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Date: (Filing No. H-)

STATE AND LOCAL GOVERNMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1313, L.D. 1969, “An Act to Amend the Maine Revised Unclaimed Property Act”

Amend the bill by striking out the title and substituting the following:

'An Act to Amend the Maine Revised Unclaimed Property Act and Clarify the Definition of "Virtual Currency"'

Amend the bill by inserting before section 1 the following:

'Sec. 1. 33 MRSA §2052, sub-§23-A is enacted to read:

23-A. Private key. "Private key" means a unique element of cryptographic data used for signing transactions on a blockchain, as defined in Title 32, section 6164, subsection 1, that is known to the owner of the element.'

Amend the bill in section 2 in subsection 32-A in the 3rd line (page 1, line 9 in L.D.) by striking out the following: "of the United States" and inserting the following: ' regardless of whether or not it is denominated in legal tender'

Amend the bill in section 2 in subsection 32-A by striking out all of paragraph A (page 1, line 10 in L.D.) and inserting the following:

'A. A loyalty card, including a transaction in which a merchant grants as part of an affinity or rewards program value that cannot be taken from or exchanged with the merchant for legal tender, bank or credit union credit or a digital financial asset; or'

Amend the bill in section 2 in subsection 32-A in paragraph B in the first line (page 1, line 11 in L.D.) by striking out the following: "; or" and inserting the following: 'consisting of a digital representation of value issued by or on behalf of a publisher and used solely within an online game, gaming platform or family of games sold by the publisher or offered on the same gaming platform.'

Amend the bill in section 2 in subsection 32-A by striking out all of paragraph C (page 1, line 12 in L.D.).

COMMITTEE AMENDMENT

1 Amend the bill in section 5 in subsection 14-A in the 2nd line (page 1, line 29 in L.D.)
2 by striking out the following: "as soon as administratively feasible" and inserting the
3 following: 'one year'

4 Amend the bill in section 6 in §2062 in the first line (page 1, line 32 in L.D.) by striking
5 out the following: "tax-advantaged" and inserting the following: 'tax-exempt'

6 Amend the bill in section 6 in §2062 in subsection 1 in the 2nd line (page 1, line 35 in
7 L.D.) by striking out the following: "tax advantage" and inserting the following: 'in a
8 retirement account that is tax-exempt'

9 Amend the bill in section 6 in §2062 in subsection 1 in the last 4 lines (page 1, lines 37
10 to 40 in L.D.) by striking out the following: "later of: date a distribution is required under
11 the United States Internal Revenue Code of 1986 in order to avoid a tax penalty, including
12 a distribution required due to the death of the apparent owner, or in the case of a tax-
13 advantaged retirement account, 3 years after the death of the apparent owner." and inserting
14 the following: 'later of:'

15 Amend the bill in section 6 in §2062 in subsection 1 by striking out all of paragraph A
16 (page 2, lines 1 to 7 in L.D.) and inserting the following:

17 'A. The later of the following dates:

18 (1) Except as in subparagraph (2), the date a communication sent by the holder by
19 first class United States mail to the apparent owner is returned to the holder as
20 undeliverable by the United States Postal Service; and

21 (2) If the returned communication is resent within 30 days, the date the resent
22 communication was returned as undeliverable by the United States Postal Service;
23 and'

24 Amend the bill in section 6 in §2062 in subsection 1 in paragraph B in the first line
25 (page 2, line 8 in L.D.) by striking out the following: "~~B. The~~" and inserting the following:
26 'B. The'

27 Amend the bill in section 6 in §2062 in subsection 1 in paragraph B in the first line
28 (page 2, line 8 in L.D.) by inserting after the following: "~~dates:~~" the following: 'date a
29 distribution is required under the United States Internal Revenue Code of 1986 in order to
30 avoid a tax penalty, including situations in which the apparent owner is deceased.'

