

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

January 3, 1990 to April 14, 1990

30-A MRSA §2525, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106, and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

2. Other officials. A town, at a meeting held at least 90 days before the annual meeting, may designate other town officials to be elected by ballot. The election of officials at the last annual town meeting is deemed to be such a designation until the town acts otherwise at a meeting held at least 90 days before the annual meeting at which the election will be held.

See title page for effective date.

CHAPTER 660

H.P. 1400 - L.D. 1936

An Act Authorizing the Public Advocate to Initiate Proceedings on Behalf of Utility Consumers

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

35-A MRSA §1702, sub-§5, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

5. Intervention on behalf of public. ~~When determined necessary by the~~ The Public Advocate may, in the interest of on behalf of the using and consuming public, or any particular group of consumers, ~~the Public Advocate may petition to initiate, or~~ intervene and appear ~~on their behalf in,~~ any proceedings before the commission, appeals from orders of the commission, or proceedings before state and federal agencies and courts in which the subject matter of the action affects the customers of any utility doing business in this State, except that the Public Advocate ~~shall~~ may not intervene in any proceeding in which the commission staff is representing a position substantially similar to that of the Public Advocate, as determined by the Public Advocate.

See title page for effective date.

CHAPTER 661

H.P. 491 - L.D. 671

An Act Concerning the Maine Probate Code

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

Sec. 1. 9-B MRSA §623, sub-§2, ¶C, as enacted by PL 1975, c. 500, §1, is amended to read:

C. Assets held as a trustee, executor, administrator ~~or,~~ guardian or other fiduciary may be invested in a common trust fund established under Title ~~48~~ 18-A, section ~~4101~~ 7-501.

Sec. 2. 18-A MRSA §§3-801 and 3-802, as enacted by PL 1979, c. 540, §1, are repealed and the following enacted in their place:

§3-801. Notice to creditors

(a) Unless notice has already been given under this section, a personal representative upon appointment shall publish a notice to creditors once a week for 2 successive weeks in a newspaper of general circulation in the county announcing the appointment and the personal representative's address and notifying creditors of the estate to present their claims within 4 months after the date of the first publication of the notice or be forever barred.

(b) A personal representative may give written notice by mail or other delivery to a creditor, notifying the creditor to present the creditor's claim within 4 months after the published notice, if given as provided in subsection (a), or within 60 days after the mailing or other delivery of the notice, whichever is later, or be forever barred. Written notice must be the notice described in subsection (a) or a similar notice.

(c) The personal representative is not liable to a creditor or to a successor of the decedent for giving or failing to give notice under this section.

§3-802. Statutes of limitations

(a) Unless an estate is insolvent, the personal representative, with the consent of all successors whose interests would be affected, may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid.

(b) The running of any statute of limitations measured from some other event than death or the giving of notice to creditors is suspended for 4 months after the decedent's death, but resumes thereafter as to claims not barred by other sections.

(c) For purposes of any statute of limitations, the presentation of a claim pursuant to section 3-804 is equivalent to commencement of a proceeding on the claim.

Sec. 3. 18-A MRSA §3-803, sub-§(a), as enacted by PL 1979, c. 540, §1, is repealed and the following enacted in its place:

(a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the State and any subdivision of the State, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by another statute of limitations or nonclaim statute, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented within the earlier of the following:

(1) The time provided by section 3-801, subsection (b) for creditors who are given actual notice, and the time provided in section 3-801, subsection (a) for all creditors barred by publication; or

(2) Nine months of the decedent's death.

Sec. 4. 18-A MRSA §3-803, sub-§(a-1) is enacted to read:

(a-1) A claim described in subsection (a) which is barred by the nonclaim statute of the decedent's domicile before the giving of notice to creditors in this State is barred in this State.

Sec. 5. 18-A MRSA §3-803, sub-§§(b) and (c), as enacted by PL 1979, c. 540, §1, are amended to read:

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the ~~state~~ State and any subdivision ~~thereof of the State~~, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) A claim based on a contract with the personal representative, within four months after performance by the personal representative is due; or

(2) Any other claim, within the later of 4 months after it arises, or the time specified in subsection (a), paragraph (2).

(c) Nothing in this section affects or prevents:

(1) Any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate; ~~or~~

(2) To the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which ~~he~~ the decedent or the personal representative is protected by liability insurance: ; or

(3) Collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate.

