

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 28, 1995 to December 1, 1995**

**SECOND REGULAR SESSION**  
**January 3, 1996 to April 4, 1996**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 4, 1996**

**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**  
**1995**

(e) A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

(f) If a trust has 2 or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

(g) In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust and the skills of the trustee.

(h) Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

(i) In delegating investment management functions:

(1) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill and caution in:

(i) Selecting an agent;

(ii) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and

(iii) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation;

(2) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation;

(3) A trustee who complies with the requirements of paragraph (1) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated; and

(4) By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this State, an agent submits to the jurisdiction of the courts of this State.

(j) The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorize any investment or strategy permitted under this section: "investments permissible by law for investment of trust funds"; "legal investments"; "authorized investments"; "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in

regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital"; "prudent man rule"; "prudent trustee rule"; "prudent person rule"; or "prudent investor rule."

(k) This section must be applied and construed to effectuate its general purposes to make uniform the law with respect to the subject of the Uniform Prudent Investor Act among the states enacting it.

(l) This section may be cited as the "Maine Uniform Prudent Investor Act."

**Sec. 3. Application.** This Act applies to estates, trusts and other fiduciary relationships existing on and created after its effective date. As applied to relationships existing on its effective date, this Act governs only decisions or actions occurring after that date.

**Sec. 4. Effective date.** This Act takes effect January 1, 1997.

Effective January 1, 1997.

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**CHAPTER 526**

**S.P. 627 - L.D. 1634**

**An Act to Clarify Professional Liability**

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

**Sec. 1. 13 MRSA §708-A, sub-§3, ¶B,** as enacted by PL 1995, c. 141, §2, is amended to read:

B. ~~Supervised or~~ Directly supervised and controlled that portion of a professional service rendered by another person that was performed negligently or in breach of any other legal duty.

See title page for effective date.

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**CHAPTER 527**

**S.P. 634 - L.D. 1642**

**An Act to Extend Waivers of Certain Provisions of the Education Laws**

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

**Sec. 1. 20-A MRSA §4502, sub-§5, ¶B,** as amended by PL 1991, c. 622, Pt. X, §2, is further amended to read: