

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 2
Titles 11 to 13



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 17

DISSOLUTION AND TERMINATION

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§ 541. Existence after charter expires

Corporations, whose charters expire or are otherwise terminated, have a corporate existence for 3 years thereafter to prosecute and defend suits, to settle and close their concerns, to dispose of their property, and to divide their capitals.

R.S.1954, c. 53, § 103.

§ 542. Judgment of dissolution and injunction against continuing business

1. Judgment of dissolution. The Superior Court may, if equity so requires, enter judgment dissolving a corporation:

A. Whenever it is made to appear in a civil action brought by any creditor or stockholder, that

(1) The corporation is insolvent or is in imminent danger of insolvency, or

(2) Through fraud, neglect, gross mismanagement of its affairs, attachment, litigation or otherwise, its estate and effects are in danger of being wasted or lost, or

(3) It has ceased to do business, or

(4) Its charter has expired or been forfeited, or

B. Whenever it is made to appear in a civil action brought by any stockholder of a corporation organized under the general laws and having no more than 10 stockholders that, notwithstanding the fact that the corporation is solvent or earning profits in the conduct of its business,

(1) The voting stock is evenly divided into 2 independent ownerships, interests or factions, and the number of directors is even and equally divided respecting the management of the corporation with $\frac{1}{2}$ of the stock favoring the course advocated by $\frac{1}{2}$ of the directors and the other $\frac{1}{2}$ of the stock favoring the course of the other $\frac{1}{2}$ of the directors, or

(2) The number of directors is uneven, but the 2 factions of the ownership are unable to agree on or elect successor directors and the old directors are holding over, or

(3) The corporation is otherwise deadlocked in its management.

2. Where action brought; injunctions and restraining orders. The action shall be brought in the county in which the corporation has an established place of business or in which it held its last stockholders' meeting. At any time during the pendency of the action and in aid of judgment the court may, if it finds that sufficient cause exists, issue preliminary and permanent injunctions and temporary restraining orders, restraining said corporation, its officers and agents from receiving any moneys, paying any debts, selling or transferring any assets of the corporation or exercising any of its privileges or franchises until further order.

R.S.1954, c. 53, § 104; 1961, c. 317, § 146; c. 329; c. 417, § 137.

§ 543. Receivers; attachments dissolved; distribution of assets; priorities

At any time during the pendency of the action authorized by section 542 or in aid of any judgment entered in the action, the court may appoint one or more receivers to wind up the affairs of the corporation, who shall be duly sworn, and give bond in such sum and upon such conditions as the court shall determine and shall at all times be subject to the direction and control of the court, which may at any time remove any such receiver and ap-

point another in his place. All attachments, made within 4 months before the commencement of any action under section 542, subsection 1, paragraph A, shall thereupon be dissolved. The distribution of the assets of any insolvent corporation shall be subject to the same priorities of indebtedness as specified in the National Bankruptcy Act of 1898 and amendments thereof.

R.S.1954, c. 53, § 105; 1961, c. 317, § 147; c. 417, § 138.

§ 544. Authority of receiver; to report to court

A receiver appointed under section 543 shall have power to institute or defend any action in his own name as receiver, to demand, collect and receive all property and assets of said corporation, to sell, transfer or otherwise convert the same into cash and to conduct and carry on the business of said corporation, as ordered by the court, if it appears for the best interests of all concerned. He shall report to the court at least as often as every 6 months a statement of all the assets and liabilities of said corporation, and from time to time shall distribute the assets of said corporation as provided in section 548.

R.S.1954, c. 53, § 106; 1961, c. 317, § 148; c. 417, § 139.

§ 545. Presentation of claims

In any action under section 542, subsection 1, paragraph A, the court shall limit a time, not less than 4 months, of which order notice shall be given, within which all claims against said corporation shall be presented, and make such further orders for the manner of hearing and proving such claims as may be just and proper.

R.S.1954, c. 53, § 107; 1961, c. 417, § 140.

§ 546. Sale of property and franchises; receiver may accept claims in payment

In any action under section 542, the court may in its discretion, in lieu of entering judgment dissolving the corporation, order the sale of its property and franchises. The purchaser thereof shall succeed to all the rights and privileges of such corporation and may reorganize the same under the direction of the court. At any sale of such property at public auction, the court may, in its discretion, authorize payment in the form of credit for duly allowed claims against such corporation, at a proper valuation.

R.S.1954, c. 53, § 108; 1961, c. 417, § 141.

§ 547. Jurisdiction

In any action under section 542, the court may make such orders and decrees as equity may require.

R.S.1954, c. 53, § 109; 1961, c. 317, § 149; c. 417, § 142.

§ 548. Distribution of assets

The debts of any corporation dissolved under section 542 shall be paid in full when the funds are sufficient; when not, ratably to those creditors who prove their debts as the law provides or as the court directs. Any balance remaining shall be distributed among the stockholders or their legal representatives in proportion to their interests.

R.S.1954, c. 53, § 110; 1961, c. 417, § 143.

