

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
December 1, 1982 to June 24, 1983
Chapters 1-452

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ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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

CHAPTER 255

H.P. 1002 - L.D. 1310

AN ACT to Establish Municipalities
as Agents for Utilities within their
Jurisdictions for the Purpose of Charges
Assessed for Use of Railroad Crossings.

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

23 MRSA §2929 is enacted to read:

§2929. Maintenance charges for private crossings

In a municipality in which a private way is crossed by a railroad crossing, the municipal officers may act as agents for a railroad corporation in collecting maintenance and insurance charges from those persons using that crossing. Nothing in this section may authorize a municipality to assess or levy these charges nor to use its taxing power to collect these charges.

Effective September 23, 1983.

CHAPTER 256

H.P. 1122 - L.D. 1466

AN ACT to Amend the Statute of
Limitations for the Probate of Estates
under the Maine Probate Code.

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

18-A MRSA §3-108, as enacted by PL 1979, c. 540, §1, is repealed and the following enacted in its place:

§3-108. Probate, testacy and appointment proceedings; ultimate time limit

(a) For decedent's dying on or after January 1, 1981, no informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has

been a prior appointment, may be commenced more than 3 years after the decedent's death, except:

(1) If a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding;

(2) Appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absent, disappeared or missing person for whose estate a conservator has been appointed, at any time within 3 years after the conservator becomes able to establish the death of the protected person; and

(3) A proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of 12 months from the informal probate or 3 years from the decedent's death. These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under paragraph (1) or (2), the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of other limitations provisions of this code which relate to the date of death.

(b) For decedent's dying before January 1, 1981, no informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than 20 years after the decedent's death, except:

(1) If a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding;

(2) Appropriate probate, appointment or testacy

proceedings may be maintained in relation to the estate of an absent, disappeared or missing person for whose estate a conservator has been appointed at any time within the applicable limitation period, as set forth in this section, which shall begin to run after the conservator becomes able to establish the death of the protected person; and

(3) A proceeding to contest an informally probated will, and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of 12 months from the informal probate or the running of the applicable limitation period. These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate. In cases under paragraph (1) or (2), the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of the limitations provisions of this Code which relate to the date of death.

Effective September 23, 1983.

CHAPTER 257

H.P. 1123 - L.D. 1467

AN ACT to Permit the Employment Security Commission Wider Discretion in Determining Eligibility for Unemployment Compensation Benefits.

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

Sec. 1. 26 MRSA §1192, sub-§3, as amended by PL 1979, c. 651, §§23 and 47, is further amended to read:

3. Is able and available for work. He is able to work and is available for full-time work at his usual or customary trade, occupation, profession or business or in such other trade, occupation, profession or business for which his prior training or experience shows him to be fitted or qualified; and in addition to having complied with subsection 2 is himself actively seeking work in accordance with the regulations of the commission; provided that no ineligibility may be found solely because the claimant is