

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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
1997

State. Unless otherwise provided by federal law, in computing the extent to which either the Passamaquoddy Tribe or the Penobscot Nation is entitled to receive state funds for education under subsection 1, the state payment must be reduced by 15% of the amount of federal funds for school operations received by the respective tribe or nation within substantially the same period for which state funds are provided, and in excess of any local share ordinarily required by state law as a condition of state funding. A reduction in state funding for secondary education may not be made under this section except as a result of federal funds received within substantially the same period and allocated or allocable to secondary education. ~~This subsection is repealed June 30, 1998.~~

Sec. 2. 30 MRSA §6211, sub-§2-A, as enacted by PL 1991, c. 705, §2 and affected by §5, is repealed.

Sec. 3. Effective date. This Act does not take effect unless, within 60 days after adjournment of the Legislature, the Secretary of State receives written notification by the Joint Tribal Council of the Passamaquoddy Tribe and by the Tribal Chief and council of the Penobscot Nation that the tribe and nation have agreed to the provisions of this Act pursuant to 25 United States Code, Section 1725(e)(1), copies of which must be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 26, 1998, unless otherwise indicated.

CHAPTER 627

H.P. 965 - L.D. 1328

**An Act to Enact the Uniform
Transfer on Death Security
Registration Act**

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

Sec. 1. 18-A MRSA Art. VI, Pt. 3 is enacted to read:

PART 3

**UNIFORM TRANSFER ON DEATH SECURITY
REGISTRATION ACT**

§6-301. Short title

This Part may be known and cited as the "Uniform Transfer on Death Security Registration Act."

§6-302. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

(a) "Beneficiary form" means a registration of a security that indicates the present owner of the security and the intention of the owner regarding the person who becomes the owner of the security upon the death of the owner.

(b) "Register," including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(c) "Registering entity" means a person who originates or transfers a security title by registration and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(d) "Security" means a share, participation or other interest in property, in a business or in an obligation of an enterprise or other issuer and includes a certificated security, an uncertificated security and a security account.

(e) "Security account" means:

(1) A reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings or dividends earned or declared on a security in an account, a reinvestment account or a brokerage account, whether or not credited to the account before the owner's death; or

(2) A cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

§6-303. Registration in beneficiary form; sole or joint tenancy ownership

Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by 2 or more individuals with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship and not as tenants in common.

§6-304. Registration in beneficiary form; applicable law

A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

§6-305. Origination of registration in beneficiary form

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

§6-306. Form of registration in beneficiary form

Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD" after the name of the registered owner and before the name of a beneficiary.

§6-307. Effect of registration in beneficiary form

The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

§6-308. Ownership on death of owner

On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

§6-309. Protection of registering entity

(a) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this Part.

(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this Part.

(c) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with section 6-308 and does so in good faith reliance on the registration, on this Part and on information provided to it by affidavit of the personal representative of the deceased owner or by the surviving beneficiary or by the surviving beneficiary's representatives or other information available to the registering entity. The protections of this Part do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this Part.

(d) The protection provided by this Part to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

§6-310. Nontestamentary transfer on death

(a) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this Part and is not testamentary or subject to Articles I through IV, except as provided in sections 2-201 through 2-207, and except as a consequence of, and to the extent directed by, subsection (b).

(b) A registration in beneficiary form is not effective against an estate of a deceased owner to transfer to a survivor sums needed to pay debts, taxes and expenses of administration, including statutory allowances to the surviving spouse, minor children and dependent children, if other assets of the estate are insufficient. A surviving sole owner or beneficiary who receives a security after the death of a deceased owner is liable to account to the personal representative of the decedent's estate for amounts the decedent owned beneficially immediately before the decedent's death to the extent necessary to discharge the claims and charges mentioned above remaining unpaid after application of the decedent's estate. A proceeding to

assert this liability may not be commenced later than 2 years following the death of the decedent. Sums recovered by the personal representative must be administered as part of the decedent's estate.

§6-311. Terms, conditions and forms for registration

(a) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it receives requests for registrations in beneficiary form and for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters PCEG, standing for "per capita at each generation." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(b) The following are illustrations of registrations in beneficiary form that a registering entity may authorize:

(1) Sole owner - sole beneficiary: John S. Brown TOD (or POD) John S. Brown Jr.;

(2) Multiple owners - sole beneficiary: John S. Brown, Mary B. Brown JT TEN TOD John S. Brown Jr.; or

(3) Multiple owners - primary and secondary (substituted) beneficiaries by either:

(i) John S. Brown, Mary B. Brown, JT TEN TOD John S. Brown Jr. SUB BENE Peter Q. Brown; or

(ii) John S. Brown, Mary B. Brown JT TEN TOD John S. Brown Jr. PCEG.

§6-312. Cancellation of beneficiary registration by will

Registrations in beneficiary form may be canceled by inclusion in the will of the sole owner or the last to die of multiple owners of a general reference that all such beneficiary forms be canceled or by specific reference to one or more securities or security accounts, but the terms of the revocation are not binding on a registering entity unless the registering entity has received written notice from any claimant to an interest in any security objecting to implementation of a registration in beneficiary form prior to the registering entity reregistering the security. If a beneficiary registration is canceled, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

Sec. 2. Rules of construction.

1. This Act must be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this Act among states enacting it.

2. Unless displaced by the particular provisions of this Act, the principles of law and equity supplement its provisions.

Sec. 3. Application of Act. This Act applies to registrations of securities in beneficiary form made before or after the effective date of this Act by decedents dying on or after the effective date of this Act.

See title page for effective date.

CHAPTER 628

S.P. 476 - L.D. 1478

An Act to Clarify Various Marine Resources Violations and Enhance the Collectibility of Associated Penalties

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

Sec. 1. 12 MRSA §6621, sub-§4, as enacted by PL 1993, c. 281, §2, is amended to read:

4. Penalty. ~~Notwithstanding the provisions of Title 17-A, section 4-B, a~~ A person who violates this ~~section~~ article commits a Class D crime ~~punishable by~~. The following minimum penalties apply:

A. For the first offense, a fine of not less than \$300 ~~and not more than \$1,500~~; and