

MAINE STATE LEGISLATURE

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Wm. F. Hill
DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1856.

PART SECOND.

Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

1856.

THIRTY-FIFTH LEGISLATURE.

HOUSE.

No. 26.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND FIFTY-SIX.

AN ACT to incorporate the Kennebunk Mutual Fire
Insurance Company.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECTION 1. That Joseph Dane, Jr., Nathaniel L.
2 Thompson, William L. Thompson, Alexander War-
3 ren, George W. Wallingford, Charles Thompson,
4 Isaac Furbish, Nathan Dane, Jr., Noah Nason, Joseph
5 Titcomb, Franklin N. Thompson, Horace Porter,
6 William Lord, Jr., William F. Lord, William Lord
7 and William Downing, and all other persons who may
8 become members of said company in the manner
9 herein prescribed, be, and they are hereby incorpo-

10 rated and made a body politic by the name of the
11 Kennebunk Mutual Fire Insurance Company, for the
12 purpose of insuring any description of property, real
13 or personal, against loss or damage by fire, whether
14 the same shall happen by accident, lightning, or any
15 other means, except the design of the insured, or by
16 the invasion of an enemy, or insurrection of the citi-
17 zens of this or any other of the United States; and
18 by that name may sue and be sued, plead and be im-
19 pleaded, appear, prosecute and defend in any court
20 of record or any other place whatever; may have
21 and use a common seal; may purchase and hold such
22 real and personal estate as may be necessary to effect
23 the object of their association, and the same may sell
24 and convey at pleasure; may make, establish and put
25 in execution such by-laws, ordinances and regula-
26 tions, not being contrary to the laws of this state, as
27 may seem necessary for their regulation and govern-
28 ment, and for the management of their affairs; and
29 do and execute all such acts and things as may be
30 necessary to carry into full effect the purposes in-
31 tended by this grant.

SECT. 2. All property, whether real or personal,
2 insured by said company, shall be divided into three
3 separate and distinct classes, and each class shall be

4 liable for its own losses. The premium notes of each
5 class of risks shall be holden and assessed to pay the
6 losses occurring in their respective classes, and not
7 each for the other; and the policy of each member
8 of the company shall designate with which class of
9 risks he is associated. The company shall open books
10 of account with each class of risks, and all business
11 receipts, disbursements, losses, assessments and ex-
12 penses shall be put to the several classes to which
13 they are applicable, and the general expenses of the
14 company which are not strictly applicable to either
15 class shall be apportioned to the several classes ac-
16 cording to the amount insured by each.

SECT. 3. All persons who shall at any time become
2 interested in said company, by insuring therein, and
3 also their respective heirs, executors, administrators
4 and assigns, continuing to be insured therein, as here-
5 inafter provided, shall be deemed and taken to be
6 members thereof during the terms mentioned in their
7 respective policies, and no longer, and shall at all
8 times be concluded and bound by the provisions of
9 this act.

SECT. 4. There shall be a meeting of said company
2 at Kennebunk, in said county of York, on the first

3 Tuesday of June annually, or on such other day as the
4 said company may hereafter determine ; at which
5 meeting shall be chosen by a major vote of the mem-
6 bers present, a board of directors, consisting of such
7 number, not less than seven, as the members present
8 may think expedient to elect, who shall continue in
9 office until others have been chosen and accepted the
10 trust in their stead. All vacancies happening in said
11 board may be filled by the remaining members until
12 the annual meeting ; and a majority of the whole
13 number shall constitute a quorum for the transaction
14 of business. Special meetings of the company may
15 be called by order of the directors, they giving such
16 notice thereof as they may deem proper ; or in such
17 other manner as the by-laws therefor may have pre-
18 scribed.

SECT. 5. The board of directors shall superintend
2 the concerns of said company, and shall have the
3 management of the funds and property thereof, and
4 of all matters and things thereunto belonging, not
5 otherwise provided for by said company. They shall
6 have power from time to time to appoint a secretary,
7 treasurer and such other officers, agents and assist-
8 ants as to them may seem necessary, and prescribe

