

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1365, L.D. 1929)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2225

7
8 H.P. 1581 House of Representatives, March 19, 1986
9 Reported by Representative Stevens from the Committee on Business and
10 Commerce and printed under Joint Rule 2. Original bill sponsored by
11 Representative Brannigan of Portland.

EDWIN H. PERT, Clerk

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Clarify Certain Provisions of a
19 Publicly-held Financial Institution.
20

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

23 Sec 1. 9-B MRSA §316, sub-§1, ¶F, as enacted by
24 PL 1975, c. 500, §1, is amended to read:

25 F. ~~The stockholders, at any annual meeting, may~~
26 ~~elect~~ The board of directors, by a majority vote
27 of the directors then in office, may appoint from
28 the full board of directors an executive commit-
29 tee of not less than 5 members, 2/3 of whom shall
30 be residents of this State and may delegate to
31 ~~such~~ the committee the powers of the directors in
32 regard to the ordinary operations of the business
33 of the institution.

34 Sec 2. 9-B MRSA §316, sub-§2, ¶C, as enacted by
35 PL 1975, c. 500, §1, is amended to read:

1 C. The powers of the board may be exercised by
2 the executive committee established pursuant to
3 subsection 1, paragraph F, at all times when the
4 board of directors is not in session, subject al-
5 ways to any specific vote of the board. The exec-
6 utive committee shall keep full minutes of all
7 business transacted by them and shall make such
8 reports of their transactions at each ~~monthly~~
9 meeting of the board as the board or the superin-
10 tendent may require.

11 Sec. 3. 9-B MRSA §1011, sub-§4, as enacted by PL
12 1975, c. 500, §1, is amended to read:

13 4. Control. A company shall be deemed to control
14 another company (referred to in this chapter as a
15 "subsidiary") if it owns 25% or more of the voting
16 shares of the subsidiary or if under the Bank Holding
17 Company Act of 1956, as amended, ~~or~~ under section 407
18 or 408 of the National Housing Act, as amended, or
19 under the Federal Deposit Insurance Act, as amended,
20 or regulations or policy statements issued thereun-
21 der, it is presumed to control the subsidiary or a
22 determination has been made by the superintendent
23 that it exercises a controlling influence over the
24 management and policies of the subsidiary.

25 Sec. 4. 9-B MRSA §1011, sub-§§9 and 10 are en-
26 acted to read:

27 9. Acquisition of voting shares. "Acquisition
28 of voting shares" includes, without limitation, the
29 acquisition of the voting power of those shares,
30 whether by direct or indirect purchase, by single or
31 multiple transactions or any other means.

32 10. Person. "Person" means an individual or in-
33 dividuals acting in concert.

34 Sec 5. 9-B MRSA §1013, sub-§1, as amended by PL
35 1983, c. 55, §3, is repealed and the following en-
36 acted in its place:

37 1. Superintendent's approval. The prior approv-
38 al of the superintendent is required for any of the
39 following transactions:

1 A. Acquisition of control of a Maine financial
2 institution or Maine financial institution hold-
3 ing company by any person or company;

4 B. Acquisition of more than 5% of the voting
5 shares of a Maine financial institution or Maine
6 financial institution holding company by a finan-
7 cial institution or financial institution holding
8 company; or

9 C. Acquisition of more than 5% of the voting
10 shares of a financial institution, the operations
11 of which are principally conducted outside of
12 this State, by a Maine financial institution or a
13 Maine financial institution holding company.

