

# MAINE STATE LEGISLATURE

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OK  
H. of S.

L.D. 1082

(Filing No. H- 509 )

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COMMITTEE AMENDMENT "A" to H.P. 796, L.D. 1082, Bill, "An Act Adopting the Uniform Management of Institutional Funds Act"

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Amend the bill in section 2 in that part designated "~~S4101.~~" in subsection 6 by striking out all of paragraph B (page 2, lines 14 to 16 in L.D.) and inserting in its place the following:

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'B. A fund in which a beneficiary that is not an institution has an interest, unless that interest is specifically set forth in the gift instrument as arising only upon violation or failure of the purpose of the fund.'

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Further amend the bill in section 2 in that part designated "~~S4103.~~" by striking out all of the last sentence (page 2, lines 40 to 42 in L.D.)

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Further amend the bill in section 2 in that part designated "~~S4107.~~" by striking out all of subsection 2 (page 4, lines 15 to 27 in L.D.) and inserting in its place the following:

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'2. Release of restriction without written consent. If written consent of the donor can not be obtained by reason of the donor's death, disability or unavailability after a good faith effort to locate the donor or the impossibility of identification, the governing board may apply in the name of the institution to the appropriate court for release of a restriction imposed by the applicable gift instrument on the use or investment of an institutional fund. Unless the gift instrument specifically requires notice to other persons, only the Attorney General must be notified of the application and be given an opportunity to be heard. If the court finds that the restriction is obsolete, inappropriate or impracticable, it may by order release the restriction in whole or in part. A release under this subsection may not change an endowment fund to a fund that is not an endowment fund.'

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R. of S.

COMMITTEE AMENDMENT "A" to H.P. 796, L.D. 1082

2 Further amend the bill in section 2 by striking out all of  
that part designated "\$4109." (page 4, lines 43 to 46 in L.D.)  
4 and inserting in its place the following:

6 '\$4109. Application

8 This Act applies to all institutional funds and endowment  
funds existing on or after the effective date of this Act. This  
10 Act applies to gift instruments executed or in effect on or after  
the effective date of this Act.'

12 Further amend the bill in section 3 in paragraph (4) in the  
14 first and last lines (page 5, lines 1 and 2 in L.D.) by striking  
out the following: "an equitable manner" and inserting in its place  
16 the following: 'a manner that is equitable'

18 Further amend the bill by striking out all of sections 4 and  
5 and inserting in their place the following:

20 'Sec. 4. 19 MRSA §146, as enacted by PL 1987, c. 302, is  
22 amended by adding at the end a new paragraph to read:

24 'This section does not apply to premarital agreements  
executed on or after October 1, 1993.'

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28 **STATEMENT OF FACT**

30 This amendment makes several clarifications and 2  
substantive changes to the bill.

32 The amendment clarifies the definition of "institutional  
34 fund."

36 The amendment clarifies the application of the Act to all  
institutional funds and endowment funds existing on or after the  
38 effective date of this Act.

40 The amendment clarifies that a restriction may be released  
without the consent of the donor if the donor is unavailable as  
42 determined after a good faith effort to locate the donor has  
been made. Unless the gift instrument specifically requires  
44 notice to another person, the Attorney General must be notified  
about the pending release of the restriction. The court makes  
46 the final determination.

48 The amendment clarifies that the residuary estate must be  
distributed in a manner that is equitable.

50 The bill repealed the provision that makes premarital  
52 agreements void after the birth or adoption of a child if not

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 796, L.D. 1082

2 reaffirmed or altered. The amendment makes that provision  
inapplicable prospectively only; the section does not apply to  
premarital agreements executed after October 1, 1993.

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6 The bill repealed a provision in the Uniform Transfers to  
Minors Act, added by the 115th Legislature, requiring the  
custodian of funds for a minor to file an accounting with the  
8 Probate Court and the minor. This amendment deletes that  
repealer from the bill and keeps the accounting requirement in  
10 place.

Reported by the Committee on Judiciary  
Reproduced and distributed under the direction of the Clerk of the  
House  
6/1/93 (Filing No. H-509)

**COMMITTEE AMENDMENT**