

MAINE STATE LEGISLATURE

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PART 4
REGISTRATION

Sec.

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§ 8-401. Duty of issuer to register transfer

(1) Where a security in registered form is presented to the issuer with a request to register transfer, the issuer is under a duty to register the transfer as requested, if

- (a) The security is indorsed by the appropriate person or persons (section 8-308); and
- (b) Reasonable assurance is given that those indorsements are genuine and effective (section 8-402); and
- (c) The issuer has no duty to inquire into adverse claims or has discharged any such duty (section 8-403); and
- (d) Any applicable law relating to the collection of taxes has been complied with; and
- (e) The transfer is in fact rightful or is to a bona fide purchaser.

(2) Where an issuer is under a duty to register a transfer of a security, the issuer is also liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer.

1963, c. 362, § 1.

§ 8-402. Assurance that indorsements are effective

(1) The issuer may require the following assurance that each necessary indorsement (section 8-308) is genuine and effective:

- (a) In all cases, a guarantee of the signature (section 8-312, subsection (1)) of the person indorsing; and
- (b) Where the indorsement is by an agent, appropriate assurance of authority to sign;

(c) Where the indorsement is by a fiduciary, appropriate evidence of appointment or incumbency;

(d) Where there is more than one fiduciary, reasonable assurance that all who are required to sign have done so;

(e) Where the indorsement is by a person not covered by any of the foregoing, assurance appropriate to the case corresponding as nearly as may be to the foregoing.

(2) A "guarantee of the signature" in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible. The issuer may adopt standards with respect to responsibility provided such standards are not manifestly unreasonable.

(3) "Appropriate evidence of appointment or incumbency" in subsection (1) means

(a) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within 60 days before the date of presentation for transfer; or

(b) In any other case a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the issuer to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the issuer to be appropriate. The issuer may adopt standards with respect to such evidence provided such standards are not manifestly unreasonable. The issuer is not charged with notice of the contents of any document obtained pursuant to this paragraph except to the extent that the contents relate directly to the appointment or incumbency.

(4) The issuer may elect to require reasonable assurance beyond that specified in this section but if it does so and for a purpose other than that specified in paragraph (b) of subsection 3 both requires and obtains a copy of a will, trust, indenture, articles of copartnership, bylaws or other controlling instrument it is charged with notice of all matters contained therein affecting the transfer.

1963, c. 362, § 1.

§ 8-403. Limited duty of inquiry

(1) An issuer to whom a security is presented for registration is under a duty to inquire into adverse claims if

(a) A written notification of an adverse claim is received at a time and in a manner which affords the issuer a reasonable opportunity to act on it prior to the issuance of a new, reissued or re-registered security and the notification identifies the claimant, the registered owner and the issue of which the security is a part and provides an address for communications directed to the claimant; or

(b) The issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under section 8-402, subsection (4).

(2) The issuer may discharge any reasonable means, including notifying an adverse claimant by registered or certified mail at the address furnished by him or if there be no such address at his residence or regular place of business that the security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within 30 days from the date of mailing the notification, either

(a) An appropriate restraining order, injunction or other process issues from a court of competent jurisdiction; or

(b) An indemnity bond sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar or other agent of the issuer involved, from any loss which it or they may suffer by complying with the adverse claim is filed with the issuer.

(3) Unless an issuer is charged with notice of an adverse claim from a controlling instrument which it has elected to require under section 8-402, subsection (4), or receives notification of an adverse claim under subsection (1) of this section, where a security presented for registration is indorsed by the appropriate person or persons the issuer is under no duty to inquire into adverse claims. In particular

(a) An issuer registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent or correct description of the fiduciary relationship and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;

(b) An issuer registering transfer on an indorsement by a fiduciary is not bound to inquire whether the transfer is made in compliance with a controlling instrument or with the law of the state having jurisdiction of the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(c) The issuer is not charged with notice of the contents of any court record or file or other recorded or unrecorded document even though the document is in its possession and even though the transfer is made on the indorsement of a fiduciary to the fiduciary himself or to his nominee.

1963, c. 362, § 1.

§ 8-404. Liability and nonliability for registration

(1) Except as otherwise provided in any law relating to the collection of taxes, the issuer is not liable to the owner or any other person suffering loss as a result of the registration of a transfer of a security, if

(a) There were on or with the security the necessary indorsements (section 8-308); and

(b) The issuer had no duty to inquire into adverse claims or discharged any such duty (section 8-403).

(2) Where an issuer has registered a transfer of a security to a person not entitled to it, the issuer on demand must deliver a like security to the true owner, unless

(a) The registration was pursuant to subsection (1); or

(b) The owner is precluded from asserting any claim for registering the transfer under section 8-405, subsection (1); or

(c) Such delivery would result in overissue, in which case the issuer's liability is governed by section 8-104.

1963, c. 362, § 1.

§ 8-405. Lost, destroyed and stolen securities

(1) Where a security has been lost, apparently destroyed or wrongfully taken and the owner fails to notify the issuer of that fact within a reasonable time after he has notice of it and the issuer registers a transfer of the security before receiving such a notification, the owner is precluded from asserting against the issuer any claim for registering the transfer under section 8-404 or any claim to a new security under this section.

(2) Where the owner of a security claims that the security has been lost, destroyed or wrongfully taken, the issuer must issue a new security in place of the original security, if the owner

- (a) So requests before the issuer has notice that the security has been acquired by a bona fide purchaser; and
- (b) Files with the issuer a sufficient indemnity bond; and
- (c) Satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of the new security, a bona fide purchaser of the original security presents it for registration of transfer, the issuer must register the transfer unless registration would result in overissue, in which event the issuer's liability is governed by section 8-104. In addition to any rights on the indemnity bond, the issuer may recover the new security from the person to whom it was issued or any person taking under him except a bona fide purchaser.

1963, c. 362, § 1.

§ 8-406. Duty of authenticating trustee, transfer agent or registrar

(1) Where a person acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities,

- (a) He is under a duty to the issuer to exercise good faith and due diligence in performing his functions; and
- (b) He has with regard to the particular functions he performs the same obligation to the holder or owner of the security and has the same rights and privileges as the issuer has in regard to those functions.

(2) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent.

1963, c. 362, § 1.