

MAINE STATE LEGISLATURE

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Seventieth Legislature.

SENATE.

No. 22

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ONE.

AN ACT in relation to Domestic and Foreign Corporations
within this State and to provide for a Revenue therefrom.

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, as follows:*

Section 1. Sections one to twenty-three, both inclusive,
2 of this act shall not apply to corporations otherwise liable
3 for any franchise tax under any law of this state in force
4 when this act takes effect, nor to religious corporations,
5 nor to such corporations as are purely charitable, educa-
6 tional or benevolent, nor to such corporations as have been
7 or may be organized under chapter fifty-five of the Revised
8 Statutes.

Sect. 2. Every foreign corporation authorized to trans-
2 act business in this state, and every corporation incorpo-

3 rated under the laws of this state shall on or before the
4 first day of June, annually, file in the office of the secretary
5 of state, a statement attested by its president and clerk,
6 verified under oath, containing the names of its directors,
7 treasurer and clerk, with the date of election or appoint-
8 ment, term of office, residence and post office address of
9 each, the character of its business, the location, giving the
10 street and number, if any, of its principal office in this
11 state, the name of the agent or officer in charge of said
12 office, upon whom process against said corporation may be
13 served, of the amount of its capital stock authorized and
14 the amount actually issued or subscribed for; and for this
15 purpose the secretary of state shall furnish blanks in proper
16 form and safely keep in his office all such statements, and
17 issue to the corporations filing the same his certificate
18 thereof, upon the payment of a fee of one dollar therefor
19 for the use of the state, and shall also prepare an alpha-
20 betical index thereof, which statements and index shall be
21 submitted to the inspection of persons interested at all
22 proper hours. Every corporation failing to comply with
23 the provisions of this section shall forfeit to the state two
24 hundred dollars to be recovered, with costs, in an action
25 of debt to be prosecuted by the attorney general, who shall
26 prosecute such actions whenever it shall appear that this
27 section has been violated.

Sect. 3. It shall be the duty of the Secretary of State,
2 on or before the first day of July, annually, to cause to be
3 prepared in a book kept for that purpose, an alphabetical
4 list of all corporations theretofore incorporated under the
5 laws of this State, whose charters have not expired by
6 limitation or by operation of law or by decree of court;

7 and on or before said first day of July annually, he shall
8 furnish the attorney general with a statement showing
9 what corporations, if any, in said list have failed to com-
10 ply with section two hereof, with such other memoranda
11 from his office as will aid the attorney general in obtain-
12 ing service upon such delinquent corporation. The
13 attorney general shall promptly prosecute such delinquent
14 corporations and make itemized return thereof in his
15 annual report.

Sect. 4. Every corporation, within the provisions of
2 section two hereof, shall pay an annual license fee or fran-
3 chise tax of twenty-five cents per thousand dollars on all
4 amounts of capital stock issued and outstanding, or sub-
5 scribed for, up to and including the sum of three million
6 dollars and the further sum of twenty-five dollars per
7 annum per one million dollars, or any part thereof, on all
8 amounts of capital stock issued and outstanding, or sub-
9 scribed for, in excess of three million dollars.

Sect. 5. The state board of assessors shall certify and
2 report to the treasurer of state, on or before the first day
3 of July in each year, a statement of the basis of the
4 annual license fee or franchise tax under section four as
5 returned by each company to the secretary of state, or as
6 may be ascertained by said board, and the amounts due
7 thereon respectively, at the rates fixed by this act; such
8 tax shall thereupon become due and payable and it shall
9 be the duty of the state treasurer to receive the same; if
10 the tax of any company remains unpaid on the first day of
11 August, after the same becomes due, the same shall
12 thenceforth bear interest at the rate of one per cent for
13 each month until paid; the state board of assessors shall

14 have power to require of any corporation subject to tax
15 under this act, such information or reports touching the
16 affairs of such company as may be necessary to carry out
17 the provisions of this act; and may require the produc-
18 tion of the books of such company and may swear and
19 examine witnesses in relation thereto. If any corpora-
20 tion shall neglect or refuse to make the return to the sec-
21 retary of state required by section two, the board of state
22 assessors shall assess said license fee or franchise tax upon
23 the basis of the full amount of the maximum authorized
24 capital stock of said company, and shall certify the tax so
25 assessed to the treasurer of state as above required, and
26 for this purpose the secretary of state shall annually on
27 the first day of June furnish the board of assessors with
28 an alphabetical list of all corporations chartered or incor-
29 porated under the special or general laws of this state, and
30 not dissolved by law, with the maximum amount of the
31 authorized capital stock of each such corporation.

