

MAINE STATE LEGISLATURE

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**CHAPTER 13
DEALERS IN SECURITIES**

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SUBCHAPTER I

GENERAL PROVISIONS

- Sec.**
- 751. Definitions.
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 - 753. Appeals.
 - 754. Penalties; injunctions.

§ 751. Definitions

As used in this chapter the term “dealer” shall mean any individual, partnership, association or corporation engaging in the business of selling or offering for sale securities, except to, or through the medium of, or as agent or salesman of, a registered dealer; but sales made by, or in behalf of, a vendor in the ordinary course of bona fide personal investment, or change of investment, shall not constitute such vendor, or the agent of such vendor, if not otherwise engaged either permanently or temporarily in selling securities, a dealer in securities.

The term “securities” shall include all stocks, bonds, debentures or certificates of participation, all ship shares, all documents of title and certificates of interest in any profit-sharing agreement, or in any oil, gas or mining lease, royalty, right or interest, or in the title to or any profits or earnings from land or other property situated outside of Maine, and all other forms of securities, except that it shall not be held to include commercial paper or other evidence of debt running not more than 9 months, or notes secured by mortgage of real estate in this State, or the shares of loan and building associations organized under the laws of this State. The term “securities” shall include documents of title to and certificates of interest in real estate, including cemetery lots, and personal estate when the sale and purchase thereof is accompanied by or connected in any manner with any contract, agree-

ment or conditions, other than a policy of title insurance issued by a company authorized to do a title insurance business in this State, under the terms of which the purchaser is insured, guaranteed or agreed to be protected against financial loss, or is promised financial gain.

Persons regularly employed by public utilities whose securities are authorized by the Public Utilities Commission, and by corporations whose securities are legal for purchase by savings banks under the statutes of any New England state, shall not be deemed security dealers, agents or salesmen if the occasional sale by such employee of securities issued by the employer utility or corporation, or issued by a corporation operating in Maine and owning or controlling such employer utility or corporation, is only incident to, and not a part of the usual duties of such employment.

R.S.1954, c. 59, § 231.

§ 752. Service of notices

Notice of any requirement or decision of the Bank Commissioner shall be sufficient if sent by mail addressed to the dealer, agent or salesman, as the case may be, at the address designated in the application for registration.

R.S.1954, c. 59, § 238.

§ 753. Appeals

Appeals may be taken by any person aggrieved by any decision of the Bank Commissioner under this chapter to the Superior Court, by filing a complaint with that court, stating the decision complained of. No such appeal from a refusal to grant registration shall lie until after formal hearing, which formal hearing the Bank Commissioner in his discretion may waive for the purpose of expediting the appeal. Upon such complaint, citation shall be issued to the commissioner, who shall answer to the complaint, stating therein his reasons for the decision. The court may, in its discretion, after hearing the commissioner or his representative, suspend the order of the commissioner, pending the determination of the complaint upon its merits, and may, after final hearing thereon, make such decree in connection with the matter complained of as justice may require. The court shall make provision for summary hearing and determination of such complaints so far as in its discretion seems desirable.

R.S.1954, c. 59, § 239; 1961, c. 317, § 177.

§ 754. Penalties; injunctions

Any dealer or any person violating any provision of this chapter, or knowingly filing with the Bank Commissioner or furnishing to him any false or misleading statements or information, shall be punished upon conviction thereof by a fine of not more than \$1,000 or by imprisonment for not more than 60 days, or by both. The District Court shall have original and concurrent jurisdiction with the Superior Court. The foregoing penalties shall be in addition to, and not a substitute for, any civil or criminal liability now or hereafter existing. Jurisdiction is conferred upon the Superior Court to enjoin, upon a complaint filed by the Bank Commissioner or any party in interest, any violation or threatened violation of any of the provisions of this chapter.

R.S.1954, c. 59, § 240; 1961, c. 317, § 178; 1963, c. 402, § 96.

SUBCHAPTER II**BANK COMMISSIONER**

Sec.

- 801. Assistant commissioner; examiners.
- 802. List of dealers published.
- 803. List of securities; statement of assets and earnings.
- 804. Information by Bank Commissioner to advisory committee.
- 805. Revocation; dealer's registration.
- 806. —Agent's registration.

