

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTIETH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**November 13, 2002 to November 14, 2002**

**ONE HUNDRED AND TWENTY-FIRST LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 4, 2002 to June 14, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**FEBRUARY 13, 2003**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 13, 2003**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2003**

## CHAPTER 149

H.P. 449 - L.D. 586

**An Act To Clarify and Improve the  
Fairness of the Law of Trustee  
Process**

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

**Sec. 1. 5 MRSA §86**, as corrected by RR 2001, c. 2, Pt. B, §2 and affected by §58, is amended by adding at the end a new paragraph to read:

For filing and recording a designated office for service of trustee process under Title 14, section 2608-A, §25.

**Sec. 2. 5 MRSA §90-C** is enacted to read:

**§90-C. Voluntary filing system for designation of  
office for trustee process**

The Secretary of State shall establish and operate a central filing system to record and provide notice of offices designated by financial institutions authorized to do business in this State and credit unions authorized to do business in this State for service of trustee process under Title 14, section 2608-A, subsection 1. For this purpose, the Secretary of State may adopt rules, establish procedures and adopt a schedule of fees in conjunction with filing, registering, providing notices and other services performed by the Secretary of State in carrying out this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in chapter 375, subchapter 2-A.

**Sec. 3. 14 MRSA §2603** is amended to read:

**§2603. Effect of service on trustee; service on  
partnership**

Service on the trustee binds all goods, effects or credits of the principal defendant entrusted to and deposited in ~~his~~ the trustee's possession, to respond to the final judgment in the action, as when attached by ordinary process if process describing the principal defendant with reasonable certainty is received at a time and in a manner that affords the trustee a reasonable opportunity to act on it. When a partnership is made a trustee on trustee process, service upon one member of the firm ~~shall be~~ is a sufficient attachment of the property of the principal defendant in the possession of the firm, ~~provided such if that~~ service be is made at any place of business of the firm or, if ~~such that~~ service is made elsewhere, that legal service ~~be~~ is afterward made upon the other members of the firm.

**Sec. 4. 14 MRSA §2604** is amended to read:

**§2604. County where action brought; divorce;  
financial institution as trustee; counter-  
claim**

If all the trustees live in the same county, the action ~~shall~~ must be brought there; if they reside in different counties, in any county in which one of them resides; and in a trustee process against a corporation, its residence ~~shall be~~ is deemed to be in the county in which it has its established or usual place of business, held its last annual meeting or usually holds its meetings; except that an action in which a railroad corporation is named and alleged as trustee may be brought in any county in which ~~said the~~ the railroad corporation runs and operates its road; and except that an action in which a ~~banking~~ financial institution authorized to do business in this State or credit union authorized to do business in this State is named and alleged as trustee may be brought in any county in which ~~said banking the financial~~ institution or credit union maintains a place of business. ~~Service may be made on the manager of such banking institution in the county having jurisdiction over the parties named in the action.~~

When trustee process is used in connection with the commencement of an action for divorce, the action must be brought in the county in which the court has jurisdiction over the parties named in the action, and the alleged trustee, although residing in another county, may be summoned to appear in the county in which ~~said the~~ the court has jurisdiction over the parties named in the action and must answer and make disclosure in ~~such that~~ that county. The court sitting therein shall have full power and authority to award from the funds found to be held by the alleged trustee and belonging to the defendant such sum or sums as it may deem proper as an award for alimony or in lieu thereof.

When trustee process is used in connection with a counterclaim arising out of the transaction or occurrence that is the subject matter of the opposing party's claim, the alleged trustee may be summoned to appear in the county in which the action is pending, even though ~~he that trustee~~ he does not reside or maintain a usual place of business in that county.

**Sec. 5. 14 MRSA §2608** is amended to read:

**§2608. Corporation as trustee; answer and  
disclosure**

~~All~~ Except as provided in section 2608-A, all domestic corporations and all foreign or alien companies or corporations established by the laws of any other state or country and having a place of business or doing business within this State may be summoned as trustees, and trustee summonses may be served on them as other process is served on any such

companies or corporations. They may answer by attorney or agent and make disclosures, which ~~shall~~ must be signed and sworn to by ~~such an~~ attorney or agent or ~~such other~~ another person upon whom legal service of the summons may be made. The same proceedings ~~shall~~ must thereupon be had throughout except necessary changes in form, as in other cases of foreign attachment.