Sect. 6. Such tax, when determined, shall be a debt
2 due from such corporation to the State, for which an action
3 of debt may be maintained after the same shall have been
4 in arrears for the period of one month; such tax shall
5 also be a preferred debt in case of insolvency under the
6 laws of this State, or in any process of liquidation in its
7 courts.

Sect. 7. If any corporation heretofore or hereafter
2 created under the laws of this State shall for two consecu-
3 tive years neglect or refuse to pay to the State any tax or
4 penalty assessed against it under this act, the charter of
5 such corporation shall be void and all powers conferred by
6 law upon such corporation are hereby declared to be in-

7 operative and void unless the governor shall, for good
8 cause shown to him, give further time for the payment of
9 such taxes, in which case a certificate thereof shall be
10 filed by the governor in the office of the state treasurer,
11 stating the reasons therefor.

Sect. 8. On or before the first day of August in each
2 year the state treasurer shall report to the governor a list
3 of all the domestic corporations which for two years next
4 preceding such report have failed, neglected or refused to
5 pay the tax assessed against them under this act, and the
6 governor shall forthwith issue his proclamation, declaring
7 under this act of the legislature that the charters of such
8 corporations are repealed.

Sect. 9. The proclamation of the governor shall be
2 filed in the office of the secretary of state and published
3 in such newspapers and for such length of time as the
4 governor shall designate.

Sect. 10. Any person or persons who shall exercise or
2 attempt to exercise any powers under the charter of such
3 corporation after the issuing of such proclamation shall be
4 punished by imprisonment not exceeding one year, or by
5 fine not exceeding one thousand dollars, or both, in the
6 discretion of the court.

Sect. 11. Whenever it is established to the satisfaction
2 of the governor that any corporation named in said pro-
3 clamation has not neglected or refused to pay said tax within
4 two consecutive years, or has been inadvertently reported
5 to the governor by the state treasurer as neglecting or
6 refusing to pay the same as aforesaid, the governor shall
7 correct such mistake and make the same known by filing
8 his proclamation to that effect in the office of the secretary
9 of state.

Sect. 12. Whenever any corporation which shall be
2 included in any proclamation of the governor, as afore-
3 said, shall, within ninety days after filing such proclama-
4 tion in the office of the secretary of state, pay into the
5 state treasury the amount of all such taxes and penalties,
6 with interest, costs and advertising fees, the same having
7 been first ascertained and fixed by the state board of
8 assessors, the said proclamation, so far as it affects said
9 corporation, shall be void, and the charter of said cor-
10 poration shall thereupon be revived to the same extent as
11 if the said taxes had been duly paid and said proclamation
12 had not been issued. Before any such payment shall be
13 allowed to be made it shall first be established to the
14 satisfaction of the governor that the failure to pay said
15 tax was only through inadvertence or oversight and his
16 finding in this behalf the governor shall make known by
17 filing his certificate to that effect in the office of the secre-
18 tary of state. Upon said payment, and the filing of the
19 receipt of the state treasurer therefor it shall be the duty
20 of the secretary of state, upon payment to him of an addi-
21 tional sum of twenty-five dollars for the use of the state,
22 to note the said payment upon the original proclamation
23 and record thereof.

Sect. 13. Any corporation, which shall consider any
2 tax assessed under this act excessive or otherwise unjust,
3 may make application to the state board of assessors for a
4 review of the assessment and a readjustment of the tax ;
5 provided there be filed with the said board within three
6 months from the date when said tax shall be in arrears as
7 aforesaid a petition of appeal, duly verified under oath,
8 stating specifically the grounds upon which the appeal is

9 taken and the reasons why the tax is considered excessive
10 or unjust; the state board of assessors shall thereupon
11 proceed to investigate the contentions raised by the said
12 petition of appeal; and, for the purpose of such hearing,
13 the officers of said corporation may be summoned to
14 appear before said board and questioned as to the state-
15 ments set forth in the said petition of appeal; if, in the
16 opinion of a majority of the board, it shall appear that the
17 tax so levied as aforesaid is excessive or unjust they shall
18 thereupon require the officers of the corporation to file
19 with the secretary of state a corrected return and upon
20 said corrected return the assessment shall be adjusted and
21 the tax reduced or amended as in the opinion of the board
22 shall seem proper. If said petition is not so filed within
23 said three months, the right of appeal hereby given shall
24 be considered as forever waived.

