

MAINE STATE LEGISLATURE

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Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 1
CONSTITUTION

Titles 1 to 10



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
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CHAPTER 93
ORGANIZATION

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§ 991. Formation; powers

Five or more persons, a majority of whom shall be residents of the State, who associate themselves by an agreement in writing for the purpose of forming a trust company may, upon compliance with this section and sections 954, 992 to 994, 996 to 999 and 1002 become a corporation subject to all the duties, restrictions and liabilities set forth in all general laws now or hereafter in force relating to such corporations, with power:

1. Deposits and interest. To receive on deposit, money, coin, bank notes, evidences of debt, accounts of individuals, companies, corporations, municipalities and states, allowing interest thereon, if agreed, or as the bylaws of said corporation may provide;

2. Loans and security. To borrow money, to loan money on credits or real estate or personal security and to negotiate loans and sales for others;

3. Investments secured by mortgages under G. I. Bill of Rights. To invest their funds in notes or bonds secured by mortgages issued under the Servicemen's Readjustment Act of 1944, Title III, sections 500 to 505, as amended, more familiarly known as "The G. I. Bill of Rights," and as such act may be interpreted and operated under rules to be promulgated;

4. Safe deposit vaults. To own and maintain safe deposit vaults, with boxes, safes and other facilities therein, to be rented to other parties for the safekeeping of moneys, securities, stocks, jewelry, plate, valuable papers and documents and other property susceptible of being deposited therein, and may receive on deposit for safekeeping property of any kind entrusted to it for that purpose;

5. Real and personal estate. To hold and enjoy all such estate, real, personal and mixed, as may be obtained by the investment of its capital stock or any other moneys and funds that may come into its possession in the course of its business and dealings, and the same sell, grant and dispose of;

6. Agent. To act as agent for issuing, registering and countersigning certificates, bonds, stocks and all other evidences of debt or ownership in property;

7. Trusts. To hold by grant, assignment, transfer, devise or bequest, any real or personal property or trusts duly created, and to execute trusts of every description;

8. Executor, guardian, etc. To act as assignee, receiver, executor, administrator, conservator or guardian, provided that any such appointment as guardian shall apply to the estate of the ward only and not to the person;

9. Bills or drafts. Subject to such restrictions as may be imposed by the commissioner, to accept for payment at a future date drafts and bills of exchange drawn upon it, and to issue letters of credit authorizing holders thereof to draw drafts upon it or its correspondents, at sight or on time, provided such acceptances or drafts be based upon actual values, but no trust company shall accept such bills or drafts to an aggregate amount exceeding at any one time $\frac{1}{2}$ of its paid-up capital and surplus, except with the approval of the commissioner, and in no case to an aggregate amount in excess of its capital and surplus;

10. General business; bond. To do in general all the business that may lawfully be done by trust companies. No surety shall be necessary upon the bond of the corporation in its capacity as trustee, executor, administrator, conservator, guardian, assignee or receiver, or in any other capacity, unless the court or officer approving such bond shall require it;

11. Charitable gifts. To contribute to community funds, or to charitable, philanthropic, educational or benevolent instrumentalities conducive to public welfare, or civic betterment or the

economic advantage of the community, such sums as a majority of the board of directors may deem expedient. (1955, c. 140.)

R.S.1954, c. 59, § 90; 1955, c. 140.

§ 992. Articles of agreement

The agreement of association of a trust company shall set forth that the subscribers thereto associate themselves with the intention of forming a corporation and shall specifically state:

1. **Name.** The name by which the corporation shall be known;
2. **Purpose.** The purpose for which it is formed;
3. **Municipality.** The city or town, which shall be within this State, where its business is to be transacted;
4. **Capital stock.** The amount of its capital stock and the number of shares into which the same is to be divided.

Each associate shall subscribe to the articles his name, residence, post-office address and the number of shares of stock which he agrees to take.

R.S.1954, c. 59, § 97.

§ 993. Notice of intention

A notice of the intention of the subscribers to form a trust company shall be given to the commissioner. A notice in such form as said commissioner shall approve shall be published at least once a week, for 3 successive weeks, in one or more newspapers designated by said commissioner and published in the county in which it is proposed to establish the company. Such notice shall specify the names of the proposed incorporators, the name of the corporation and the location of the same, as set forth in the agreement of association. Within 30 days after the first publication of said notice, the subscribers to said agreement shall apply to said commissioner for a certificate that public convenience and advantage will be promoted by the establishment of such trust company. If the commissioner refuses to issue such certificate, no further proceedings shall be had, but the application may be renewed after one year from the date of such refusal without further notice or publication unless the commissioner shall order the same.

