

# MAINE STATE LEGISLATURE

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(AFTER DEADLINE)  
SECOND REGULAR SESSION

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ONE HUNDRED AND THIRTEENTH LEGISLATURE

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Legislative Document

NO. 2466

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H.P. 1802 House of Representatives, March 7, 1988

Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 27.

Reference to the Committee on Business Legislation  
suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative STEVENS of Bangor.

Cosponsored by Representatives ALLEN of Washington,  
LEBOWITZ of Bangor and Senator BALDACCI of Penobscot.

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STATE OF MAINE

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

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1 AN ACT to Amend the Maine Business Corporation  
2 Act in Relation to Petitioning the Court  
3 for the Removal of Directors.  
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5 Be it enacted by the People of the State of Maine as  
6 follows:

7 13-A MRSA §707, as enacted by PL 1971, c. 439,  
8 §1, is amended to read:

9 §707. Removal of the directors

10 1. At a special meeting of shareholders called

1 expressly for that purpose, the entire board of  
2 directors or any individual directors director may  
3 be removed, with or without cause, by a vote of the  
4 shareholders as provided in this section.

5 2. Subject to the limitation in subsection 4, if  
6 the corporation does not have a board of directors so  
7 classified that different classes of shares elect  
8 different directors, such removal may be accomplished  
9 by the affirmative vote of  $\frac{2}{3}$  a majority of the  
10 outstanding shares entitled to vote for directors.  
11 The articles of incorporation may provide that such  
12 removal may be accomplished by a lesser vote, but in  
13 no case by a vote of less than a majority of shares  
14 voting-on-the-proposed-removal.

15 3. Subject to the limitation in subsection 4, if  
16 the directors are so classified that different classes  
17 of shares elect different directors, a director may be  
18 removed only by the affirmative vote of  $\frac{2}{3}$  a  
19 majority of the outstanding shares of that class which  
20 elected him the director. The articles of  
21 incorporation may provide that such removal may be  
22 accomplished by a lesser vote of the shares of that  
23 class, but in no case by a vote of less than a  
24 majority of the shares of that class voting on the  
25 proposed-removal.

26 4. No director who has been elected by  
27 cumulative voting may be removed, if the votes cast  
28 against his removal would be sufficient to elect him  
29 if then cumulatively voted at an election of the  
30 entire board of directors, or, if there be classes of  
31 directors, at an election of the class of directors of  
32 which he is a part. If cumulative voting is  
33 authorized, a director may not be removed if the  
34 number of votes sufficient to elect the director under  
35 cumulative voting is voted against the director's  
36 removal. If cumulative voting is not authorized, a  
37 director may be removed only if the number of votes  
38 cast to remove the director exceeds the number of  
39 votes cast not to remove the director.

40 5. If any or all directors are removed at such  
41 meeting of the shareholders, new directors may be

1 elected at the same meeting without express notice  
2 being given of such election.

3 6. Notwithstanding the foregoing provisions, if  
4 2/3 a majority of the directors then in office, or  
5 the shareholders holding a majority of the outstanding  
6 shares of any class, resolve that individual directors  
7 should be removed from office for cause, the  
8 corporation, or the shareholders holding a majority of  
9 the outstanding shares of any class, may bring an  
10 action in any court having equity jurisdiction to  
11 remove such directors from office. If the court finds,  
12 by a preponderance of the evidence, that any such  
13 director has been guilty of fraudulent or dishonest  
14 acts, to the detriment of the corporation or any  
15 substantial group of its shareholders, or has been  
16 guilty of gross abuse of authority or discretion in  
17 discharge of his the director's duties to the  
18 corporation, the court shall order him the director  
19 removed from office, and may bar him the director  
20 from reelection for a period of time prescribed by the  
21 court; and may make such other orders as are just and  
22 equitable.

23

#### STATEMENT OF FACT

24 This bill amends the Maine Business Corporation  
25 Act to allow directors to be more easily removed.

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