Sect. 14. On the neglect or refusal of a corporation
2 incorporated under the laws of the state or doing business
3 therein, to furnish the information required by this act for
4 the assessment of the franchise taxes hereby authorized,
5 the cost and expenses of any investigation authorized to
6 be made because of such neglect or refusal shall be borne
7 by said delinquent corporation and may be recovered
8 therefrom in an action of debt in the name of the state.

Sect. 15. In addition to other remedies for the collec-
2 tion of the tax authorized by this act, it shall be the duty
3 of the state treasurer, whenever any tax due under this
4 act from any company shall have remained in arrears for
5 a period of three months after the same shall have become
6 payable to report the same to the attorney general, who
7 shall forthwith apply to the Supreme Judicial Court, in

8 equity, by petition in the name of the state, on five days'
9 notice to such corporation, which notice may be served in
10 such manner as the court may direct, for an injunction to
11 restrain such corporation from the exercise of any fran-
12 chise or the transaction of any business within this state
13 until the payment of such tax and interest due thereon,
14 and the costs of such application ; the said court is hereby
15 authorized to grant such injunction, if a proper case
16 appears, both permanent and temporary, and, upon the
17 granting and service of such injunction, it shall not be
18 lawful for such company thereafter to exercise any fran-
19 chise or transact any business in this state until such
20 injunction be dissolved.

Sect. 16. When by the laws of any other state or
2 nation, any other or greater taxes, fines, penalties, fees,
3 obligations or requirements are imposed upon corporations
4 of this state doing business in such other state or nation
5 than the laws of this state impose upon their corporations
6 doing business in this state, so long as such laws continue
7 in force in such foreign state or nation, the same taxes,
8 fines, penalties, licenses, fees, obligations and requirements
9 of whatever kind shall be imposed under this act upon all
10 corporations of such other state or nation doing business
11 within this state.

Sect. 17. Every foreign corporation, before transacting
2 any business in this state, shall file in the office of the
3 secretary of state a copy of its charter or certificate of
4 incorporation, attested by its president and clerk, or sec-
5 retary, under its corporate seal, and a statement attested
6 in like manner of the amount of its capital stock authorized
7 and the amount actually issued and outstanding, or sub-

8 scribed for, the character of the business which it is to trans-
9 act in this state, and designating its principal office in this
10 state and an agent who shall be a domestic corporation or
11 a person of full age actually resident in this state, together
12 with his place of abode, upon which agent process against
13 such corporation may be served and the agency so consti-
14 tuted shall continue until the substitution in writing, of
15 another agent; upon the filing of such copy and state-
16 ment, and the payment of a fee of five dollars for the use
17 of the state the secretary of state shall issue to such cor-
18 poration a certificate that it is authorized to transact busi-
19 ness in this state and that the business is such as may be
20 lawfully transacted by corporations of this state and he
21 shall keep a record of all certificates issued. All such
22 foreign corporations making such applications between the
23 first day of July, nineteen hundred and one, and the first
24 day of July, nineteen hundred and two, shall, through the
25 officers attesting said statements make oath that they were
26 not engaged in business in this state within the period of
27 time between the day when this act takes effect and the
28 said first day of July, nineteen hundred and one, and
29 unless said oath is so made no certificate as aforesaid shall
30 be issued until such corporation shall have paid to the
31 treasurer of this state a fee equal to the amount of tax it
32 would have paid under this act had it made return to the
33 secretary of state prior to said July first, nineteen hun-
34 dred and one, as hereinbefore provided.