R.S.1954, c. 59, § 98.

§ 994. First meeting; elections; bylaws

The first meeting of the subscribers to the agreement of association of a trust company shall be called by a notice signed either by that subscriber to the agreement who is designated therein for the purpose, or by a majority of the subscribers. Such notice shall state the time, place and purposes of the meeting. A copy of the notice shall, 7 days at least before the day appointed for the meeting, be given to each subscriber or left at his residence or usual place of business or deposited in the post office, postage prepaid and addressed to him at his residence or usual place of business, and another copy thereof and an affidavit of one of the signers that the notice has been duly served shall be recorded with the records of the corporation. If all the incorporators shall, in writing indorsed upon the agreement of association, waive such notice and fix the time and place of the meeting, no notice shall be required. The subscribers to the agreement of association shall hold the franchise until the organization has been completed. At such first meeting or at any adjournment thereof, the incorporators shall organize by the choice by ballot of a temporary clerk, by the adoption of bylaws and by the election in such manner as the bylaws may determine of directors, a president, a clerk and such other officers as the bylaws may prescribe. All the officers so elected shall be sworn to the faithful performance of their duties. The temporary clerk shall make and attest a record of the proceedings until the clerk has been chosen and sworn, including a record of such choice and qualification.

R.S.1954, c. 59, § 99.

§ 995. Bylaws

Any trust company organized under this Title may adopt all necessary bylaws, not inconsistent with the general laws of the State, for the management of its affairs. The clerk shall file with the commissioner a copy of such bylaws and all amendments thereto. All bylaws and amendments shall be submitted to the commissioner for his approval as to their legality, and shall not take effect until such approval is given. In case the commissioner shall refuse or unreasonably delay to give such approval, the directors of the company may submit such bylaws or amendments to a Justice of the Superior Court for his approval and, if he shall approve them as legal, they shall thereupon take effect.

R.S.1954, c. 59, § 123.

§ 996. Filing of documents; certificate of incorporation

The president, and a majority of the directors who are elected at such first meeting provided for in section 994, shall make, sign and make oath to, in duplicate, articles setting forth: A true copy of the agreement of association, the names of the subscribers thereto and the name, residence and post-office address of each of the officers of the company; and the date of the first meeting and the successive adjournments thereof, if any.

One of such certificates shall be submitted to the commissioner and the other, together with the records of the proposed corporation, to the Attorney General, who shall examine the same and who may require such amendment thereof or such additional information as he may consider necessary. If he finds that the articles conform to the sections relative to the organization of the corporation and that section 993 has been complied with, he shall so certify and indorse his approval thereon. Thereupon the articles shall be filed in the office of the Secretary of State, who shall cause the same, with the indorsement thereon, to be recorded, and shall thereupon issue a certificate of incorporation in the following form:

“STATE OF MAINE

Be it known that whereas” (the names of the subscribers to the agreement or association) “have associated themselves with the intention of forming a corporation under the name of” (the name of the corporation) “, for the purpose” (the purpose declared in the agreement of association) “, with a capital stock of” (the amount fixed in the agreement of association) “, and have complied with the provisions of the statutes of this State in such case made and provided, as appears from the articles of organization of said corporation, duly approved by the Attorney General, and recorded in this office; now, therefore, I” (the name of the secretary) “, Secretary of the State of Maine, do hereby certify that said” (the names of the subscribers to the agreement of association) “, their associates and successors, are legally organized and established as, and are hereby made, an existing corporation under the name of” (name of corporation) “, with the powers, rights and privileges, and subject to the limitations, duties and restrictions, which by law appertain thereto.

Witness my official signature hereunto subscribed, and the Great Seal of the State of Maine hereunto affixed, this day of in the year .” (the date of the filing of the articles of organization).

The Secretary of State shall sign the certificate of incorporation and cause the Great Seal of the State to be thereto affixed, and such certificate shall have the force and effect of a special charter. The existence of every corporation which is not created by special law shall begin upon the filing of the articles of organization in the office of the Secretary of State. The Secretary of State shall cause a record of the certificate of incorporation to be made and such certificate or such record, or a certified copy thereof, shall be conclusive evidence of the existence of such corporation.

