

MAINE STATE LEGISLATURE

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CHAPTER 3

FORMATION, CERTIFICATES AND MEETINGS

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SUBCHAPTER I

ORGANIZATION UNDER SPECIAL ACT

Sec.

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§ 41. First meeting

The first meeting of any corporation chartered by special act of the Legislature, unless otherwise provided, shall be called by a notice signed by some person named in the act of incorporation, setting forth the time, place and purpose of the meeting, a copy of which shall be delivered to each member or published in a newspaper in the county, if any, otherwise in the state paper, 7 days before the meeting.

R.S.1954, c. 53, § 3.

§ 42. Capital stock; record of owners

The capital of corporations incorporated by special act of the Legislature shall be fixed and divided into shares. The names of the owners and the number of shares owned by each shall be entered of record at the first meeting. The capital may be subsequently increased as provided in section 201 by adding to the number of shares.

R.S.1954, c. 53, § 4.

§ 43. Certificate of organization

Before commencing business, the president, treasurer and a majority of the directors of any corporation chartered by spe-

cial act of the Legislature shall prepare a certificate setting forth the date of approval of its charter, the name and purposes of the corporation, the amount of capital stock, the amount already paid in, the par value of the shares having par value and the number of shares without par value, the names and residences of the owners, the name of the county where it is located, the number and names of the directors and the name and residence of the clerk, and shall sign and make oath to it. Such certificate shall be recorded in the registry of deeds in the county where its principal office is to be located in a book kept for that purpose and a copy thereof, certified by such register, shall be filed in the office of the Secretary of State, who shall enter the date of filing thereon and on the original certificate to be kept by the corporation and shall record said copy in a book kept for that purpose. From the time of filing such certificate in the office of the Secretary of State, the stockholders of said corporation, their successors and assigns shall be a corporation.

R.S.1954, c. 53, § 5.

§ 44. Fees

The certificate mentioned in section 43 shall not be received and filed by the Secretary of State except upon the payment to him for the use of the State of: \$15 if the capital stock does not exceed \$5,000; \$25 if the capital stock exceeds \$5,000 and does not exceed \$10,000; \$75 if the capital stock exceeds \$10,000 and does not exceed \$50,000; \$125 if the capital stock exceeds \$50,000 and does not exceed \$100,000; \$60 upon every \$100,000 or fraction thereof in excess of \$100,000 if the capital stock exceeds \$100,000; also 1¢ per share and in no case less than \$10 on all shares authorized without par value. This section shall not apply to corporations chartered for charitable and benevolent purposes.

R.S.1954, c. 53, § 6.

§ 45. Business forbidden until certificate filed

No corporation created by special act of the Legislature, municipal corporations excepted, shall carry on any business whatsoever before filing in the office of the Secretary of State the certificate of organization provided by section 43. Whoever, whether named in the act of the Legislature or not, conducts and carries on any business whatsoever in the name of such corporation before said certificate is filed shall be personally and

individually liable for all contracts and debts of said corporation contracted prior to the filing of said certificate. This section shall apply to all individuals granted special rights and privileges by act of the Legislature.

R.S.1954, c. 53, § 7.

SUBCHAPTER II

ORGANIZATION UNDER GENERAL LAW

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§ 71. Purposes

Three or more persons may associate themselves together by written articles of agreement for the purpose of forming a corporation with one or more classes of stock either with or without par value to carry on any lawful business anywhere, including corporations for manufacturing, mechanical, mining or quarrying business; and corporations whose purpose is the carriage of passengers or freight, or both, upon the high seas, or from port or ports in this State to a foreign port or ports, or to a port or ports in other states, or the carriage of freight or passengers, or both, upon any waters where such corporations may navigate; and excepting corporations for banking, insurance, the ownership, maintenance or operation of a cemetery or cemeteries, the construction and operation of railroads or aiding the construction thereof and the business of savings banks, trust companies, loan and building associations or corporations intended to derive profit from the loan of money except as a reasonable incident to the transaction of other corporate business or where necessary to prevent corporate funds from being unproductive, and safe deposit companies, including the renting of safes in burglar-proof and fire-proof vaults. Corporations may be formed hereunder to exercise the following corporate purposes in other states and jurisdictions, namely: The construction and operation of railroads or aiding in the construction thereof, telegraph and telephone companies and gas or electrical companies, and in all

such cases, the articles of agreement and certificate of organization shall state that such business is to be carried on only in states and jurisdictions when and where permissible under the laws thereof. Such corporations heretofore organized for the transaction of such business in other states or jurisdictions, if otherwise legally organized and now existing, are declared to be corporations under the laws of this State.

Nothing herein shall be construed to prevent the organization of agricultural credit corporations organized to carry out the Federal Farm Loan Act enacted by the 67th Congress of the United States, chapter 252, and Acts amendatory thereof and additional thereto and which become such corporations under said Federal Farm Loan Act. Such agricultural credit corporations shall not be deemed banking corporations or institutions.

