

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**



STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA

November 4, 1933

Hon. Thomas A. Cooper  
Bank Commissioner  
Augusta, Maine

Dear Mr. Cooper:

In response to your inquiry relative to the matter mentioned in letter from L. F. Leland, Deputy Commissioner of Banks in Massachusetts, I am pleased to inform you that I do not find any provision of our statute which prohibits a foreign trust company from acting in a fiduciary capacity in this state.

I do not find any provision of our statute which expressly provides for the granting to a foreign bank, authority to act in such fiduciary capacity. In the absence of such statutory prohibition it is my opinion that a foreign bank may act in a fiduciary capacity in this state.

Section 61 of R. S. Chapter 57 provides that trust and banking companies have the power to "Hold by grant, assignment, transfer, devise, or bequest, any real or personal property, or trust duly created, and to execute trusts of every description; and also to act as assignee, receiver, executor, administrator, conservator, or guardian.

Section 42 of R. S. Chapter 76 provides that,--

"No person residing out of the state shall be appointed an executor or administrator unless he shall have appointed an agent or attorney in the state. Such appointment shall be made in writing and shall give the name and address of the agent or attorney."



STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA      November 3, 1933

Hon. Thomas A. Cooper, Page 2.

Section 4 of R. S. Chapter 68 provides that,--

"No person residing out of the state shall be appointed a testamentary trustee unless he shall have appointed an agent or attorney in the state, etc.."

The above quoted sections comprise all of our statutory regulations upon the subject mentioned. As a matter of practice, however, it appears that foreign banks and trust companies, including those of Massachusetts, have in the past acted in a fiduciary capacity in this state, and that Maine Trust Companies and Banks have acted in a fiduciary capacity in Massachusetts.

Trusting that the foregoing will give you the required information, I am

Very truly yours,

Deputy Attorney General

SLF H