

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 515, L.D. 673, Bill, "An Act to Amend the Provisions of the Probate Code Providing Filing Fees and Duties of Registers of Probate"

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Probate Code Providing Duties of Registers of Probate'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 18-A MRSA §1-307, as enacted by PL 1979, c. 540, §1, is amended to read:

§1-307. Register; powers.

The register has the power to probate wills and appoint personal representatives as provided in sections 3-302 and 3-307 and to perform other duties as set out in this Title generally. The acts and orders which that this Code specifies as performable by the register may also be performed by a judge of the court or by a deputy register appointed under the provisions of section 1-506.

Sec. 2. 18-A MRSA §1-503, first ¶, as enacted by PL 1979, c. 540, §1, is amended to read:

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COMMITTEE AMENDMENT "A" to H.P. 515, L.D. 673

Registers of probate shall have the care and custody of all files, papers and books belonging to the probate office, and shall duly record all wills ~~proved~~ probated formally or informally, letters of administration ~~or~~ authority of a personal representative, guardianship ~~granted~~ or conservatorship issued, bonds approved, accounts filed or allowed, all informal applications and findings, all petitions ~~for distribution and decrees thereon and all petitions, decrees and licenses relating to the sale, exchange, lease or mortgage of real estate, decrees, orders or judgments of the judge~~, including all petitions and decrees or orders relating to ~~adoption~~ adoptions and ~~change~~ changes of name, ~~and such orders and decrees of the judge~~, names and other matters, as he ~~the judge~~ directs. They Registers of probate shall keep a docket of all probate cases and shall, under the appropriate heading of each case, make entries of each motion, order, decree and proceeding so that at all times the docket ~~will show~~ shows the exact condition of each case. Any register may act as an auditor of accounts when requested to do so by the judge and ~~his~~ the judge's decision shall ~~be~~ is final unless appeal is taken in the same manner as other probate appeals. The records may be attested by the volume, and it shall be is deemed to be a sufficient attestation of such those records, when each volume thereof bears the attest with the written signature of the register or other person authorized by law to attest such those records. The registers of probate may bind in volumes of convenient size original inventories and accounts filed in their respective offices, and, when so bound and indexed, such those inventories and accounts shall ~~be~~ are deemed to be recorded in all cases where ~~when~~ the law requires a record to be made, and no further record shall ~~be~~ is required.

Sec. 3. 18-A MRSA §1-602, sub-§(1), as amended by PL 1981, c. 279, §10, is further amended to read:

(1) For making and certifying to the register of deeds copies of devises of real estate, abstracts of petitions for appointment of a personal representative or for an elective share, and any other document for which such certification is required, \$6, except as otherwise expressly provided by statute law. The fee shall must be paid by the personal representative, petitioner or other person filing the document to be certified when the copy of the devise or abstracts are is made. ~~The register of deeds shall receive the fee set in Title 33, section 751 when the certified copy is furnished to him. The register of probate shall deliver the certified document to the register of deeds together with the fee for recording as provided by Title 33, section 751. The personal representative, petitioner, applicant or other person requesting the certification shall pay the recording fee to the register of probate.~~

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Sec. 4. 18-A MRSA §1-602, sub-§(2), as repealed and replaced by PL 1987, c. 392, §1, is amended to read:

(2) For receiving and entering each petition or application for all estates, testate and intestate, including foreign estates, and the filing of a notice by a domiciliary foreign personal representative when the value of the estate is:

- ~~(i) For filing a will without probate, no fee;~~
- (ii) For filing a will to be probated and without an appointment, \$10;
- (iii) \$10,000 and under, \$15;
- (iv) \$10,001 to \$20,000, \$30;
- (v) \$20,001 to \$30,000, \$45;
- (vi) \$30,001 to \$40,000, \$60;
- (vii) \$40,001 to \$50,000, \$75;
- (viii) \$50,001 to \$75,000, \$100;
- (ix) \$75,001 to \$150,000, \$150;
- (x) \$150,001 to \$250,000, \$200;
- (xi) \$250,001 to \$500,000, \$300;
- (xii) \$500,001 to \$1,000,000, \$400;
- (xiii) \$1,000,001 to \$2,000,000, \$500; or
- (xiv) More than \$2,000,000, \$600.

Sec. 5. 18-A MRSA §2-902, as amended by PL 1983, c. 706, is further amended to read:

**§2-902. Duty of custodian of will; liability**

After the death of a testator, any person having custody of a will of the testator shall deliver it with reasonable promptness to a person able to secure its probate and if none is known, to an appropriate court for filing and recording until probate is sought. Any person having custody of a will shall is not be liable, to any person aggrieved, for failure to learn of

2 the death of the testator of that will and the failure,  
therefore, to deliver that will as required. Any person who  
4 willfully fails to deliver a will, or who willfully defaces or  
destroys any will of a deceased person, is liable to any person  
6 aggrieved for the damages, which may be sustained by such failure  
to deliver, or by such defacement or destruction. Any person who  
8 willfully refuses or fails to deliver a will, or who so defaces  
or destroys it, after being ordered by the court in a proceeding  
brought for the purpose of compelling delivery is subject to  
10 penalty for contempt of court.'

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14 **STATEMENT OF FACT**

16 This amendment updates current statutory language that is  
not consistent with language throughout the Probate Code  
concerning Registers of Probate.

18 This amendment provides a description of specific powers of  
20 a register or probate that currently are not stated.

22 This amendment provides a process for Registers of Probate  
to receive fees and to deliver certified documents to the  
24 registry of deeds for recording.

26 This amendment eliminates the sentence that establishes that  
a fee is not required for filing a will without probate and  
28 clarifies the language of the Maine Revised Statutes, Title 18-A,  
section 2-902 to provide instructions to registers once a will is  
30 delivered to the Probate Court.

32 This amendment deletes all fee increases proposed by the  
original bill.  
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