9 their duties, fix their compensation, take such secu-
10 rity from them as they may deem necessary for the
11 faithful performance of their respective duties, and
12 may remove them at pleasure. They shall class the
13 property to be insured into three different classes, and
14 fix upon the different kinds of property to be em-
15 braced in each class ; which classes shall severally be
16 made as equal in regard to the risks as is practicable.
17 They shall determine the rates of insurance ; the
18 sum to be insured not exceeding three-fourths the
19 value of any building, and not more than two-thirds
20 the value of the personal property ; and the sum to
21 be deposited for the insurance thereof. They shall
22 order and direct the issuing of all policies of insur-
23 ance, the providing of books, stationery and other
24 things needful for the office of said company, and for
25 carrying on the affairs thereof ; and for the payment
26 of all losses which may have happened, and for ex-
27 penses incurred in transacting the concerns of said
28 company, may draw on the treasurer therefor, whose
29 acceptance shall be binding on said company ; and
30 said directors may hire money to pay any loss, when
31 payable, if the assessment made therefor shall not
32 have been collected in part or whole, or if they have

33 deemed it inexpedient to assess on account of the
34 smallness thereof, and the expense of its collection.
35 They shall elect one of their own number to act as
36 president, and may hold their meetings monthly and
37 oftener if necessary, and shall keep a record of their
38 proceedings.

SECT. 6. Every person who shall become a mem-
2 ber of said company by effecting insurance therein,
3 shall, before he receives his policy, deposit his
4 promissory note for such sum as shall have been de-
5 termined by the directors; a part, not exceeding
6 twenty-five per cent. of which note shall be immedi-
7 ately paid for the purpose of discharging the incidental
8 expenses of the institution, and creating a fund for
9 the payment of losses or other expenses; and the
10 remainder of said deposit note shall be payable in
11 part or whole at any time when the directors shall
12 deem the same requisite for the payment of losses or
13 other expenses; and at the expiration of the term of
14 insurance, the said note or such part of the same as
15 shall remain unpaid, after deducting all losses and
16 expenses accruing during said term, shall be relin-
17 quished and given up to the signer thereof.

SECT. 7. Every member of said company shall be

2 and hereby is bound and obliged to pay his proportion
3 of all losses and expenses happening and accruing in
4 and to the class in which his property is embraced;
5 and all buildings, and the land on which they stand,
6 and the property insured therein, shall be held by said
7 company as security for any deposit note which they
8 may hold of the member for whom they have insured;
9 and the policy of insurance to any member of said
10 company, upon his buildings or other property, shall
11 of itself create a lien upon the same for the sum of
12 any such deposit note and the cost which may accrue
13 on collecting the same; and such lien and the liability
14 of the assured therein, shall continue during the ex-
15 istence of the said policy, notwithstanding any transfer
16 or alienation.

SECT. 8. In case of any loss or damage by fire,
2 meaning as in section one, happening to any member
3 upon any property insured in and with said company,
4 of either class, the said member shall give notice
5 thereof in writing, to the directors or some one of
6 them, or to the secretary of said company, within
7 thirty days from the time such loss or damage may
8 have happened, under oath; and the directors, upon a

9 view of the same, or in any such other way as they
10 may deem proper, shall ascertain and determine the
11 amount of said loss or damage within three months
12 after the notice aforesaid; and if the party suffering
13 shall not be satisfied with the determination of the
14 directors, the question may be submitted to referees,
15 or the said party may bring an action against said
16 company for said loss or damage; and if upon trial of
17 said action, a greater sum shall be recovered than the
18 amount determined upon by the directors, the party
19 suffering shall have judgment therefor against said
20 company, with interest thereon from the time said loss
21 or damage happened, and the costs of suit; and if no
22 more shall be recovered than the amount aforesaid,
23 the said party shall recover the amount of the verdict
24 less the costs of said company, in case their counsel
25 shall not insist upon their lien, which costs shall be
26 deducted therefrom, but if the lien be insisted upon,
27 the said company shall recover their costs; *provided,*
28 *however,* that the judgment last mentioned shall in no-
29 wise effect the claim of said suffering party to the
30 amount of said loss or damage, as determined by the
31 directors as aforesaid; *and provided, also,* that execu-

32 tion shall not issue on any judgment against said
33 company until after the expiration of three months
34 from the rendition thereof.

SECT. 9. All assessments shall be determined by the
2 directors, and the sum to be paid by each member
3 shall always be in proportion to the original amount
4 of his deposit note of the class in which his property
5 is embraced, and shall be paid to the treasurer within
6 thirty days next after notice of such assessment shall
7 have been published; and if any member of said com-
8 pany or his legal representative shall for the space of
9 thirty days after notice, neglect to pay the sum as-
10 sessed upon his note, in conformity to this act, the
11 directors may sue for and recover the whole amount
12 of his deposit note with costs of suit; and the money
13 thus collected shall remain in the treasury of said
14 company subject to the payment of such losses and
15 expenses as have or may hereafter accrue, and the
16 balance, if any remain, shall be returned to the party
17 from whom it was collected, on demand, within thirty
18 days from the expiration of the policy.