31 Amend the bill in section 8 in subsection 1 in the 7th line (page 2, line 41 in L.D.) by
32 inserting after the following: "opened" the following: 'in accordance with the provisions of
33 section 2068 for securities and section 2061, subsection 5 for a payroll card or demand,
34 savings or time deposit'

35 Amend the bill by striking out all of sections 11 and 12 and inserting the following:

36 '**Sec. 11. 33 MRSA §2066, sub-§1, ¶A**, as enacted by PL 2019, c. 498, §22, is
37 amended to read:

38 A. ~~December 31st~~ June 30th of the year in which the obligation is issued or additional
39 funds are deposited into it;

40 **Sec. 12. 33 MRSA §2067-A** is enacted to read:

41 **§2067-A. When virtual currency presumed abandoned; liquidation by holder**

1 **1. Presumed abandoned after 5 years.** Subject to subsection 2, virtual currency is
2 presumed abandoned 5 years after the last indication of interest by the apparent owner. If
3 communication is sent by first class United States mail during the regular course of
4 business, the virtual currency is presumed abandoned 5 years after the date that a
5 communication sent by the holder by first class United States mail to the apparent owner
6 is returned to the holder as undeliverable by the United States Postal Service.

7 **2. Remitting virtual currency.** If a holder of virtual currency has private keys,
8 credentials or other information necessary to effectuate a transfer of virtual currency that
9 is presumed abandoned, the holder shall report in a record to the administrator in
10 accordance with section 2091 and shall deliver the virtual currency within 30 days before
11 filing the report in native form to the custody of the administrator in accordance with any
12 directions from the administrator.

13 **3. Holder unable to transfer virtual currency.** If a holder does not have sufficient
14 information to effectuate a transfer of the virtual currency, the holder shall maintain
15 possession of the virtual currency until the holder acquires the information necessary to
16 effectuate a transfer.

17 **4. Determination of value; exempt from reporting or liquidation.** The
18 administrator may decline to accept virtual currency that is presumed abandoned if the
19 administrator, in the administrator's discretion, determines that the virtual currency is not
20 freely transferable, is of nominal value or has value that is less than the estimated expenses
21 of maintenance, notice or sale of the property. The administrator may also prescribe by rule
22 classes or types of virtual currency exempt from reporting or liquidation.

23 **5. Liquidation of unclaimed virtual currency; transfer to state-owned account.**
24 The administrator, at the administrator's discretion, may direct a holder of unclaimed virtual
25 currency to liquidate the virtual currency. The liquidation must occur within 30 days prior
26 to the filing of a report under section 2091. The holder may transfer virtual currency to a
27 state-owned account held by the holder before liquidation.

28 **6. Liquidation not possible.** If a holder of unclaimed virtual currency reasonably
29 believes that the holder cannot liquidate the virtual currency and cannot otherwise cause
30 the virtual currency to be liquidated, the holder shall promptly notify the administrator in
31 writing and explain the reasons why the virtual currency cannot be liquidated as otherwise
32 required under subsection 5. The administrator shall then direct the holder concerning an
33 alternate disposition of the virtual currency.

34 **7. Administrator, State and holder held harmless.** An apparent owner does not have
35 recourse against the administrator, the State or a holder of unclaimed virtual currency to
36 recover any gain in value that occurs after the liquidation of the virtual currency under
37 subsection 5 or pursuant to section 2132, subsection 3. Consistent with section 2114,
38 subsection 2, the administrator shall defend and indemnify a holder against liability on any
39 such claim, as long as the holder has acted in good faith and substantially complied with
40 sections 2101 and 2102.'

41 Amend the bill in section 15 in §2071 in the first indented paragraph in the last 3 lines
42 (page 4, lines 29 to 31 in L.D.) by striking out the following: "in accordance with section
43 2061, subsection 7, or 3 years after the beneficiary's last indication of interest in the
44 account, whichever is later" and inserting the following: '3 years after the beneficiary's last
45 indication of interest in the account'

1 Amend the bill by inserting after section 16 the following:

2 '**Sec. 17. 33 MRSA §2093, sub-§2**, as enacted by PL 2019, c. 498, §22, is amended
3 to read:

4 **2. May 1st.** Subject to subsection 3, a report under section 2091 containing
5 information about life insurance policies, ~~gift obligations and stored-value obligations~~ must
6 be filed before May 1st of each year for the immediately preceding calendar year.'

