

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.

Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 235**H.P. 233 - L.D. 290****An Act To Ensure That Title Applications are Timely Delivered**

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

Sec. 1. 29-A MRSA §603, sub-§4, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

4. Penalty. If an application, certificate of title or other document required to be delivered to the Secretary of State is not delivered to the Secretary of State within 20 days, the Secretary of State shall collect; \$125 as a penalty; ~~an amount equal to the fee required for the transaction.~~

See title page for effective date.

CHAPTER 236**H.P. 947 - L.D. 1275****An Act To Amend the Laws Governing Improvident Transfers of Title**

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

Sec. 1. 33 MRSA §1022, as enacted by PL 1987, c. 699, §1, is amended to read:

§1022. Undue influence

1. Presumption. In any transfer of real estate or major transfer of personal property or money for less than full consideration or execution of a guaranty by an elderly person who is dependent on others to a person with whom the elderly dependent person has a confidential or fiduciary relationship, it ~~shall be~~ is presumed that the transfer or execution was the result of undue influence, unless the elderly dependent person was represented in the transfer or execution by independent counsel. When the elderly dependent person successfully raises the presumption of undue influence by a preponderance of the evidence and when the transferee or person who benefits from the execution of a guaranty fails to rebut the presumption, the elderly dependent person ~~shall be~~ is entitled to avoid the transfer or execution and ~~be~~ entitled to the relief set forth in section 1024.

2. Confidential or fiduciary relationship. For the purpose of this section, the transfer of property or execution of a guaranty is deemed to have been made

in the context of a confidential or fiduciary relationship if the transferee or person who benefits from the execution of a guaranty had a close relationship with the elderly dependent person prior to the transfer or execution. Confidential or fiduciary relationships include the following:

A. A family relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, including relationships by marriage and adoption;

B. A fiduciary relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, such as with a guardian, conservator, trustee, accountant, broker or financial advisor;

C. A relationship between an elderly dependent person and a physician, nurse or other medical or health care provider;

D. A relationship between the elderly dependent person and a psychologist, social worker or counselor;

E. A relationship between the elderly dependent person and an attorney;

F. A relationship between the elderly dependent person and a priest, minister, rabbi or spiritual advisor;

G. A relationship between the elderly dependent person and a person who provides care or services to that person whether or not care or services are paid for by the elderly person;

H. A relationship between an elderly dependent person and a friend or neighbor; or

I. A relationship between an elderly dependent person and a person sharing the same living quarters.

When any of these relationships exist and when a transfer or execution is made to a corporation or organization primarily on account of the membership, ownership or employment interest or for the benefit of the fiduciary or confidante, a fiduciary or confidential relationship with the corporation or organization is deemed to exist.

Sec. 2. 33 MRSA §1023, as amended by PL 1989, c. 238, §§2 and 4, is further amended to read:

§1023. Civil action; relief available

1. Civil action. A civil action may be brought to obtain relief under this chapter by an elderly dependent person ~~or~~ that person's legal representative