14 Sec. 6. 9-B MRSA §1013, sub-§1-A is enacted to
15 read:

16 1-A. Notification. Notwithstanding subsection
17 1, any person or company which acquires directly or
18 indirectly more than 5% of the voting shares of a
19 Maine financial institution or Maine financial insti-
20 tution holding company shall within 5 days of the ac-
21 quisition file with the superintendent a statement
22 containing the following information and any addi-
23 tional information as the superintendent shall pre-
24 scribe as necessary or appropriate in the public in-
25 terest:

26 A. The background and identity of the person or
27 company acquiring the voting shares;

28 B. The source and amount of the funds or other
29 consideration used in making the purchase; and

30 C. Any plans or proposals which any acquiring
31 person or company making the acquisition may have
32 to liquidate the financial institution or finan-
33 cial institution holding company, to sell its as-
34 sets or merge it with any company or to make any
35 other major change in its business, corporate
36 structure or management.

37 The superintendent shall promptly notify the finan-
38 cial institution or financial institution holding
39 company when a notice has been filed pursuant to this

1 section. The notice shall identify the fact of the
2 acquisition and the identity of the person or company
3 acquiring the voting shares.

4 Any person or company must also file notice under
5 this section when there is material change in owner-
6 ship. The acquisition of an aggregate of more than
7 another 5% of the voting shares is a material change.

8 Sec. 7. 9-B MRSA §1015, sub-§1, ¶A, as amended
9 by PL 1983, c. 302, §4, is further amended to read:

10 A. Acquisition by a person or company of control
11 of a Maine financial institution or Maine finan-
12 cial institution holding company, or establish-
13 ment by a person or company of a Maine financial
14 institution or Maine financial institution hold-
15 ing company;

16 Sec. 8. 9-B MRSA §1015, sub-§1, ¶B, as enacted
17 by PL 1975, c. 500, §1, is amended to read:

18 B. Acquisitions by a financial institution or
19 financial institution holding company of inter-
20 ests in a Maine financial institution or Maine
21 financial institution holding company in excess
22 of ~~5 percent~~ 5% of the voting shares of such in-
23 stitution;

24 Sec. 9. 9-B MRSA §1019, sub-§2, as amended by PL
25 1983, c. 302, §6, is further amended to read:

26 2. Penalties. Any person or company violating
27 any provision of this chapter, or any regulation
28 promulgated thereunder, shall be subject to a penalty
29 of not more than ~~\$100~~ \$1,000 per day for each day the
30 violation continues, to be recovered in a civil ac-
31 tion in the name of the State.

32 Any company or Maine financial institution violating
33 section 1013, subsection 3 or 4, or any regulation
34 promulgated under that section, shall be subject to a
35 penalty of not more than \$1,000 a day for each day
36 the violation continues. The superintendent shall
37 report the violation forthwith, with such remarks as
38 he deems appropriate, to the Attorney General, who
39 may forthwith institute a civil action therefor on
40 behalf of the State.

1

STATEMENT OF FACT

2 In section 1, this new draft permits the board of
3 directors by a majority vote to appoint an executive
4 committee made up of board members. Under current
5 law and under the bill, the shareholders vote to
6 choose an executive committee. This change is con-
7 sistent with how most business corporations establish
8 an executive committee.

9 Section 2 of the new draft is the same as section
10 2 in the original bill.

11 Another federal law is referenced in section 3
12 which defines control of a company. Generally, con-
13 trol exists when a person, persons or corporation
14 owns 25% of the stock or own 10% to 24% of the stock
15 and certain other factors exist.

16 Section 4 adds definitions for "acquisition of
17 voting shares" and "person."

18 Section 5 is essentially the same as section 3 of
19 the original bill. This section adds prior approval
20 by the superintendent for acquisition of a "Maine fi-
21 nancial institution" as well as acquisition of a
22 "financial institution holding company" as in the
23 original bill. This section also changes those mak-
24 ing the acquisition from "person or company" to "fi-
25 nancial institutions or financial institution holding
26 companies."

27 Section 6 adds a provision requiring any person
28 or company to give notice to the superintendent if
29 more than 5% of the voting power of a bank or bank
30 holding company is acquired.

31 Sections 7 and 8 are technical changes for con-
32 sistency in the law.

33 Section 9 increases the penalty for a violation
34 from \$100 a day to \$1,000 a day.

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