

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1287

H.P. 911

House of Representatives, April 11, 1995

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**An Act to Amend the Probate Code Regarding Conservatorship Funds  
and to Require Bonds for Out-of-state Conservators.**

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Submitted by the Department of Human Services pursuant to Joint Rule 24.  
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative MADORE of Augusta.

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

4 **Sec. 1. 18-A MRSA §5-411**, as enacted by PL 1979, c. 540, §1,  
is amended to read:

6 **§5-411. Bond**

8 The court may require a conservator who is a resident of  
9 this State to furnish a bond conditioned upon faithful discharge  
10 of all duties of the trust according to law, with sureties as it  
11 ~~shall specify~~ specifies. The court shall require a conservator  
12 who resides out of this State, or who moves out of this State  
13 while serving as conservator, to furnish such a bond. A  
14 conservator who moves out of this State while serving as  
15 conservator shall notify the court regarding such a change of  
16 residence. Unless otherwise directed, the bond shall ~~shall~~ must be in  
17 the amount of the aggregate capital value of the property of the  
18 estate in ~~his~~ the conservator's control plus one year's estimated  
19 income minus the value of securities deposited under arrangements  
20 requiring an order of the court for their removal and the value  
21 of any land ~~which~~ that the fiduciary, by express limitation of  
22 power, lacks power to sell or convey without court authorization.  
23 The court, in lieu of sureties on a bond, may accept other  
24 security for the performance of the bond, including a pledge of  
securities or a mortgage of land.

26 **Sec. 2. 18-A MRSA §5-424, sub-§(b-1)** is enacted to read:

28 (b-1) A conservator may remove assets of the estate to a  
30 location out of this State only with court authorization.

32 **STATEMENT OF FACT**

34 Currently, the Probate Code leaves it to the court's  
36 discretion to decide whether to require that a conservator  
37 furnish a bond to cover possible losses from the estate of a  
38 protected person. When the court fails to require a bond from a  
39 conservator who resides out of State, it is extremely difficult  
40 to recoup money or property that has been lost as the result of  
41 the conservator's negligence or malfeasance. This bill requires  
42 that all conservators who reside out of State post a bond to  
43 cover such losses.

44 This bill also requires that conservators obtain court  
46 authorization before removing assets from the State.