

# 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)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES (Filing No. H-937)  
109TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to S.P. 792, L.D. 1990, Bill, "AN ACT to Amend the Probate Code."

Amend the Bill by inserting after the enacting clause the following:

'Sec. 1. 18 MRSA §§4161 - 4163, as repealed by PL 1979, c. 540, §24-C, are reenacted to read:

§4161. Authorization

A bank or trust company organized and doing business under the laws of any state or territory of the United States of America, including the District of Columbia, and a national bank, duly authorized so to act, may be appointed and may serve in this State as trustee, whether of a corporate or personal trust, executor, administrator, guardian, conservator or committee for an incompetent person, or in any other fiduciary capacity, whether the appointment is by will, deed, court order or decree, or otherwise, when and to the extent that the state, territory or district in which such bank or trust company is organized grants authority to serve in like fiduciary capacities to a bank or trust company organized and doing business under the laws of this State and authorized to serve in like fiduciary capacities.

§4162. Application

Before qualifying or serving in this State in any fiduciary capacity, as defined in section 4161, such bank or trust company shall file an application for authority with the Secretary of State in the same form and subject to the same fees as required by Title 13-A, chapter 12. Such application shall be accompanied

by a certificate, made within 90 days of filing, from the official having supervision of banks and trust companies where the bank was organized or is domiciled, indicating that it is duly authorized or presently existing, that it has authority to act in the fiduciary capacity for which it is qualifying and that such jurisdiction grants authority to serve in like fiduciary capacities to a bank or trust company organized under the laws of this State and authorized to serve in like fiduciary capacities. If the person supervising banks and trust companies cannot certify to reciprocity, it shall be done by the attorney general of its state of domicile. In addition, such application shall designate the Secretary of State as the person upon whom all notices and processes issued by or to any court of this State shall be served in any action or proceeding relating to any trust, estate or matter within this State in which such bank or trust company is acting in any fiduciary capacity with like effect as personal service on such bank or trust company, such designation shall be irrevocable so long as any such liability shall remain outstanding against such bank or trust company in this State. Upon receipt of such notice or process, the Secretary of State shall forthwith forward the same by registered mail to such bank or trust company at the address stated in the application.

§4163. Limitation

4162, 4163-A or this section

Sections 4161/ shall not be construed to prohibit, permit or affect in any other way the right of a bank or trust company, organized and doing business under the laws of any other state,

territory or district than Maine, including a national bank doing business in any other state, to establish in this State a place of business, branch office or agency for the conduct of business as a fiduciary.

Sec. 2. 18 MRSA §4163-A is enacted to read:

§4163-A. Corporation; application

Nothing in sections / <sup>4161 to 4163 or this section</sup> shall require any corporation to file an application pursuant to sections 4161 / <sup>to 4163 or this section</sup> if the corporation is deemed not to be doing business in this State under Title 13-A, section 1201 and Title 18-A, section 7-105.'

Further amend the Bill by renumbering the sections to read consecutively.

Statement of Fact

This amendment corrects an oversight in the Probate Code and allows foreign banks or trust companys to continue to undertake fiduciary activities in the State after the effective date of the Probate Code.