

MAINE STATE LEGISLATURE

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Date: 3/27/18

L.D. 846
(Filing No. H-691)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 595, L.D. 846, Bill, "An Act To Enact the Revised Uniform Fiduciary Access to Digital Assets Act"

Amend the bill by inserting after the title and before the enacting clause the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Maine law currently does not address how a fiduciary, such as a personal representative, can access and manage digital assets and communication; and

Whereas, Maine law currently does not address the authority of custodians of digital assets and communications to deal with fiduciaries; and

Whereas, the Revised Uniform Fiduciary Access to Digital Assets Act establishes procedures, standards and legal responsibilities to ensure the proper management and protection of digital assets and communications, consistent with federal requirements; and

Whereas, the sooner these issues are resolved, the sooner fiduciaries can manage and protect digital assets and communications to the extent authorized by this law; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill in Part A in section 1 in section 10-102 in subsection 5 in the last line (page 1, line 25 in L.D.) by inserting after the following: "limited conservator" the following: 'and a guardian exercising the powers of a conservator when a conservator has not been appointed'

Amend the bill in Part A in section 1 in section 10-102 in subsection 17 in the last line (page 2, line 28 in L.D.) by inserting after the following: "Act" the following: 'and a

COMMITTEE AMENDMENT

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1 person claiming to be a successor of the decedent user who presents an affidavit under
2 section 3-1201'

3 Amend the bill in Part A in section 1 in section 10-102 in subsection 20 in the last
4 line (page 2, line 35 in L.D.) by inserting after the following: "pending" the following:
5 'and an individual for whom a guardian has been appointed, when no conservator has
6 been appointed'

7 Amend the bill in Part A in section 1 in section 10-103 in subsection 1 in paragraph A
8 in the last line (page 3, line 17 in L.D.) by striking out the following: "January 1, 2018"
9 and inserting the following: 'July 1, 2018'

10 Amend the bill in Part A in section 1 in section 10-103 in subsection 1 in paragraph B
11 in the last line (page 3, line 19 in L.D.) by striking out the following: "January 1, 2018"
12 and inserting the following: 'July 1, 2018'

13 Amend the bill in Part A in section 1 in section 10-103 in subsection 1 in paragraph C
14 in the first line (page 3, line 20 in L.D.) by striking out the following: "January 1, 2018"
15 and inserting the following: 'July 1, 2018'

16 Amend the bill in Part A in section 1 in section 10-103 in subsection 1 in paragraph D
17 (page 3, line 22 in L.D.) by striking out the following: "January 1, 2018" and inserting the
18 following: 'July 1, 2018'

19 Amend the bill in Part B by inserting before section B-1 the following:

20 '**Sec. B-1. 18-A MRSA §1-201, sub-§(33)**, as enacted by PL 1979, c. 540, §1, is
21 amended to read:

22 (33). "Property" includes both real and personal property or any interest therein
23 and means anything that may be the subject of ownership, including a digital asset as
24 defined in section 10-102, subsection 9.'

25 Amend the bill by striking out all of Part C.

26 Amend the bill by adding before the summary the following:

27 '**Emergency clause.** In view of the emergency cited in the preamble, this
28 legislation takes effect July 1, 2018.'

29 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
30 section number to read consecutively.

31 **SUMMARY**

32 This amendment revises definitions to accommodate practices in Maine with regard
33 to certain guardians and with regard to small estates.

34 The definition of "conservator" is amended to include a guardian when the guardian
35 is exercising the powers of a conservator because no conservator has been appointed. To
36 be consistent, the definition of "protected person" is amended to include a person for
37 whom a guardian has been appointed when no conservator has been appointed.

COMMITTEE AMENDMENT "A" to H.P. 595, L.D. 846

1 The definition of "personal representative" is amended to cover a person claiming to
2 be a successor of the decedent user who presents an affidavit governing access to assets
3 in a small estate.

4 This amendment amends the definition of "property" that applies to the entire Probate
5 Code to include a digital asset as defined in the bill.

6 This amendment adds an emergency preamble and emergency clause and changes the
7 effective date to July 1, 2018.