

MAINE STATE LEGISLATURE

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(New Draft of H.P. 381, L.D. 464)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 834

H.P. 680

House of Representatives, February 23, 1983

Reported by Representative Perkins from the Committee on Business
Legislation and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

AN ACT to Amend the Corporation Laws and
Laws Pertaining to Limited Partnerships.

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

Sec. 1. 13 MRSA §982, as amended by PL 1977, c.
592, §§9 and 10, is repealed.

Sec. 2. 13-B MRSA §301, sub-§1, as amended by PL
1979, c. 572, §§11 and 12, is further amended to
read:

1. Name. The corporate name:

A. Shall not contain any word or phrase which
indicates or implies that it is organized for any
purpose for which a corporation may not be organ-
ized under this Act;

1 B. Shall not be the same as, or deceptively
2 similar to, the name of any domestic business or
3 nonprofit corporation existing under the laws of
4 this State or any foreign business or nonprofit
5 corporation authorized to carry on activities in
6 this State, or a name the exclusive right to
7 which is, at the time, reserved in the manner
8 provided in this Act, or the name of a business
9 or nonprofit corporation which has in effect a
10 registration of its corporate name as provided in
11 this Act, unless ~~such~~ the other corporation exe-
12 cutes and files with the Secretary of State proof
13 of a resolution of its board of directors author-
14 izing the use of a similar name by the corpora-
15 tion seeking to use ~~such~~ that similar name; and

16 C. Shall not be the same as, or deceptively
17 similar to, any ~~trade mark or service~~ mark regis-
18 tered under Title 10, chapter 301-A; and

19 D. Shall not be the same as, or deceptively
20 similar to, the name of any department, bureau or
21 other agency of the State.

22 Sec. 3. 13-B MRSA §301, sub-§4 is enacted to
23 read:

24 4. Names of corporations suspended or
25 excused. Subsection 1, paragraph B shall not apply
26 to the name of any corporation, the charter of which
27 is suspended on and after the 3rd anniversary of the
28 suspension, or to the name of any corporation which
29 has been excused from filing biennial reports on or
30 after the 5th anniversary of that excuse.

31 Sec. 4. 13-B MRSA 1104, sub-§1, as enacted by PL
32 1977, c. 525, §13, is amended to read:

33 1. Certification provided. If voluntary dissolu-
34 tion proceedings have not been revoked, then when all
35 debts, liabilities and obligations of the corporation
36 have been paid and discharged, or adequate provision
37 has been made therefor, and all remaining property
38 and assets of the corporation have been distributed
39 as provided in paragraph D, articles of dissolution
40 shall be executed and delivered for filing as pro-
41 vided by sections 104 and 106 ~~and shall be accompa-~~

1 nied by a written statement from the Bureau of Taxa-
2 tion certifying that the corporation is not indebted
3 to the State for any taxes, and such articles shall
4 set forth:

5 A. The name of the corporation;

6 B. That the Secretary of State has previously
7 filed a statement of intent to dissolve the cor-
8 poration and the date on which such statement was
9 filed;

10 C. That all debts, obligations and liabilities
11 of the corporation have been paid and discharged
12 or that adequate provision has been made there-
13 for;

14 D. That all remaining property and assets of the
15 corporation have been distributed among its mem-
16 bers in accordance with their respective rights
17 and interests, or have been otherwise distributed
18 pursuant to the articles or bylaws of the corpo-
19 ration, provided that the assets of a corporation
20 whose purposes and activities have been primarily
21 charitable, religious, eleemosynary, benevolent
22 or educational shall be transferred or conveyed
23 only to one or more domestic or foreign corpora-
24 tions, societies or organizations engaged in ac-
25 tivities substantially similar to those of the
26 dissolving or liquidating corporation; and

27 E. That there are no suits pending against the
28 corporation in any court or that adequate provi-
29 sion has been made for the satisfaction of any
30 judgment, order or decree which may be entered
31 against it in any pending suit.

32 Sec. 5. 31 MRSa §152, sub-§3 is enacted to read:

33 3. Name availability. The name of a limited
34 partnership shall not be the same as, or deceptively
35 similar to, the name of any limited partnership
36 formed under this Title, unless the other limited
37 partnership files with the Secretary of State a
38 statement authorizing the use of a similar name by
39 the limited partnership seeking to use that similar
40 name.

1 STATEMENT OF FACT

2 This new draft makes some minor adjustments in
3 the administration of the laws regarding nonprofit
4 corporations.

5 Section 1 eliminates the special requirement that
6 permission be received from the Secretary of State
7 for the use of the word "Maine" in a nonprofit corpo-
8 ration. The requirement does not now exist for busi-
9 ness corporations. The new draft corrects a refer-
10 ence to the statute.

11 Section 2 insures that the name of a nonprofit
12 corporation is not and will not be deceptively simi-
13 lar to the name of an agency of the State. Such a
14 provision was previously contained in Title 13,
15 section 932, which is repealed by this bill. The new
16 draft changes the language to reflect the currently
17 used term "mark" to designate a trade or service
18 mark.

19 Section 3 allows the name of a nonprofit corpora-
20 tion which has been suspended for more than 3 years
21 to become available for use by other corporations. A
22 similar provision governs business corporations. The
23 new draft adds language to extend similar treatment
24 to corporations excused from filing reports due to
25 inactivity.

26 Section 4 eliminates the requirement that a non-
27 profit corporation submit a letter from the Bureau of
28 Taxation stating that they are not indebted to the
29 State for any taxes. Administrative experience shows
30 that these letters are unnecessary and merely add to
31 the paperwork of the Secretary of State and the
32 Bureau of Taxation.

1 Section 5 eliminates the possibility and occa-
2 sional reality of several limited partnerships having
3 the same or similar names. Such similarity has
4 caused confusion for filing and information purposes.
5 The new draft would allow the original limited part-
6 nership to authorize the use of a similar name, this
7 may be particularly desirable where the 2 or more
8 limited partnerships are related enterprises.

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