SECT. 10. If it shall ever happen that the whole
2 amount of deposit notes of either of the classes
3 aforesaid shall be insufficient to pay the losses occa-

4 sioned by fire as aforesaid ; in such case, the sufferers
5 insured by said company shall receive towards making
6 good their respective losses a proportionate dividend
7 of the whole amount of said notes, according to the
8 sums by them insured, of their respective classes.

SECT. 11. Said company may make insurance for
2 any term not exceeding six years ; and any policy of
3 insurance by said company, signed by the president
4 and countersigned by the secretary, shall be deemed
5 valid and binding on said company in all cases where
6 the insured has a title in fee simple unencumbered to
7 the building, buildings or property insured, and to the
8 land covered by said buildings ; but if the assured has
9 a less estate therein, or if the property or premises
10 are encumbered, policies shall be void unless the true
11 title of the assured, and the encumbrances on the
12 same be expressed therein.

SECT. 12. The directors shall settle and pay all
2 losses within three months after they shall have been
3 notified as aforesaid unless they shall judge it proper
4 to replace the property destroyed or repair the dama-
5 ges sustained, which they are hereby empowered to
6 do, in convenient time ; provided they do not lay out
7 and expend in buildings or repairs more than three-

8 fourths the amount insured in case of a total loss ;
9 and the insured shall contribute the balance, but no
10 allowance is to be made in estimating damages in any
11 case for gilding, historical or landscape painting,
12 stucco or carved works, nor are the same to be re-
13 placed if destroyed by fire.

SECT. 13. When any property insured by this com-
2 pany shall be alienated, the policy thereupon shall be
3 void and shall be surrendered to the directors of said
4 company to be canceled ; and upon said surrender
5 the assured shall be entitled to receive his note upon
6 the payment of his proportion of all expenses and
7 losses that have accrued prior to such surrender.

SECT. 14. Alterations or enlargements may be
2 made to buildings insured by this company, or con-
3 taining property insured thereby, provided the assured
4 shall give notice thereof to the secretary, and pay
5 such additional premium as may be required; if any ;
6 and in default of giving such notice of any alteration
7 or enlargement effecting the risk, the policy on such
8 building or property shall be void.

SECT. 15. If insurance on any house or building
2 or other property shall be and subsist in said company
3 and in any other company or from and by any other

4 person or persons, at the same time, the insurance
5 made in and by this company shall be deemed and
6 become void unless such double insurance subsist with
7 the consent of the directors signified by endorsement
8 on the back of the policy, signed by the secretary
9 and president.

SECT. 16. The said Joseph Dane, jr., Nathaniel L.
2 Thompson, Wm. L. Thompson, Alexander Warren,
3 Geo. W. Wallingford, Charles Thompson, Isaac Fur-
4 bish, Nathan Dane, jr., Noah Nason, Joseph Titcomb,
5 Franklin N. Thompson, Horace Porter, Wm. Lord,
6 Jr., William F. Lord, William Lord and William
7 Downing, or either three of them, may call the first
8 meeting of the members of said company, at any suit-
9 able time and place, in Kennebunk aforesaid, by
10 public advertisement in said town and two of the
11 adjoining towns, or by an advertisement in either two
12 of the newspapers printed in said county of York,
13 giving at least ten days notice of the time, place and
14 design of said meeting, for the purpose of choosing
15 the first board of directors, of making and establishing
16 by-laws, and of transacting any business necessary and
17 proper to carry into effect the provisions and inten-
18 tions of this act; *provided, however,* that no policy

19 shall be issued upon either of the three classes of
20 property, until application shall have been made for
21 twenty-five thousand dollars upon such class.

SECT. 17. The directors may cancel any policy,
2 whenever, in their opinion, the interests of the com-
3 pany may require, upon refunding to the assured the
4 amount paid in by him, less his proportion of losses
5 and expenses accrued.

SECT. 18. This act shall be subject to all the pro-
2 visions and restrictions of the laws of this state in
3 relation to corporations.

SECT. 19. The legislature may, at any time, alter,
2 amend, or repeal this act, whenever, in their opinion,
3 the public good may require it.

SECT. 20. This act shall take effect from and after
2 its approval by the governor.



STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
February 29, 1856. }

ORDERED, That the usual number of copies be printed.

WILLIAM L. PUTNAM, *Clerk pro tem.*