

# MAINE STATE LEGISLATURE

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**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.**

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**Augusta, Maine**  
**2011**

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-

bution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date.

**Sec. 7. 18-B MRSA §813, sub-§6** is enacted to read:

**6. Duty to settlor of revocable trust.** During the lifetime of the settlor of a revocable trust, whether or not the settlor has capacity to revoke the trust, the trustee's duties under this section are owed exclusively to the settlor. If the settlor lacks capacity to revoke the trust, a trustee may satisfy the trustee's duties under this section by providing information and reports to any one or more of the following in the order of preference listed:

- A. The person or persons designated by the settlor in the trust to receive information and reports on the settlor's behalf;
- B. The settlor's spouse or registered domestic partner under Title 22, section 2710;
- C. The settlor's agent under a durable power of attorney;
- D. The settlor's court-appointed conservator; or
- E. The settlor's court-appointed guardian.

If the settlor lacks capacity to revoke the trust and there are no persons listed in this subsection to whom the trustee may provide information and reports, the trustee shall satisfy its duties under this section by providing information and reports to the qualified beneficiaries.

See title page for effective date.

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**CHAPTER 43**

**H.P. 147 - L.D. 170**

**An Act To Extend the Maximum Time Period for Powers of Attorney for Minors and Incapacitated Persons**

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

**Sec. 1. 18-A MRSA §5-104, sub-§(a),** as enacted by PL 1997, c. 455, §7, is amended to read:

(a). A parent or guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding 6 12 months, any of that parent's or guardian's powers regarding care, custody or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward. A delegation by a ~~court-appointed~~ court-appointed guardian be-

comes effective only when the power of attorney is filed with the court.

**Sec. 2. 18-A MRSA §5-213** is enacted to read:  
**§5-213. Transitional arrangements for minors**

In issuing, modifying or terminating an order of guardianship for a minor, the court may enter an order providing for transitional arrangements for the minor if the court determines that such arrangements will assist the minor with a transition of custody and are in the best interest of the child. Orders providing for transitional arrangements may include, but are not limited to, rights of contact, housing, counseling or rehabilitation.

See title page for effective date.

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**CHAPTER 44**

**H.P. 455 - L.D. 625**

**An Act To Amend the Law Pertaining to Loaner Registration Plates**

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

**Sec. 1. 29-A MRSA §459,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**§459. Manufacturers, dealers, transporters, body shops, transmission shops and garages; special plates**

**1. Special plates.** The Secretary of State may select and issue special distinguishing letters, marks or designs for number plates issued to manufacturers, dealers ~~and~~, holders of transporter registration certificates and owners of body shops, transmission shops or garages.

**2. Special vanity plates.** A ~~new~~ new car dealer or an owner of a body shop, transmission shop or garage may apply for special vanity registration plates that may bear letters or combinations of letters and numbers that are approved by the Secretary of State or a designee. A plate may not be duplicated by other licensed vehicle dealers, body shops, transmission shops or garages. These special vanity plates may not be used to supplement existing registration numbers assigned.

The Secretary of State shall charge an additional \$30 fee per plate issued pursuant to this subsection.

**Sec. 2. 29-A MRSA §1003, sub-§7,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read: