

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1717

S.P. 649

In Senate, December 17, 2003

An Act To Clarify Membership on Boards of Directors for Maine Financial Institutions

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 16, 2003. Referred to the Committee on Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MAYO of Sagadahoc.
Cosponsored by Representative PINGREE of North Haven and
Senator: LaFOUNTAIN of York, Representatives: DAVIS of Falmouth, KOFFMAN of Bar
Harbor, MAILHOT of Lewiston, O'NEIL of Saco, RICHARDSON of Brunswick, SUSLOVIC
of Portland, WATSON of Bath.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** the Maine Business Corporation Act took effect July
1, 2003 and has standardized the corporate structure and
governance of Maine corporations; and

8
10 **Whereas,** certain provisions in law remain inconsistent with
that Act; and

12 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
14 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
16 safety; now, therefore,

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

20 **Sec. 1. 9-B MRSA §326, sub-§1, ¶A,** as amended by PL 1997, c.
398, Pt. D, §13, is repealed.

22 **Sec. 2. 9-B MRSA §326, sub-§1, ¶A-1** is enacted to read:

24 A-1. The financial institution's articles of incorporation
26 or bylaws may prescribe qualifications for directors. A
28 director need not be a resident of this State unless the
articles of incorporation or bylaws so prescribe.

30 **Sec. 3. 9-B MRSA §326, sub-§1, ¶B,** as corrected by RR 2001, c.
2, Pt. B, §11 and affected by §58, is amended to read:

32 B. The initial board of directors must be elected at the
34 first meeting of the corporators or the incorporators as
36 provided for in section 323, and the board of directors must
38 be elected by a vote of the corporators or members at each
~~annual meeting thereafter;--except--that--the--articles--of~~
~~incorporation--or--bylaws--may--provide--for--groups--of--directors~~
~~in--accordance--with--Title--13--C--section--806.~~ The financial
40 institution's articles of incorporation may provide for
staggering the terms of directors by dividing the total
42 number of directors into 2 or 3 groups, with each group
containing, as close as possible, 1/2 or 1/3, as the case
44 may be, of the total. If the terms are staggered, the terms
of directors in the first group expire at the first annual
46 meeting after their election, the terms of the 2nd group
expire at the 2nd annual meeting after their election and
48 the terms of the 3rd group, if any, expire at the 3rd annual
meeting after their election. After the initial staggered

2 terms, all subsequent terms for directors, or if the terms
3 are not staggered, all terms of directors, must be for the
4 same number of years, which may be either 2 or 3 years.
5 Directors must be chosen at annual meetings, or special
6 meetings duly called, to succeed those whose terms expire.

7 **Sec. 4. 9-B MRSA §326, sub-§1, ¶C**, as enacted by PL 1975, c.
8 500, §1, is amended to read:

10 C. Vacancies on the board occurring during the year may be
11 filled by the board until the next annual meeting of the
12 corporators or members, who shall elect a director at such
13 time to fill such position for the remainder of the term.
14 Any vacancy which that causes the number of directors to
15 fall below the minimum required in ~~paragraph-A-or-in~~ the
16 institution's bylaws ~~shall~~ or articles of incorporation must
17 be filled immediately.

18 **Sec. 5. 9-B MRSA §326, sub-§2, ¶¶D and E** are enacted to read:

20 D. The financial institution's board of directors may hold
21 regular or special meetings in or out of this State.

24 E. Unless the financial institution's articles of
25 incorporation or bylaws provide otherwise, the financial
26 institution's board of directors may permit any or all
27 directors to participate in a regular or special meeting by,
28 or conduct the meeting through the use of, any means of
29 communication by which all directors participating may
30 simultaneously hear each other during the meeting. A
31 director participating in a meeting by this means is deemed
32 to be present in person at the meeting.

34 **Emergency clause.** In view of the emergency cited in the
35 preamble, this Act takes effect when approved.

38 SUMMARY

40 This bill makes requirements for membership on boards of
41 directors of Maine financial institutions consistent with
42 membership requirements in the Maine Business Corporation Act.