§ 549. Equitable relief; no liabilities, no trustees

Except where otherwise provided by statute, whenever at any meeting of its stockholders, legally called therefor, the stockholders vote to dissolve such corporation, any officer, stockholder or creditor of the corporation may commence a civil action against the corporation seeking the dissolution thereof. The action shall be brought in the county in which the corporation has an established place of business or in which it held its last stockholders' meeting. Notice of the action shall be given by the clerk of courts to the Attorney General and such notice shall be given to such others as may be ordered by the court. Upon proof that there are no existing liabilities against said corporation and no existing assets thereof requiring distribution among the stockholders, the court may enter judgment dissolving the corporation without the appointment of trustees or receivers.

R.S.1954, c. 53, § 111; 1961, c. 317, § 150; c. 417, § 144.

§ 550. Jurisdiction; collection and distribution of assets; fees

In any action under section 549, the court may appoint receivers, issue injunctions and pass interlocutory decrees and orders according to the usual course of civil actions in which equitable relief is sought; and shall, upon dissolving said corporation or upon terminating its charter, if there are existing liabilities against the corporation or there are existing assets thereof requiring distribution among the stockholders, appoint one or more trustees, who shall have all the powers conferred upon corpora-

tions and similar trustees by sections 456, 541 and 548 or by any other statute, with such special powers as may be given them by said court. Notwithstanding the appointment of such trustees, said court may superintend the collection and distribution of the assets of said corporation and may retain said action for that purpose.

The court may from time to time allow the trustee or trustees such fees and expenses as it may deem sufficient, said fees and expenses to be paid from the assets in the hands of the trustee or trustees then held for distribution to the stockholders. Subsequent distribution to stockholders shall be reduced proportionately. Whenever the stockholders are unknown, or fail or refuse to accept their distribution or their whereabouts cannot be ascertained by reasonable diligence, said trustee or trustees may file a petition with the court setting forth the names of the stockholders, their last known addresses and the number of shares held by said stockholders. The court may thereupon order the trustee or trustees, after payment of all their expenses and fees, to pay over the funds in their hands distributable to said stockholders to the Treasurer of State, together with a statement giving the names of such stockholders, the number of shares held thereby, the amount due each, the same to be held in trust for a period of 20 years for payment to the person or persons establishing a legal right thereto. Any claimant to said funds shall make application within said 20-year period to the Superior Court which, if satisfied as to the claimant's legal right to the fund, shall issue an order directing the Treasurer of State to pay said fund to the claimant and said fund shall be paid as directed. At the end of said 20-year period, any funds remaining in the State Treasury shall escheat to the State. Any income earned on such funds shall be paid into the General Fund as compensation for administration.

R.S.1954, c. 53, § 112; 1959, c. 51; 1961, c. 317, § 151; c. 417, § 145.

§ 551. No relief from liability

Nothing in sections 549 and 550 relieves any officer, shareholder or other person from any liability except as provided therein.

R.S.1954, c. 53, § 113.

§ 552. Capital not divided until debts paid

Corporations not created for literary, benevolent or banking purposes shall not so divide any of their corporate property as to reduce their stock below its par value until all debts are paid and then only for the purpose of closing their concerns.

R.S.1954, c. 53, § 114.

§ 553. Judgment creditor may file request for equitable relief

When such a corporation has unlawfully made a division of any of its property, or has property which cannot be attached or is not by law attachable, any judgment creditor may file a complaint seeking equitable relief in the Superior Court, setting forth the facts and the names of such persons as are alleged to have possession of any of such property or choses in action, either before or after division. Names of defendants may be struck out or added by leave of court; costs awarded at discretion and service made on the defendants named, as in other civil actions in which equitable relief is sought. They shall, in answer thereto, disclose on oath all facts within their knowledge relating to such property in their hands or received by a division among stockholders. When either of them has the custody of the records of the corporation, he shall produce them and make extracts therefrom and annex them to his answer, as the court directs.

R.S.1954, c. 53, § 115; 1961, c. 317, § 152.

§ 554. Proceedings; trial and decree

The court shall determine, with or without a jury, whether the allegations in the complaint are sustained, and it may decree that any such property shall be paid to such creditor in satisfaction of his judgment and cause such decree to be enforced as in civil actions in which equitable relief is sought. Any question arising may, at the election of either party, be submitted to the decision of a jury under the direction of the court.

R.S.1954, c. 53, § 116; 1961, c. 317, § 153.

§ 555. Decree of dissolution filed with Secretary of State

A copy of every decree or judgment dissolving a corporation or forfeiting its charter shall be forthwith filed by the clerk of the court in the office of the Secretary of State and there recorded.

R.S.1954, c. 53, § 117.

§ 556. Estate vests in shareholders

When a corporation is dissolved, its real and personal estate is vested in the persons who were at the time shareholders, as tenants in common according to their interests.

R.S.1954, c. 53, § 118.

§ 557. Taxes to be paid before dissolution

No corporation organized under any law of this State shall be dissolved by the action of the stockholders or by the decree of any court until all taxes and interest and penalties imposed upon said corporation in accordance with Title 36, chapters 211 to 225 have been fully paid or the State Tax Assessor finds that there are no funds from which payment can be made. No certificate of dissolution shall be issued by the Secretary of State and no decree of dissolution shall be signed by any court, as the case may be, without a certificate of the State Tax Assessor evidencing the payment by the corporation to be dissolved of all taxes, interest and penalties imposed in accordance with Title 36, chapters 211 to 225, or evidencing a finding that there are no funds from which payment can be made.

R.S.1954, c. 17, § 31; 1957, c. 77.