

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 311

H.P. 231

House of Representatives, January 31, 1995

An Act to Clarify Professional Liability.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SIMONEAU of Thomaston.

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

4 **Sec. 1. 13 MRSA §708**, as enacted by PL 1969, c. 411, is amended to read:

6 **§708. Interpretation; liability**

8 This chapter does not modify the relationship between a
10 person rendering and a person receiving professional service nor
12 does it modify the liability of a person rendering professional
14 service to a person receiving professional service. The
16 liability of shareholders for the debts of and claims against a
18 professional corporation ~~shall--be~~ is the same as that of
20 shareholders of a business corporation; except that, in the case
22 of liability arising out of the rendering of professional
service+, such liability of professionals extends, jointly and
severally, to those shareholders who personally and directly
participate, supervise or control another person who directly and
personally participates in rendering that portion of a
professional service that is performed negligently or in breach
of any other legal duty.

24 ~~1.--Liability not modified.--This chapter does not modify the~~
~~liability of the person rendering to the person receiving the~~
~~service; and~~

26 ~~2.--Liability extended.--That liability shall extend, jointly~~
~~and severally, and regardless of fault, to those shareholders~~
~~participating in a professional capacity in such rendering.~~

32 **STATEMENT OF FACT**

34 The purpose of this bill is to make Maine as attractive as
36 other states for the establishment of professional service
corporations and limited liability companies and thereby
38 facilitate business creation and development. Under current law,
the liability of shareholders for the debts of and claims against
40 professional corporations arising out of the rendering of
professional service extends to those shareholders participating
42 in a professional capacity in such rendering. This bill changes
the law governing liability in such situations to extend
44 liability to those shareholders who personally and directly
participate, supervise or control another person who directly or
46 personally participates in rendering the service that is
negligently performed or is in breach of a legal duty.