

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 2010 to June 29, 2011

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 28, 2011

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

Augusta, Maine
2011

bled to an amount not to exceed a maximum of \$10,000 per violation.

See title page for effective date.

**CHAPTER 38
S.P. 85 - L.D. 279**

**An Act To Amend
Indemnification Notification
Laws**

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

Sec. 1. 24-A MRSA §3102-A, as enacted by PL 1995, c. 296, §1, is repealed.

See title page for effective date.

**CHAPTER 39
H.P. 44 - L.D. 51**

**An Act Regarding Access to
Sexually Explicit Material**

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

Sec. 1. 15 MRSA c. 107 is enacted to read:

CHAPTER 107

**CUSTODY AND EXAMINATION OF
SEXUALLY EXPLICIT MATERIAL**

§1121. Limitations on examination of sexually explicit material

1. Sexually explicit material. For purposes of this section, "sexually explicit material" means the property or material described in Title 17-A, chapter 12.

2. Custody of sexually explicit material. Sexually explicit material subject to a criminal investigation or proceeding must remain in the care, custody and control of the attorney for the State or the court. Notwithstanding provisions of the Maine Rules of Criminal Procedure, Rule 16 to the contrary, in any criminal proceeding the attorney for the State may not release to the defendant a copy, photograph, duplicate or any other reproduction of any sexually explicit material, as long as the attorney for the State makes the sexually explicit material reasonably available to the defendant.

3. Reasonably available. For purposes of this section, sexually explicit material is determined to be reasonably available to the defendant if the attorney for the State provides ample opportunity for inspect-

tion, viewing and examination of the sexually explicit material at a location within the control of the attorney for the State by the defendant, the defendant's attorney, the defendant's attorney's agent or any person whom the defendant may seek to qualify to furnish expert testimony at trial.

See title page for effective date.

**CHAPTER 40
H.P. 156 - L.D. 179**

**An Act To Prohibit the
Issuance of a Duplicate
Absentee Ballot under Certain
Circumstances**

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

Sec. 1. 21-A MRSA §753-B, sub-§4, as amended by PL 2003, c. 447, §31, is further amended to read:

4. Duplicate application. The clerk may issue a ~~2nd~~ duplicate state absentee ballot to an applicant if the initially issued ballot has not already been marked and returned to the clerk, the applicant requests one by an acceptable method outlined in this subchapter and:

A. The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot. Good cause does not include an applicant's decision to change the applicant's vote after the applicant has returned the ballot to the clerk; or

B. An absentee ballot for the applicant that was furnished to a designated 3rd person was not returned to the clerk's office within the time limit provided in subsection 3. If a ballot for an applicant is not returned to the clerk within that time limit, the clerk shall mail or hand deliver a ballot to that applicant and may not issue another ballot to the applicant except for good cause as provided in this subsection. This paragraph does not affect the deadline for delivery of absentee ballots under section 755.

The clerk may ~~also~~ issue a 2nd state absentee ballot to a voter from whom the clerk has received a return envelope apparently containing a state absentee ballot when the State has provided the clerk with replacement ballots to reflect the removal of a candidate's name or the addition of a new candidate's name or the correction of an error. When a 2nd state absentee ballot is issued to a voter under this section, the clerk

must write the words "second ballot issued" on the return envelope.

See title page for effective date.

CHAPTER 41
S.P. 18 - L.D. 3

**An Act To Clarify Joint
Tenancy Reinstatement**

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

Sec. 1. 33 MRSA §159, as amended by PL 1973, c. 788, §164, is further amended by adding at the end a new paragraph to read:

A conveyance on or after January 1, 2012 by a taxing or assessing authority of real property acquired from joint tenants by foreclosure of a tax or assessment lien mortgage, if made to such persons, recreates the joint tenancy held by the persons at the time of the foreclosure unless otherwise indicated anywhere in the conveyance by appropriate language.

See title page for effective date.

CHAPTER 42
H.P. 415 - L.D. 532

**An Act To Update the Maine
Uniform Trust Code**

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

Sec. 1. 18-B MRSA §103, sub-§4-A is enacted to read:

4-A. Current beneficiary. "Current beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined, is a distributee or permissible distributee of trust income or principal.

Sec. 2. 18-B MRSA §105, sub-§2, ¶H, as amended by PL 2005, c. 184, §5, is further amended to read:

H. Subject to subsection 3, the duty under section 813, subsection 2, paragraphs B and C to notify qualified current beneficiaries of an irrevocable trust who have attained 25 years of age of the existence of the trust, of the identity of the trustee and of their right to request trustee's reports;

Sec. 3. 18-B MRSA §105, sub-§2, ¶I, as amended by PL 2005, c. 184, §5, is further amended to read:

I. Subject to subsection 3, the duty under section 813, subsection 1 to respond to the request of a qualified current beneficiary of an irrevocable

trust for trustee's reports and other information reasonably related to the administration of a trust;

Sec. 4. 18-B MRSA §105, sub-§3, ¶B, as enacted by PL 2005, c. 184, §6, is amended to read:

B. ~~Designating~~ With respect to one or more of the current beneficiaries as to whom the settlor has waived or modified such duties, designating a person or persons, any of whom may or may not be a beneficiary, to act in good faith to protect the interests of the qualified current beneficiaries who are not receiving notice, information or reports and to receive any notice, information or reports required under section 813, subsection 1 or 2 in lieu of providing such notice, information or reports to the qualified current beneficiaries. The person or persons designated under this paragraph are deemed to be representatives of the qualified current beneficiaries not receiving notice, information or reports for the purposes of the time limitation for a beneficiary to commence an action against the trustee for breach of trust as provided in section 1005, subsection 1.

Sec. 5. 18-B MRSA §504, sub-§3, as enacted by PL 2005, c. 184, §12, is repealed and the following enacted in its place:

3. Creditor limited. If a trustee's or cotrustee's discretion to make distributions for the trustee's or cotrustee's own benefit is limited by an ascertainable standard, a creditor may not reach or compel distribution of the beneficial interest except to the extent the interest would be subject to the creditor's claim were the beneficiary not acting as trustee or cotrustee.

Sec. 6. 18-B MRSA §506, as enacted by PL 2003, c. 618, Pt. A, §1 and affected by §2, is repealed and the following enacted in its place:

§506. Overdue distribution

1. Definitions. As used in this section, unless the context otherwise indicates, "mandatory distribution" means a distribution of income or principal that a trustee is required to make to a beneficiary under the terms of a trust, including a distribution upon termination of the trust. "Mandatory distribution" does not include a distribution subject to the exercise of the trustee's discretion even if:

A. The discretion is expressed in the form of a standard of distribution; or

B. The terms of the trust authorizing a distribution couple language of discretion with language of direction.

2. Unreasonable delay in distribution. Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distri-