§ 801. Assistant commissioner; examiners

The Bank Commissioner is authorized to appoint, subject to the Personnel Law, an assistant commissioner and one or more examiners who shall, under his directions, have charge of the enforcement of this chapter and make any necessary investigations thereunder. The salaries and traveling expenses of the assistant commissioner and examiners and all expenses of administration and enforcement of this chapter shall be paid out of such amounts as the Legislature may appropriate.

R.S.1954, c. 59, § 241.

§ 802. List of dealers published

The Bank Commissioner shall, at least twice during each year, publish in the state paper a list of the then registered dealers in securities, and of their registered agents or salesmen, and shall at any time, on request by mail or otherwise, inform any

inquirer as to whether or not any individual, partnership, corporation or association is registered either as dealer, agent or salesman.

R.S.1954, c. 59, § 233.

§ 803. List of securities; statement of assets and earnings

The Bank Commissioner may at any time require a dealer in securities to file with him a list of the securities which he has offered for sale or advertised within the preceding 6 months, or which he is at the time offering for sale or advertising, or any portion thereof; and may require the filing of statements of assets and earnings, or any other facts he may deem pertinent in relation to any of the securities offered or to be offered by the dealer, or the associations or corporations issuing them; and may require the filing of copies or any or all printed or otherwise re-duplicated circulars or printed advertisements relating to securities which the dealer has within 6 months offered for sale or which the dealer shall thereafter offer for sale. Thereupon, unless satisfied that all such offerings of the dealer have been and are to be made honestly and in good faith, and with disclosure of pertinent facts sufficient to enable intending purchasers to form a judgment of the nature and value of the securities, and without intent to deceive or defraud, and that such securities will not work a fraud upon the purchasers thereof, he may prohibit the dealer from selling or offering the securities, or any of them, or in any way advertising them.

R.S.1954, c. 59, § 235.

§ 804. Information by Bank Commissioner to advisory committee

Information derived by or communicated to the Bank Commissioner, deputy bank commissioner or any examiner or employee of the department in the course of official duty may be disclosed by the commissioner:

1. **Advisory committee.** To an advisory committee to be made up of not more than 5 officials or directors, or both, of firms which are registered dealers in securities chosen by the Maine Investment Dealers Association, so far as such information may relate to the conditions, policies and practices of securities dealers and salesmen under his supervision and in such manner and to such extent as in the judgment of the commissioner will tend to assist him in the discharge of his obligations under this chapter.

Any information so communicated to such advisory committee shall be held by each member thereof in strict confidence.

1961, c. 93.

§ 805. Revocation; dealer's registration

The Bank Commissioner may, unless furnished with satisfactory evidence as provided in section 803, or in case of violation of any provision of this chapter or in case of dishonest, deceitful or fraudulent conduct on the part of the dealer in securities in connection with the carrying on of the business, revoke the dealer's registration; and may, having reasonable cause to believe that the dealer may have been guilty of violation of said chapter, or of dishonest, deceitful or fraudulent conduct in connection with the carrying on of the business, suspend the dealer's registration until satisfied to the contrary. In either case, the dealer shall not be regarded as registered under the provisions hereof until restored to registration by the said commissioner, either on his own initiative or upon order of court as provided.

The revocation or suspension of the dealer's registration shall constitute a revocation or suspension of the registration of any agent or salesman of the dealer.

R.S.1954, c. 59, § 236.

§ 806. —Agent's registration

The Bank Commissioner may, in case of violation of any provision of this chapter or in case of dishonest, deceitful or fraudulent conduct on the part of any agent or salesman in connection with the business, revoke the agent's or salesman's registration; and may, having reasonable cause to believe that the agent or salesman may have been guilty of violation of any of the provisions of said chapter, or of dishonest, deceitful or fraudulent conduct in connection with the business, suspend the agent's or salesman's registration until satisfied to the contrary. In either case, the agent or salesman shall not be regarded as registered under the provisions hereof until restored to registration by the said commissioner, either on his own initiative or upon order of court as provided.

In case of suspension or revocation of registration, all certificates shall at once be surrendered to the commissioner upon his request.

R.S.1954, c. 59, § 237.

SUBCHAPTER III

REGISTRATION

Sec.

