

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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Legislative Document

No. 986

S. P. 327

In Senate, February 24, 1971

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Tanous of Penobscot.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT Clarifying the Laws Relating to Corporations Without Capital  
Stock.**

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

**Sec. 1. R. S., T. 13, § 934, repealed and replaced.** Section 934 of Title 13 of the Revised Statutes, as amended by section 13 of chapter 225 of the public laws of 1969, is repealed and the following enacted in place thereof:

**§ 934. Amendments**

In addition to any other method provided by law, a corporation organized without capital stock may change the number of its officers, directors, trustees or managing board, however designated, and, if not specially chartered, change its purposes by altering, abridging or enlarging the same, and make any other changes in its certificate of organization as originally filed or subsequently amended that may be desired, provided such changes would be proper to insert in an original certificate of organization. Such change shall be made by vote of a majority of those members with voting rights present at, or if the corporation shall have no members with voting rights, then by a majority vote of its whole board of directors, trustees or managing board, however designated, taken at any legal meeting, the notice of which meeting shall give notice of the proposed action. The procedures, including provisions as to fees, established in the law relating to corporations organized with capital stock as to the filing or recording of certificates, articles or other documents with the Secretary of State or in any other place in order to make effective changes in their certificates of organization or articles of incorporation shall apply to corporations organized without capital stock, except that such certificates, articles or other documents may be appropriately altered to

reflect the fact that the corporate action reflected therein is not taken by stockholders, and may be certified by the Attorney General and filed with the Secretary of State even though a change of purposes contained therein will result in such corporation becoming charitable in nature and thus exempt from taxation. Nothing contained in this section shall be taken to imply that certificates heretofore filed with the Secretary of State as to changes of purposes, provisions for distribution of assets in case of dissolution or liquidation or as to other changes in the certificates of organization of corporations organized without capital stock, whether by vote or other action of the members thereof or the directors, trustees or other managing board, however designated, are not properly filed or recorded or effective, and all such certificates heretofore filed with the Secretary of State, and the corporate action evidenced thereby, are hereby expressly validated.

Sec. 2. R. S., T. 13, § 937, additional. Title 13 of the Revised Statutes is amended by adding a new section 937 to read as follows:

#### § 937. Dissolution

Except as provided in section 938, any corporation organized without capital stock may be dissolved in the same manner and with the same effect as a corporation organized with capital stock, and the procedures governing the dissolution of corporations organized with capital stock shall apply to the dissolution of corporations organized without capital stock. Solely for the purposes of this section and the dissolution of a corporation organized without capital stock, each member with voting rights of such corporation, or if such corporation has no members with voting rights, each director, trustee or member of the managing board, however designated, shall be considered and deemed to be a stockholder holding one share of voting stock for the purposes of calling, noticing, conducting and holding meetings and voting thereat, and for the purpose of commencing or otherwise participating as a party in civil actions in respect of dissolution, but for no other purposes. In addition to other parties who may commence or participate in such civil actions as provided in the law relating to corporations organized with capital stock, the Attorney General may commence, or otherwise participate in, any civil action relating to the dissolution of any corporation organized without capital stock. Any certificate, articles or other documents required or permitted to be filed or recorded with the Secretary of State or in any other place by the laws relating to the dissolution of corporations organized with capital stock may be filed or recorded with the Secretary of State or in such other places by a corporation organized without capital stock or by any appropriate officer thereof, with such changes therein as may be appropriate or needful on account of such corporation not having capital stock or stockholders. A fee of \$5 shall be payable to the Secretary of State on account of the filing of each such certificate, articles or other document.

Sec. 3. R. S., T. 13, § 938, additional. Title 13 of the Revised Statutes is amended by adding a new section 938 to read as follows:

#### § 938. Distribution of assets

In case of the dissolution of a corporation organized without capital stock pursuant to section 937 or any other provision of law, the assets of the cor-

poration remaining after the payment of all of its debts shall be distributed in the manner and to the persons, firms, associations, corporations, trusts or other legal entities provided in its certificate of organization or any amendment thereto, provided that the assets of a charitable corporation which is dissolved shall not be devoted to other than chaitable purposes. In the case of the dissolution of a corporation organized without capital stock other than a charitable corporation, unless contrary provision is made in its certificate of organization or any amendment thereto, the assets of the corporation remaining after the payment of its debts shall be distributed equally to its members. No provision of law relating to the distribution of assets of corporations organized with capital stock shall have any application to the distribution of assets of corporations organized without capital stock.

#### STATEMENT OF FACT

The purpose of this bill is to clarify the laws relating to amendments to certificates of organization of nonstock corporations and to dissolution of non-stock corporations, which are now in a state of uncertainty.