

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1028

H.P. 751

House of Representatives, February 13, 1997

An Act to Amend the Maine Probate Code.

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 THOMPSON of Naples.
Cosponsored by Representatives: JABAR of Waterville, NASS of Acton, WATERHOUSE of
Bridgton.

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

2 **Sec. 1. 18-A MRSA §7-402, sub-§(c), ¶(26),** as enacted by PL
4 1979, c. 540, §1, is amended to read:

6 (26) To execute and deliver all instruments which that will
8 accomplish or facilitate the exercise of the powers vested
in the trustee; and

10 **Sec. 2. 18-A MRSA §7-402, sub-§(c), ¶(27)** is enacted to read:

12 (27) To divide the funds and properties constituting a
14 trust into 2 or more identical separate trusts that
16 represent 2 or more fractional shares of the funds and
18 properties being divided and to make distributions of income
20 and principal by a method other than pro rata from the
22 separate trusts created as the trustee determines to be in
24 the best interest of the trust beneficiaries. In any case
26 when a single trust has been divided by the trustee into 2
28 separate trusts, one of which is fully exempt from the
federal generation-skipping transfer tax and one of which is
fully subject to that tax, the trustee may thereafter, to
the extent possible consistent with the terms of the
governing instrument, determine the value of any mandatory
or discretionary distributions to trust beneficiaries on the
basis of the combined value of both trusts, but may satisfy
those distributions by a method other than pro rata from the
separate trusts in a manner designed to minimize the current
and potential generation-skipping transfer tax.

32 **SUMMARY**

34 This bill allows trustees to divide a single trust into 2 or
36 more identical trusts. This bill is designed to assist in
situations when the federal generation-skipping transfer tax
38 applies so as to permit fiduciaries flexibility to administer
trusts in a way that maximizes the use of any exemption against
40 the generation-skipping transfer tax in order to reduce or avoid
the imposition of that tax.

42 Similar provisions have been adopted in several other
jurisdictions.