- 851. Registration required.
- 852. Application; nonresidents to file power of attorney; notice and proceedings; certificates.
- 853. Fees.
- 854. Expiration of registration.
- 855. Certificate to be carried and shown.
- 856. Agents and salesmen.

§ 851. Registration required

No dealer in securities shall in this State, by direct solicitation or through agents or salesmen, or by letter, circular or advertising, sell, offer for sale or invite offers for or inquiries about securities, unless registered as a dealer under this chapter. No salesman or agent shall in this State, in behalf of any dealer, sell, offer for sale or invite offers for or inquiries about securities, unless registered as a salesman or agent of such dealer under this chapter.

R.S.1954, c. 59, § 228.

§ 852. Application; nonresidents to file power of attorney; notice and proceedings; certificates

Any dealer in securities desiring registration shall file written application therefor with the Bank Commissioner, which shall be in such form as may be prescribed by the said commissioner, and shall state the principal place of business, the name or style of doing business and the address of the dealer, the names, residences and business addresses of all persons interested in the business as principals, officers, directors or managing agents, specifying as to each his capacity and title, and the length of time during which the dealer has been engaged in the business. Each application shall be accompanied by certificates or other evidence of the dealer's good repute and, if required by the said commissioner, a copy of the securities to be sold, a statement in detail of the assets and liabilities of the issuer of such securities, a statement in such form as the commissioner may prescribe of the general affairs of the dealer and issuer, copies of any mortgage or instrument creating a lien by which such securities are secured, a full statement of the earnings and expenses of each issuer

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for 3 years prior to the filing of the application, a copy of any contract to underwrite the securities to be offered for sale, the names and addresses of all persons holding 10% or more of the capital stock of the issuer, a statement in detail of the plan on which the business of the dealer is to be conducted, and such other information as the commissioner may deem necessary in considering the application.

Every nonresident shall file a power of attorney, irrevocable, properly authorized, and with satisfactory certificates or other evidence of the authorization, appointing the commissioner agent for the service of legal process upon the dealer in any actions in the courts of this State, based upon or arising in connection with any sale of, attempt to sell, or advertising of securities in this State, or any violation of this chapter.

Upon the filing of the application, the Bank Commissioner shall forthwith give notice of the fact and date of such application, and of the name, principal place of business and address of the dealer, by advertisement inserted once in the state paper, and once in a newspaper of general circulation where the dealer's place of business is located, if it is elsewhere in this State than in the City of Augusta. The registration certificates shall not be issued before the expiration of 2 weeks from the last publication. Any person may, within such period of 2 weeks, file objection to the proposed registration.

If the Bank Commissioner is satisfied that the dealer is of good repute, and that the proposed plan of business of the dealer is not unfair, unjust or inequitable, and that the dealer intends to honestly and fairly conduct his business, with disclosure of pertinent facts sufficient to enable intending purchasers to form a judgment of the nature and value of the securities, and without intent to deceive or defraud, and that the securities that he proposes to issue or sell are not such as in his opinion will work a fraud upon the purchasers thereof, he shall register the dealer unless objection to such registration shall be filed with the commissioner within the period of 2 weeks succeeding the publication of the dealer's application.

If the Bank Commissioner is not so satisfied, or if, within the period of 2 weeks succeeding the publication, objection shall be made to the proposed registration, the commissioner shall give notice of either fact to the dealer, and upon request from the dealer shall fix a time and place for hearing, and at such hearing opportunity shall be given to said dealer, and to any other persons interested or objecting, to offer further evidence relating to

the dealer's application. If satisfied, as a result of such hearing, the commissioner shall thereupon register the dealer. Registration may be granted upon such reasonable conditions as may be imposed by the commissioner.

