

MAINE STATE LEGISLATURE

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(New Title)
New Draft of: S. P. 261, L. D. 767

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1727

S. P. 579

In Senate May 12, 1971

Reported by Senator Quinn of Penobscot from Committee on Judiciary and ordered printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to Authority of Trustees.

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

R. S., T. 18, § 3955, additional. Title 18 of the Revised Statutes is amended by adding a new section 3955, to read as follows:

§ 3955. Authority of trustees

1. Authority. In the absence of contrary or limiting provisions in the court order or decree appointing the trustees or in any subsequent order or decree or in the will or other instrument, every trustee is authorized:

A. To accept additions to any estate or trust from other sources as well as from the estate of the decedent or the settlor of a trust;

B. To acquire the remaining undivided interest in the property of a trust in which the trustee, in his fiduciary capacity, holds an undivided interest;

C. To invest and reinvest property of the trust under the provisions of the will or other instrument or as otherwise provided by law;

D. To effect and keep in force fire, rent, title, liability, casualty or other insurance to protect the property of the trust and to protect the trustee;

E. With respect to any real property or any estate therein owned by a trust, except where such property or any estate therein is specifically disposed of:

(1) To take possession of, collect the rents from and manage the same;

(2) To sell the same at public or private sale, and on such terms as in the opinion of the trustee will be most advantageous to those interested therein;

(3) To lease the same for any term of years;

(4) To make ordinary repairs to the property of the trust; and

(5) To grant options for the sale of property for a period not exceeding 6 months;

F. With respect to any mortgage held by the trust;

(1) To continue the same upon and after maturity, with or without renewal or extension, upon such terms as trustee deems advisable;

(2) To foreclose, as an incident to collection of any bond or note, any mortgage securing such bond or note, and to purchase the mortgaged property or acquire the property by deed from the mortgagor in lieu of foreclosure;

G. To contest, compromise or otherwise settle any claim in favor of the trust or in favor of 3rd persons and against the trust;

H. To vote in person or by proxy, discretionary or otherwise, shares of stock or other securities held by him as trustee;

I. To pay calls, assessments and any other sums chargeable or accruing against or on account of shares of stock, bonds, debentures or other corporate securities held by the trustee, whenever such payments may be legally enforceable against the trustee or any property of the trust or the trustee deems payment expedient and for the best interest of the trust;

J. To sell or exercise stock subscription or conversion rights, participate in foreclosures, reorganizations, consolidations, mergers or liquidations, and to consent to corporate sales, leases and encumbrances. In the exercise of such powers the trustee is authorized to deposit stocks, bonds or other securities with any protective or other similar committee under such terms and conditions respecting the deposit thereof as the trustee may approve;

K. To execute and deliver agreements, assignments, bills of sale, contracts, deeds, leases, notes, receipts and any other instrument necessary or appropriate for the administration of the trust;

L. To distribute in kind any property at its fair value at the date of distribution.

2. Other powers. The court having jurisdiction of the trust may authorize the trustee to exercise any other power which in the judgment of the court is necessary for the proper administration of the trust.

3. Additional. The powers set forth in this section are in addition to the powers granted by law or by the will or other instrument.

4. Definitions. As used in this section:

A. "Trust" means an express trust created by a trust instrument, including a will, whereby a trustee has the duty to administer a trust asset for the benefit of a named or otherwise described income or principal beneficiary, or both; "trust" does not include a resulting or constructive trust, a business trust which provides for certificates to be issued to the beneficiary, an investment trust, a voting trust, a security instrument, a trust created by the judgment or decree of a court, a liquidation trust, or a trust for the primary purpose of paying dividends, interests, interest coupons, salaries, wages, pensions or profits, or employee benefits of any kind, an instrument wherein a person is nominee or escrowee for another, a trust created in deposits in any financial institution, or other trust the nature of which does not admit of general trust administration;

B. "Trustee" means an original, added or successor trustee.

STATEMENT OF FACT

The purpose of this Act is to specifically authorize trustees to exercise the powers ordinarily needed in the management of trust, and thereby eliminate the need for including such powers in wills and other documents which create trusts.