

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

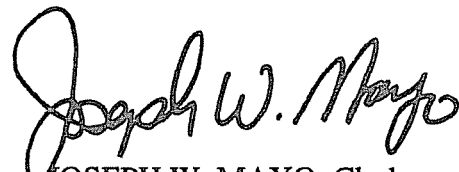
No. 214

H.P. 162

House of Representatives, January 28, 1993

An Act to Ensure That Interest on Lawyers' Trust Accounts Is the Property of the Clients.

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative CARR of Sanford.

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

4 Sec. 1. 4 MRSA c. 17, sub-c. IV is enacted to read:

6 SUBCHAPTER IV

8 TRUST ACCOUNTS

10 §921. Client trust accounts

12 1. Definitions. As used in this section, unless the
context otherwise indicates, the following terms have the
following meanings.

14 A. "Administrative costs" means that portion of the
following costs properly allocable to a particular amount of
one client's funds paid to an attorney or law firm:

18 (1) Financial institutional service charges for
opening, maintaining or closing an account or
accounting for the deposit and withdrawal of funds and
payment of interest; and

20 (2) Reasonable charges of the attorney or law firm for
opening, maintaining or closing an account, accounting
for the deposit and withdrawal of funds and payment of
interest and obtaining information and preparing or
forwarding any returns or reports that may be required
by a revenue taxing agency as to the interest earned on
a client's funds.

22 B. "Client funds" or "client's funds" means all funds of a
client paid to an attorney or law firm, other than retainers
and advances for costs and expenses.

24 C. "Net interest" means the net of interest earned on a
particular amount of one client's funds over the
administrative costs allocable to that amount.

26 2. Interest on trust accounts. At the client's direction,
the attorney or law firm shall deposit all client funds in one of
the following types of client trust accounts:

28 A. A separate, insured interest-bearing account for the
particular client or client's matter, the net interest on
which will be paid or credited to the client;

30 B. A pooled, insured, interest-bearing account with
internal accounting based on each client's funds by the
financial institution or the attorney or law firm, which

2 will provide for computation of the interest, if any, earned
3 by each client's funds and the payment or crediting of each
4 client's net interest, if any, to the client; or

6 C. An insured account that does not bear interest.

8 3. Application. This section applies to all client funds
9 received by an attorney or law firm on or after January 1, 1994.

10 **Sec. 2. Intent.** It is the intent of the Legislature that this
11 Act overturn Maine Bar Rule 3.6(f)(4), (5) and (6) to the extent
12 that the Maine Bar Rule allows net interest on lawyers' trust
13 accounts to be paid to any person other than the client to whom
14 the client funds are attributable.

16

18 **STATEMENT OF FACT**

20 Current law allows attorneys and law firms to pool client
21 funds not reasonably expected to earn interest on their own in
22 interest-bearing accounts. The interest can then be paid or
23 credited to any tax exempt, nonprofit corporation in the State.

24

25 This bill requires that any net interest earned on client
26 funds, other than retainers and advances for copies and costs,
27 must be paid to the client. This bill makes funding of nonprofit
28 corporations with Interest On Lawyers' Trust Accounts (IOLTA)
29 money illegal. The language tracks the current wording of the
30 Maine Bar Rules as much as possible.