

MAINE STATE LEGISLATURE

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CHAPTER 11

DIRECTORS AND OFFICERS

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§ 371. Officers; qualifications of directors; treasurer's bond; clerk; classes of directors; out-of-state meetings

Corporations shall have a president, directors, clerk, treasurer and any other desirable officers. Such officers shall be chosen annually and shall continue in office until others are chosen and qualified in their stead. There shall not be less than 3 directors, one of whom shall be by them elected president. Directors need not be stockholders if the charter or bylaws of the corporation so provide.

The treasurer shall give bond for the faithful discharge of his duties, in such sum and with such sureties as are required. The clerk shall be sworn and shall record all votes of the corporation in a book kept for that purpose. Nothing herein shall prohibit corporations from providing by their bylaws for the division of their directors into classes and their election for a longer term than one year. After the certificate of organization required by law is filed in the office of the Secretary of State, directors of all corporations may hold meetings without the State and there transact business and perform all corporate acts not expressly required by statute to be performed within the State. Directors of corporations may act through committees whose powers shall be defined in the bylaws.

R.S.1954, c. 53, § 32; 1955, c. 103; 1957, c. 397, § 35; 1959, c. 129.

§ 372. Appointment of directors by court; proceedings

If any corporation organized under the general laws of the State shall fail to elect directors within 6 months after the time provided in its bylaws for the annual meeting, the Superior Court shall have jurisdiction, upon application by any one or more of its stockholders holding at least 50% of the capital stock issued, to appoint a board of directors for such corporation not exceeding in membership the number authorized by the bylaws. The 6-month period shall be computed from the date of the first annual meeting at which such failure to elect occurs and not from the date of a subsequent annual meeting or meetings at which such failure is continued. Such appointments may be made from among the stockholders or otherwise as the court may see fit. The application shall be made by petition filed in the county where such corporation is located and shall be brought in behalf of all stockholders desiring to be joined therein. Such notice shall be given to the corporation and its stockholders as the court may direct. Such appointees of the court shall have the same rights, powers and duties and the same tenure of office as directors duly elected by the stockholders at the annual meeting held at the time prescribed therefor in the bylaws, next prior to the date of the court's appointment, would have had.

R.S.1954, c. 53, § 33; 1961, c. 317, § 135; c. 417, § 135.

§ 373. Clerk's office, books; record of stockholders; inspection of record

All corporations existing by virtue of the laws of this State shall have a clerk who is a resident of this State and shall keep, at some fixed place within the State, a clerk's office where shall be kept records of all stockholders' meetings. Such corporations shall file with said clerk, at least once a year on the date set for holding the annual meeting of stockholders, as at each special meeting of stockholders, a record showing a true and complete list of all stockholders, their residences and the amount of stock held by each. Such record or a duly proved copy thereof shall be competent evidence in any court of this State to prove who are stockholders in such corporation and the amount of stock held by each stockholder. Such records and list of stockholders shall be open at all reasonable hours to the inspection of any person who is and shall have been a stockholder of record in such corporation for at least 6 months immediately preceding his demand, or who is the actual owner, free from encumbrance, of 5% of all the outstanding shares of the corporation, provided

such person shall certify in writing to the clerk that such inspection shall not be for the purpose of communicating with stockholders in the interest of a business or object other than the business of the corporation, and that such stockholder or other holder has not within 5 years sold or offered for sale any list of stockholders of such corporation or any other corporation, or aided or abetted any person in procuring any stock list for such purpose; and provided that any of the foregoing requirements may be waived by vote of the directors of the corporation; and such person may take copies and minutes therefrom of such parts as concern their interests and have them produced in court on trial of an action in which such person is interested. The above provisions as to list of stockholders shall not apply to any corporation doing business in this State and having a treasurer's office at some fixed place in the State where a stockbook is kept giving the names, residences and amount of stock of each stockholder.

R.S.1954, c. 53, § 34; 1963, c. 143.

§ 374. Preventing use of records and books

Any officer or member of a corporation, who prevents access to and use of the records and books as provided in section 373, is liable for all damages occasioned thereby, in a civil action.

R.S.1954, c. 53, § 35; 1961, c. 317, § 136.

§ 375. Certificate of election of clerk; attested copy evidence

Whenever there is a change in the office of clerk of a corporation, the clerk shall, within 20 days after the acceptance of the office, file a certificate of his election in the registry of deeds in the county or district where the corporation is located or where it has a place of business or a general agent. An attested copy of such certificate shall be sufficient evidence that he is clerk, for service of process upon the corporation, until another certificate has been filed.

R.S.1954, c. 53, § 36.

§ 376. Resignation of clerk

The clerk of any corporation may resign his office as clerk by filing his resignation with the register of deeds in the county where the certificate of his election was filed. If no such certificate of election was filed, then his resignation may be filed with the register of deeds in the county where such certificate of election ought, according to law, to have been filed. Said resignation

shall take effect from and after the time of the receipt of the same by such register of deeds.

R.S.1954, c. 53, § 37.

§ 377. Neglect to publish statement

If any officer of a corporation, charged by law with the duty of making and causing to be published any statement in regard to such corporation, neglects to do so, such officer, in addition to penalties already provided, forfeits \$500 to the prosecutor, to be recovered in a civil action.

R.S.1954, c. 53, § 38; 1961, c. 317, § 137.

§ 378. Dividends; limitation on payment

Dividends of profit may be made by the directors, but the capital shall not thereby be reduced until all debts due from the corporation are paid. Any officer or member, who votes or aids to make a dividend in violation hereof, shall be punished by a fine of not more than \$2,000 and by imprisonment for less than one year. All sums received for such dividends may be recovered by any creditor of the corporation in a civil action.

R.S.1954, c. 53, § 39; 1961, c. 317, § 138.

§ 379. Unclaimed dividends

Whenever dividends have been declared and set aside by a corporation and the stockholders entitled thereto cannot be located and said dividends have remained unpaid for a period of 5 years from the time said dividend was declared, then said corporation may pay the dividend to the Treasurer of State to be held by him for said stockholder in the same manner and under the same conditions as in the case of dissolution.

R.S.1954, c. 53, § 40.

§ 380. Wasting assets corporations

Subject to any restrictions contained in its certificate of organization, the directors of any corporation engaged in the exploitation of wasting assets may determine the net profits derived from the exploitation of such wasting assets without taking into consideration the depletion of such assets resulting from lapse of time or from necessary consumption of such assets incidental to their exploitation.

R.S.1954, c. 53, § 138.