limitations provisions
29 of this Code which relate to the date of death;
30 and

31 (4) If any property of at least \$20 in value ac-
32 cruing to the estate or belonging to the estate
33 first comes to the knowledge of any person inter-
34 ested in the estate, informal probate, appoint-
35 ment proceeding, formal testacy or appointment
36 proceeding may be maintained in relation to the
37 property at any time within 2 years next after it
38 so accrued or first became known, but that infor-
39 mal probate, appointment proceeding, formal tes-
40 tacy or appointment proceeding shall affect no
41 other property and shall not revive debts due to
42 or by the deceased.

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STATEMENT OF FACT

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The purpose of this bill is to allow probate on
3 certain property discovered after 20 years from the
4 time of death.

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