**Sec. 6. 14 MRSA §2608-A** is enacted to read:

**§2608-A. Service on financial institution as trustee**

Service of trustee process on a financial institution authorized to do business in this State or credit union authorized to do business in this State, as defined in Title 9-B, section 131, is effected by one of the following means:

**1. Designated office.** Personal service by any lawful means upon the office designated by the financial institution or credit union for service of trustee process in a registry maintained for this purpose by the Secretary of State; or

**2. Acceptance by designated officer or employee.** Acceptance of service in writing by an officer or employee of the financial institution or credit union expressly authorized to accept service of trustee process.

**Sec. 7. 14 MRSA §2614** is amended to read:

**§2614. Trustee not appearing defaulted**

When a person summoned as trustee neglects to appear and answer to the action, ~~he shall~~ the trustee must be defaulted and adjudged trustee ~~as alleged~~ to the extent that such a person holds goods, effects or credits of the principal defendant otherwise available to satisfy the unsatisfied portion of final judgment. Nothing in this section limits the additional remedies available under this chapter for the trustee's failure to disclose, including the assessment of costs under section 2701 or, in a proper case, contempt.

**Sec. 8. 14 MRSA §2901** is amended to read:

**§2901. Discontinuance of action**

When a trustee action is discontinued or settled by the principal parties ~~thereto to the action~~, the trustee ~~shall be~~ is entitled to no costs, ~~provided if~~ the plaintiff or ~~his~~ the plaintiff's attorney ~~shall~~, at least 7 days before the trustee's disclosure under oath is required to be served, ~~notify~~ notifies the trustee in writing that the action has been discontinued. Upon conclusion of the principal action, when the goods, effects or credits trustee are not to be used to satisfy a judgment, the plaintiff or the plaintiff's attorney shall

notify the trustee in writing within 30 days of the extinguishment of plaintiff's claim to such property.

If the trustee discloses possession of goods, effects or credits of the principal defendant, or by virtue of default is adjudged trustee, and the trustee funds are not collected or released within 7 years, they must be presumed abandoned under Title 33, chapter 41 unless the trustee is served with a certificate of the clerk of the appropriate court, between 30 and 90 days prior to such date, evidencing that the principal action is still pending.

**Sec. 9. 14 MRSA §2952** is amended to read:

**§2952. Judgment against trustee where no examination**

After notice of ~~such~~ a motion under section 2951 has been served ~~on him~~, if ~~he~~ the person neglects to appear and answer ~~thereto~~ to the motion, ~~he shall~~ that person must be defaulted and adjudged trustee to the extent that the person holds goods, effects or credits of the principal defendant otherwise available to satisfy the unsatisfied portion of final judgment. ~~If he was not examined in the original action, judgment shall be rendered against him for the whole sum remaining due on the judgment against the principal defendant. Nothing in this section limits the additional remedies available under this chapter for the trustee's failure to disclose, including the assessment of costs under section 3102.~~

**Sec. 10. 14 MRSA §3102** is amended to read:

**§3102. Default for nonappearance; costs**

When the person summoned under section 3101 does not appear and answer to the action, ~~he shall~~ that person must be defaulted, adjudged trustee to the extent provided in section 2614 and be liable to costs. If ~~he~~ that person appears at the return day and submits to an examination on oath and is discharged, ~~he shall~~ the person must be allowed ~~his~~ legal costs. If ~~he~~ the person is charged, ~~he~~ the person may retain the amount of ~~his~~ costs. When the plaintiff dismisses ~~his~~ the action against ~~him~~ the trustee or the principal, the trustee ~~shall~~ must be allowed ~~his~~ costs.

See title page for effective date.

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**CHAPTER 150**

**H.P. 549 - L.D. 743**

**An Act To Develop a Plan for  
Cathode Ray Tube Disposal**

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