Sec. 6. 18-A MRSA §3-807, as enacted by PL 1979, c. 540, §1, is amended to read:

§3-807. Payment of claims

(a) Upon the expiration of ~~4 months from the date of the first publication of the notice to creditors the earlier of the time limitations provided in section 3-803 for the presentation of claims,~~ the personal representative shall proceed to pay the claims allowed against the

estate in the order of priority prescribed, after making provision for homestead, family and support allowances, for claims already presented which have not yet been allowed or whose allowance has been appealed, and for unbarred claims which may yet be presented, including costs and expenses of administration. By petition to the court in a proceeding for the purpose, or by appropriate motion if the administration is supervised, a claimant whose claim has been allowed but not paid as provided ~~herein~~ may secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available ~~for the payment to pay it.~~

(b) The personal representative at any time may pay any just claim ~~which that~~ has not been barred, with or without formal presentation, but ~~he~~ the personal representative is personally liable to any other claimant whose claim is allowed and who is injured by ~~such~~ its payment if

(1) ~~The payment~~ Payment was made before the expiration of the time limit stated in subsection (a) and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(2) ~~The payment~~ Payment was made, due to the negligence or ~~wilful~~ willful fault of the personal representative, in such manner as to deprive the injured claimant of ~~his~~ priority.

Sec. 7. 18-A MRSA §3-1003, sub-§(a), as enacted by PL 1979, c. 540, §1, is amended to read:

(a) Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court no earlier than 6 months after the date of original appointment of a general personal representative for the estate, a verified statement stating that ~~he~~ the personal representative, or a ~~prior~~ previous personal representative ~~whom he has succeeded,~~ has ~~or have:~~

(1) ~~Published notice to creditors as provided by section 3-801 and that the first publication occurred more than 6 months prior to the date of the statement. Determined that the time limited for presentation of creditors' claims has expired;~~

(2) Fully administered the estate of the decedent by making payment, settlement, or other disposition of all claims ~~which that~~ were presented, expenses of administration and estate, inheritance and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled. If any claims remain undischarged, the statement ~~shall~~ must state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees or it shall

state in detail other arrangements which have been made to accommodate outstanding liabilities; and

(3) Sent a copy ~~thereof~~ of the statement to all distributees, to all persons who would have a claim to succession under the testacy status upon which the personal representative is authorized to proceed, and to all creditors or other claimants of whom ~~he~~ the personal representative is aware whose claims are neither paid nor barred and has furnished a full account in writing of ~~his~~ the personal representative's administration to the distributees whose interests are affected thereby.

Sec. 8. 18-A MRSA §3-1006, as enacted by PL 1979, c. 540, §1, is amended to read:

§3-1006. Limitations on actions and proceedings against distributees

Unless previously adjudicated in a formal testacy proceeding or in a proceeding settling the accounts of a personal representative or otherwise barred, the claim of any claimant to recover from a distributee who is liable to pay the claim, and the right of ~~any an~~ heir or devisee, or of a successor personal representative acting in their behalf, to recover property improperly distributed or ~~the~~ its value ~~thereof~~ from any distributee is forever barred at the later of ~~(1) three~~ 3 years after the decedent's death; or ~~(2) one year~~ after the time of its distribution ~~thereof~~, but all claims of creditors of the decedent are barred one year after the decedent's death. This section does not bar an action to recover property or value received as the result of fraud.

Sec. 9. 18-A MRSA §7-501, as enacted by PL 1979, c. 540, §1, is amended by adding after the first paragraph 2 new paragraphs to read:

As used in this Part, "common trust fund" means any trust or fund maintained by a bank or trust company exclusively for the collective investment or reinvestment of money contributed thereto by the bank or trust company, or an affiliated bank or trust company, as a fiduciary, including a trustee of any trust or fund for the primary purpose of paying employee benefits of any kind.

As used in this Part, "fiduciary" includes trustee, executor, administrator, guardian and custodian under a uniform transfers to minors act.

See title page for effective date.

CHAPTER 662

H.P. 1499 - L.D. 2076

An Act to Clarify Mobile Home Tenants' Rights

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

10 MRSA §9097, sub-§1, ¶G, as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. B, §4 and Pt. C, §§8 and 10, is repealed and the following enacted in its place:

G. Renovation or reconstruction of any portions of the park, if:

(1) In the case of a temporary eviction, the park owner or operator:

(a) Gives affected tenants 30 days' notice in writing, unless the temporary eviction is necessary to correct conditions posing an immediate threat to one or more tenants' health or safety; and

(b) Pays the removal and relocation costs of tenants, except for those tenants who agree otherwise in a signed writing separate from the lease; or

(2) In the case of a permanent eviction, other than an eviction due to reconstruction or renovation required by a federal, state or local governmental body, of one or more mobile homes currently located in the park, the park owner or operator:

(a) Gives each tenant one year's notice in writing; or

(b) To each tenant for whose home the park owner has found a reasonable alternative location acceptable to the tenant, gives 6 months' written notice and pays removal and relocation costs;

See title page for effective date.

CHAPTER 663

H.P. 1522 - L.D. 2107

An Act Prohibiting Membership in a Trade or Similar Association from Being a Condition for Licensing or Certifying a Producer's Food as Natural or Organic

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

7 MRSA §556, as enacted by PL 1979, c. 240, §§1 and 2, is amended to read:

§556. Certification

No food which is labeled or advertised as natural, organic, organically grown, biologically grown or by a similar term, may be labeled or advertised as "certified" unless the name of the person or organization which