

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 941

H. P. 679

House of Representatives, March 9, 1977

On motion of Ms. Clark of Freeport, referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Spencer of Standish.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Concerning Review of Corporate Certificates and Other Documents.

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

Sec. 1. 13 MRSA § 903, 3rd sentence, as last repealed and replaced by PL 1975, c. 487, § 3, is amended to read:

After it has been examined by the ~~Attorney General~~ **Secretary of State** and been by him certified to be properly drawn and signed and to be conformable to the Constitution and laws, it shall be recorded in the registry of deeds in the county where said corporation is located, in a book kept for that purpose.

Sec. 2. 13 MRSA § 903, last sentence, as last amended by PL 1975, c. 770, § 73, is further amended to read:

~~No fee shall be required by the Attorney General but the~~ **The** Secretary of State shall receive for filing such certificate or amendment thereto, a fee of \$5 in advance and registers of deeds shall receive for recording such certificate or amendment thereto, the fee of \$8.

Sec. 3. 13 MRSA § 934, last sentence, as last amended by PL 1971, c. 565, § 6, is further amended to read:

The procedures 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~~ **Secretary of State** 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.

Sec. 4. 13 MRSA § 961, 2nd sentence, is amended to read:

Such a consolidation may be effected by vote of the directors, trustee or managing board, however designated, of each of said corporations at a legal meeting thereof ratifying a proposed agreement of consolidation, which agreement shall then be submitted to the ~~Attorney General~~ **Secretary of State** for his certification as conformable to the laws of this State and when certified by him shall then be recorded in the registry of deeds in the county where the consolidated corporation is located and in the county or counties where each of the constituent corporations is located, and a copy thereof certified by the register of deeds shall be filed in the office of the Secretary of State.

Sec. 5. 13 MRSA § 981-A, 1st sentence, as enacted by PL 1967, c. 544, § 33, is amended to read:

Any nonprofit corporation, organized prior to the effective date of chapter 133 of the public laws of 1911, may present a certificate of such organization to the ~~Attorney General~~ **Secretary of State**, prepared by its officers of the date of such presentation, setting forth the date, place and purpose of the incorporation, its present location and officers, and if the ~~Attorney General~~ **Secretary of State** finds that such corporation was formed, by examination of the corporate records or other substantial evidence, whether or not with all the formalities now required in a certificate, and conformed to the law existing at the date of organization, he shall so certify, and the certificate so certified shall be recorded in the registry of deeds where the corporation is located and a copy thereof filed with ~~the Secretary of State~~ **him**, as provided for corporations under the present law; and if a certificate has heretofore been filed with the Secretary of State, as provided by chapter 192 of the public laws of 1897, the corporation may present such certificate or a copy thereof to the ~~Attorney General~~ **Secretary of State**.

Sec. 6. 13 MRSA § 982, 1st sentence, as last amended by PL 1973, c. 653, is further amended to read:

No charitable institution or association of a private or of a semipublic nature, incorporated by special Act of the Legislature or organized in conformity with section 901 after the 11th day of July, 1913, shall use the name of the State in its title without the approval of the ~~Attorney General~~ **Secretary of State**.

Sec. 7. 13 MRSA § 982, 2nd sentence, as enacted by PL 1973, c. 653, is amended to read:

The ~~Attorney General~~ **Secretary of State** shall grant such approval only if such institution or association performs functions of a state-wide nature or of benefit to the State as a whole, or, when the title requested includes the name of the State only in reference to a region of the State, only if such institution or association performs functions throughout the region or of benefit to the

region as a whole, and only if the title of such institution or association would not be the same as, or deceptively similar to, the name of any department, bureau or other agency of the State of Maine.

Sec. 8. 13 MRSA § 1824, 2nd, 3rd and 4th sentences, are amended to read:

Said certificate shall be presented to the ~~Attorney General~~ **Secretary of State** accompanied by a copy thereof or by a data sheet containing all of the information required. After said certificate has been examined by the ~~Attorney General~~ **Secretary of State**, and been by him certified to be properly drawn and signed and to be conformable to the Constitution and laws, it shall be recorded in the registry of deeds in the county where said corporation is located, in a book kept for that purpose, and within 60 days after the day of the meeting at which such corporation is organized, a copy thereof certified by such register shall be filed in the office of the Secretary of State, who shall enter the date of filing thereon, and on the original certificate to be kept by the corporation and shall record said copy in a book kept for that purpose. A fee of \$5 shall be paid to the ~~Attorney General~~ and Secretary of State ~~respectively~~, and a fee of \$8 shall be paid to registers of deeds ~~shall receive~~ for recording such certificate ~~a fee of \$5 and certifying copies thereof for filing with the Secretary of State.~~

Sec. 9. 13 MRSA § 1825, sub-§ 2, last sentence, is amended to read:

For filing or recording an amendment to the articles, the association shall pay to the registers of deeds a fee of \$5, and a fee of \$5 shall be paid to the ~~Attorney General~~ and Secretary of State ~~respectively~~.

Sec. 10. 13 MRSA § 1951, 2nd sentence, is amended to read:

Such a consolidation may be effected by a vote of the directors, trustees or managing board, however designated, of each of said associations at a legal meeting thereof ratifying a proposed agreement of consolidation and approved by the affirmative vote of $\frac{2}{3}$ of the members of each of said associations voting thereon at any regular meeting or at a special meeting called for the purpose, which agreement shall then be submitted to the ~~Attorney General~~ **Secretary of State** for his certification as conformable to the laws of this State and when certified by him shall then be recorded in the registry of deeds in the county where the consolidated association is located and in the county or counties where each of the constituent associations is located and a copy thereof certified by the register of deeds shall be filed in the office of the Secretary of State.

Sec. 11. 13-A MRSA § 1301, sub-§ 4, 1st sentence, is amended to read:

The ~~Attorney General~~ **Secretary of State**, upon application by any corporation and satisfactory proof that it has ceased to transact business and that it is not indebted to the State on account of franchise taxes, shall file a certificate of the fact ~~with the Secretary of State in his office~~ and shall give a duplicate certificate to the corporation.

STATEMENT OF FACT

The purpose of this bill is to make the Secretary of State solely responsible for the review and approval of certificates of incorporation, amendments to

certificates, corporate names and consolidations. At the present time both the Attorney General and Secretary of State review these items, causing unnecessary duplication of work and complexity in filing procedures. This legislation will eliminate this duplication of effort and will help simplify filing procedures in some cases. The Attorney General will continue to provide legal advice and assistance to the Secretary of State on these corporate matters when requested to do so.