

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1130

S.P. 399

In Senate, March 31, 2015

**An Act To Clarify the Use of Lawyer's Trust Account Funds When
the Owner Is Not Known or Cannot Be Located**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator KATZ of Kennebec.
Cosponsored by Representative HUBBELL of Bar Harbor and
Representative: FREY of Bangor.

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

2 **Sec. 1. 33 MRSA §1952, sub-§§7-A and 7-B** are enacted to read:

3 **7-A. Lawyer's trust account.** "Lawyer's trust account" means a pooled trust
4 account managed pursuant to rules adopted by the Maine Supreme Judicial Court that
5 earns interest or dividends at an eligible institution in which a lawyer or law firm holds
6 funds on behalf of a client or clients. These funds are small in amount or held for a short
7 period of time, such that they cannot earn interest or dividends for the client in excess of
8 the costs incurred to secure such income. For the purpose of this subsection, "eligible
9 institution" means a financial organization meeting the requirements in rules adopted by
10 the Maine Supreme Judicial Court.

11 **7-B. Lawyer's trust account program manager.** "Lawyer's trust account program
12 manager" means an entity designated by the Maine Supreme Judicial Court to manage the
13 lawyer's trust account program adopted by the Maine Supreme Judicial Court.

14 **Sec. 2. 33 MRSA §1952, sub-§13, ¶¶F and G,** as enacted by PL 1997, c. 508,
15 Pt. A, §2 and affected by §3, are amended to read:

16 F. An amount due and payable under the terms of an annuity or insurance policy,
17 including policies providing life insurance, property and casualty insurance, workers'
18 compensation insurance or health and disability insurance; ~~and~~

19 G. An amount distributable from a trust or custodial fund established under a plan to
20 provide health, welfare, pension, vacation, severance, retirement, death, stock
21 purchase, profit sharing, employee savings, supplemental unemployment insurance or
22 similar benefits; and

23 **Sec. 3. 33 MRSA §1952, sub-§13, ¶H** is enacted to read:

24 H. Funds in a lawyer's trust account.

25 **Sec. 4. 33 MRSA §1953, sub-§1, ¶O,** as amended by PL 2003, c. 20, Pt. T, §22,
26 is further amended to read:

27 O. All other property, including a lawyer's trust account, 3 years after the owner's
28 right to demand the property or after the obligation to pay or distribute the property
29 arises, whichever first occurs;

30 **Sec. 5. 33 MRSA §1964, sub-§2,** as amended by PL 2003, c. 20, Pt. T, §28, is
31 further amended to read:

32 **2. Authorized expenditures; transfer of funds.** The administrator may deduct:

33 A. Expenses of sale of unclaimed property;

34 B. Costs of mailing and publication in connection with unclaimed property;

35 C. Reasonable service charges;

1 D. Expenses incurred in examining records of holders of property and in collecting
2 the property from those holders; and

3 E. Personal service expenditures for the unclaimed property manager.

4 At the end of each year or more often, the administrator shall transfer to the General Fund
5 all money in the Unclaimed Property Fund that is in excess of \$500,000, except that
6 unclaimed lawyer's trust account funds may not be transferred to the General Fund.

7 **Sec. 6. 33 MRSA §1964-A** is enacted to read:

8 **§1964-A. Lawyer's trust account funds**

9 By July 1st of each year, the administrator shall deliver to the lawyer's trust account
10 program manager the value of unclaimed lawyer's trust account funds in the Unclaimed
11 Property Fund on the preceding June 30th. If a person files a claim for lawyer's trust
12 account funds the value of which has been delivered to the lawyer's trust account program
13 manager pursuant to this section and the claim is allowed in accordance with this Act, the
14 administrator shall notify the lawyer's trust account program manager and the lawyer's
15 trust account program manager shall promptly deliver the value of those funds to the
16 administrator to resolve the claim.

17 **Sec. 7. 33 MRSA §1979**, as enacted by PL 1997, c. 508, Pt. A, §2 and affected by
18 §3, is amended to read:

19 **§1979. Rules**

20 The administrator may adopt rules pursuant to the Maine Administrative Procedure
21 Act necessary to carry out this Act. Rules adopted ~~under~~ pursuant to this section are
22 routine technical rules ~~under~~ as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A. In
23 addition, the Maine Supreme Judicial Court may adopt rules for the provisions of this Act
24 relating to lawyer's trust accounts.

25 **SUMMARY**

26 This bill amends the Uniform Unclaimed Property Act by directing the Treasurer of
27 State to deliver unclaimed lawyer's trust account funds to the lawyer's trust account
28 program manager designated by the Maine Supreme Judicial Court. The bill requires the
29 lawyer's trust account program manager to return funds to the Treasurer of State if an
30 owner of funds is identified.