Sect. 18. If said agent, as required by the preceding
2 section, shall die, remove from the state or become dis-
3 qualified, such corporation shall forthwith file in the office
4 of the secretary of state a written appointment of another

5 agent, attested in the manner above provided, and in case
6 of the omission to do so within thirty days after such death,
7 removal or disqualification, then the secretary of state,
8 upon being satisfied that such omission has continued for
9 thirty days, shall, by entry on the record thereof, revoke
10 the certificate of authority to transact business within this
11 state, and process against such corporation in actions
12 incurred upon any liability within this state before the
13 designation of another agent may, after such revocation,
14 be served upon the secretary of state ; at the time of such
15 service the plaintiff shall pay to the secretary of state, for
16 the use of the state two dollars, to be included in the taxa-
17 ble costs of such plaintiff, and the secretary of state shall
18 forthwith mail a copy of such process to such corporation
19 at its general office, or to the address of some officer, if
20 known to him.

Sect. 19. Whenever any foreign corporation shall
2 neglect or refuse for sixty days after the same shall be in
3 arrears to pay the annual license fee or franchise tax
4 authorized by this act, and lawfully assessed, the secretary
5 of state shall revoke its certificate of authority to transact
6 business within this state, and no such certificate shall
7 thereafterwards be issued to such corporation until it shall
8 have paid all taxes, dues, costs, interests and penalties
9 then due to the state under this act.

Sect. 20. Every foreign corporation transacting any
2 business in any manner whatsoever, directly or indirectly,
3 in this state, without having first obtained authority there-
4 for, as by this act provided, shall for each offense forfeit
5 to the state the sum of one thousand dollars, to be recov-

6 ered with costs in an action of debt prosecuted by the
7 attorney general in the name of the state.

Sect. 21. No foreign corporation, not authorized to
2 transact business within this state as by this act provided,
3 shall, while so without said authority, maintain any action
4 in this state upon any contract, liability, act or matter,
5 made or happening after this act takes effect; provided,
6 however, that nothing herein shall prohibit such actions
7 when the subject matter thereof is an act of interstate or
8 foreign commerce.

Sect. 22. The term "foreign corporation" as used in
2 this act shall include all corporations incorporated under
3 the laws of any other state or country. Nothing in this
4 act shall prohibit any foreign corporation from engaging
5 in interstate or foreign commerce within this state and no
6 foreign corporation whose business within this state is ex-
7 clusively confined to interstate or foreign commerce, as
8 said terms are used in the constitution of the United
9 States, shall be liable to the franchise tax imposed by this
10 act.

Sect. 23. Whoever makes any false statement in any
2 of the statements, reports or returns, required by this act
3 to be made under oath, shall be deemed guilty of perjury
4 and punished accordingly.

Sect. 24. During the years nineteen hundred and one
2 and nineteen hundred and two the governor and council
3 may authorize such temporary clerks for the board of as-
4 sessors and the secretary of state as they find necessary
5 from time to time for the purposes of this act, and fix
6 their compensation. And during said years the governor
7 and council may allow to the attorney general, for his ser-

8 vices under this act, such compensation in addition to his
9 salary as they find to be just and reasonable.

Sect. 25. Section seventeen of chapter forty-eight of
2 the Revised Statutes, as amended by section one of chap-
3 ter ninety-nine of the Public Laws of eighteen hundred
4 and ninety-one, is hereby further amended by striking out
5 the words “nor more than ten million” so that said section
6 as amended shall read as follows :

‘Sect. 17. Their first meeting shall be called by one or
8 more of the signers of said articles, by giving notice
9 thereof, stating the time, place and purposes of the meet-
10 ing to each signer, in writing, or by publishing it in
11 some newspaper printed in the county, at least fourteen
12 days prior to the time appointed therefor. At such meet-
13 ing they may organize into a corporation, adopt a corpor-
14 ate name, define the purposes of the corporation,
15 adopt a corporate seal, fix the amount of the
16 capital stock, which shall not be less than
17 one thousand dollars, divide it into shares, and elect
18 a president, not less than three directors, a clerk, treas-
19 urer, and any other necessary officers, and may adopt a
20 code of by-laws.’

Sect. 26. Any corporation of this state may conduct
2 business in other states or in foreign countries and have
3 one or more offices out of this state, and may hold, pur-
4 chase, mortgage and convey real and personal property
5 out of this state ; provided, such powers are included
6 within the objects set forth in its certificate of incor-
7 poration.