R.S.1954, c. 59, § 100.

§ 997. Issue of shares; list of stockholders; examination by commissioner

A trust company shall not issue any shares of stock until the par value of such shares and 50% additional as a surplus shall have been actually paid in in cash or an equivalent as determined by the commissioner. When the whole capital stock has been issued, a complete list of the stockholders, with the name, residence and post-office address of each and the number of shares held by each, shall be filed with the commissioner, which list shall be verified by the president and the treasurer of the corporation. Upon receipt of such statement said commissioner shall cause an examination to be made, and if, after such examination, it appears that the whole capital stock and surplus has been paid in in cash or an equivalent as determined by the commissioner and that all requirements of law have been complied with, said commissioner shall issue a certificate authorizing such corporation to begin the transaction of business. Such certificate shall be conclusive as to the facts stated therein. It shall be unlawful for any such corporation to begin the transaction of business until such a certificate has been granted.

R.S.1954, c. 59, § 101.

§ 998. Minimum subscription required

The written articles of association mentioned in section 991 shall not be regarded as sufficient unless they show that at least $\frac{1}{3}$ of the proposed amount of capital stock has been subscribed for, and when filed with the commissioner, they shall be accompanied by satisfactory evidence that the sum of \$50 has been paid to the Treasurer of State. Such fees shall become general revenue of the State.

R.S.1954, c. 59, § 102.

§ 999. Minimum capital stock authorized; par value

The minimum amount of paid-in capital stock on which a trust company may be authorized to begin business shall be \$50,000 for a town or city of not more than 5,000 inhabitants, \$75,000 for a town or city having from 5,000 to 10,000 inhabitants, \$100,000 for a town or city having from 10,000 to 20,000 inhabitants, \$150,000 for a town or city having from 20,000 to 30,000 inhabitants and \$200,000 for a town or city of more than 30,000 inhabitants. The commissioner, in ascertaining the number of inhabitants of such town or city for the purpose of determining the sufficiency of the capital stock, may require such proof in addition to the last preceding United States census as he may deem necessary. No charter once granted shall ever be deemed void for any error in computing the population. The par value of the shares of stock shall be not less than \$10 each and not more than \$100 each and may be changed at any time by vote of the stockholders with the approval of the commissioner.

R.S.1954, c. 59, § 103; 1957, c. 99.

§ 1000. Increase of capital stock

Any company organized under sections 954, 991 to 994, 996 to 999 and 1002, or any company organized under special act of the Legislature may increase its capital stock from time to time at any stockholders' meeting at which a majority of shares issued and outstanding is represented, notice of the intention to do so having been given in the call therefor. Before actually issuing such capital stock, a certified copy of the vote authorizing the same shall be filed with the commissioner within 10 days after its passage, and thereupon he shall issue his approval or disapproval of the action so taken and if approved shall issue a certificate allowing such increase, a copy of which shall be filed in the office of the Secretary of State.

R.S.1954, c. 59, § 105.

§ 1001. Preferred stock

Notwithstanding any other law, any company organized under sections 954, 991 to 994, 996 to 999 and 1002 or any company organized under special act of the Legislature may, with the approval of the commissioner, by vote of stockholders owning a majority of the stock of such company, at a meeting duly called and held for that purpose or by the agreement of association signed by, or vote of, its incorporators in case of a newly organ-

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ized trust company which has not yet issued common stock, issue preferred stock of one or more classes in such amount and with such par value as shall be approved by the commissioner, and make such amendments to its agreement of association, articles of organization, articles of association, charter or bylaws as may be necessary for this purpose.

No shares of such preferred stock shall be issued until the par value of such shares shall have been actually paid in in cash or its equivalent as determined by the commissioner whose certificate shall be conclusive as to the facts stated therein.

Notwithstanding any other law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of such preferred stock shall be entitled to receive such cumulative dividends at a rate not exceeding 6% per year of the purchase price received by the company for said stock and in the event of the retirement of such stock to receive such retirement price not in excess of such purchase price plus all accumulated dividends as may be provided in the agreement of association, articles of organization, articles of association, charter or bylaws, with the approval of the commissioner, and shall have such voting rights, including that of cumulative voting, which may be granted to the holders of common stock, and conversion rights and such control of management. Such stock shall be subject to retirement in such manner and under such conditions as may be provided in the agreement of association, articles of organization, articles of association, charter or bylaws, with the approval of the commissioner.