Before granting registration to any dealer, the Bank Commissioner shall require the filing with the department of a bond in favor of the State in such form and with such sureties as the commissioner may approve, or in lieu thereof, furnish proof satisfactory to said commissioner of said dealer's financial responsibility, such bond to be in an amount not exceeding \$10,000. Such bond shall be conditioned that the dealer or any licensed salesman of the dealer shall pay, satisfy and discharge any judgment or decree that may be rendered against him in a court of competent jurisdiction in an action brought by a purchaser of securities in which it shall be found or adjudged that such purchaser was defrauded in the sale of such securities. Any person claiming to have been damaged by fraudulent misrepresentations in the sale of any security by such dealer or salesman may maintain a civil action against the dealer or salesman making such fraudulent misrepresentations; or against both the dealer and salesman, where the salesman makes such fraudulent representations; and may join as parties defendant the sureties on the bonds. Such bond may be drawn to cover the original license or any renewal or renewals thereof, and the commissioner may, in his discretion, require a dealer to execute a bond in an amount not exceeding \$10,000 for each particular year's transactions. The commissioner may prescribe regulations respecting the qualifications of sureties, release of sureties, surrender of bonds, substitution of bonds and other matters relating to bonds.

Upon registration of any dealer, a registration certificate shall be issued stating the name, principal place of business and address of the dealer, the names, residences and business addresses of all persons interested in the business as principals, officers, directors or managing agents, and the fact that the dealer has been registered for the current calendar year as a dealer in securities. The certificate shall in other respects be in such form as the commissioner may determine, but shall state in bold type that the commissioner does not recommend and assumes no responsibility for securities offered by the dealer. Changes in the certificate, necessitated by changes in the personnel of a partnership or in the principals, officers, directors or managing agents of any dealer, may be made at any time upon written application to the commissioner, accompanied by statement of the facts necessitating the change. Upon the issue of

the amended certificates, the original certificate and the certified copies thereof outstanding shall be promptly surrendered to the commissioner.

Public utilities whose securities have been authorized by the Public Utilities Commission shall be registered as dealers in such securities upon written application and payment of the fee prescribed in section 853 without filing any data or information other than an affidavit showing the approval of such securities by the Public Utilities Commission. Said registration shall cover any further issue of securities of said public utilities authorized by the Public Utilities Commission during the period that said registration or renewal thereof is in force.

R.S.1954, c. 59, § 229; 1963, c. 414, § 55.

§ 853. Fees

Applicants for registration as dealer in securities, except in cases of renewal applications, shall pay to the Bank Commissioner, for the use of the State, filing fees of \$50 each. Dealers in securities shall pay to the Bank Commissioner, for the use of the State, fees as follows: For registration or renewal of registration of dealers in securities, \$50; for registration or renewal of registration of salesman or agent of dealers in securities, \$10 each; for certified copy of dealer's certificates, 50¢ each.

R.S.1954, c. 59, § 242.

§ 854. Expiration of registration

All registrations for a dealer in securities shall expire at the close of the calendar year, but new registrations for the succeeding year may be issued as of course upon written application of the dealer, and payment of the fee provided, without the filing of further statements or furnishing any further information, unless specifically requested by the Bank Commissioner. Applications for renewal of registration shall be made on or before the first day of March in each year, and if not so made, applications thereafter received shall be treated as, and be subject to the same fees provided for, original registrations.

R.S.1954, c. 59, § 232.

§ 855. Certificate to be carried and shown

Any dealer in securities may, and any person named in a registration certificate as provided may, in behalf of any dealer,

sell, offer for sale or invite offers for or inquiries about securities in this State, but shall at all times when so engaged carry with him the registration certificate or a copy thereof certified by the Bank Commissioner, which shall at any time be shown to any prospective customer upon request. No dealer, agent or salesman shall advertise publicly the fact of his registration or use such fact or the registration certificate in connection with any sale or effort to sell securities, except by statement of the fact or by exhibiting the certificate or a certified copy thereof.

R.S.1954, c. 59, § 234.

§ 856. Agents and salesmen

Upon written application by a registered dealer, the Bank Commissioner may register, as agents or salesmen of such dealer, such persons as the dealer may request. The application shall be in such form as the said commissioner may prescribe, and shall state the residences and addresses of the persons whose registration is requested. The said commissioner shall issue to each person so registered a registration certificate, stating his name, residence and address, the name, principal place of business and the address of the dealer, and the fact that he is registered for the current calendar year as agent or salesman, as the case may be, of the dealer. The certificate shall in other respects be in such form as the Bank Commissioner shall determine, but shall state in bold type that the said commissioner does not recommend or assume any responsibility for securities offered by the dealer or the dealer's agents or salesmen. Upon application by the dealer, the registration of any agent or salesman shall be canceled.

R.S.1954, c. 59, § 230.