Sect. 27. If all the incorporators shall in writing waive
2 notice and fix a time and place of the first meeting,

3 required under section seventeen of chapter forty-eight of
4 the Revised Statutes, no notice or publication shall be
5 necessary. At any such first meeting any incorporator
6 may be represented by power of attorney, general or
7 special.

Sect. 28. Every corporation shall have power to create
2 two or more kinds of stock with such classes, with such
3 designations, preferences and voting powers, or restriction
4 or qualification thereof, as shall be stated and expressed
5 in the certificate of incorporation; and the power to
6 increase or decrease the stock, as otherwise provided by
7 law, shall apply to all or any of the classes of stock; but
8 at no time shall the total amount of the preferred stocks
9 exceed two-thirds of the actual capital paid in in cash,
10 property or services; and such preferred stock may, if
11 desired, be made subject to redemption at not less than
12 par, at a fixed time and price, to be expressed in the
13 certificate thereof; and the holders thereof shall be
14 entitled to receive, and the corporation shall be bound to
15 pay thereon, a fixed yearly dividend, to be expressed in
16 the certificate, not exceeding eight per centum, payable
17 quarterly, half-yearly or yearly, before any dividend shall
18 be set apart or paid on the common stock, and such divi-
19 dends may be made cumulative; and in no event shall a
20 holder of preferred stock be personally liable for the debts
21 of the corporation; but in case of liquidation its debts or
22 other liabilities shall be paid in preference to the preferred
23 stock; unless its original certificate of incorporation shall
24 otherwise provide, no corporation shall create preferred
25 stock except by authority given to the board of directors
26 by vote of at least two-thirds of the stock voted at a

27 meeting of the common stockholders duly called for the
28 purpose.

Sect. 29. Every corporation organized under chapter
2 forty-eight of the revised statutes may change the nature
3 of its business or its corporate purposes, within the lim-
4 itations of said chapter, at a meeting of the stockholders
5 called for the purpose, if two-thirds in interest of each
6 class of the stockholders shall vote in favor of such change,
7 and a certificate thereof signed by the president and clerk
8 under the corporate seal shall be filed in the office of the
9 secretary of state.

Sect. 30. Any corporation may purchase mines, man-
2 ufactories, or other property necessary for its business, or
3 the stock of any company or companies owning, mining,
4 manufacturing or producing materials, or other property
5 necessary for its business, and issue stock to the amount
6 of the value thereof in payment therefor, and may like-
7 wise issue stock for services rendered to such corporation,
8 and the stock so issued shall be full-paid stock and not
9 liable to any further call or payment thereon; and in the
10 absence of actual fraud in the transaction, the judge-
11 ment of the directors as to the value of the property pur-
12 chased shall be conclusive; and in all statements and
13 reports of the corporation to be published or filed, this
14 stock shall not be stated or reported as being issued for
15 cash paid to the corporation, but shall be reported in this
16 respect according to the fact.

Sect. 31. Any corporation organized under chapter
2 forty-eight of the Revised Statutes may purchase, hold,
3 sell, assign, transfer, mortgage, pledge or otherwise dis-
4 pose of the shares of the capital stock of, or any bonds,

5 securities or evidences of indebtedness created by any
6 other corporation or corporations of this or any other state,
7 and while owner of such stock may exercise all the rights,
8 powers and privileges of ownership, including the right to
9 vote thereon.

Sect. 32. A copy of every decree or judgment dissolv-
2 ing a corporation or forfeiting its charter shall be forthwith
3 filed by the clerk of the court in the office of the secretary
4 of state and note thereof be made on the original charter
5 or certificate or incorporation.

Sect. 33. Corporations heretofore or hereafter organized
2 under chapter forty-eight of the Revised Statutes may in
3 their by-laws designate some place within or without the
4 state, where stockholders' meetings may be held, and
5 whenever such meetings are held without the state a copy
6 of the record of such meeting, duly verified by the oath of
7 the president and recording officer, shall be spread upon
8 the original records kept by the clerk within this state and
9 be receivable in evidence as if originally recorded therein.

STATE OF MAINE.

IN SENATE, January 29, 1901.

On motion by Mr. VIRGIN of Cumberland, laid on table to be printed,
pending reference to Committee on Taxation in concurrence.

KENDALL M. DUNBAR, *Secretary*.