

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
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Chapters 1-452

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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

5 MRSA §1541, sub-§13, ¶A is enacted to read:

A. Notwithstanding any other provision of law, a state agency, as defined in section 8002, subsection 2, may not authorize reimbursement for travel by any person at a rate greater than the rate established in section 8 for state employees.

Effective September 23, 1983.

CHAPTER 210

H.P. 859 - L.D. 1109

AN ACT to Amend the Motor Vehicle
Racing Law.

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

8 MRSA §563, as enacted by PL 1973, c. 662, §2, is repealed and the following enacted in its place:

§563. Fees

The fee for the inspection of all structures and the annual license for motor vehicle raceways shall be \$250. The fee permits the holder of any motor vehicle raceway license to provide entertainment events such as auto thrill shows, motorcycle acts and other spectacular stunts at the licensed raceway. These events shall be included in the certificate of public liability required pursuant to section 562. These fees shall accompany the application and shall be credited to the Department of Public Safety to defray the expenses of the division. Any balance of these fees shall not lapse but shall be carried forward as a continuing account to be expended for the same purposes in the following years.

Effective September 23, 1983.

CHAPTER 211

H.P. 816 - L.D. 1056

AN ACT to Amend Maine's Abandoned
Property Law.

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

Sec. 1. 33 MRSA §1303, sub-§2, ¶¶D and E, as enacted by PL 1977, c. 707, §8, are amended to read:

D. No address of the owner appears on the records of the holder and the domicile of the holder is not within the State, but it is proved that the last known address of the owner is in the State; ~~or~~

E. If the intangible property is a sum payable on a money order, traveler's check or similar written instrument, and:

(1) The instrument was purchased within the State, as shown by the records of the holder;

(2) The place of purchase of the instrument is not shown in the records of the holder and the holder's principal place of business is within the State; or

(3) The place of purchase of the instruments, as shown by the records of the holder, is within a jurisdiction, the laws of which do not provide for the escheat or custodial taking of the property, and the holder's principal place of business is within the State;

Sec. 2. 33 MRSA §1303, sub-§2, ¶¶F and G are enacted to read:

F. The holder is domiciled in this State and has not previously paid the property to the state of the last known address of the apparent owner; or

G. The holder is domiciled in this State and the last known address of the apparent owner, as shown on the records of the holder, is in a foreign nation.

Sec. 3. 33 MRSA §1304, as amended by PL 1979, c. 123, §§1 and 2, is further amended to read:

§1304. Property held by financial institutions

1. Deposits and funds. Any demand, savings or matured time deposit in a financial institution, or any funds paid toward the purchase of shares or other interest in a financial institution shall be presumed abandoned if, within the preceding ~~10~~ 5 years the owner has not:

A. Increased or decreased the amount of the deposit, shares or claim, or presented to the holder the passbook, evidence of deposit or other appropriate record for the crediting of interest or dividends;

B. Corresponded in writing with the holder concerning the deposit, shares or claim; ~~nor~~

C. Otherwise indicated an interest in the deposit, shares or claim as evidenced by a writing on file with the holder. A record of the sending of a Bureau of Internal Revenue Form 1099, or its equivalent, to the owner and a record of its not being returned by the post office department shall be an indication of interest; nor

D. Had a transfer, disposition of interest or other transaction noted of record in the books or records of the holder.

2. Written instruments. Any sum payable on a check certified in the State or on any written instrument, except a traveler's check or money order, issued in the State on which a financial institution is directly liable shall be presumed abandoned if, within ~~10~~ 5 years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

A. Negotiated the instrument;

B. Corresponded in writing with the financial institution concerning it; nor

C. Otherwise indicated an interest as indicated by a writing on file with the financial institution.

3. Traveler's checks. Any sum payable on a traveler's check ~~or money order~~ on which a financial institution or other business association is directly liable shall be presumed abandoned if, within 15 years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

A. Negotiated the instrument;

B. Corresponded in writing with the financial institution or other business association concerning it; nor

C. Otherwise indicated an interest as indicated by a writing on file with the financial institution or other business association.

3-A. Money orders. Any sum payable on a money order on which a financial institution or other business association is directly liable shall be presumed abandoned if, within 7 years from the date payable, or from the date of issuance, if payable on demand, the owner has not:

A. Negotiated the instrument;

B. Corresponded in writing with the financial institution or other business association concerning it; or

C. Otherwise indicated an interest as indicated by a writing on file with the financial institution or other business association.

4. Safe deposit box. Any funds or other personal property, tangible or intangible, contained in or removed from a safe deposit box or other safekeeping repository shall be presumed abandoned if the owner has not claimed the property within \pm 5 years of the expiration of the lease, rental or other agreement.