Prior to or simultaneously with the retirement of such preferred stock, the company, without further action on the part of the holders of stock of any class or on the part of the commissioner, if its articles of organization, as amended, so provide, may, and to the extent necessary to maintain the capital of the company at the minimum required by law, shall declare on the common stock, out of surplus or net profits of the company, a dividend in an amount equal to the par value of the preferred stock so to be retired, payable at the time of or in connection with such retirement in common stock of the company, pro rata to the holders of common stock.

The designations, preferences, powers, restrictions, qualifications, terms and provisions affecting shares or classes of stock issued by any company which shall create 2 or more kinds or classes of stock, as set forth in its articles of organization or in any amendment thereof, shall control in all cases where any vote,

consent of stockholders or other action is now or hereafter required or authorized by statute, unless such statute shall provide expressly to the contrary, and the provision of any statute requiring a specific vote of all, a majority or a fractional part of the stock issued or of the stock outstanding or any similar provision shall be construed as limited by any such restrictions, qualifications and other provisions set forth in said articles.

The holders of such preferred stock shall not be held individually responsible as such holders for any debts, contracts or engagements of such company, and shall not be liable for assessments to restore impairments in the capital of such company and such preferred stock shall not be subject to assessment, as now provided by law with reference to common stock and the holders thereof.

No dividends shall be declared on common stock of such company until cumulative dividends on the preferred stock shall have been paid in full. If the company is placed in voluntary liquidation or a conservator or receiver is appointed therefor, no payments shall be made to the holders of the common stock until the holders of the preferred stock shall have been paid in full such amount as may be provided in the agreement of association, articles of organization, articles of association, charter or bylaws, with the approval of the commissioner, not in excess of such purchase price of such preferred stock plus all accumulated dividends.

If any trust company is in need of funds for capital purposes either in connection with the organization or reorganization of such association or trust company or otherwise, it may request the Reconstruction Finance Corporation to subscribe for preferred stock in such association or trust company, or to make loans secured by such stock as collateral under such terms, conditions, restrictions and privileges as shall be approved by the commissioner.

R.S.1954, c. 59, § 106.

§ 1002. Business commenced or charter forfeited

Every trust company shall forfeit its charter unless it shall actually commence to do business as a trust company within one year from the date of the issuance of its charter.

R.S.1954, c. 59, § 104.

§ 1003. Branches

No trust company shall establish or operate a branch or agency until it shall have received a warrant to do so from the commissioner, who shall issue such warrant only when satisfied that public convenience and advantage will be promoted thereby. The commissioner may require such notice on an application for a branch or agency as he deems proper. No trust company shall be permitted to establish or operate a branch or agency except within the county of its main office or a county adjoining that of its main office; provided that this limitation shall not prevent a trust company from establishing or operating a branch or agency in any city, town or village where there is no bank regularly transacting customary banking business or where a unit bank or branch of a bank is taken over. If granted, the commissioner shall issue his warrant in duplicate, one copy to be delivered to the trust company and the other to the Secretary of State for record. Within 10 days after opening a branch or agency, the trust company shall file with the commissioner a certificate thereof signed by its president or treasurer. The right to open a branch or agency shall lapse at the end of one year from the date of filing the commissioner's warrant with the Secretary of State, unless it shall have been opened and business actually begun in good faith. An application for permission to open a branch or agency shall not be acted upon until the petitioning trust company shall have paid to the Treasurer of State the sum of \$200 to be credited and used as provided in section 2. This section shall not apply to branches or agencies authorized and in existence on September 16, 1961.

R.S.1954, c. 59, § 124; 1961, c. 379, § 2; c. 417, § 152.

§ 1004. Relocation; closing of branch or agency

No branch, agency or main office may be moved to a new location without the prior written consent of the commissioner who shall give such consent if he finds that the proposed move does not create hazardous competitive conditions for existing financial institutions. Any branch or agency may be closed or discontinued with consent of the commissioner after such public notice, as in his judgment the public interest may require.

1961, c. 379, § 3.