Nothing in this section shall be construed to prevent the organization of small business investment companies organized to carry out the Small Business Investment Act enacted by the 85th Congress of the United States, and Acts amendatory thereto and additional thereto and which become such corporations under said Small Business Investment Act of 1958. Such small business investment companies shall not be deemed banking corporations or institutions.

R.S.1954, c. 53, § 8; 1959, c. 178, § 4.

§ 72. First meeting; notice of waiver

Their first meeting shall be called by one or more of the signers of said articles by giving notice thereof, stating the time, place and purposes of the meeting to each signer in writing or by publishing it in some newspaper printed in the county at least 14 days prior to the time appointed therefor. If all of the signers of said articles shall in writing waive notice and fix a time and place of such meeting, no notice or publication shall be necessary. At such meeting they may organize into a corporation, adopt a corporate name, define the purposes of the corporation, fix the amount of the capital stock having par value, which shall not be less than \$1,000 and divide it into shares, fix the number of shares having no par value and elect not less than 3 directors, a president, a clerk, treasurer and any other necessary officers, and may adopt a code of bylaws.

R.S.1954, c. 53, § 9.

§ 73. Certificate of organization; fees

Before commencing business the president, treasurer and majority of the directors shall prepare a certificate setting forth

the name and purposes of the corporation, the amount of capital stock, the amount already paid in, the par value of the shares having par value and the number of shares without par value, the names and residences of the owners, the name of the county where it is located, and the number and names of the directors and the name and residence of the clerk and shall sign and make oath to it. Said certificate shall be presented to the Attorney General accompanied by a copy thereof or by a data sheet containing all of the information required. After said certificate has been examined by the Attorney General and been by him certified to be properly drawn and signed and to be conformable to the Constitution and laws, it shall be recorded in the registry of deeds in the county where said corporation is located, in a book kept for that purpose, and within 60 days after the day of the meeting at which such corporation is organized, a copy thereof certified by such register shall be filed in the office of the Secretary of State, who shall enter the date of filing thereon and on the original certificate to be kept by the corporation, and shall record said copy in a book kept for that purpose. The oath to said certificate may be made outside the State before a notary public or a commissioner appointed by the Governor to take acknowledgments of deeds in other states, by any subscriber to said certificate who was actually present in the State at the meeting for the organization of the corporation. All certificates verified prior to the 4th day of July, 1915, outside the State before a notary public or such commissioner, shall be deemed to comply with this section. Before said certificate is filed in the office of the Secretary of State, such corporation shall pay to him for the use of the State: \$10 for each \$100,000 of the capital stock not over \$2,000,000; \$50 for each million dollars of the capital stock from \$2,000,000 to and including \$20,000,000; \$20 for each million dollars of the capital stock over \$20,000,000; also $\frac{1}{2}\phi$ per share and in no case less than \$10 on all shares authorized without par value, not over 20,000 shares; $\frac{1}{4}\phi$ per share on all shares authorized without par value from 20,000 shares to and including 2,000,000 shares; and $\frac{1}{5}\phi$ per share on all shares authorized without par value over 2,000,000 shares.

R.S.1954, c. 53, § 10.

§ 74. Protection for corporate name

No corporation organizing under chapters 1 to 21 shall assume, adopt or use the name of a corporation incorporated under the laws of the State of Maine, or a name so nearly resem-

bling the name of such corporation as to be a colorable imitation thereof or calculated to deceive any person.

1961, c. 22.

§ 75. Composite certificate of organization

The Secretary of State shall prepare and furnish upon request therefor a certified composite certificate of organization which shall contain only such provisions as are in effect at the time of certification as a result of amendments to the original charter or certificate of organization or because of agreements of consolidation or merger. The Secretary of State shall make in each case such reasonable charge therefor as he deems proper, in no case less than \$10. Any such certified copy may be recorded in the registry of deeds in the county where the principal office of the corporation is located.

R.S.1954, c. 53, § 11.

§ 76. Quasi-public corporations; fees

No certificate of organization of any corporation for banking, insurance, construction and operation of railroads, or aiding in the construction thereof, the business of trust companies or corporations intended to derive a profit from the loan or use of money, safe deposit companies, renting of safes and burglar and fire-proof vaults, telegraph and telephone companies, electric or gas light companies, water companies or any corporation authorized to exercise the right of eminent domain shall be received and filed by the Secretary of State except upon payment to him for the use of the State of: \$25 if the capital stock does not exceed \$5,000; \$50 if the capital stock exceeds \$5,000 and does not exceed \$10,000; \$100 if the capital stock exceeds \$10,000 and does not exceed \$50,000; \$200 if the capital stock exceeds \$50,000 and does not exceed \$100,000; \$75 upon every \$100,000 or fraction thereof in excess of \$100,000, if the capital stock exceeds \$100,000; also one mill per share but not less than the following on all shares authorized without par value:

\$25 if the number of shares does not exceed 5,000 shares

\$50 if the number of shares exceeds 5,000 but does not exceed 50,000 shares

\$100 if the number of shares exceeds 50,000 but does not exceed 100,000 shares

\$250 if the number of shares exceeds 100,000 but does not exceed 250,000 shares

\$500 if the number of shares exceeds 250,000 but does not exceed 500,000 shares

\$750 if the number of shares exceeds 500,000 but does not exceed 750,000 shares

\$1,250 if the number of shares exceeds 750,000 but does not exceed 1,250,000 shares

\$500 additional for each 500,000 shares, or any part thereof, in excess of 1,250,000 shares.