5. Charges, interest or dividends on abandoned property.

A. Reasonable service charges may be levied against deposits or accounts during the period of inactivity as determined by the Superintendent of Banking prior to the application of the presumption of abandonment. The Superintendent of Banking shall establish a maximum charge that may be reasonable under this paragraph.

B. Interest or dividends due on any deposits, accounts, funds or shares presumed to be abandoned shall not be discontinued or diverted because of the inactivity or during the period prior to abandonment.

Sec. 4. 33 MRSA §1305, as enacted by PL 1977, c. 707, §8, is amended to read:

§1305. Property held by life insurers

1. Funds owed under a policy or contract. Any funds held or owing by a life insurer that are due and payable under any life or endowment insurance policy or annuity contract which has matured or terminated shall be presumed abandoned if they have not been claimed or paid within \pm 5 years after becoming due or payable as established from the insurer's records. Funds payable according to the insurer's records are deemed due and payable although the policy or contract has not been surrendered as required.

2. Presumption of address of beneficiary. If a person other than the insured or annuitant is entitled to the funds and no address of the person is known to the insurer or if it is not definite and certain from the records of the insurer which person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the insurer.

3. Presumption of maturity. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds are deemed to be due and payable if the policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based; unless the person appearing entitled thereto has, within the preceding ~~10~~ 5 years, assigned, readjusted or paid premiums on the policy, made payments on a loan, or corresponded in writing with the life insurer concerning the policy.

Sec. 5. 33 MRSA §1306, sub-§1, as enacted by PL 1977, c. 707, §8, is amended to read:

1. Funds owed under a policy or contract. Any funds held or owing by a fire, casualty, surety or any other insurer that are due and payable, as established from the records of the insurer, either to an insured, a principal or other claimant under any insurance policy or contract shall be presumed abandoned if they have not been claimed or paid within ~~10~~ 5 years after becoming due or payable. Funds payable according to the insurer's records are deemed due and payable although the policy or contract has not been surrendered as required.

Sec. 6. 33 MRSA §1307, as enacted by PL 1977, c. 707, §8, is amended to read:

§1307. Property held by utilities

1. Deposits. Any deposit, advance, toll, collateral, security or other property held by a utility to secure payment or as an advance for services to be furnished shall be presumed abandoned if it has not been claimed or returned within ~~10 years~~ one year after:

- A. It was due to or demandable by the owner under the terms of the agreement; or
- B. The termination of services to the owner.

2. Refunds. Any funds which a utility has been

ordered to refund shall be presumed abandoned if they have not been claimed or paid within ~~10 years~~ one year after the date they became payable in accordance with the final determination or order providing for the refund.

Sec. 7. 33 MRSA §1308, sub-§§1 and 2, as enacted by PL 1977, c. 707, §8, are amended to read:

1. Dividends. Any dividend, profit, distribution, interest, payment on principal or other funds held or owing by a business association for or to its share holder, certificate holder, member, bondholder or other security holder, or a participating patron of a cooperative, shall be presumed abandoned if, within ~~10~~ 5 years after the date prescribed for delivery or payment, they have not been claimed or the owner has not corresponded in writing with the holder concerning these funds.

2. Stocks. Any intangible interest in a business association, as evidenced by stock records or membership records of the association, shall be presumed abandoned, and the business association shall be deemed to be the holder thereof, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for 5 years and if, for ~~10~~ 5 years:

A. The owner of the interest has not ~~elaimed~~ a communicated in writing with the business association concerning the dividend or other sum referred to in this subsection ~~1; or~~ and

B. The owner of the interest has not ~~corre-~~sponded in writing otherwise communicated with the business association ~~or otherwise indicated~~ an regarding the interest or such dividend or other sum, as evidenced by a memorandum or other record on file with the business association.

At the expiration of a 5-year period following the failure of the owner to claim a dividend, distribution or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least 5 dividends, distributions or other sums paid during the period, none of which has been claimed by the owner. If 5 dividends, distributions or other sums are payable during the 5-year period, the period leading to a presumption of abandonment commences on the date the first unclaimed dividend, distribution or other sum became due and payable. If 5 dividends, distributions or other sums are not payable during the presumptive period, the period continues to run until there have been 5 dividends, distributions or other sums that have not been claimed by the owner.