7 Amend the bill in section 18 in paragraph D in the last 3 lines (page 5, lines 11 to 13
8 in L.D.) by striking out the following: "sold by the administrator and, with respect to virtual
9 currency presumed abandoned under section 2067-A, state that the property may be sold
10 by the holder prior to its reporting" and inserting the following: '~~sold by the administrator~~
11 subject to liquidation if the apparent owner does not respond to the notice'

12 Amend the bill in section 23 in §2121 in the first indented paragraph in the first line
13 (page 5, line 32 in L.D.) by striking out the following: "and stored-value obligations"

14 Amend the bill by inserting after section 23 the following:

15 '**Sec. 24. 33 MRSA §2132**, as enacted by PL 2019, c. 498, §22, is amended to read:

16 **§2132. Disposal of securities or virtual currency**

17 **1. Sell or liquidate ~~security~~ securities or virtual currency after one year.** Except
18 as provided in section 2155, subsection 1, or unless in the discretion of the administrator it
19 is determined to be in the best interest of the State otherwise, the administrator may not sell
20 or otherwise liquidate a security or virtual currency until one year after the ~~administrator~~
21 receives the security or virtual currency is placed in the administrator's custody.

22 **2. Price of security or virtual currency.** The administrator may not sell a security
23 or virtual currency listed on an established ~~støek~~ exchange for less than the price prevailing
24 on the exchange at the time of sale. The administrator may sell a security or virtual
25 currency not listed on an established exchange by any commercially reasonable method.

26 **3. Claim after securities or virtual currency sold.** A person making a claim under
27 this Act after a security or virtual currency has been sold is entitled only to the net proceeds
28 received from the sale.

29 **Sec. 25. 33 MRSA §2133**, as enacted by PL 2019, c. 498, §22, is amended to read:

30 **§2133. Recovery of securities, virtual currency or value by owner**

31 **1. Claim for securities or virtual currency sold before one year after delivery.** If
32 securities or virtual currency are sold by the administrator before the expiration of one year
33 after ~~their~~ delivery of the securities or virtual currency to the administrator, a person making
34 a claim under this Act before the end of the one-year period is entitled to the proceeds of
35 the sale of the securities or virtual currency or the market value of the securities or virtual
36 currency at the time the claim is made, whichever is greater, plus dividends, interest and
37 other increments thereon up to the time the claim is made, less any deduction for expenses
38 of sale. A person making a claim under this Act after the expiration of the one-year period
39 is entitled to receive the securities or virtual currency delivered to the administrator by the
40 holder, if the securities or virtual currency remain in the custody of the administrator, or
41 the net proceeds received from sale and is not entitled to receive any appreciation in the

1 value of the property occurring after delivery to the administrator, except in a case of
2 intentional misconduct or malfeasance by the administrator.

3 **2. Claim for securities of a single issue.** Notwithstanding this section, the
4 administrator may sell the securities of any single issue for which custodial costs are likely
5 to exceed value 90 days or more after the securities have been published pursuant to section
6 2103. A person making a claim under this Act after the securities have been sold is entitled
7 only to the net proceeds received from the sale.'

8 Amend the bill by inserting after section 27 the following:

9 '**Sec. 28. 33 MRSA §2166**, as enacted by PL 2019, c. 498, §22, is amended to read:

10 **§2166. Failure of person examined to retain records**

11 If a person subject to examination under section 2162 does not retain the records as
12 required by section 2094, the administrator may determine the value of property due using
13 a reasonable method of estimation based on all information available to the administrator,
14 including extrapolation and use of statistical sampling when appropriate and necessary,
15 consistent with examination procedures and standards adopted under and in accordance
16 with section 2163. A payment made based on estimation under this section does not relieve
17 a person from the obligation to retain records as required by section 2094.'

18 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
19 number to read consecutively.

20 **SUMMARY**

21 This amendment amends the bill in the following ways.

22 1. It defines "private key" as it relates to signing transactions on a blockchain.

23 2. It clarifies when funds from a terminated retirement plan are presumed to be
24 abandoned.

25 3. It establishes new provisions for the presumption of abandonment process for tax-
26 exempt rather than tax-advantaged retirement accounts and other tax-deferred accounts.

27 4. It clarifies the presumption of abandonment for custodial accounts for minors to not
28 be remitted to the administrator until the owner is no longer a minor.

29 5. It adds a new provision that changes the date for when a stored-value obligation is
30 presumed abandoned.

31 6. It clarifies the establishment of virtual currency as a property type and provisions
32 regarding presumed abandonment and liquidation and amends the definition of "virtual
33 currency."

34 7. It retains provisions under current law governing when a security is presumed
35 abandoned.

36 8. It specifies how long proceeds must be retained by an insurance company or a
37 financial organization with which accounts for the proceeds of an insurance policy or
38 annuity are deposited.

39 9. It removes provisions of law in which the terms "gift obligations" and "stored-value
40 obligations" are no longer applicable.