R.S.1954, c. 53, § 12; 1961, c. 395, § 27; 1963, c. 104.

§ 77. Certificates of organization filed prior to March 15, 1893

Any corporation organized hereunder prior to the 15th day of March, 1893, which caused the certificate to be recorded in the registry of deeds of the county in which such corporation is described in said certificate to be located, shall be deemed to have complied with the requirements of section 73.

R.S.1954, c. 53, § 13.

§ 78. Organization complete on filing of certificate

From the time of filing the copy of such certificate in the office of the Secretary of State, the signers of said articles and their successors and assigns shall be a corporation, the same as if incorporated by a special act, with all the rights and powers and subject to all the duties, obligations and liabilities provided by chapters 1 to 21.

R.S.1954, c. 53, § 14.

§ 79. Nonpar stock certificates

In the case of certificates for shares of stock issued under the provisions authorizing the issuance of stock without par value, it shall be unlawful to set forth any par value or value in dollars thereon, or to express any rate of dividend to which the shares represented thereby shall be entitled in terms of percentage of any par or other value. Every such certificate shall have plainly stated on its face the number of shares which it represents and each such share, except as to preferences, rights, limitations, privileges and restrictions lawfully granted or imposed with respect to any stock or class thereof, shall be deemed to be equal to every other share of the same class. Preferences, rights, limitations, privileges and restrictions authorized by the laws of this State may be stated in dollars and cents per share.

R.S.1954, c. 53, § 15.

SUBCHAPTER III

MEETINGS

Sec.

101. Meetings by consent.
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103. Presiding officer.
104. Proxies; general power of attorney.
105. Voting pledged stock.
106. Officers holding over; election after annual meeting; objections.
107. New election if objections filed.

§ 101. Meetings by consent

When all the members of a corporation are present in person or by proxy at a meeting and sign a written consent on the record thereof, such meeting is legal.

R.S.1954, c. 53, § 25.

§ 102. Meetings called by justice of peace

When a meeting of any corporation cannot be otherwise called, 3 members of the corporation may make written application to a justice of the peace where it is established, if local, or if not, where it is desired to hold the meeting, who may issue his warrant to either of such members, directing him to call a meeting by giving the notice required in section 41. When the law requires a notice to be published in some newspaper or posted in some public place, the justice shall designate in his warrant the newspaper or place.

R.S.1954, c. 53, § 26.

§ 103. Presiding officer

When a meeting is called by a justice of the peace, he or the person to whom his warrant was directed may call the meeting to order and preside therein until a clerk is chosen and qualified, if there is no officer present whose duty it is to preside. The person presiding is not responsible for an error in judgment in receiving or rejecting the vote of a person claiming to be a member.

R.S.1954, c. 53, § 27.

§ 104. Proxies; general power of attorney

Shareholders may be represented by proxies granted not more than one year before the meeting, which shall be named therein; they are not valid after a final adjournment thereof. They may be represented by a general power of attorney, produced at the meeting, until it is revoked. Shares hypothecated to the corporation shall not be represented. No person can give, by right of representation, a greater number of votes than is allowed to anyone by the charter or bylaws. Proxies shall be signed by the persons granting them but need not be under seal.

R.S.1954, c. 53, § 28.

§ 105. Voting pledged stock

After the owner of stock in a corporation has transferred, mortgaged or in any way pledged the same to another for security merely, and it so appears in such transfer, mortgage or pledge and on the books of the corporation, such owner continues to have the right to vote upon such stock at all meetings of the stockholders until his right of redemption ceases.

R.S.1954, c. 53, § 29.

§ 106. Officers holding over; election after annual meeting; objections

When a corporation fails to hold its annual meeting on the day appointed or fails to elect officers at such meeting, the officers of the preceding year continue in the exercise of their duties and their acts are legal until other officers are chosen and qualified in their stead. When, upon due notice given, officers are regularly elected on any other day than that of the annual meeting, they shall hold their offices and perform their duties as if chosen on that day, unless a majority of the corporate members file with the clerk, within 6 months after such election, written objections thereto. Their acts shall be considered legal until others are chosen and qualified in their stead.

R.S.1954, c. 53, § 30.

§ 107. New election if objections filed

When such a notice is filed, the clerk shall call a meeting of the corporation at such time and place as he appoints and give the notice required for an annual meeting, stating in it the fact

that objections have been filed and the purpose of the meeting. Officers elected at such meeting shall hold their offices and their acts shall be considered legal, until other officers are chosen and qualified in their stead.

R.S.1954, c. 53, § 31.