

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST SPECIAL SESSION - 1989

Legislative Document

No. 1795

S.P. 674

In Senate, August 21, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Secretary of the Senate on August 16, 1989. Referred to the Committee on Judiciary and 1,400 ordered printed pursuant to Senate Rule 14.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator WEBSTER of Franklin.

STATE OF MAINE

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

An Act to Amend the Law Allowing an Officer of a Corporation to Represent that Corporation in any Court Action.

(EMERGENCY)



2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 **Whereas,** many corporations, especially nonprofit corpora-
6 tions, frequently cannot afford to hire or retain attorneys to
represent their interests in court; and

8 **Whereas,** officers and employees of these corporations may
10 represent the corporations in small claims court under current
law; and

12 **Whereas,** expanding the judicial forums in which officers and
14 employees may represent their corporations will provide
corporations with greater access to the judicial system; and

16 **Whereas,** in the judgment of the Legislature, these facts
18 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
20 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

24 **4 MRSA §807,** as amended by PL 1989, c. 265, §1, is repealed
26 and the following enacted in its place:

28 **§807. Unauthorized practice of law**

30 **1. Prohibition.** No person may practice law or profess to
32 practice law within the State or before its courts, or demand or
34 receive any remuneration for those services rendered in this
36 State, unless that person has been admitted to the bar of this
State and has complied with section 806-A, or unless that person
has been admitted to try cases in the courts of this State under
section 802.

38 **2. Violation.** Any person who practices law in violation of
40 these requirements is guilty of the unauthorized practice of law,
which is a Class E crime.

42 **3. Application.** This section shall not be construed to
44 apply to:

46 **A. Practice before any Federal Court by any person admitted**
to practice therein;

48 **B. A person pleading or managing that person's own cause in**
50 **court;**

2 C. The officer or employee of a corporation, partnership,
4 sole proprietorship or governmental entity, who is not an
6 attorney, but is appearing for that organization;

8 D. A person who is not an attorney, but is representing a
10 municipality under:

12 (1) Title 30-A, section 2671, subsection 3;

14 (2) Title 30-A, section 4221, subsection 2;

16 (3) Title 30-A, section 4452, subsection 1; or

18 (4) Title 38, section 441, subsection 2;

20 E. A person who is not an attorney, but is representing the
22 Department of Environmental Protection under Title 38,
24 section 342, subsection 7;

26 F. A person who is not an attorney, but is representing the
28 Bureau of Employment Security or the Bureau of Taxation
30 under section 807-A;

32 G. A person who is not an attorney, but is representing a
34 party in any hearing, action or proceeding before the
36 Workers' Compensation Commission as provided in Title 39,
38 section 110-A; or

40 H. A person who is not an attorney, but has been designated
42 under Title 34-B, section 1204, subsection 7, to represent
44 the Department of Mental Health and Mental Retardation in
46 Probate Court.

48 4. Evidence. In all proceedings, the fact, as shown by the
50 records of the Board of Overseers of the Bar, that a person is
52 not recorded as a member of the bar shall be prima facie evidence
that that person is not a member of the bar licensed to practice
law in the State.

5. Law students. Notwithstanding any of the other
provisions of this chapter and under any terms, conditions,
limitations, qualifications and supervision as the Supreme
Judicial Court shall by rule require, a senior law student
enrolled in a law school that is approved by the American Bar
Association may appear in the courts of the State on behalf of
the State or an agency thereof or, under the supervision of an
organization providing legal services to the indigent that is
approved by the Supreme Judicial Court, on behalf of an
individual receiving services through that organization.

Emergency clause. In view of the emergency cited in the
preamble, this Act shall take effect when approved.

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STATEMENT OF FACT

Under current law, officers and employees of corporations, partnerships, sole proprietorships and governmental entities may represent the organizations in court in small claims actions. This bill would expand the law to permit officers and employees who are not lawyers to represent those organizations in all court actions.