

# 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  
July 14, 1990

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1990

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**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**

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## CHAPTER 829

### H.P. 1650 - L.D. 2283

#### An Act to Provide Uniformity and Fairness after Mortgage Foreclosure

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

**Sec. 1. 14 MRSA §6204-A**, as enacted by PL 1975, c. 552, §4, is repealed.

**Sec. 2. 14 MRSA §6204-B** is enacted to read:

#### §6204-B. Disposition of proceeds of sale after foreclosure

This section governs the disposition of proceeds from the sale of real estate acquired by foreclosure under sections 6201 and 6203.

1. Amounts retained from sale. If the mortgagee sells all or any part of the real estate to a bona fide purchaser, within 2 years after the redemption period expires, the mortgagee may retain the following out of the proceeds of the sale or sales:

A. The amount of the debt secured by the mortgage;

B. Interest on the debt secured by the mortgage, as provided in the note or the mortgage;

C. Costs of the foreclosure, including advertising costs, costs of service and reasonable attorneys fees;

D. Costs of the sale or sales, including reasonable broker's commissions, transfer tax and reasonable attorneys fees;

E. Expenses incurred to preserve the mortgage lien and to protect the real estate secured by the mortgage, including:

(1) Real estate taxes;

(2) The performance of conditions, including payments, of any mortgages or lien claims with priority over the mortgage being foreclosed;

(3) Insurance premiums; and

(4) Maintenance costs to prevent waste or preserve the value of the real estate; and

F. If an action is filed under subsection 3, the costs of bringing that action, including reasonable attorneys fees.

The amounts described in this subsection must be determined as of the date of the sale. If the mortgagee conveys the real estate to anyone other than a bona fide purchaser, the grantee shall assume all accounting obligations of the mortgagee under this section.

2. Accounting and surplus. The mortgagee shall provide to the mortgagor and any interested party a written accounting of each sale or sales and the amounts retained under subsection 1. If there is a surplus, the mortgagee shall also make a good faith written determination of who is entitled to the surplus remaining after deducting the amounts retained under subsection 1.

This accounting and determination, if any, must be mailed to the mortgagor and any interested party at their last known addresses, by certified mail, return receipt requested, within 30 days after any sale or sales. If the mortgagee receives no objection to its accounting and determination within 30 days after the addressee's receipt of the accounting and determination, the mortgagee shall send the surplus to the party or parties shown in its determination by certified mail, return receipt requested. If there are multiple mortgagors, the mortgagee may make any surplus payment payable to all mortgagors jointly.

3. Distribution by Court. If there is a surplus, and any of the following circumstances exist, then the mortgagee shall pay the surplus to the District Court or Superior Court having jurisdiction over the area in which the real estate is located, and implead the mortgagor and all interested parties.

A. Any of the accountings are returned to the mortgagee without being delivered to the addressee.

B. The mortgagee receives a written objection to its accounting or determination within 30 days of receipt by the mortgagee.

C. A dispute or uncertainty exists regarding to whom the surplus should be paid.

The court shall, after hearing, determine the distribution of the surplus to the proper parties.

4. Sales later than 2 years after the expiration of redemption period. A mortgagee is not required to provide the accounting or pay any surplus obtained from any sale of part or all of the real estate that occurs more than 2 years after the redemption period expires.

5. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Mortgagor" means any party obligated to the mortgagee on the debt secured by the mortgage, and all parties signing the mortgage deed, whether or not they are obligated to the mortgagee for the debt.

B. "Interested party" means any party with a claim to the real estate of record in the appropriate Registry of Deeds, as of the date of either:

- (1) Recording of the abstract, affidavit or certificate, for foreclosures under section 6201; or
- (2) Recording of the notice of foreclosure, for foreclosures under section 6203.

C. "The date of a sale" means the closing date at which a deed is delivered to the bona fide purchaser.

6. Application. This section applies only to mortgages executed on or after the effective date of this section.

See title page for effective date.

## CHAPTER 830

H.P. 1497 - L.D. 2074

### An Act Concerning Living Wills

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

Sec. 1. 18-A MRSA Art. V, Pt. 7 is enacted to read:

#### PART 7

#### LIVING WILLS

##### §5-701. Short title and definitions

This Part may be cited as the "Uniform Rights of the Terminally Ill Act" and shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this Part among states enacting this Act. As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

(2) "Declaration" means a writing executed in accordance with the requirements of section 5-702, subsection (a).

(3) "Health-care provider" means a person who is licensed, certified, or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(4) "Life-sustaining treatment" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the process of dying.

(a) "Life-sustaining treatment" does not include artificially administered nutrition and hydration unless the declarant elects in the declaration to include artificially administered nutrition and hydration in the definition of life-sustaining treatment.

(b) The term "artificially administered nutrition and hydration" means the provision of nutrients and liquids through the use of tubes, intravenous procedures or similar medical interventions.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(6) "Physician" means an individual licensed as a physician under Title 32, chapter 48 or an osteopathic physician under Title 32, chapter 36.

(7) "Qualified patient" means a patient 18 or more years of age who has executed a declaration and who has been determined by the attending physician to be in a terminal condition.

(8) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(9) "Terminal condition" means an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of the attending physician, result in death within a relatively short time.

##### §5-702. Declaration relating to use of life-sustaining treatment

(a) An individual of sound mind and 18 or more years of age may execute at any time a declaration governing the withholding or withdrawal of life-sustaining treatment. The declarant may designate another individual of sound mind and 18 or more years of age to make decisions governing the withholding or withdrawal of life-sustaining treatment. The declaration must be signed by the declarant, or another at the declarant's direction, and witnessed by 2 individuals.

(b) A declaration directing a physician to withhold or withdraw life-sustaining treatment may, but need not, be in the following form:

#### DECLARATION

If I should have an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of my attending physician, cause my death within a relatively short time, and I am no longer able to make or communicate decisions regarding my medical treatment, I direct my attending physician, pursuing