Sec. 8. 33 MRSA §1310, sub-§1, as enacted by PL 1977, c. 707, §8, is amended to read:

1. Property. All property held in a fiduciary capacity for the benefit of another person shall be presumed abandoned if, within ~~10~~ 5 years of it becoming payable or distributable, the owner has not:

- A. Increased or decreased the principal;
- B. Accepted payment of principal or income;
- C. Corresponded in writing with the fiduciary concerning the property; nor
- D. Otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

Sec. 9. 33 MRSA §1311, as enacted by PL 1977, c. 707, §8, is amended to read:

§1311. Property held by governmental agents

All property, not otherwise covered in this chapter, and held for the owner by a court, public corporation or authority, or agent or instrumentality of the United States, this State or any other state, or by a public officer or political subdivision thereof shall be presumed abandoned if it is not claimed within ~~10 years~~ one year of becoming payable or distributable.

Sec. 10. 33 MRSA §1311-A is enacted to read:

§1311-A. Unpaid wages

Unpaid wages, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business which remain unclaimed by the owner for more than one year after becoming payable, are presumed abandoned.

Sec. 11. 33 MRSA §1312, sub-§1, as repealed and replaced by PL 1979, c. 641, §10, is amended to read:

1. Property. Any cash or sums payable on a written instrument ~~other than a money order or traveller's check~~ not otherwise covered in this chapter, and all other personal property with a fair market value of \$1,000 or more not otherwise covered in this chapter, that is held or owing in the ordinary course of the holder's business shall be presumed abandoned if it has not been claimed within ~~10~~ 5 years after becoming payable or distributable. ~~Section 1304, subsection 3, shall apply in the cases of money orders or traveller's checks.~~

Sec. 12. 33 MRSA §1316 is enacted to read:

§1316. Recovery of property by another state

At any time property has been paid or delivered to the Treasurer of State under this chapter, another state is entitled to recover the property, if:

1. Address unknown. The property escheated to this State, under section 1303, subsection 2, paragraph D, because the last address of the apparent owner is unknown, and the last known address of the apparent owner was in fact in the other state and, under the laws of that state, the property escheated to that state; or

2. Unclaimed by state of apparent owner. The property escheated to this State, under section 1303, subsection 2, paragraph E, because it was unclaimed by the state of the last known address of the apparent owner and, under the laws of that state, the property escheated to or was subject to the custodial taking of that state.

Sec. 13. 33 MRSA §1357, sub-§1, as enacted by PL 1977, c. 707, §8, is amended to read:

1. Sale by auction. All abandoned property, other than money or securities or other property sold under subsection 2 or tangible property retained under subsection 3, delivered to the Treasurer of State under this chapter shall, within ~~one year~~ 3 years after delivery, be sold by him to the highest bidder at public sale in whatever city in the State affords, in his judgment, the most favorable market for the property involved. The Treasurer of State may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

Each sale shall be preceded by a single publication of notice of the sale at least 3 weeks in advance in 2 newspapers of general circulation in the State.

Sec. 14. 33 MRSA §1360, sub-§1, as enacted by PL 1977, c. 707, §8, is amended to read:

1. Treasurer. The Treasurer of State may at reasonable times and upon reasonable notice cause to be examined the records of any person ~~if he has reason to believe that the person has failed to report property that should have been reported pursuant to this chapter~~ to determine whether the person has complied with the provisions of this chapter. The Treasurer of State may conduct the examination even if

the person believes it is not in possession of any property reportable or deliverable under this chapter.

Sec. 15. 33 MRSA §1364, sub-§1, as enacted by PL 1977, c. 707, §8, is amended to read:

1. Limit on fees. No agreement entered into within ~~one year~~ 2 years after a report is filed under section 1351 is valid if any person thereby undertakes to locate property included in that report for a fee or compensation exceeding 15% of the value of recoverable property; unless the agreement. After this period, compensation may exceed the 15% limitation if the agreement:

- A. Is in writing and signed by the property owner;
- B. Discloses the nature and value of the property; and
- C. Discloses the name and address of the holder.

Effective September 23, 1983.

CHAPTER 212

S.P. 219 - L.D. 656

AN ACT to Amend the Maine Consumer Credit Code.

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

Sec. 1. 9-A MRSA §1-202, sub-§7, as amended by PL 1981, c. 638, §1, is further amended to read:

7. A loan made for the purpose of financing expenses related to attendance at an institution of post-secondary education, and on which the finance charge does not exceed that rate per year on the unpaid balances of the amount financed as shall be established by federal law or, for loans for which federal law does not establish a rate, the highest rate established for educational loans under any federal program, and which is insured, guaranteed or subsidized by the Federal Government or a state or by a nonprofit private loan guaranty or organization or by the institution of higher education itself or