

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 635

S. P. 255

In Senate, February 8, 1967

Referred to Committee on Business Legislation. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator MacLeod of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Relating to Securities Dealers and Securities.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 32, § 750, additional. Title 32 of the Revised Statutes is amended by adding a new section 750, to read as follows:

§ 750. Title

This chapter shall be known and may be cited as "The Maine Securities Act."

Sec. 2. R. S., T. 32, § 751, amended. The first 2 paragraphs of section 751 of Title 32 of the Revised Statutes are amended to read as follows:

As used in this chapter the term "dealer" shall mean any ~~individual, partnership, association or corporation~~ **person** engaging in the business of selling or offering for sale securities, **other than the issuer of such securities, or individuals regularly employed by such issuer**, 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 **the business** of selling securities, a dealer in securities.

The term "issuer" shall mean every person who issues or proposes to issue a security.

The terms "offer" or "offer to sell" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

The term "person" shall mean an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government or a political subdivision of a government.

The terms "sale", "sell" or "sold" shall include every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.

The term "~~securities~~" "~~security~~" 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~~" "~~security~~" 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, agreement 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. The term "~~security~~" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or some other specified period.

Sec. 3. R. S., T. 32, § 754, amended. The first 2 sentences of section 754 of Title 32 of the Revised Statutes are amended to read as follows:

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~~ \$5,000 or by imprisonment for not more than ~~60 days~~ 3 years, or by both. ~~The District Court shall have original and concurrent jurisdiction with the Superior Court.~~

Sec. 4. R. S., T. 32, §§ 755 and 756, additional. Title 32 of the Revised Statutes is amended by adding 2 new sections, 755 and 756, to read as follows:

§ 755. Fraudulent and other prohibited practices

It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly:

1. Fraud. To employ any device, scheme or artifice to defraud;
2. Untrue statements. To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
3. Practice. To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

§ 756. Rules and regulations

The Bank Commissioner may from time to time make, amend and rescind such rules, regulations and forms as are necessary to carry out this chapter, including rules, regulations and forms governing registration statements, applications and reports, and defining any terms whether or not used in this chapter, insofar as the definitions are not inconsistent with this Act. Prior to making, amending or rescinding any rule, regulation or form, the Bank Commissioner shall, as far as practicable, publish and circulate to registered dealers notice of the intended action and afford interested persons an opportunity to submit suggestions orally or in writing. The Bank Commissioner shall cause the rules, regulations and forms and any changes therein to be printed in a suitable form, copies of which shall be available to any interested person upon request. All rules and regulations shall be published.

Sec. 5. R. S., T. 32, § 801, amended. Section 801 of Title 32 of the Revised Statutes is amended to read as follows:

§ 801. Director of Securities Division; examiners

The Bank Commissioner is authorized to appoint, subject to the Personnel Law, ~~an assistant commissioner~~ a **Director of the Securities Division** 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~~ **Director of the Securities Division** and examiners and all expenses of administration and enforcement of this chapter shall be paid out of such amounts as the Legislature may appropriate.

Sec. 6. R. S., T. 32, § 803, amended. The last sentence of section 803 of Title 32 of the Revised Statutes is amended to read as follows:

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 **or tend to 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.

Sec. 7. R. S., T. 32, § 804, repealed. Section 804 of Title 32 of the Revised Statutes is repealed.

Sec. 8. R. S., T. 32, § 852, amended. The last 2 sentences of the next to last paragraph of section 852 of Title 32 of the Revised Statutes are amended to read as follows:

~~Changes in the certificate, necessitated by Notice of changes in the personnel of a partnership or in the principals, officers, directors or managing agents of any dealer, may shall be made given 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~~

The commissioner shall be sent notice of the change not later than 30 days after the change.

Sec. 9. R. S., T. 32, § 856, amended. Section 856 of Title 32 of the Revised Statutes is amended to read as follows:

§ 856. Agents and salesmen, examinations

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 commissioner may by rule provide for an examination, which may be written or oral or both, to be taken by applicants or any class of applicants, except that no applicant shall be required to take an examination if he was registered as an agent or salesman of a dealer hereunder at any time during the calendar year preceding the date of the application, has passed prior to the date of the application an examination for brokers or salesmen required by the Federal Securities and Exchange Commission or the National Association of Securities Dealers and is a registered representative under the jurisdiction of such commission or such association at the date of such application, or was registered as an agent or salesman of a dealer under this Act on October 1, 1967. A \$5 examination fee in addition to all other fees may be charged to an applicant required to take an examination. Unless an applicant fails to pass such a written examination, ~~The~~ 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. **When an agent or salesman begins or terminates a connection with a broker-dealer, or begins or terminates those activities which make him an agent, the agent as well as the broker-dealer shall promptly notify the commissioner.****