

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 671

H.P. 491

House of Representatives, March 7, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CONLEY of Portland.
Cosponsored by Senator BRANNIGAN of Cumberland.

STATE OF MAINE

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

An Act to Provide Written Notice to Creditors Under the Maine
Probate Code.



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

3 Sec. 1. 18-A MRSA §3-801, as enacted by PL 1979, c. 540, §1,
5 is repealed and the following enacted in its place:

7 §3-801. Notice to creditors

9 Unless notice has already been given under this section, a
11 personal representative, upon the representative's appointment,
13 shall notify creditors of the estate as provided in this section.

15 (a) The personal representative shall mail the notice
17 required by this subsection to any known or reasonably
19 ascertainable creditors of the estate. The notice must:

21 (1) Announce the appointment of the personal representative;

23 (2) Provide the personal representative's address; and

25 (3) Notify the creditor to present any claims within 4
27 months after the notice was mailed or the claim is barred.

29 (b) The personal representative shall also publish a notice
31 once a week for 2 successive weeks in a newspaper of general
33 circulation in the county. The notice must:

35 (1) Announce the appointment of the personal representative;

37 (2) Provide the personal representative's address; and

39 (3) Notify creditors of the estate to present their claims
41 within 4 months after the date of the first publication or
43 the claim is barred.

45 Sec. 2. 18-A MRSA §3-803, sub-§(a), ¶(1), as enacted by PL 1979,
47 c. 540, §1, is amended to read:

49 (1) Within 4 months after the date of the first mailing or
51 publication of notice to creditors if notice is given in
compliance with section 3-801; provided, claims barred by
the nonclaim statute at the decedent's domicile before the
first publication for claims in this State are also barred
in this State.

53 **STATEMENT OF FACT**

55 In Tulsa Professional Collection Services v. Pope, 108 S.Ct.
57 1340 (1988), the United States Supreme Court found that the claim
bar provision of the Oklahoma Probate Code violated
constitutional requirements of due process since it provided for
only published notice to creditors of a deceased's estate. The

1 Court ruled that "known or reasonably ascertainable creditors,"
2 Tulsa Professional Collection Services v. Pope, 108 S.Ct. at
3 1347, must be provided actual notice, such as written notice
4 mailed to their last known address. The claim bar provision of
5 the Maine Probate Code is similar to the Oklahoma provision
6 struck down by the Court in that it requires only published
7 notice to be given to creditors. This bill remedies that
8 constitutional deficiency by requiring a personal representative
9 to provide written notice by mail to all known or reasonably
ascertainable creditors of the estate.